

In the Matter of Fact-Finding Between the Pickaway County (Ohio) Sheriff and Fraternal Order of Police Ohio Labor Council, Inc.
Case Nos. 2012-MED-05-0554, 0555 and 0556

STATE OF OHIO

STATE EMPLOYMENT RELATIONS BOARD

In the Matter of Fact-Finding Between	:	
	:	
	:	
PICKAWAY COUNTY (OHIO)	:	
SHERIFF,	:	
	:	
Employer	:	Case Nos: 2012-MED-05-0554
	:	2012-MED-05-0555
and	:	2012-MED-05-0556
	:	
FRATERNAL ORDER OF POLICE	:	
OHIO LABOR COUNCIL, INC	:	
	:	
	:	
Union	:	
	:	

REPORT AND RECOMMENDATIONS OF THE FACT FINDER

Michael D. McDowell, Esq., Fact-Finder
Report Dated: January 4, 2013

APPEARANCES

For the Pickaway County Sheriff:

Mr. John J. Krock
Vice President, Clemans-Nelson
6500 Emerald Parkway, Suite 100
Dublin, OH 43016-6235

For the Fraternal Order of Police, Ohio Labor Council:

Andrea H. Johan, Esq.
Staff Representative
Fraternal Order of Police
Ohio Labor Council, Inc
222 E. Town Street
Columbus, OH 43215-4611

In the Matter of Fact-Finding Between the Pickaway County (Ohio) Sheriff and Fraternal Order of
Police Ohio Labor Council, Inc.
Case Nos. 2012-MED-05-0554, 0555 and 0556

SUBMISSION

The undersigned was selected by the parties as Fact-Finder in this dispute, pursuant to written notice to the Fact Finder dated August 30, 2012. Collective Bargaining Agreements are in full force and effect between the Pickaway County (Ohio) Sheriff ("County" or "Sheriff's Office" or "Employer") and the Fraternal Order of Police, Ohio Labor Council, Inc. (Road Deputies and Detective Deputies, Sergeants, and Dispatch/Communications Officers) ("Union"), and is hereinafter referred to as the "Agreements." The express terms of the three (3) Agreements were to end on August 31, 2012, but the Parties have agreed to continue their terms pending this Fact Finding Report. The Parties have submitted numerous proposals, met on July 19, July 25, August 15 and August 23, 2012, and resolved most of the issues during the negotiations that preceded this Fact Finding.

The Union bargaining units consist of eighteen (18) Road Deputies and Detectives in what is referred to as the "Blue Unit"; six (6) Sergeants in what is referred to as the "Gold Unit"; and eight (8) Dispatchers in what is referred to as the "Dispatchers Unit". The Gold and Blue units are responsible for law enforcement within Pickaway County. They primarily keep the peace by patrolling the roads and responding to calls for assistance at crime scenes and accidents. The Sergeants in the Gold Unit are responsible for supervision of the road officers in the Blue Unit, and also perform routine duties on the road. The Sergeants are the first line supervisors and serve as shift supervisors. The members of the Dispatch Unit are responsible for answering calls from the public, for responding to calls in emergency as well as nonemergency situations, and then dispatching officers to the scene, and are also responsible for monitoring the whereabouts of all road officers on shift. Additionally, they are responsible for entering, maintaining and updating information on warrants.

In the Matter of Fact-Finding Between the Pickaway County (Ohio) Sheriff and Fraternal Order of
Police Ohio Labor Council, Inc.
Case Nos. 2012-MED-05-0554, 0555 and 0556

On November 29, 2012, the Parties met in Circleville, Ohio, and participated in a Fact Finding hearing¹. The Fact-Finder heard testimony, argument and admitted evidence submitted by the Parties on the following issues for all three bargaining units:

A. Compensation

Article 24.11 for Blue and Gold Units

Article 23.9 for Dispatchers Unit

Wage Scale Rates

Appendix A for all Units.

B. Insurance

Article 29 for Deputy and Sergeant Units.

Article 28 for Dispatchers Unit.

At the hearing, the Parties agreed to the duration of the Agreements under Article 38 for the Blue and Gold Units, and Article 37 for the Dispatch Unit, to be three (3) years and withdrew that issue from Fact Finding. The Parties also agreed on the provisions of Article 23 - Special Assignments/Special Duties for the Blue and Gold Units, and withdrew that issue from Fact Finding as well. The Union withdrew its proposal for an increase in shift differential in Section 24.9 for the Blue and Gold Unit and Section 23.8 for the Dispatchers Unit.

