****Received Friday, April 25, 2014 11:37 AM-SERB****

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

In Regard To The Matter of the Fact-Finding Between:

| | | |
|---|---|---|
| MONTGOMERY COUNTY SHERIFF | ) | CASE NO: 2013-MED-10-1260 |
| | ) | |
| -AND- | ) | |
| | ) | |
| OHIO PATROLMEN'S BENEVOLENT | ) | |
| ASSOCIATION | ) | |

ATTENDANCE:

For The County:

| | |
|---|---|
| Major David S. Hale | Personnel Director |
| Robert Streck | Chief Deputy |
| Amy Wiedman | Assistant County Administrator |

For The Union:

| | |
|---|---|
| Joseph Hegedus, Esq., | Attorney |
| Corey Akers | Corrections Officer |
| Justin N. Haines | Corrections Officer |
| Michael G. Deaton | Corrections Officer |
| Laura L. Fournier-Wick | Dispatcher |
| Timothy J. Kelly | Dispatcher |
| Erika Wright | Clerk-Typist |

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BEFORE ALAN MILES RUBEN, FACT-FINDER

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Tele: (216) 687-2310
Fax: (216) 689-6881
E-mail: a.ruben@csuohio.edu

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**BACKGROUND:**

Montgomery County is located in southwestern Ohio with its seat in the City of Dayton. Encompassing some 482 square miles, it has a resident population of 536,000. (2013 estimate).

The County contains 55.41 miles of interstate highway, 41.44 miles of U.S. highways, 177.44 miles of state highways and 1441.21 miles of county and township roads.

Located within the County are the cities of Brookville, Clayton, Englewood, Huber Heights, Kettering, Miamisburg, Moraine, Trotwood, Union, Vandalia and West Carrollton, and the Villages of Centerville, Farmersville, Germantown, New Lebanon, Oakwood and Phillipsburg.

The Montgomery County Sheriff provides not only road patrol and traffic regulation enforcement, but also crime prevention and investigation services for unincorporated areas and those Villages which do not maintain a police force. Of particular importance, the Sheriff is also responsible for the operation of the

County's secure jail facility and the maintenance of a regional emergency dispatch center for both fire and police response.

The Sheriff's 227 full-time "civilian" employees in the classifications of Corrections Officer, Security Officer, Clerk-Typist, Execution Clerk, Recreation Specialist, Communication Technician II & III, Inmate Program Coordinator, Dispatcher, Victim Advocate, Accredidation Clerk and Call Evaluator are members of a Bargaining Unit exclusively represented by the Ohio Patrolmen's Benevolent Association.

Of the 227 employees, 116 are in the Corrections Officer classification.

The Sheriff and the Association were parties to a Collective Bargaining Agreement entered into as of January 1, 2011 for an initial term which expired on December 31, 2013.

As here relevant, Article 26 – "Wages" provided:

"Section 26.1 – Wages:

"A. Pay increases during the term of this Agreement are as follows:

"Wages April 1, 2011 through December 31, 2011 will increase zero percent (0%). Effective April 1, 2011, employees who are not at the top of the wage scale shall be permitted to move to the next step in the wage scale as contained in Appendix `A'. Employees at the top of the wage scale as of April 1, 2011 shall receive a $600.00 lump sum payment (not calculated on the base rate of pay) within thirty (30) days of the issuance of the Conciliator's award.

"Section 26.2 – Field Training Officers:

"Field training officers, in the classifications of corrections officer, clerk typist, bookkeeper, security officer, dispatcher and call evaluator, in a number determined by the Employer, will receive premium pay. These payments will be in the form of an additional thirty-five cents ($.35) hourly when the employee is in active pay status, and will only be paid during the period that the employee is assigned as a field training officer.

"Section 26.3 – Longevity:

"A. Employees with continuous service with the Montgomery County Sheriff's Office will be eligible for annual longevity payment according to the following schedule:

"Employees will receive longevity pay in the same dollar amount as received in 2010 for the duration of this contract.

