

STATE OF OHIO  
BEFORE THE STATE EMPLOYMENT RELATIONS BOARD

In the Matter of Fact-Finding	:	SERB Case Number: 2013-MED-02-0087
	:	
Between the	:	
	:	
SANDUSKY COUNTY, OHIO SHERIFF,	:	
	:	
Employer	:	Date of Fact-Finding Hearing:
	:	October 15, 2013
	:	
and the	:	
	:	
	:	
FRATERNAL ORDER OF POLICE,	:	
OHIO LABOR COUNCIL, INC.,	:	Howard D. Silver, Esquire
	:	Fact Finder
Union	:	

REPORT AND RECOMMENDED LANGUAGE OF THE FACT FINDER

APPEARANCES

For: Sandusky County, Ohio Sheriff, Employer

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## PROCEDURAL BACKGROUND

This matter came on for a fact-finding hearing at 10:00 a.m. on October 15, 2013 within a conference room at the Sandusky County, Ohio Sheriff's Department, 2323 Countryside Drive, Fremont, Ohio 43420. At the hearing both parties were afforded a full and fair opportunity to present evidence and arguments in support of their positions. Following the presentation of evidence and arguments the hearing record was closed at 2:00 p.m. on October 15, 2013.

This matter proceeds under the authority of Ohio Revised Code section 4117.14(C) and in accordance with Ohio Administrative Code section 4117-9-05. Prior to the day of the fact-finding hearing each party delivered to the fact finder and the other party the party's position on each issue that remained unresolved.

The Union made a pre-hearing motion seeking a finding that the Employer had failed to comply with Ohio Administrative Code section 4117-9-05(F)(4), an administrative rule that requires each party to submit in a pre-hearing position statement to the fact finder and the other party: "A statement defining all unresolved issues and summarizing the position of the party with regard to each unresolved issue."

The Union pointed out in its motion that the pre-hearing submittal from the Employer did not include a summary of the Employer's position on each unresolved issue. The Union noted that the Employer presented proposed language for various Articles and in some cases recommended the retention of current language but there was in the Employer's pre-hearing submittal no summary of the Employer's position on each unresolved issue.

The Employer argues that its positions on unresolved issues are obvious from the language presented in the Employer's pre-hearing submittal.

The fact finder acknowledges the motion from the Union but declines to grant it. A narrative summarizing the position of the Employer on each unresolved issue might have added clarity or specificity to the Employer's positions but the Employer's positions can be gleaned from the language proposed by the Employer as presented in the Employer's pre-hearing submission. The absence of a summary leaves to the reader the responsibility of understanding the Employer's position from the words presented, without summary comments, but the fact finder finds the Employer's pre-hearing submittal did present the Employer's positions, discernible from language proposed by the Employer in the Employer's pre-hearing submittal. The Employer's pre-hearing submission is therefore found to have satisfied Ohio Administrative Code section 4117-9-05(F)(4).

This matter is properly before the fact finder for review, report, and recommended language.

## FINDINGS OF FACT

1. The parties to this fact-finding procedure, the Sheriff of Sandusky County, Ohio, the Employer, and the Fraternal Order of Police, Ohio Labor Council, Inc., the Union, were parties to a collective bargaining agreement in effect from June 1, 2010 until June 1, 2013.
2. The parties' successor collective bargaining agreement will cover a bargaining unit comprised of all full-time Captains and Sergeants employed by the Sandusky County, Ohio Sheriff, a bargaining unit comprised of seven members.

3. The parties engaged in bargaining their successor Agreement on July 23, 2013 and August 28, 2013.

4. The operations of the Sandusky County, Ohio Sheriff's Department are paid through Sandusky County's General Fund, a fund controlled by the Board of Commissioners of Sandusky County, Ohio.

