

FACT FINDING REPORT

STATE OF OHIO

STATE EMPLOYMENT RELATIONS BOARD(SERB)

NORMAN R.HARLAN, FACT FINDER

OHIO PARTOLMEN'S BENEVOLENT AS-) HEARING: NOVEMBER 10, 2010
SOCIATION (OPBA)) REPORT: NOVEMBER 29, 2010
AND) CASE NO. 10-MED-02-1110
CORRECTIONS ASSOCIATION OF SOUTH-) *0110*
EASTERN OHIO, dba, SOUTHEASTERN
REGIONAL JAIL (SEORJ)

UNION

MARK VOLCHECK, ATTORNEY, PRESENTING
JERRY McCULLOCH, MAINTENANCE TECHNICIAN

EMPLOYER

GARRY E. HUNTER, ATTORNEY, PRESENTING
JEREMY TOLSON, WARDEN
JUDY LAUGHLIN, FISCAL DIRECTOR

BACKGROUND

The Union and the Employer have been party to a Collective Bargain-
ing Agreement (CBA) for an unspecified number of years. Their most
recent CBA covers the period January 1, 2008 through December 31,
2010. In Article 24.3 it provides for a re-opener in the third year
only for Wages for the Bargaining Unit which is comprised of:

"Cooks, Maintenance Worker, and Secretary, Assistant

Commissary Officer, Billing Officer." CBA, Article 2, p. 3.

The Parties conducted bargaining sessions but were unable to reach agreement. The Union seeks a 4.5 percent increase effective January 1, 2010. The Employer seeks zero (0) increase.

The Factfinding Hearing was held November 10, 2010 at the Jail. The Parties made Opening Statements. In summary the Union stresses:

- a. The 4.5 percent increase is based upon pattern bargaining and internal bargaining.
- b. "...There are three other OPBA bargaining units at the Southeastern Ohio Regional Jail: 1) Sergeants; 2) Officers in Charge (OIC's) and 3) Corrections Officers."
- c. Over the period 2008-2010 the Units noted above received increases totaling 14 percent.

In its Position Paper Management notes in part:

"The above represents a 0% wage increase for 2010. The Southeastern Ohio Regional Jail is funded by five counties: Athens, Hocking, Perry, Morgan and Vinton. Two of these counties have severe financial problems. Morgan County is currently delinquent on its past jail contributions and is on a 10 year payment plan for arrearage. Evidence will be presented at the hearing justifying the inability of the Jail to pay a higher wage increase, especially in light of the fact county employees are being laid off and others are not receiving wage increases. In addition, the cost of operation continues to increase while revenue projections are flat to decreasing. These employees have had significant wage increases in 2008 and 2009 while the administrative staff at the jail have had little to no increase during this time frame. Additional evidence in support of the Employer's position will be presented at the hearing."

In support of its Opening Statement the Union entered seven (7) Exhibits as listed below.

1. WAGE RATE INCREASES AMONG OPBA BARGAINING UNITS AT SEORJ.

2. AGREEMENT BETWEEN THE CORRECTIONS COMMISSION OF SOUTHEASTERN OHIO AND OHIO PATROLMEN'S BENEVOLENT ASSOCIATION FOR SERGEANTS, EFFECTIVE JANUARY 1, 2008 TO DECEMBER 31, 2010.
3. AGREEMENT BETWEEN THE CORRECTIONS COMMISSION OF SOUTHEASTERN OHIO AND OHIO PATROLMEN'S BENEVOLENT ASSOCIATION FOR OFFICERS IN CHARGE, EFFECTIVE JANUARY 1, 2008 TO DECEMBER 31, 2010.
4. FACTFINDING REPORT, CASE NO. 09-MED-09-0883, Richard D. Sambuco, February 2, 2010, OHIO PATROLMEN'S BENEVOLENT ASSOCIATION (OPBA) FOR CORRECTIONS OFFICERS AND THE CORRECTIONS COMMISSION OF SOUTHEASTERN OHIO.
5. IN THE MATTER OF CONCILIATION; OHIO PATROLMEN'S ASSOCIATION AND SOUTHEASTERN OHIO REGIONAL JAIL (CORRECTIONS COMMISSION OF SOUTHEASTERN OHIO), Case No. 09-MED-09-0883, William Heekin, September 30, 2010.
6. 2009 OPBA AND SEORJ NEGOTIATIONS, COOKS, MAINTENANCE ETC., RE-OPENER FOR 2010; HISTORIC WAGE INCREASES FOR OPBA COOKS, MAINTENANCE, ETC., BARGAINING UNIT.
7. STATE EMPLOYMENT RELATIONS BOARD ANNUAL WAGE SETTLEMENT REPORT, Wage Settlement Breakdown (2000-2009)