The Parties agreed to extend the time periods to and including the issuance of the Report and Recommendations of the Fact Finder ("Fact Finder Recommendations") as provided under the Ohio Administrative Code Rule 4117.260. The Parties also agreed to waive overnight delivery of the Fact Finder Recommendations and agreed to delivery of the Fact Finder Recommendations by electronic mail only.

In presenting the Fact Finder Recommendations, the Fact Finder has given full consideration to all reliable information relevant to the issues, and to all criteria specified in O.R.C. Sec. 4117.14(C)(4)(e) and Rule 4117-9-05(J) and (K) of the State Employment Relations Board, to wit:

¹ The Fact Finding hearing was originally scheduled for October 19, 2012, but was rescheduled at the request of the Union.

In the Matter of Fact-Finding Between the Pickaway County (Ohio) Sheriff and Fraternal Order of
Police Ohio Labor Council, Inc.

Case Nos. 2012-MED-05-0554, 0555 and 0556

- (1) Past collectively bargained agreements between the parties;
- (2) Comparison of the unresolved issues relative to the employees in the bargaining unit with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved;
- (3) The interests and welfare of the public, the ability of the public employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standard of public service;
- (4) The lawful authority of the public employer;
- (5) Any stipulations of the parties;
- (6) Such other factors, not confined to those listed above, which are normally or traditionally taken into consideration in the determination of issues submitted to mutually agreed-upon dispute settlement procedures in the public service or in private employment.

ISSUES, POSITIONS OF THE PARTIES AND RECOMMENDATIONS

At the end of the Fact Finding Hearing, the following issues remained unresolved:

Article 24 (Blue and Gold Units), Article 23 (Dispatchers Unit) - Compensation - Appendix A

Union Position: the Union proposes wage increases for all three bargaining units of three percent (3%) for each year of the three year contract, with year one effective January 1, 2013. Even though the contract expired, and they have always expired at the end of August, wage increases have traditionally been effective the following January 1 and are effective for a January-December calendar year. The County is proposing yet another zero percent (0%) increase for 2013 and reopens for 2014 and 2015. Thus, the bargaining unit members have the potential of another series of years (following three (3) consecutive years with no hourly wage increase.

The Union outlined the recent across-the-board wage increases as follows:

In the Matter of Fact-Finding Between the Pickaway County (Ohio) Sheriff and Fraternal Order of
Police Ohio Labor Council, Inc.

Case Nos. 2012-MED-05-0554, 0555 and 0556

Effective date	Hourly rate Increase	Comments
January 1, 2006	3% over prior year	
January 1, 2007	2% over prior year	
January 1, 2008	2% over prior year	Members were to automatically receive same increase as other non-bargaining GF employees or request to bargain; all units agreed to the percent for GF employees and no bargaining took place.
January 1, 2009	3% over prior year	One year contract that covered contract period of 2008-2009 with wages for January-December 2009
January 1, 2010*	0% over prior year	Agreed to by all three units at the table
January 1, 2011*	0% over prior year	Recommended by factfinder(s) and accepted by all three units
January 1, 2012*	0% over prior year	Awarded by conciliator for all three units; award dated March 15, 2012
Total increase over 6 years	10%	This is the equivalent of 1.43% each year
On/About June 2012 for 2912	3% lump sum payment	Verbal offer from management representative; no bargaining unit members refused payment.

At the time of the Conciliation Hearing on February 5, 2012 (part of the negotiations for the re-opener for 2012), the County offered a 0% increase for 2012 over 2011 (which followed a 0% for 2010), arguing an inability to pay. The Conciliator accepted this position of the County and on March 15, 2012, issued his award with a 0% increase. Then, during the early part of June, 2012 the County verbally offered a lump sum payment of three percent (3%) to each bargaining unit member (and also gave the same

In the Matter of Fact-Finding Between the Pickaway County (Ohio) Sheriff and Fraternal Order of
Police Ohio Labor Council, Inc.
Case Nos. 2012-MED-05-0554, 0555 and 0556

lump sum percentage payment to all other County employees paid from the County's general fund). The Union submits that if the County was able to offer a lump sum payment based on a percentage less than ninety (90) days after an award of zero (which is what the County proposed) then there was money at that time and there is money now available to support an across-the-board increase. The lump sum payment was made approximately six months ago. The County's financial picture did not change significantly enough between February when the Conciliation Hearing took place and June when the lump sum payment offer was made; nor has the County's financial picture changed significantly enough between June when the lump sum payment was made and now, such that the County can again argue an inability to pay.

While the Union is not accusing the County of bargaining in bad faith, the Union does submit that it is inconsistent with logic to argue an inability to pay in February, spend \$180,000 in June for lump sum payments and then argue an inability to pay in July and August when the parties were negotiating.