#### TENTATIVELY AGREED ARTICLES

The following Articles have been tentatively agreed by the parties for inclusion in the parties' successor collective bargaining agreement. The following tentatively agreed Articles are recommended to be included in the parties' successor Agreement:

Article VII – Non-Discrimination

Article XIV – Layoff and Recall

#### UNOPENED ARTICLES

The following Articles were in the parties' most recent collective bargaining agreement and were not addressed during bargaining. The following unopened Articles are recommended to be included in the parties' successor Agreement unchanged:

Article I – Preamble/Purpose

Article II – Recognition

Article III – Dues Deduction

Article IV – Management Rights

Article V – No Strike/No Lockout

Article VIII – Union Representation

Article IX – Labor Relations Meetings

Article X – Grievance Procedure

Article XI – Discipline

Article XIII – Seniority

Article XV – Holidays

Article XVI – Vacations

Article XVII – Jury Duty

Article XVIII – Military Leave

Article XX – Personal Leave Attendance Bonus

Article XXI – Injury Leave

Article XXII – Family and Medical Leave

Article XXV – Longevity Compensation

Article XXVIII – Travel and Expense Reimbursement

Article XXIX – Bulletin Board

Article XXX – Waiver in Case of Emergency

Article XXXI – Miscellaneous

Article XXXII – Personnel Files

Article XXXIII – Conformity to Law

Article XXXIV – Negotiations

#### UNRESOLVED ARTICLES

The following Articles remained unresolved at the conclusion of the fact finding hearing:

Article VI – Hours of Work/ Overtime

Article XII – Drug/Alcohol Testing

Article XIX – Sick Leave

Article XXIII – Group Insurance

Article XXIV – Compensation and PERS Pickup

Article XXVI – Education Pay

Article XXVII – Uniforms

Article XXXV – Duration of Agreement

## DISCUSSION OF UNRESOLVED ARTICLES AND RECOMMENDED LANGUAGE

### Article VI – Hours of Work/Overtime

The Union has proposed adding language to Article VI, Hours of Work/Overtime, in section 6.4 that would add incentive days and military leave to “hours required to work” to reach an overtime eligibility threshold.

The Union also proposes adding language to Article VI, section 6.6 that reads “...however, compensatory time shall not be denied because its use generates overtime.”

The Employer proposes that the current language of Article VI, unchanged, be included in the parties’ successor Agreement.

The two changes proposed by the Union for Article VI affect some aspect of overtime - in one case expanding the definition of “hours required to work” to achieve an overtime eligibility threshold by including military leave and incentive days, and in the other case adding a prohibition against refusing to schedule compensatory time because it would generate overtime.

The fact finder is reluctant to recommend the additional language proposed by the Union for Article VI in section 6.4 because it enhances a benefit already secured by the bargaining unit beyond that which had been agreed by the Employer and the Union. An incentive day is eight hours of pay without providing work, a reward for an employee's actions that were beneficial to the Employer. An incentive day is a benefit in and of itself, eight hours of compensatory time that otherwise would have been required to be worked to be paid. To add contract language that states that this benefit shall also move an employee closer to overtime eligibility is an addition to the benefit that was not agreed by the parties. The absence of this enhancement is not a penalty imposed upon the bargaining unit. The incentive day is earned, scheduled, and taken as a benefit that is not, in the parties' most recent Agreement, counted toward achieving an overtime eligibility threshold. The fact finder understands the incentive day benefit to be distinct in what it extends to bargaining unit members, and this benefit had not been agreed to be included in calculating overtime eligibility.

As to military leave, the fact finder finds military leave to be a benefit under the parties' Agreement. Not counting military leave in calculating overtime eligibility does penalize an employee who returns from military leave.

The proposed prohibition against the Employer denying the scheduling of compensatory time on the basis of generating overtime directly affects the discretion of the Employer in managing the department. Article IV, Management Rights, sections 4.1(G) and (H) reserve to the Employer the authority to maintain and improve the efficiency and effectiveness of the Employer's operations and to determine the overall methods, process, means, or personnel by which the Employer's operations are to be

conducted. The scheduling of compensatory time is not immune to the necessities of the operations of the department and the fact finder does not recommend the inclusion of the language proposed by the Union that would limit the Employer in determining when compensatory time may be scheduled.

The fact finder recommends the retention of current language in Article VI in the parties' successor Agreement.