The Union emphasizes the CBA'S with the Sergeants, Corrections Officers and Officers in Charge all resulted in 14% increases over three (3) years. It urges that its request of 4.5 percent maintains the pattern of bargaining with SEORJ; is 2% less than what was agreed-to with the other OPBA Units and will cost less than \$12,000 a year. It comments:

"This bargaining unit is merely seeking parity with the Corrections Officers, this unit received an across the board general wage increase of three and one-half percent (3.5%) in 2008. For 2009, this unit received an increase of four percent (4%). Accordingly, this unit proposes an across the board general wage increase of four and one-half percent (4.5%) effective January 1, 2010. Such would bring their total increase to be equal with the Corrections

Officers while still being less than the total increases afforded Sergeants and OICs over the term of 2008-2010. As explained above, the Sergeants and OICs earned a fourteen percent (14%) total increase over the term of 2008-2010. If the proposal of the Union is adopted herein, they will only have received a total increase of twelve percent (12%) over the term of 2008-2010." Union Position, p. 4.

The Patrolmen commented about its Exhibits 4 and 5; the Sambuco Fact-finding Report and the Heekin Conciliation, both involving the same Fact Finder-Sambuco recommended a Wage increase of 6.5 percent. Mr. Heekin reduced it to 4.5 percent.

The Employer submitted ten (10) Exhibits.

1. FACTS: SOME FACTS ABOUT VINTON COUNTY (Quoted As Written)

VINTON COUNTY'S AVERAGE DEPUTY MAKES \$12.80 AN HR/DIS-PATCHERS MAKE 11.45 AN HR

THE VINTON COUNTY SHERIFF'S SALARY (AND ALL ELECTED OFFICIALS ACROSS THE STATE) HAVE SEEN NO INCREASE IN THEIR SALARY SINCE 2008

OUR SHERIFF'S DEPT. TRIED TO PASS AN OPERATIONAL LEVY THIS NOV ELECTION WHICH FAILED BY 61%

THE VINTON COUNTY SHERIFF HAS LAID OFF ONE OF 6 DEPUTIES EFFECTIVE IMMEDIATELY

OUR JAIL COSTS HAVE CONTINUED TO RISE (OCT 2009 264,158.47
OCT 2010 276,503.96)

THE COST OF THE SHERIFF'S DEPARTMENT, JAIL AND PUBLIC DEFENDER IS OVER 31% OF OUR OVERALL BUDGET

ALL VINTON COUNTY GENERAL FUND OFFICES TOOK A 7% PAY CUT IN THEIR 2010 BUDGET YET, THE JAIL COSTS CONTINUE TO RISE.

2. SHERIFF EXP, SHERIFF'S BUDGET, OTHER GENERAL FUND EXPENSES
3. description of rev, AOO GENERAL FUND REVENUE
4. description of rev
5. history of carry over
6. end of yr balances

7. end of yr balances
8. Morgan County - re: Carryover Balance 2008; 2007 Revenue; 2007 Expenditures; Balance 12-31-2007; same references for 2007 with Estimated Balance as of 12-31-08
9. CARRYOVER, YEAR TO DATE REVENUE, YEAR TO DATE EXPENSES AND Balance from 12/31/2003 to 12/31/10* FIGURES FOR 12/31/10 ARE ANTICIPATED.

"No money appropriated for the following bills:

Joint Jail	\$44,000.00
Liability ins	\$33,175.00
Audit Costs	\$27,000.00
Utilities	\$10,600.00
	\$114,775.00

No pay raises for General Fund non-union employees for 4 years

Deputies received 3% on March 1, 2010
\$15.53 per hour"

10. April 2004 - April 2008, Revenue Sources

Fiscal Officer Judy Laughlin testified, noting historically the Commission attempts to have a Carryover Balance of three (3) months which amounts to about \$700,000. Currently the figure on hand is \$196,000. She added buildings are getting old; there are maintenance issues; no money is available for capital improvements and a new roof is needed at an estimated cost of \$180,000. She noted Per Diem, Health Insurance (6.42%) and Workers Compensation were "up, making this a tight year." She noted personnel accounted for 68% of the annual 4.2 million Budget. She explained the Per Diem for inmates was \$51.00 for members and \$70.00 for non-members. She noted there is a contract with Fairfield County. She added Morgan County sold its nursing home, is in arrears and has agreed to pay the Commission \$2,000 a month for ten (10) years. She stated there have been no General Fund increases since

2003, Sheriff Department salaries have been frozen since 2008 when a Levy failed by 61 percent.

FINDINGS

The Commission is only as strong as its weakest link or links; here Vinton and Morgan Counties. The evidence is conclusive they are in serious financial straits.