The Union recognizes that payment of a lump sum to employees is less expensive than an across-the-board hourly wage increase because there is no cumulative effect on the County's budget. However, there is no improvement in the employee's wages; employees remain stuck in a holding pattern of sorts with no ability to improve their personal economic pictures. Also, keeping hourly wage rates flat over time can cause the County to be less competitive.

Additionally, these members have not had any increases in their hourly rate since January 2009. The time has come for an increase in hourly wages.

County Position: The County has raised the issue of its inability to pay any increase in the first year of the new Agreement and requests a reopener on the wage rates in the 2nd and 3rd years of the new agreement. A summary of the County's presentation concerning the General Fund and on various items of revenue and expenses follows:

General Fund

The County demonstrated that it had a General Fund carryover from 2011 to 2012 of \$2.6 M. The County knew that its projected revenues would exceed its projected

In the Matter of Fact-Finding Between the Pickaway County (Ohio) Sheriff and Fraternal Order of
Police Ohio Labor Council, Inc.

Case Nos. 2012-MED-05-0554, 0555 and 0556

expenses and that the County would be in a deficit spending mode in 2012. Based on the latest figures at the hearing, it appears that the carryover for the General Fund from 2012 to 2013 will be from \$2.2 M to \$2.1 M, due to \$400,000 to \$500,000 in deficit spending. The County projects that it will have a General Fund balance at the end of 2013, for carryover to 2014, of \$1.8 M. The County stated that it needs at least a \$1.8 M carryover balance each year to provide for expenses up until the first wave of real estate property taxes are received in April of each year.

The County made a presentation to the Conciliator on February 15, 2012, on the sole issue of a wage reopener with regard to the Blue and Gold Units and on March 15, 2012, the Conciliator issued his Conciliation Award which accepted the County's representations concerning its financial condition.

In the summary of the County's position at the February 15, 2012, hearing, the Conciliator noted that the County projected a decrease of over \$1M in general revenues in 2012, with 2012 revenues being \$12,653,200 down from 2011 revenues of \$13,734,000. However, the County's position at the Fact Finding hearing on November 29, 2012, much closer to the end of the year and much more accurate for projection purposes, showed that in 2012 its general revenues were estimated to be between \$13,100,000 and \$13,250,000 - down between \$634,000 and \$484,000 from 2011, rather than over \$1M. The County's projected revenues in 2013 are \$13,200,000.

Also at the Conciliation hearing the County projected a carryover for the general fund at the end of 2012 to be \$1.8 M, whereas at the November 29, 2012 Fact Finding hearing the County projected a carryover to 2013 for the General Fund of between \$2.1 M and \$2.2 M. The County stated that this resulted in the County being in a deficit spending position in the amount of between \$400,000 and \$500,000 by the end of 2012. That projected carryover exceeds its earlier projection even with the one time Special Pay in Lieu of Raises amount of \$280,000 to \$300,000 in June, 2012 which was not included in the numbers presented at the February Conciliation hearing. Even without the one-time Special Pay in Lieu of Raises, the County is still in a deficit spending position of between \$100,000 to \$200,000 at the end of the year. Also, without the one-time Special

In the Matter of Fact-Finding Between the Pickaway County (Ohio) Sheriff and Fraternal Order of
Police Ohio Labor Council, Inc.
Case Nos. 2012-MED-05-0554, 0555 and 0556

Pay in Lieu of Raises, the projected General Fund carryover to 2013 would have been between \$2.4M and \$2.5M.

The County presented a chart, which it represented to be "pretty accurate", and which listed revenues; an explanation for the items was provided by the County:

Local Government Funds

The County stated that its reason for deficit spending was the hope that in 2013 the State of Ohio (State) would confirm its budget and stabilize the revenues the County would receive from the state, providing some consistency going forward. The County stated that its Local Government Funds (LGF) from the State were \$783,000 in 2010, \$773,000 in 2011, and \$520,000 in 2013. The County projects that it will receive \$290,000 in 2013 LGF from the State but claims that is only a "hope". The State has a fiscal year that ends on June 30, and the only LGF from the State that can be counted is the \$175,000 that is guaranteed for the first 6 months of 2013. The County asserts that it is rumored that these Local Government Funds will continue to be reduced and even eliminated due to the casino revenue that the counties are beginning to receive. The County therefore projects that the LGF for the last six months of 2013 will be reduced to \$115,000 which it calculated by reducing the amount of LGF the County received in the last half of 2012 by 50%.

