

**IN THE MATTER OF FACT FINDING**

**BETWEEN**

**THE LUCAS COUNTY CORRECTIONAL TREATMENT FACILITY**

**AND**

**THE PROFESSIONALS GUILD OF OHIO**

**SERB CASE # 10-MED-04-O670**

**Robert G. Stein, Fact Finder**

**ADVOCATE FOR THE UNION:**

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**ADVOCATE FOR THE EMPLOYER:**

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## INTRODUCTION

The bargaining unit comprised of correctional officers is represented by the Professionals Guild of Ohio (hereinafter "Union") and consists of approximately twenty-four (24) people employed full-time. The employer in this matter is the Lucas County Correctional Treatment Facility Governing Board (hereinafter "Employer" or "Board"). The Community Based Correctional Facility is located at 1100 Jefferson Ave, Toledo, Ohio (CBCF) and it opened in 1994. CBCF's are state funded correctional facilities and programs that assist local criminal justice systems in reducing prison commitments of low level non violent offenders. The Lucas County facility is one of approximately nineteen (19) CBCF facilities located around the state of Ohio and houses both male and female inmates who are low level felony offenders sentenced up to six (6) months by the Court of Common Pleas in Lucas County, Ohio. The funding source for the Facility is the Ohio Department of Rehabilitation and Corrections. The Collective Bargaining Agreement runs from January 1, 2009 through June 30, 2011.

The issues in this case involve a re-opener of Article 16-Wages and the design of the wage schedule. (Appendix A) One mediation/fact-finding session was held on October 18, 2010. Following a concerted attempt by the undersigned fact finder to resolve this matter through

mediation, the parties were unable to reach agreement and proceed to fact finding on the same day.

## **CRITERIA**

### OHIO REVISED CODE

In the finding of fact, the Ohio Revised Code, Section 4117.14 © (4) (E) establishes the criteria to be considered for fact-finders. For the purposes of review, the criteria are as follows:

1. Past collective bargaining agreements
2. Comparisons
3. The interest and welfare of the public and the ability of the employer to finance the settlement.
4. The lawful authority of the employer
5. Any stipulations of the parties
6. Any other factors not itemized above, which are normally or traditionally used in disputes of this nature.

These criteria are limited in their utility, given the lack of statutory direction in assigning each relative weight. Nevertheless, they provide the basis upon which the following recommendations are made.

## **General/Local Economic Outlook and Discussion of Issues**

The economy in Ohio is still experiencing the effects of a national recession and a very slow recovery. While officially considered to have reached an end, the impact of the recession upon Ohio's revenue stream is plain. In Ohio, unlike many other states, there has historically been a substantial lag time between a declared end to a recession and recovery from it. Yet, the current decline in revenue, caused by what many call the "Great Recession" is arguably far deeper and broader than those of the past, and it is severely testing even the most resilient of Ohio's public employers. Cities that were already weakened by the loss of industry and commerce in preceding years were particularly vulnerable as the events of the recession took hold. At this point in time it is difficult to say that Ohio's path to economic recovery will be predictable. Every month on a national and state level there are mixed signals being provided by various sectors of the economy and by consumers. The most recent national report on jobs released Friday, November 5, 2010, indicated a net gain in jobs and while encouraging, the unemployment rate remained at 9.6% for the nation and Ohio. In Lucas County the unemployment rate last reported in September of 2010 was 10.7%. One of the more certain and troubling aspect to the current economic times are losses of high paying

skilled jobs in Ohio. They number in the tens of thousands and clearly underscore the existing structural problems of unemployment in areas such as manufacturing and construction. Moreover, conventional wisdom indicates that many of the losses of high paying manufacturing jobs are permanent, requiring a recovery in Ohio to take a very different course than it has in the past. All the news is not negative; there are indicators of recovery and some employers are doing well in this recession and its aftermath. The stimulus funds while welcomed by many to sustain public services were a temporary fix that buys public employers a little time. Looming on the horizon and what will most likely become a hotly debated matter now that the November elections are over is the projected deficit in the state of Ohio. Currently estimated to be between four (4) and eight (8) billion dollars, all public employers in Ohio, regardless of jurisdiction have reason to be concerned about the next biennium budget. The Employer in this matter is dependent upon the Ohio Department of Rehabilitation and Corrections for its funding and it is reasonable for it to be apprehensive. With the likelihood of less support from the federal government, the state of Ohio continues to struggle to find ways to fund the many obligations it shoulders such as Medicaid costs, education, job growth, and a myriad of other pressing economic demands. Barring any unforeseen windfall in revenue, it is very likely additional budget cuts will have to be made at the state level in Ohio in

order to balance the budget. To their credit, public employee unions and employees in Ohio have, in the main, recognized and responded to their employers who continue to experience a shortfall in revenue coupled with rising costs. State employees and many county, city, and township public employees in and outside of Ohio continue to make unprecedented financial sacrifices in the form of layoffs, wage freezes, benefit givebacks, furlough days and in paying more for their medical coverage. The story is no different in Lucas County where the effects of the recession have been felt with added emphasis, given its manufacturing base. When dealing with concessionary bargaining evenhandedness of sacrifice often takes on even greater significance than it does when comparing internal comparables in more normal times. Arguably it becomes a matter of fundamental fairness when employees are asked to make sacrifices to maintain the integrity of a bargaining unit. Recommended changes in this report appear in **bold face type**.