#### RECOMMENDED LANGUAGE – Article VI, Hours of Work/Overtime

Sections 6.1 – 6.10. Retain current language.

#### Article XII - Drug/Alcohol Testing

The parties' most recent collective bargaining agreement contains an extensive drug and alcohol testing Article, Article XII, that specifies that drug/alcohol testing may be conducted under a reasonable suspicion of drug or alcohol abuse. This language describes what constitutes a reasonable suspicion, how drug/alcohol testing is to be conducted and by whom, how the results of testing are to be delivered to the Employer and the employee, and what is to occur in the event of a positive test. Article XII, section 12.7, as presented in the parties' predecessor Agreement, provides that in the event of a positive test the Employer may take disciplinary action and/or require the employee to participate in any rehabilitation or detoxification program that is covered by the employee's health insurance. This Article provides in section 12.8 what is to occur if an employee refuses to undergo rehabilitation or detoxification and provides that the costs of all drug screening and confirmatory tests are to be borne by the Employer except those tests initiated at the request of the employee.

The Employer proposes the addition of language to Article XII, section 12.7 that makes specific reference to the abuse of legal drugs, including the abuse of legally prescribed medication. The Employer also proposes language that would require that an employee be terminated from employment following a positive drug test. The language proposed by the Employer also describes what is to occur following a conviction for illegal drugs or a controlled substance prescribed by a physician.

The Union opposes the language proposed by the Employer and proposes different language that addresses how a positive drug/alcohol test result is to be treated. The Union proposes the appointment of a medical review physician to consider and interpret a positive test result. The language proposed by the Union would require the examination of alternate medical explanations for any positive test result and would include a review of the employee's medical history and other biomedical factors.

The Employer opposes the language proposed by the Union for Article 12, claiming that what the Union has suggested, a clinical review of a positive test result, is already provided under the laboratory services now in place.

The fact finder does not recommend the language proposed by the Union. The Union's proposal is understood to be duplicative of procedures now in place, if in a slightly different form.

The fact finder recommends the inclusion of the language proposed by the Employer for the first sentence of Article XII, section 12.7: "...of legal drugs including the abuse of legally prescribed medication,..." as a clarification of policy. The fact finder does not recommend the other language proposed by the Employer for Article XII because the proposed language restricts the discretion of the Employer in determining

how to address an employee who has tested positive for illegal or legal drugs. All of the actions required by the language proposed by the Employer are within the Employer's discretion to order in the event of a positive drug test under the parties' most recent agreed language, allowing the Employer to choose among a range of responses in addressing an employee who has produced a positive drug test result. To install the language proposed by the Employer in the parties' successor Agreement would restrict the Employer's discretion to address a broad range of circumstances that underlie positive drug or alcohol test results. Beyond the language recommended for the first sentence of Article XII, section 12.7, the fact finder does not recommend the Employer's proposed language for Article 12, sections 12.7 and 12.8.

For the reasons cited above, the fact finder recommends the retention of current language in Article XII with the addition of the language proposed by the Employer for the first sentence of section 12.7 of Article XII.

#### RECOMMENDED LANGUAGE – Article XII, Drug/Alcohol Testing

Sections 12.1 – 12.6. Retain current language.

Section 12.7. If after the testing required above has produced a positive result **of legal drugs including the abuse of legally prescribed medication**, the Employer may take disciplinary action and/or require the employee to participate in any rehabilitation or detoxification program that is covered by the employee's health insurance. An employee who participates in a rehabilitation and detoxification program shall be allowed to use sick time, compensatory days, and vacation leave for the period of the rehabilitation or detoxification program. If no such leave credits are available, the employee shall be placed on medical leave of absence without pay for the period of the rehabilitation or detoxification program. Upon completion of such program, and upon receiving results from a retest demonstrating that the employee is no longer abusing a controlled substance, the employee may be returned to his former position. Such employee may be subject to periodic retesting upon his return to his position. Any employee in a rehabilitation or detoxification program in accordance with this Article will not lose any seniority or benefits, should it be necessary for the employee to be placed on medical leave of absence without pay for a period not to exceed ninety (90) days.

