

**State of Ohio**

**State Employment Relations Board**

<b>In the Matter of Fact Finding</b>	:	SERB Case Number: 12-MED-09-0953 &
	:	0954
Between:	:	
	:	
Knox County Sheriff,	:	
Mt. Vernon, Ohio	:	
Employer	:	Date of Hearing: April 26, 2013
And:	:	Date of Report: May, 17 2013
	:	
Fraternal Order of Police/Ohio	:	
Labor Council	:	
Mt. Vernon, Ohio	:	Felicia Bernardini, Fact Finder
Union	:	

**Fact Finder Report and Recommendation**

**Appearances:**

**For Knox County Sheriff, Ohio**

John J. Krock, Vice President, Clemans, Nelson & Associates, Inc., Fact Finding Spokesperson

David Shaffer, Knox County Sheriff

**For Fraternal Order of Police/Ohio Labor Council**

Tracy Rader, FOP/OLC Staff Representative, Fact Finding Spokesperson

William Shaffer, Unit Member

Wayne R. Noggle, Unit Member

Kevin Durbin, Unit Member

## **Introduction**

### Case Background

Felicia Bernardini was selected by the parties to serve as Fact Finder in the above referenced case and duly appointed by the State Employment Relations Board (SERB) on November 14, 2012 in compliance with Ohio Revised Code (ORC) Section 4117.14C(3). The case concerns a fact finding proceeding between the Knox County Sheriff (hereafter referred to as the “Employer” or the “Sheriff”) and the Fraternal Order of Police/Ohio Labor Council (hereafter referred to as the “Union” or “FOP/OLC”).

The present case is a wage reopener between the parties involving shift differential and general wage increases. The parties proceeded directly to hearing rather than engage in mediation.

John Krock, represented the Employer.

Tracy Rader, represented the Union.

### General Background Information

Knox County is situated in the center of the State of Ohio. It covers 529.63 square miles and has a population 60,921 as of the 2010 census.<sup>1</sup> As of 2010, the median household income in Knox County was \$45,655.<sup>2</sup> The current unemployment rate in Knox County is 7.3% (not seasonally adjusted), the same as the State of Ohio average.<sup>3</sup> The Employer is the Knox County Sheriff; an independently elected county officeholder. The Sheriff is dependent on the County Board of Commissioners for appropriations to fund the operation of his Office. The Sheriff provides countywide law enforcement services including road patrol and traffic enforcement, detective services, dispatcher services, and management of the county jail. Bargaining Unit members include all Deputies, Sergeants and Lieutenants.

The prior three-year labor agreement covered 2009-2011. The parties opened negotiations for a successor agreement in the Fall of 2011 seeking a new three-year agreement covering 2012-2014. The Parties were unable to complete negotiations in 2011 due to a delay in the county budgeting process. The Knox County Board of County Commissioners delayed the finalization of 2012 county budgets until the 2011 revenue receipts were posted and the County Audit had certified

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<sup>1</sup> [http://www.development.ohio.gov/reports/reports\\_countyprofiles\\_knox.htm](http://www.development.ohio.gov/reports/reports_countyprofiles_knox.htm)

<sup>2</sup> DOD County Profile for Knox Cty.

<sup>3</sup> <http://ohiolmi.com/laus/ColorRateMap.pdf>

the General Fund carryover for 2012. The labor agreement was subsequently settled in May 2012 with outgoing Sheriff Barber and included a wage freeze in 2012 and a wage reopener for 2013 and 2014. The Parties began negotiating the wage reopener in the Fall of 2012. As the end of the calendar year approached, the negotiations were put on hold pending the start of a new term of office for newly elected Sheriff Shaffer; and the County Commissioners had again postponed annual budget finalization until 2012 revenue receipts were posted and the General Fund carryover for 2013 was certified by the County Auditor. In the past, budgets were finalized in October for the coming calendar year.

The scope of the present negotiations is limited to the wage reopener, which involves two Articles: shift differential and wages.

### **Positions, Discussion and Recommendations**

In analyzing the positions of the parties and making recommendations the Fact Finder is guided by available, relevant evidence and the criteria set forth in ORC 4117.14(G)(7)(a) to (f):

- (a). Past collective bargaining agreements, if any between the parties;
- (b). 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;
- (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 the adjustments on the normal standard of public service;
- (d). The lawful authority of the public employer;
- (e). Any stipulations of the parties;
- (f). Such other factors, not confined to those listed above, which are normally or traditionally taken into consideration in the determination of the issues submitted to mutually agreed-upon dispute settlement procedures in the public service or in private employment.

#### Union Position

The Union seeks a ten-cent (\$0.10) per hour increase in the shift differential for each of the remaining two years of the contract. This change would bring the shift differential to fifty-five cents (\$0.55) retroactive to the first pay of 2013, and sixty-five cents (\$0.65) as of the first pay of 2014. As

for general wages, the Union seeks an increase of two and one-half percent (2.5%) in 2013 and an additional two and one-half percent (2.5%) in 2014.