The Union's Exhibit 1 shows:

Bargaining Unit	2008	2009	2010
Sergeants (OPBA)	10%	2%	2%
OIC's (OPBA)	10%	2%	2%
Corrections Officers(OPBA)	3.5%	4%	4.5%
Cooks, Maintenance, etc. (OPBA)	3.5%	4%	

Its Exhibit 6 shows:

2005	3%
2006	3%
2007	3%
2008	3.5%
2009	4%
AVE.	3.3%

Union Exhibit 7 shows 8 "Regions, Jurisdiction (City, County, Township, School District); Unit Type (Police, Fire, Teacher) and Contract Year (from 2000-2009).

We will concentrate upon 2008 and 2009, the first two years of the CBA controlling here. The Statewide average is 2.92% for 2008 and 2.15% for 2009. Every one of the eight (8) Regions shows significant reductions from 2008 to 2009. Warren/Youngstown shows 2.70% for 2008 and 1.36% for 2009. Southeast Ohio shows 2.84% for 2008 and

2.25% for 2009. Southeast Ohio shows 3.75% in 2000; 2.84% in 2008 and 2.25% in 2009. Unit Eype, specifically Police, shows a decline from 3.95% in 2000 to 3.23% in 2008 and 2.43% in 2009. Collectively the averages declined from 3.90% the first Contract year (2000) to 2.09% (2009). The second Contract year shows 3.53% in 2000 and 2.46% in 2009. The Third Contract year shows 3.47% in 2000 and 2.65% in 2009.

SUMMARY

The OHIO REVISED CODE states in pertinent part:

"4117.14(C)(4)(e) - In making its recommendations, the fact-finding panel shall take into consideration the factors listed in division (G)(7)(a) to (f) of this Section."

"Conciliation Guidelines: Factors for Consideration by Conciliator

4117.14(G)(7) After hearing, the conciliator shall resolve the dispute between the parties by selecting, on an issue-by issue basis, from between each of the parties final settlement offers, taking into consideration the following:

4117.14(G)(7)(a) Past collectively bargained agreements, if any, between the parties;

4117.14(G)(7)(b) Comparison of the issues submitted to final offer settlement relative to the employees in the bargaining unit involved with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved;

4117.14(G)(7)(c) The interests and welfare of the public, the ability of the public employer to finance and administer the issues proposed, and the effect of of the adjustments on the normal standard of public service.

4117.14(G)(7)(d) The lawful authority of the public employer;

4117.14(G)(7)(e) The stipulations of the parties;

4117.14(G)(7)(f) Such other factors, not confined to those listed in this section, which are normally or traditionally taken into consideration in the determination of the issues submitted to final offer settlement through voluntary collective bargaining, mediation, fact-finding, or other impasse resolution procedures in the public service or in private employment."

The Parties exchanged the Exhibits provided to the Fact Finder. The Jail Authority is a coalition of five Counties. The fifteen-member Commission represents all Counties and is comprised of members from each County. The Fact Finder will not speculate why OIC'S and Sergeants were granted 10% increases in 2008 or why the Commission saw fit to grant Sergeants, OIC's and Corrections Officers a total of 14 percent over three year; 2008-2009-2010. On this basis it is understood why the Union stresses "pattern bargaining."

When there are multiple bargaining units but one employer it is not uncommon when the first CBA is favorable to the Union for it to serve as a model for subsequent CBA' S. At the least this is a form of the "me too" principle. The total of 14% for Sergeants, Corrections Officers and OIC'S bears this out.

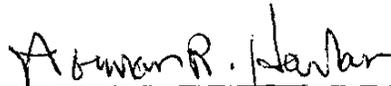
The Fact Finder served as an elected school board member for 12 years (and a classroom teacher) and served four years as an elected member of city council. He has also negotiated CBA's. When times are good it's usually favorable to be last in line to negotiate. We are not in good times. It is recognized the Union does not seek to achieve a total of 14% to match the other Units. However, a 4.5% increase is clearly excessive. The ability of the Commission to pay

is seriously affected by the plight of Morgan and Vinton Counties. Not only are their resources limited but the options to increase revenue are limited. Further, Exhibits show significant declines across the State since 2000 and in particular since 2008, with few exceptions. Public policy demands scrutiny. It is not insignificant that non-unit personnel have had salaries/wages frozen and there have been layoffs and a Levy failed by 61%.

The 4.5% increase proposed by the Union would cost about \$12,000.** A 1.5% increase amounts to about \$4,000.00 Such an increase will enable the Unit members to stay even with inflation and will not work a hardship upon the Employer.

RECOMMENDATION

A Wage increase of one-and-one half percent (1.5%) is recommended retroactive to January 1, 2010.



Norman R. Harlan, Fact Finder

Steubenville, Ohio

November 22, 2010

**The Union estimated \$11,000 to \$12,000. The Employer commented it was closer to \$12,000.00.

N R. HARLAN, ARBITRATOR
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