Sections 12.8 – 12.9. Retain current language.

#### Article XIX – Sick Leave

The Employer has recommended that language be added to Article XIX, Sick Leave, that describes how employees who have exhausted all sick leave credits and have a non-work related illness or injury are to be treated. This includes a leave of absence without pay for a period not to exceed ninety calendar days. This leave of absence is to be provided if the employee presents written evidence from a licensed physician of a probable return to work date.

The Employer also proposes language that describes how an employee with a work-related illness or injury who has exhausted all sick leave credits is to be treated, namely the grant of a leave of absence at the discretion of the Employer without pay for a period not to exceed six months.

The Union had no strong objection to the language proposed by the Employer.

The language proposed is understood by the fact finder to provide a timeframe through which injuries to employees are to be addressed, differentiating between a work-related illness or injury and a non-work related illness or injury. The fact finder recommends that the language proposed by the Employer be included in Article XIX in the parties' successor Agreement.

#### RECOMMENDED LANGUAGE – Article XIX, Sick Leave

Sections 19.1 – 19.7. Retain current language.

**Section 19.8. Employees who have exhausted all sick leave credits and have a non-work related illness or injury may, at the discretion of the Sheriff, be granted a leave of absence without pay for a period not to exceed ninety (90) calendar days**

**provided the employee presents written evidence from a licensed physician of a probable return to work date.**

Employees who have a **work related illness or injury and have** exhausted all sick leave credits may, at the discretion of the Sheriff, be granted a leave of absence without pay for a period not to exceed six (6) months provided the employee presents written evidence from a licensed physician of a probable date of return to work within the six (6) month period. Illnesses exceeding **the time frames specified above**, six (6) months, shall be treated as disability separation. An employee may remain on disability separation, subject to return to work upon satisfactory recovery, for a period of eighteen (18) months. Reinstatement from disability separation may be subsequent to the employee passing a medical examination showing that the employee can successfully perform all the duties of the job. The examination will be conducted by a physician designated by the Employer and the cost of the examination shall be paid by the employee.

Sections 19.9 – 19.10. Retain current language.

#### Article XXIII – Group Insurance

Under the parties' most recent collective bargaining agreement, health insurance coverage premiums for all employees of Sandusky County, including bargaining unit members, are paid 87% by the Employer and 13% by the covered employee. The Union recommends in its proposal that the current medical coverage plan in effect at the time of the execution of the parties' successor Agreement remain in effect and any changes to benefits or expense levels be made only with the mutual consent of the parties.

The Employer points out that there is one coverage plan and one coverage pool among employees of Sandusky County. The Employer notes that all other unions serving Sandusky County receive the same health insurance plan at the same cost. The Employer does not suggest a change to the 87/13 ratio of employer/employee contributions to health insurance coverage premiums but does recommend the following language:

When the Sandusky County Commissioners officially change the premium costs of non-bargaining unit employees in Sandusky County, the Employer shall give the Union a seven (7) calendar day advance notice.

Upon issuing the seven (7) calendar day notice, either party may reopen this Article by filing a Notice to Negotiate with the State Employment Relations Board. Bargaining between the parties pursuant to the reopener shall be conducted in accordance with ORC 4117.

Health insurance coverage has become an extremely expensive benefit for all parties. The Union's proposal, that the current medical coverage plan remain in effect, reflects a satisfaction with present circumstances as they relate to group health insurance coverage. The Union's proposal, however, can be only be fulfilled if the medical coverage plan in effect at the time of the execution of the parties' successor Agreement continues in effect. What is not addressed in the Union's proposal is what happens when a current policy ends and a new policy is required, bringing unavoidable change to the benefits and costs of coverage, and the parties cannot agree about the new coverage. The absence of mutual consent by the parties under the broadest reading of the Union's proposal would halt the provision of health insurance coverage.

The relative amounts of the contributions by the Employer and employees are factors that are considered in any change to the premium costs. The Employer's contributions are almost seven times the contributions from employees. This disparity is viewed as a restraint on the increase in costs for coverage acceptable to the Employer. Any increase in coverage costs would increase the contribution of a bargaining unit member but would also increase the Employer's costs.