The Union's rationale for seeking these increases is based on two key factors. First, is the comparison of Knox County Sheriff's bargaining unit wages to those of Sheriff's Office employees in contiguous counties. Second, is the increased cost of healthcare insurance since the contract was settled in 2012. In selecting wage comparables, the Union looks to adjoining counties regardless of population size or other distinguishing characteristics. The Union argues that adjoining counties properly account for the relevant labor market. Among these adjoining counties, annual Deputy starting pay in Knox County is \$300 above the average, and top pay is \$1300 below the average; top pay for a Sergeant is \$4400 below the average; and Lieutenant top pay is \$1900 below the average. The Union's proposed 2.5% wage increase in 2013 would help to close the gap at the top end of the Knox County wage scale; and an additional 2.5% in 2014 would help the bargaining unit keep pace with other counties where wages continue to move up. Among the contiguous counties, some provide a shift differential, others do not. Given that there is no standard practice, a meaningful comparison is hard to make. The Union proposes an increase in the shift differential because there is a reopener for this Article, and it offers the opportunity to pursue competitive and reasonable compensation for unit members. As for increasing healthcare costs, since settling the contract a year ago in May 2012, the County has raised health insurance premium rates, changed the insurance provider, and required employed spouses who have healthcare coverage available through their own employer, to take that insurance rather than the County's coverage. The cost of these changes for unit members is far beyond normal healthcare inflation. The County's new rule effecting spouses has made it economically untenable for some spouses to work, especially those who were working part-time and eligible for only minimal healthcare coverage through their employer. Furthermore, Unit members have no assurance that the cost of their coverage will not continue to go up in 2013 and 2014. The employee premium contribution might be firmly set in contract language, but co-insurance, co-pays, out-of-pocket maximums, and other plan changes are likely to occur and cost unit members greatly.

#### Employer Position

The Sheriff proposes no increases in either the shift differential or general wages. The Sheriff's proposal is to freeze the shift differential at the current forty-five cents (\$0.45) per hour for both 2013 and 2014. In the wage article, the Sheriff proposes no general wage increase in 2013, and

to maintain the reopener for 2014. The Employer argues an inability to pay. The Sheriff's law enforcement salaries have increased 8.6% since 2008, while the budget, as a whole, has increased only 1.4%. Thus, the Sheriff is taking monies out of his operating budget to pay for raises that have not been fully funded in the salary appropriation. If wages go up in 2013 as a result of the fact finding process, the Sheriff will have to find those dollars out of the existing budget. The Sheriff's 2013 appropriation is flat. The Employer points out that the increase of a few thousand dollars in the salary line-items (above the 2012 appropriation) will barely pay for the contractual step increases and longevity increases. These line-items must also accommodate any lump-sum payouts for retiring employees. Clearly, there is no budget for a general wage increase in 2013. The County Commissioners hold the purse strings and therefore the health of the County's General Fund is relevant information. The Fund balance dropped significantly in three consecutive years from 2008-2010. The total Fund balance has increased slightly in the past two years, returning to pre-recession levels in 2012. This uptick is also seen in revenue receipts, which in 2012 returned to pre-recession levels. To accommodate the drop in revenue that began in 2009, County expenditures have been tightly controlled. The County's fiscal outlook may be improving, but it is far from certain that revenue will continue to grow. Given this, a conservative and defensive posture is prudent.

The Employer opposes the Union's proposal to raise the shift differential. There is no money in the budget to cover this proposed increase and the existing shift differential is more than competitive when compared to other counties. The Employer bases its comparables on the fundamental demographic characteristic of population size. There are 18 counties with a population between 40,000 and 70,000. Of these counties, 10 offer no shift differential. Of the eight counties that offer a shift differential only two pay more than Knox County. Knox County's forty-five cents (\$0.45) per hour is above the average, which is thirty-eight cents (\$0.38) per hour. The Union's proposal regarding shift differential would cost the Sheriff approximately \$14,000 in the two remaining years of this contract. The Employer also opposes the Union's proposal for a general wage increase in 2013 and 2014. The Employer points out that non-union county employees did not receive a wage increase from 2009-2012; whereas these bargaining unit employees received a cumulative 9% in the prior contract from 2009-2011. In comparing this bargaining unit with external comparables, Knox County wages for Deputies are mid-range in the distribution of comparable counties. The variance from the average is small - \$1.00 at entry level and only \$0.07 at the top grade. The situation is similar for Sergeants. The Sergeant's entry level is right at the average among comparable counties, and \$1.19/hour above average at the top grade. As for Lieutenants, only two

counties among the comparison group pay a rate higher than Knox County. Given the competitive position of the Sheriff's Office pay grades, raises are not called for. The Union's proposal would cost the Sheriff \$222,070 over a two-year period. There is no money in the budget to pay for these increased salary costs. As for wages in relationship to the increasing costs of healthcare insurance, the Employer points out that members of this unit fair better than other county employees because they have a cap on premium increases and they have received general wage increases throughout the recession while other county employees have experienced a wage freeze.