Casino Revenues

Casino tax revenue now plays a significant part in the County budget. By October, 2012, there were three casinos in Ohio: Toledo, Columbus and Cleveland. There is another casino scheduled to open in the spring in Cincinnati. Portions of the tax revenue from those casino operations are distributed to the counties on a quarterly basis. The total casino revenues² from the three operating casinos for October were \$53,942,275 and for November were \$54,098,957. The Ohio Department of Taxation October 2012

² Shown as adjusted gross income, which means the money received by the casino operator less winnings paid to patrons.

In the Matter of Fact-Finding Between the Pickaway County (Ohio) Sheriff and Fraternal Order of
Police Ohio Labor Council, Inc.

Case Nos. 2012-MED-05-0554, 0555 and 0556

County Distribution shows that Pickaway County received \$97,548.68 in that quarter. For the entire year, the County received a total of \$142,000.

The County Administrator estimates that in 2013, casino revenues to Pickaway County will be \$125,000 per quarter or \$500,000 for the year. However, he stated there has not been a significant enough history of these payments to have great confidence as to how they will trend. The County expressed some concern that the Columbus casino, which opened the first week in October, would have a dropoff in patronage soon after it opened. This is the case with the Cleveland and Toledo casinos with their first full month of operation in June reporting an adjusted gross income of \$26,115,771 and \$20,444,071 respectively, dropping to \$20,484,318 and \$13,598,087 in November respectively. The County also expressed some concern that the "racinos", the five racetracks in Ohio that are permitted to have slot machines, might eat into the casino revenues to the point that the County Administrator reduced the County's projection of annual revenues from \$1M to \$500,000. Revenues from racinos are not distributed to the Counties.

Jail Confinement

The County jail is a source of revenue when, pursuant to contracts with the federal government and others, it can house federal and outside-the-county prisoners. Revenue in 2011 was \$404,800 which the County termed an aberration. The revenues in 2009 were "around \$150,000", and in 2010 they were \$154,400. In 2012 at the time of the hearing, they were \$150,000 and were projected to be \$170,000 by the end of 2012. Impacting its ability to obtain revenue for prisoners housed from outside the County, the County cannot charge for City prisoners, which have increased due to more local drug arrests. Further, the County states that probation authorities have stepped up enforcement and the County jail now houses more parole violators who spend more time in the County Jail. In addition, sentencing guidelines have changed to assign low level felony prisoners to county jails. The closure of the City jail in October appears to have had little to no adverse impact on revenues. Further, the City agreed to pay a one-time \$25 for each City prisoner taken by the County. The County Administrator estimates that revenues will stay flat at approximately \$150,000 for 2013.

In the Matter of Fact-Finding Between the Pickaway County (Ohio) Sheriff and Fraternal Order of
Police Ohio Labor Council, Inc.
Case Nos. 2012-MED-05-0554, 0555 and 0556

Investment Income

The County asserts that its investment income revenue has dropped significantly in the last few years and has bottomed out at about 1.8%. The County also has to keep substantial funds liquid to meet day-to-day expenditures, and emergency contingency money invested in money market funds with a 0.6% return. The County has an investment advisor who meets with the County at least quarterly. County investment income in 2012 was \$210,000. The County Administrator estimates that revenues will stay flat at approximately \$205,000 in 2013.

Sales Tax

The County projects sales tax revenues of \$6.1 M in 2013, down from \$6.3 M in 2012. Sales tax revenues in 2011 were \$6.8M which the County viewed as an anomaly, and were almost \$6.4 in 2010. The County stated it could have projected \$6.3 M for 2013 but was concerned about potential volatility for 10-15% of the sales tax revenue which is Medicaid money for which there is some uncertainty as well due to concerns regarding the fiscal cliff and the economy.

State Rollbacks

The State had been reducing rollbacks of state property taxes to the counties and in 2011 they were discontinued.

Real Estate Tax

The County Administrator stated that this is a bright spot in the revenue picture. The revenues for 2010 were \$2,645,000, \$2,827,000 in 2011, and in 2012 the revenue was \$3,020,000. A large portion of the property in the County is farmland. In 2011 the State greatly increased the amount that farm land is worth per acre which offset the downturn on residential and commercial property values. That has accounted for the increase real estate tax revenues. The delinquency rate is low.

There is an appeal by the largest commercial landowner which is seeking to reduce its \$12 M assessment to \$6 M. If Walmart wins the appeal it could result in a reduction in real estate tax revenues of \$100,000 to \$120,000 in 2014.

Taking all these factors into account, the County estimates revenues from real estate taxes to be \$3M in 2013.

In the Matter of Fact-Finding Between the Pickaway County (Ohio) Sheriff and Fraternal Order of
Police Ohio Labor Council, Inc.
Case Nos. 2012-MED-05-0554, 0555 and 0556

Tax Increases

The County asserts that it is maxed out in its assessment of available taxes except for the real estate conveyance fees. Maxing out the real estate conveyance fee would provide an annual increase revenues by approximately \$30,000 to \$40,000. The County Administrator stated that he would recommend to the Commissioners that this real estate conveyance fee be maxed out.