What constitutes the strongest protection among bargaining unit members under Article XXIII, Group Insurance, is that there is one coverage pool and one coverage plan. The bargaining unit has the extra protection of the express language requiring the Employer to pay 87% of the health insurance premiums with employees contributing

13% of the health insurance premiums. The Union is correct that the Sandusky County Commissioners unilaterally direct non-bargaining unit Sandusky County employees and therefore can change premium costs at the Employer's sole discretion. It remains the case, however, that in the event of any change to premium costs it is not just bargaining unit members who will be affected but every participant in the coverage pool. It is the uniformity of the coverage plan among all coverage pool participants that provides an equal benefit to all parties.

The reopener language appears to be useful to both parties in overseeing the provision of health insurance coverage to bargaining unit members under Article XXIII. Such language is therefore recommended.

#### RECOMMENDED LANGUAGE – Article XXIII, Group Insurance

Section 23.1. Retain current language.

Section 23.2. Upon execution of this Agreement, the Employer agrees to contribute an amount of money equal to 87 percent (87%) of the health insurance premium for all employees, and the employees shall contribute an amount equal to 13 percent (13%) of the applicable health insurance premium.

**When the Sandusky County Commissioners officially change the premium costs of non-bargaining unit employees in Sandusky County, the Employer shall give the Union a seven (7) calendar day advance notice. Upon issuing the seven (7) calendar day notice, either party may reopen this Article by filing a Notice to Negotiate with the State Employment Relations Board. Bargaining between the parties pursuant to the reopener shall be conducted in accordance with ORC 4117.**

Section 23.3. Retain current language.

#### Article XXIV – Compensation and PERS Pickup

The parties have each presented proposals on wage increases for the three years of the parties' successor Agreement. Both parties have agreed to make the first wage

increase retroactive to June 1, 2013, followed by a wage increase on June 1, 2014, followed by a wage increase on June 1, 2015.

What separates the parties on Article XXIV are the amounts of the wage increases proposed.

The Employer proposes wage increases that are 1.5%, 2.0%, and 2.5%, respectively, for June 1, 2013; June 1, 2014; and June 1, 2015.

The Union proposes that effective June 1, 2013, the hourly wage rate for a sergeant increase to a level that is 12% higher than the hourly wage rate of a top pay deputy. The Union proposes that effective June 1, 2013, the wage rate for a captain be adjusted to make it 12% higher than the wage of a sergeant.

The Union points out that the current rank differential between sergeants and top pay deputies is 7%, well below the average differential between deputies and sergeants in areas contiguous to Sandusky County. The Union argues that sergeants in the bargaining unit have a base wage that is lower than other sergeants in areas contiguous to Sandusky County, with the exception of Huron County Correctional Sergeants. The Union notes that Sandusky County Sergeants' annual salaries are below the state average for sergeants employed by sheriffs' offices. In an effort to install the same pattern for captains in the Sandusky County Sheriff's Office as proposed for the sergeants, the Union proposes a rank differential between captains and sergeants that is 12%, the same differential proposed between the sergeants and top pay deputies.

Neither party has proposed a change to the eight and one-half percent (8½%) contribution by the Employer of the bargaining unit members' contributions to the Public Employees Retirement System (PERS) of Ohio expressed in Article XXIV, section 24.5.

The amount of resources made available to the Sandusky County Sheriff's Office is not controlled by the Sandusky County Sheriff. The size of the budget of the Sandusky County Sheriff's Office is determined by the legislative authority for Sandusky County, the Sandusky County Board of Commissioners. Whatever the opinion of the Sandusky County Sheriff as to wage increases within his department, the size of wage increases that are affordable by this public employer, to a large degree, is determined by the Sandusky County Commissioners in appropriating the resources to be available to the Sandusky County Sheriff's Office for staffing and operations.