<b>Issue 1: Article 16 Wages</b>
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The **Employer** proposes that wages remain the same during the last year of the Agreement. It argues that it recently added additional staff to the bargaining unit, increasing its numbers by approximately thirty-three percent (33%), due to a need to house more inmates. The increased staff and the added salary costs have placed additional pressure on the budget, argues the Employer. In addition, the Employer expressed serious concerns over the level of its future funding as the Ohio Legislature determines how to eliminate a multi billion dollar deficit and balance the FY 2012 budget. The Employer also asserts that while administration and

other employees have not received a raise, the bargaining unit has both grown and did receive a lump sum payment. Moreover, the Employer presented evidence in support of its arguments that salary levels of the bargaining unit are very competitive when compared to other CBCFs and what corrections officers are paid in sheriff departments. The Employer also argued that its wage rates compare favorably to state corrections officers who have taken wage and step freezes over the past two years. The **Union** originally proposed a three percent (3%) wage increase and a modification of the salary step schedule that provides step increases to employees earlier, particularly from Step 6 through 9 (See Union's Position Statement). It argues that "While the national and local economies have struggled over the last two years, corrections officers at this facility have not had a general wage increase in five years." (See Union's Position Statement) The Union further asserts that the five year pay schedule freeze has resulted in significant internal and external pay inequities for the bargaining unit. The Union argues that the Employer has the resources to fund its proposed salary increase as well as its proposed changes to the salary schedule. During mediation the Union indicated it was flexible in the area of the proposed changes in the wage schedule and in its demand for salary.

The facts indicate that unlike other jurisdictions that this fact finder has dealt with in corrections, the bargain unit's pay levels are comparable to like unionized positions in the Lucas County and Wood County. (Sheriff's contracts) Also, it is clear from the data that the pay of the bargaining unit compares favorably to other CBCFs around the state of Ohio. What is clear is the difficult economic climate in Lucas County. The unemployment rate has hovered above and just below 11% over the last several months coupled with a substantial decrease in tax revenue. These circumstances have placed public sector employers and employees in a difficult situation as they struggle to maintain a greater demand for services. Due to having the privilege of working in Lucas County on several occasions over the past two years, this fact finder is aware that Lucas County has effectuated a series of substantial budget cuts beginning in 2008, which are scheduled to continue into 2011. The City of Toledo and the County have reduced costs through attrition, layoffs, and the imposition or negotiation of unpaid furlough days. And the Unions in Lucas County have played an important role in agreeing to such contractual limitations recognizing the seriousness of the economic times. The Employer in this matter also indicated that staffing is tight and absences have caused overtime costs to expand. The Union readily acknowledged the budget acumen of Director, Bud Hite, but argued that there is money in the budget sufficient to fund raises of at least two percent (2%) on the currently configured salary schedule. Director Hite

countered by indicating that overtime costs are likely to exhaust any projected budget cushion. The recent expansion of services and the attending addition of staff, including increasing the bargaining unit by approximately thirty-three percent (33%) from sixteen (16) to twenty-four (24) corrections officers is a major budgetary concern, particularly when considering the possibility of State funding cuts that may be forthcoming in the fiscal year 2012. One thing that is unknown is whether the seemingly lower cost alternative of CBCFs will actually receive a greater emphasis and increased funding if the Ohio Department of Corrections is forced to place greater emphasis on housing offenders in a more cost effective manner. If true this information may be known to the parties as they negotiate their next collective bargaining agreement in the spring of 2011, and they can factor this knowledge into a determination of wage rates. In the aggregate the arguments and evidence presented by the Employer support its position in this re-opener.

#### **Determination (Recommendation)**

*The language in Sections 1, 2, 3 shall remain current for the remainder of the Agreement. However, Section 4 of the language shall be modified as follows:*

**Section 4. The Employer shall maintain wage rates and wage schedules at their current levels for the remainder of the Agreement. In exchange for this sacrifice there shall be no layoffs or furlough days imposed during the remainder of the Agreement (through June 30, 2011), unless otherwise negotiated with the Union. Additionally, if any non administrative employees of the Lucas County Correctional Treatment Facility are given a raise between the ratification of this re-opener and June 30, 2011, the members of the bargaining unit shall receive the same percentage of increase in pay.**

## **TENTATIVE AGREEMENT**

During negotiations, mediation, and fact-finding the parties reached tentative agreements on several issues. These tentative agreements and any unchanged current language are part of the recommendations contained in this report.

The fact-finder respectfully submits the above recommendations to the parties this \_\_\_\_ day of November 2010 in Portage County, Ohio.

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Robert G. Stein, Fact-finder