Sheriff's Budget

The Sheriff submitted a budget of \$5.6 M for 2012. This the County's biggest budget item. The County only appropriated \$5.1 M for the Sheriff in 2012. The County described this as a deliberate technique to require the Sheriff to request more appropriations when his budget amount runs low in October or November to allow the Commissioners and the Sheriff to discuss and carefully examine what is needed.

Capital Projects Debt Service

The County asserts that the debt service has been paid out of the Capital Fund and the payment amounts to \$300,000 largely from HVAC renovations to County buildings to upgrade them and make them more energy efficient. However the Capital Fund balance is projected to be at \$500,000 by the end of 2012 and the \$300,000 annual payment is being moved to the General Fund in 2013.

Health Insurance Premiums

Since 2010, the County has not assessed the employees for increases in health insurance premiums. The rationale for this is that the employees did not receive pay increases since 2010 and the County did not wish to burden employees with the increases in premium costs. The benefit of this is in the family coverage, for which the percentage in premium is approximately 22% when the County is contractually allowed to require 25% of premium.

Special Pay In Lieu of Raises

As referenced earlier, in June, 2012, the County implemented a special pay in lieu of raises in the amount of 3% of the employee's annual wages. This payment was done County-wide at a cost of \$280,000 to \$300,000 for all the employees in the County, \$132,000 of which was the cost for the employees in the Sheriff's Office.

In the Matter of Fact-Finding Between the Pickaway County (Ohio) Sheriff and Fraternal Order of
Police Ohio Labor Council, Inc.

Case Nos. 2012-MED-05-0554, 0555 and 0556

It should be noted that at the February 15, 2012, Conciliation Hearing on the reopener for 2012, in the prior Agreement, the County offered a 0% increase for 2012 over 2011, arguing inability to pay. The Conciliator was persuaded by the County's arguments and in his Conciliation Award issued March 15, 2012, awarded a 0% increase in 2012. Three months later, during the early part of June, 2012, the County verbally offered a lump sum payment of 3% to each bargaining unit member and also gave the same lump sum percentage payment to all other County employees paid from the County's General Fund. Thus, the County offered a lump sum payment based on 3% of wages less than 90 days after an award of 0% increase for that year to bargaining unit members.

County Unemployment

The Union introduced evidence that the unemployment rate in Pickaway County has decreased by 2% (8.5% to 6.5%) from October, 2011 to October 2012. While not supportive of an economic boom in the County, this is evidence of at least an upswing in the economy of the County and supports the proposition of an increase in the taxes being paid by the residents to the County.

Recommendation of the Fact-Finder: It is recommended that the Blue, Gold and Dispatchers Units be provided with a 1% across-the-board wage increase beginning January 1, 2013. It is further recommended that the wage rates for the 2nd and 3rd year of the three (3) year Agreement be subject to reopeners.

The County has not established an inability to pay that would require a wage freeze in the first year of the Agreement. The County Administrator stated that the County does have the ability to increase its real estate conveyance fees to obtain revenues and that he planned to recommend that the County do so. Such an increase would cover a 1% wage increase. The County had confidence in its real estate tax revenue which is its second highest source of revenues. The County's testimony on its concerns on the level of the sales tax revenues was not compelling. Further, the combination of the LGF and stream of payments from the casino revenues are uncertain at this point appears to be trending in a positive direction as even the County Administrator's projections for 2013

In the Matter of Fact-Finding Between the Pickaway County (Ohio) Sheriff and Fraternal Order of
Police Ohio Labor Council, Inc.
Case Nos. 2012-MED-05-0554, 0555 and 0556

exceed the 2012 totals by \$128,000. The 2013 projections for 2013 for Jail Confinement, Investment Income, Sales Tax and Real Estate Tax revenues appear to be more conservative than may be justified as the 2013 projections undershoot the 2012 estimates by a total of \$245,000. Finally, the unemployment rate drop of 2% is notable, meaning more residents of the County are working and paying more taxes.

The County's position at the Conciliation hearing on the matter of the reopener in the last year of the prior Agreement on February 15, 2012, vis-a-vis its Special Pay in Lieu of Wages that was made in June, 2012, diminishes the weight of the County's testimony concerning its inability to pay. The County revenues are \$500,000 higher now than projected in February, 2012, and the General Fund has a higher carryover to 2013 by at least \$300,000 more than projected in February, 2012. A conservative approach is understandable and responsible, given the arguably unprecedented uncertainties which the County must consider when making projections. However, given the improvement in the County unemployment rate, among other things, it appears that there is movement in the direction of economic improvement, making a modest increase in the first year of the Agreement appropriate.