Both parties have presented budgetary information concerning Sandusky County and both interpret this information in different ways. The Union argues that there is money available to the Sandusky County Sheriff's Department to fund the wage increases proposed by the Union. The Employer contends that the wage differentials proposed by the Union will piggyback on the wage increases secured by the OPBA for deputies and will cost Sandusky County annually \$137,974 more for seven employees.

The fact finder understands the financial structure intended by the Union's proposal under Article XXIV maintains a wage differential of 12% between top pay deputies and sergeants, and a wage differential of 12% between sergeants and captains. The construction of this structure, however, is expensive, especially at a time when county governments are only beginning to emerge from a severe recession and revenues that are only beginning to recover. While the General Fund in Sandusky County had unencumbered carryovers annually from January, 2011 to January, 2013, the carryover on January 1, 2013 was roughly one-half of what the annual carryover had been in January, 2011.

The fact finder is reluctant to recommend the substantial wage increases required by the wage increases proposed by the Union. The fact finder finds that wage increases of the size proposed by the Union are not affordable by the public employer at this time. The six percent (6%) wage increase proposed by the Employer over the three years of the parties' successor Agreement is in line with other organized employees in Sandusky County and is in scale with the resources projected to be available to the Sandusky County Sheriff's Department during the term of the parties' successor Agreement.

The fact finder recommends the wage increases proposed by the Employer and recommends the retention of express language in Article XXIV, section 24.5 that maintains the eight and one-half (8½%) PERS pension pickup by the Employer on behalf of bargaining unit members.

#### RECOMMENDED LANGUAGE – Article XXIV, Compensation and PERS Pickup

Section 24.1. Effective the first full pay period that includes June 1, 2013, the wage rates of all bargaining unit employees shall be increased by **one and one-half percent (1.5%)**. (Appendix A.)

Section 24.2. Effective the first full pay period that includes June 1, 2014, the wage rates of all bargaining unit employees shall be increased by **two percent (2.0%)**. (Appendix A.)

Section 24.3. Effective the first full pay period that includes June 1, 2015, the wage rates of all bargaining unit employees shall be increased by **two and one-half percent (2.5%)**. (Appendix A.)

Section 24.4. Retain current language.

Section 24.5. Retain current language.

### Article XXVI – Education Pay

The Employer has proposed changes to the language of Article XXVI, Education Pay, in sections 26.1 and 26.2. In both cases the Employer has recommended that an educational stipend be paid annually and that education pay no longer be apportioned among employees' biweekly paychecks.

The Union opposes the changes suggested by the Employer for Article XXVI claiming that the change in the payment of education pay proposed by the Employer would negatively impact the calculation of pension amounts upon retirement. The Union notes that pension amounts are calculated upon biweekly pay amounts, and to remove education pay from biweekly paychecks would suppress the calculated pension amount.

The fact finder recommends that those bargaining unit members employed by the Sandusky County Sheriff prior to January 1, 2014 retain the language presented in Article XXVI in the parties' predecessor Agreement. For those bargaining unit members hired by the Sandusky County Sheriff after January 1, 2014, the fact finder recommends that the language proposed by the Employer be applied.

### RECOMMENDED LANGUAGE – Article XXVI, Education Pay

Section 26.1. **Among bargaining unit employees hired prior to January 1, 2014**, the Employer agrees to increase the annual compensation of a bargaining unit employee who receives his Associate Degree in Law Enforcement from an accredited university. The amount of the educational increase shall be four hundred dollars (\$400) annually and shall become part of the eligible employee's biweekly pay.

Section 26.2. **Among bargaining unit employees hired prior to January 1, 2014**, a bargaining unit employee who receives a Bachelor's Degree in Law Enforcement or Criminal Justice from an accredited university shall receive an education increase of six hundred (\$600) annually and this increase shall become part of the eligible employee's biweekly pay. An employee who is eligible for the six hundred dollar (\$600) education increase shall not also be eligible for the four hundred dollar (\$400) education increase.