#### Discussion and Recommendation

Both Parties have introduced wage data from other county Sheriff Offices as comparables. Although the Parties presented different sets of comparables, they tell a similar story. That being, the pay rates for these Units are competitive. Knox County pay rates tend to be clustered right around the average among peer counties – some a little above, some a little below. The Union's comparables include Delaware County, one of the State's fastest growing counties in both population and economic development. Setting Delaware aside, the Union's data align quite closely with the Employer's. As a contiguous county, Delaware could be relevant if there were data to show that Knox County's recruitment and retention of Deputies was being adversely impacted by Delaware's higher wages, but no such argument was made. It seems reasonable then to consider Delaware an outlier when it comes to wage data and by doing so it becomes apparent that the Knox County Deputies, Sergeants, and Lieutenants are enjoying pay scales slightly above the average of their peer counties. This being so, there is no case to be made that pay raises are necessary to improve the Sheriff's competitive position in the relevant labor market. The same is true with respect to the shift differential. Comparable data introduced at the hearing, show that at forty-five cents per hour (\$0.45) the Knox County Sheriff's shift differential is slightly above average, and only two other counties in the peer group offer a higher rate. For this reason there appears to be no particular reason to raise the shift differential as proposed by the Union.

The Fact Finder acknowledges two important concerns impacting the financial security of the bargaining unit members. Consideration is given to the fact that these Units took furlough days during the previous contract in order to do their fair share to help the Employer reduce expenses. It is true that these unit members are better off today because they received three consecutive 3% raises; but furlough days offset the raises, creating a zero-sum end result in terms of actual disposable income in the years those furloughs were taken. The Fact Finder also recognizes the dramatic impact the Employer's healthcare plan design and coverage choices are having on

household disposable income. These bargaining units do have a cap on premiums; however to hold premiums steady in the coming years while annual healthcare inflation hovers around 5.5% nationally<sup>4</sup>, plan design must inevitably change. Looking forward over the term of this contract and perhaps the next, out-of-pocket maximums, co-pays and deductibles are all ways that plan enrollees will likely see healthcare costs increase. Furthermore, the strain placed on individual household budgets when working spouses became ineligible for primary coverage under the County's plan is a significant hardship for some unit members.

The economic recovery is having a positive effect on Knox County revenue receipts. The year-end General Fund balance increased by 30% in 2011 and by 20% in 2012.<sup>5</sup> These increases appear to be attributable to a combination of improving revenues and tightly controlled expenditures. The Sheriff's budget is appropriated out of the General Fund. The appropriation for the Sheriff's office has only increased by 1.4% over the past five years.<sup>6</sup> This is below national inflation which was 3.8% in 2008, -0.4% in 2009, 1.6% in 2010, 3.2% in 2011 and 2.1% in 2012.<sup>7</sup> Despite improvements in both the national and state economic outlook, the economy continues to perform under potential; therefore a conservative fiscal mindset among local government officials is understandable and prudent.

Accepting that the Sheriff's appropriation for 2013 is flat and there are no monies for a general wage increase, and that both inflation and the trend in revenue receipts are on the uptick, it is reasonable to hold wages steady in 2013 and plan for a modest pay raise in 2014. If accepted, the general wage increase in 2014 would follow a two-year wage freeze, which itself follows a prior contract that included an overall 9% wage increase offset by furlough days which kept disposable income flat for these unit members. The Fact Finder believes this to be a reasonable balance between unit member concerns over diminishing personal disposable income and the Employer's concerns regarding a flat 2013 appropriation and uncertainty surrounding 2014.

### **Recommendation**

With due consideration to the fact finding criteria concerning the Employer's ability to pay and reasonable wage comparables, the Fact Finder recommends no increase in shift differential for

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<sup>4</sup> Bureau of Labor Statistics, Consumer Price Index, Direct health and medical price index

<sup>5</sup> Employer's Exhibit book, Tab 7

<sup>6</sup> Employer's Exhibit book, Tab 7

<sup>7</sup> Bureau of Labor Statistic, CPI-U Table

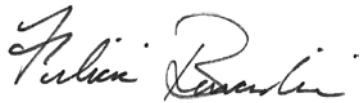
2013 and 2014, no wage increase in 2013, and a general wage increase of two and one-half percent (2.5%) in 2014.

### **Conclusion**

In this report I have attempted to make reasonable recommendations that both parties will find acceptable. If errors are discovered or if the parties believe they can improve upon the recommendations, the parties by mutual agreement may adopt alternative language.

After giving due consideration to the positions and arguments of the parties and to the criteria enumerated in ORC 4117.14(G)(7)(a) to (f) the Fact Finder recommends the provisions as enumerated herein. In addition, all tentative agreements (TAs) previously reached by the parties along with all sections of the current Agreement not negotiated and/or changed, are incorporated by reference into this Fact Finding Report and should be included in the resulting collective bargaining agreement.

Respectfully submitted and issued at Columbus, Ohio this 17<sup>th</sup> day of May 2013.



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Felicia Bernardini,  
Fact Finder



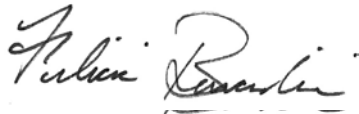
## CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of this Fact Finder Report was sent by e-mail on May 17, 2013 to:

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Felicia Bernardini