Given the potential volatility of the LGF and the casino revenues provided to the County by the State, among other things, it is appropriate that the 2nd and 3rd year of the Agreement be subject to reopeners when there is more financial information particularly with respect to the extent LGF and casino revenues are provided by the State.

The following changes in the language of the Blue Unit Agreement are recommended:

Section 24.11. *The parties agree to reopen wage rates in Appendix A for the 2nd and 3rd years of the Agreement in accordance with R.C. 4117.*

.....

In the Matter of Fact-Finding Between the Pickaway County (Ohio) Sheriff and Fraternal Order of Police Ohio Labor Council, Inc.

Case Nos. 2012-MED-05-0554, 0555 and 0556

APPENDIX A

Road Deputies/Detectives

	A	B	C	D	E
January 1, 2013	\$17.92	\$18.63	\$19.80	\$20.80	\$21.46

Step A is the starting rate of pay.

Step B is earned after one (1) year of continuous service within the assigned classification.

Step C is earned after three (3) years of continuous service within the assigned classification.

Step D is earned after five (5) years of continuous service within the assigned classification.

Step E is earned after seven (7) years of continuous service within the assigned classification.

Notation: Deputies assigned to the Detective Division shall receive a seventy -five cents (\$.75) per hour supplement.

Deputies assigned as Firearms Officer will receive fifty cents (\$.50) an hour supplement for each hour of instruction.

The following changes in the language of the Gold Unit Agreement are recommended:

Section 24.11. *The parties agree to reopen wage rates in Appendix A for the 2nd and 3rd years of the Agreement in accordance with R.C. 4117.*

.....

APPENDIX A

(Sergeants)

Bargaining Unit employees will be paid in accordance with the following wage scales:

Communication Sergeants, Jail Sergeants, Training Sergeants, Road Sergeants, Detective Sergeants, Civil Sergeants

Communication Sergeants, Jail Sergeants, Training Sergeants, Road Sergeants, Detective Sergeants, Civil Sergeants

	<u>Start</u>	<u>End of Probation</u>
Effective January 1, 2013	\$22.32	\$22.96

In the Matter of Fact-Finding Between the Pickaway County (Ohio) Sheriff and Fraternal Order of Police Ohio Labor Council, Inc.

Case Nos. 2012-MED-05-0554, 0555 and 0556

Notation: Sergeants assigned to the Detective Division shall receive a seventy-five cents (\$.75) per hour supplement.

Sergeants assigned as Firearms Officer will receive a fifty cents (\$.50) an hour supplement for each hour of instruction.

The following changes in the language of the Dispatchers Unit Agreement are recommended:

Section 23.9. *The parties agree to reopen wage rates in Appendix A for the 2nd and 3rd years of the Agreement in accordance with R.C. 4117.*

.....

APPENDIX A

Dispatchers/Communication

	<i>A</i>	<i>B</i>	<i>C</i>	<i>D</i>	<i>E</i>
<i>January 1, 2013</i>	<i>\$13.86</i>	<i>\$14.57</i>	<i>\$15.33</i>	<i>\$16.08</i>	<i>\$16.88</i>

- Step A is the starting rate of pay*
- Step B is earned after twelve (12) months of continuous service.*
- Step C is earned after twenty-four (24) months of continuous service.*
- Step D is earned after thirty-six (36) months of continuous service.*
- Step E is earned after forty-eight (48) months of continuous service.*

Communications Officer assigned the duties of TAC Officer will receive fifty cents (\$.50) an hour supplement.

Article 29 (Blue and Gold Units) Article 28 (Dispatchers Unit) - Insurances

County Position: The County has proposed language that is currently in the Teamsters, Local 284 collective bargaining agreement ("Teamsters contract"), which applies to the Corrections Officers at this Sheriff's office. The language in the Teamsters contract that appears in Section 29.2 of that contract, that provides the same benefits to bargaining unit employees as the County provides to non-bargaining unit employees, was added in the last contract. The County is now proposing to delete the current language of Section 29.2 in the Blue and Gold Unit Agreements, and Section 28.2 of the Dispatchers Unit Agreement, which currently provide for a 10% premium contribution by single

In the Matter of Fact-Finding Between the Pickaway County (Ohio) Sheriff and Fraternal Order of
Police Ohio Labor Council, Inc.
Case Nos. 2012-MED-05-0554, 0555 and 0556

employees and a 25% premium contribution by employees who select family coverage. The County proposes to substitute for the deleted provisions the following language which is the same language as Article 29.2 of the Teamsters Contract, and which states:

"The Employer agrees to contribute the same percentage of healthcare insurance premiums for both single and family coverage as is paid for non-bargaining unit employees paid from the General Fund."