**Section 26.3. Among bargaining unit employees hired on or after January 1, 2014, the Employer agrees to increase the annual compensation of a bargaining unit employee who receives his Associate Degree in Law Enforcement from an accredited university. The amount of the educational stipend shall be four hundred dollars (\$400) annually.**

**Section 26.4. Among bargaining unit employees hired on or after January 1, 2014, a bargaining unit employee who receives a Bachelor's Degree in Law Enforcement or Criminal Justice from an accredited university shall receive an education increase of six hundred dollars (\$600) annually. An employee who is eligible for the six hundred dollar (\$600) education stipend shall not also be eligible for the four hundred dollar (\$400) education stipend.**

#### Article XXVII - Uniforms

The Union has proposed that the annual reimbursable amount authorized to be spent by detectives for the purchase of plain clothes be increased from \$500 to \$750. The Employer has no objection to this increase.

The fact finder recommends the language proposed by the Union for Article XXVII, Uniforms.

#### RECOMMENDED LANGUAGE – Article XXVII, Uniforms

Sections 27.1 and 27.2. Retain current language.

Section 27.3. The Employer agrees to provide employees in the detective bureau who are authorized to be in plain clothes an annual clothing allowance account of **seven hundred and fifty dollars (\$750)**. The allowance will be provided on a requisition and/or established provider basis and not on a cash to employee basis. An employee seeking clothing allowance for plain clothes will receive pre-approval and submit receipts if requested by the Employer. Plain clothes employees will comply with the Employer's established dress code for plain clothes.

#### Article XXXV – Duration of Agreement

Both parties have agreed that the parties' successor collective bargaining agreement shall be in effect from June 1, 2013 until June 1, 2016. The parties have also agreed on the elimination of the last sentence in Article XXXV, section 35.2.

The Employer recommends the elimination of the last clause of the last sentence in Article XXXV, section 35.1 that reads: "...provided, however, it shall be renewed automatically on its termination date for another year in the form in which it has been written unless one party gives written notice as provided herein."

The Union proposes a change to the language of Article XXXV, section 35.2 that would eliminate certified mail, return receipt requested as a means of serving the notice described in Article XXXV, section 35.2 and replace this language with: "Notice to modify or terminate this Agreement shall comply with Ohio Administrative Code section 4117-1-02."

The Union believes that the language as presented at the conclusion of Article XXXV, section 35.1 supports stability in the working relationship between the parties.

The fact finder recommends the Union's position on Article XXXV, Duration of Agreement.

#### RECOMMENDED LANGUAGE – Article XXXV, Duration of Agreement

Section 35.1. This Agreement represents the complete Agreement on all matters subject to bargaining between the Employer and the FOP/OLC and shall be effective as of June 1, **2013** and shall remain in full force and effect until June 1, **2016**, provided, however, it shall be renewed automatically on its termination date for another year in the form in which it has been written unless one party gives written notice as provided herein.

Section 35.2. If either party desires to modify or amend this Agreement, it shall notify the other in writing of such intent no earlier than one hundred and twenty (120) calendar days prior to the expiration date, nor later than ninety (90) calendar days prior to the expiration

date of this Agreement. **Notice to modify or terminate this Agreement shall comply with Ohio Administrative Code section 4117-1-02.**

In making the recommendations presented in this report, the fact finder has considered the factors listed in Ohio Revised Code section 4117.14(G)(7)(a) to (f), as required by Ohio Revised Code section 4117.14(C)(4)(e) and Ohio Administrative Code section 4117-9-05(K).

Finally, the fact finder reminds the parties that any mistakes made by the fact finder are correctable by agreement of the parties pursuant to Ohio Revised Code section 4117.14(C)(6)(a).

Howard D. Silver

Howard D. Silver, Esquire  
Fact Finder

Columbus, Ohio  
November 15, 2013

CERTIFICATE OF FILING AND SERVICE

I hereby certify that the foregoing Report and Recommended Language of the Fact Finder in the Matter of Fact-Finding between the Sandusky County, Ohio Sheriff and the Fraternal Order of Police, Ohio Labor Council, Inc., SERB case number 2013-MED-02-0087, was filed electronically with the Ohio State Employment Relations Board at MED@serb.state.oh.us and served electronically upon the following this 15<sup>th</sup> day of November, 2013:

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Columbus, Ohio  
November 15, 2013