Current County employees, including FOP/OLC, pay the same premium payments. However, during the term of this Agreement, since the employees have not received a wage increase since 2010, the County Commissioners agreed to pick up the employee's share of the health insurance increase. The County is now paying 78% of the cost of the premiums. The County notes that the overall health care plan is very good in comparison with other plans of similar counties as shown by favorable deductibles for employees. The County provided information concerning health care contributions by employees in Pickaway as compared to 20 similarly sized counties. Five of those counties have the premium contribution as "same as other employees". Of the remaining 15 counties, Pickaway County has the highest premium contribution rate by employees as a percentage of premium for family coverage but the individual premium contribution is higher in ten of those counties.

The County requests that this new provision be effective upon ratification.

Union Position: The Union proposes that there be no change in the current contract language for the term of the new contract. In the course of the first reopener negotiations (held in 2010 for 2011), the health insurance language was changed such that the bargaining unit members began to receive the same level of benefits as all other non-bargaining employees paid from the General Fund of the County. Prior contract language (effective only in the first year of the current contract) specified that benefits be substantially equal to those then-currently provided. In fact, during that first reopener the bargaining unit members understood and agreed to the change stating that since the County was part of the health insurance consortium with two (2) other counties

In the Matter of Fact-Finding Between the Pickaway County (Ohio) Sheriff and Fraternal Order of Police Ohio Labor Council, Inc.

Case Nos. 2012-MED-05-0554, 0555 and 0556

dominated by one of the three largest counties in the State (Franklin), the benefits were controlled by a committee rather than by the County.

Although the Union agreed to the change in the benefit language, the Union did not agree to the County's proposed language change as to the split of the premium. In the first year of the current contract (2009) the premium split was set as follows:

1. The County will continue to contribute seventy-five percent (75%) of the premium for family coverage and ninety-three percent (93%) of single coverage.
2. The County will continue to contribute sixty percent (60%) of the premium for vision and dental coverage.

During the first as well as the second reopener negotiations under the current contract, the County proposed that the premium split language simply be a blanket statement that the health insurance premium contributions for these bargaining units be the same as that for all other General Fund employees in the County. The County argued that the proposed language is simply conforming the contractual language to the practice at the time. In both reopener negotiations neutrals maintained the language specifying certain percentage splits and rejected the County's proposed change.

The County is once again proposing to change the premium split language for these units, to be a blanket statement that all health insurance premium contributions for these bargaining units be the same as that for all other general fund employees in the County.

The Employer will argue that all employees in the County, paid from the General Fund and taking health insurance, are treated the same and that this is only, once again, conforming to current practice. This may be true. However, without language in the agreement specifying the percent(s) of premium split there is nothing to stop the County from changing, either immediately or over time, from the current split to something much more onerous. There is nothing to stop the County from requiring, for example, a 50/50 split of the health premium and flipping the vision and dental split of premium so that the County will pay less than one half (the 40%) and the employee pay more than one half (the 60%).

In the Matter of Fact-Finding Between the Pickaway County (Ohio) Sheriff and Fraternal Order of
Police Ohio Labor Council, Inc.
Case Nos. 2012-MED-05-0554, 0555 and 0556

If the Fact Finder accepts the County's proposal and recommends the change to the premium split language, these bargaining unit members will have even less certainty in this benefit than now. At best, there is currently only minimal certainty, as the premium contribution is split by specific percentages (as opposed to fixed dollar amounts). When the total cost of health coverage increases, these bargaining unit members are obligated to pay the same percent of a higher amount, resulting in a larger dollar amount per month from their pockets.

Coupled with the County's continued insistence on a 0% increase for 2013, with either more zeros and/or reopeners for subsequent years of the contract, the County's health insurance proposal will result in a net loss of income for these members. The Union therefore requests the Fact Finder to recommend the insurance article remain as contract language for the entire contract term.

Recommendation of the Fact-Finder: The Union's position that there be no change in the current language of Article 29.2 of the Blue and Gold Unit Agreements, and Article 28.2 of the Dispatchers Unit Agreement is hereby recommended. The Union has presented persuasive and compelling arguments that this language should not be changed. Further, it appears that Section 29.1 of the Teamsters contract was a direct quid-pro-quo for another provision balancing wage inequity issues. No such quid-pro-quo was offered or is evident here.

Article 25 Holidays/Personal Days (Dispatch Unit Only)

Union Position: The Union points out that the Agreement lists and identifies ten (10) holidays that are observed by members of the Sheriff's Office. All members of the bargaining unit are paid eight (8) hours of straight time for each of the ten (10) holidays for a total of eighty (80) hours of straight time whether they work on the holiday or not, provided they work their scheduled shifts the day before and the day after the holiday. Currently, dispatchers are paid at time and one half (1 1/2) their regular rate of pay for each hour actually worked on any of those named holidays. The Union made no proposal to change or modify the observed holidays or the days on which they are observed. The

In the Matter of Fact-Finding Between the Pickaway County (Ohio) Sheriff and Fraternal Order of
Police Ohio Labor Council, Inc.
Case Nos. 2012-MED-05-0554, 0555 and 0556

Union also did not propose a change in the hourly rate of pay when a member works on a holiday.

The Union proposes that in lieu of receiving payment for the full eighty (80) hours of holiday straight time that the dispatchers be permitted the option of receiving eight (8) hours of time off for no more than five (5) of those ten (10) holidays (with Christmas and New Year's Day being excepted.) This would result in a member being permitted to take no more than forty (40) hours of time off per year for holidays in lieu of being paid. The member would be required to notify the Employer of the holidays for which they wish to receive time off in lieu of payment no later than December 15 of the previous year. The time off would be taken only after the holiday for which it is substituted has been observed and the time off would be requested in the same manner as personal leave days. The proposed language modification would be to the following portion of Section 25.1 (proposed new language underscored):

For each holiday listed above, the employee shall receive eight (8) hours pay or eight (8) hours of time off as holiday pay provided that they work their full scheduled day before and after the holiday or are on approved leave other than sick leave. Employees who wish to receive eight (8) hours of time off rather than pay for any of the holidays listed above shall declare such irrevocable intent in writing to the employer no later than December 15 of the previous calendar year. Employees may make such request for time off in lieu of pay for not more than five (5) holidays each calendar year except for Christmas and New Year's Day. Once the holiday for which the time off will be taken has been observed (per the above-referenced list of holidays), the employee will request a day off that is desired using the same methods as personal leave days are requested.

This proposal is made because unlike the officers who work the road and are eligible for special details, dispatchers have no such option. Civilian employees in the Office (clerical and administrative staff) do not have to work on holidays, but dispatchers do. Since dispatchers do not get a holiday off unless they use some form of lead time, the proposed change in this section would allow a dispatcher the opportunity to substitute time for money and have a chance to take a day off because a holiday has been worked.

County Position: The County takes the position that this proposal should not be adopted. The County asserts that the dispatching operation is a 24/7 operation and that the granting of up to five additional essentially personal days per dispatcher would allow a maximum of 40 off days consisting of 340 hours to accommodate this proposed

In the Matter of Fact-Finding Between the Pickaway County (Ohio) Sheriff and Fraternal Order of
Police Ohio Labor Council, Inc.
Case Nos. 2012-MED-05-0554, 0555 and 0556

provision for all employees. These off days would have to be covered through overtime payments which would be a significant additional cost to the County. The County also raises the question of how this relates to the requested pay raise by the Union when this proposal would allow employees to essentially give back 40 hours of pay or almost 2% of their pay for this time off. The County also refers to the financial condition of the County as outlined in its position on wages above as supporting its position that this provision not be recommended.

Recommendation of the Fact-Finder: The County's position that there be no change in the current language of Article 25.1 of the Dispatchers Unit Agreement is hereby recommended. The County has presented the more persuasive and compelling arguments that this language should not be changed.

**Matters Previously and Tentatively Agreed to,
and Matters Agreed to at the Fact Finding Hearing**

Recommendation of the Fact-Finder: It is recommended that all matters previously and tentatively agreed to by the Parties on issues not specifically addressed in this Report and Recommendations of the Fact Finder be deemed incorporated by reference.

Finally, the Parties are reminded that any mistakes in the language recommended by the Fact Finder are correctable by agreement of the parties pursuant to Ohio Revised Code Section 4117.14 (C) (6) (a).

This concludes the Report and the Recommendation of the Fact Finder.

Respectfully submitted,



Michael D. McDowell
Fact Finder

Pittsburgh, PA
January 4, 2013

In the Matter of Fact-Finding Between the Pickaway County (Ohio) Sheriff and Fraternal Order of
Police Ohio Labor Council, Inc.
Case Nos. 2012-MED-05-0554, 0555 and 0556

CERTIFICATE OF SERVICE

This is to certify that per agreement of the Parties, an electronic copy in .pdf format of the executed original of the foregoing was emailed this 4th day of January, 2013, to Andrea H. Johan, Esq., at ajohan@fopohio.org and to Mr. John J. Krock at jkrock@clemansnelson.com.



Michael D. McDowell
Fact-Finder