"B. Employees not in active pay status (off payroll) at any time during the pay schedule of each calendar year will not be eligible to receive longevity pay. Disciplinary suspensions do not apply.

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"C. The above payments will be paid in a lump sum on the second payday of November in each calendar year." ["Longevity pay" under the predecessor Contract provided "step increases" for employees upon completion of each five years of service up to a maximum of twenty-five years. The first longevity step allowed qualifying employees to receive two percent (2%) of their salary. The amount increased by one-quarter percent (0.25%) for each succeeding step.]

On March 8, 2012 a "Contract Addendum" amended Article 26 as follows:

"Section 26.1 – Wages:

"A. Pay increases during the term of this Agreement are as follows:

"No later than thirty calendar days after the approval of this agreement, all bargaining unit members will receive a one-time lump sum payment in calendar year 2012 of $500.00 which is not calculated on the basic rate of pay.

"Effective January 1, 2013 wages will increase one percent (1%). Effective January 1, 2013, employees who are not at the top of the wage scale shall be permitted to move to the next step in the wage scale as contained in Appendix `A'. [Appendix "A" is appended to this Report].

…."

As 2013 drew to a close, the Association and the Sheriff met on November 12, 2013, November 19, 2013 and December 12, 2013 to negotiate a successor Agreement.

The parties were able to reach Tentative Agreements on all proposals to amend the terms of the Contract except for Sections 26.1 and 26.3 of Article 26 – "Wages". A set of the Tentative Agreements is appended to this Report as Appendix "B".

Further, the parties tentatively agreed to carry forward and incorporate into the new Agreement, mutatis mutandis, all other Articles, Appendicies and Memoranda of Agreements from the 2011 Contract which had not been the subject of proposals for change.

The Fact-Finder finds appropriate and recommends the adoption of all these Tentative Agreements.

Finally, a series of Association and Sheriff proposals to add new provisions and to amend other Articles and Sections of Articles of the subsisting Contract were withdrawn, and are deemed to have been abandoned.

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Because no agreement was reached on proposed amendments to Sections 26.1 and 26.3 of Article 26, impasse was declared, and on February 11, 2014 the undersigned was appointed Fact-Finder by the State Employment Relations Board to conduct the requisite fact-finding proceedings.

Timely in advance of the hearing, the parties provided the Fact-Finder with the statements required by Ohio Administrative Code 4117-9-05(F) and the Ohio Revised Code, Section 4117.14(C)(3)(a).

The fact-finding hearing was held on March 18, 2014, in Dayton, Ohio. The Fact-Finder first attempted to mediate the unresolved issues arising from Article 26, but was unsuccessful.

At the evidentiary portion of the hearing, the Sheriff provided budgetary information on the operation of his Office, and an analysis of the financial impact of the Association's wage proposals on his budget.

The Sheriff also presented an economic analysis which set forth County revenue and expenditure projections for 2013 and 2014.

Moreover, the Sheriff offered a comparison of wages paid in other Departments.

At the Fact-Finder's request, the Sheriff provided copies of October, 2013 credit rating reports from Moody's Investor Service and Standard & Poor's Credit Rating Service which had been issued in connection with the offering of Montgomery County General Obligation Bonds. The Fact-Finder also received information on the number of Bargaining Unit employees in each health insurance plan offered by the County.

The Association, in its turn, submitted a February 5, 2014 analysis of Montgomery County's General Fund prepared by Sargent & Associates which also projected the total cost to the County of each 1% increase in the base wages of the subject Bargaining Unit members; the County's Comprehensive Annual Financial Report (CAFR) for the year ending December 31, 2012; a twelve year history of employee wages; increases in the relevant Consumer Price Index and employees' share of health insurance costs.

In addition, the Association presented surveys of the compensation of civilian employees in other Sheriff Departments and in other Montgomery County Bargaining Units.

Finally, the Association submitted fact-finding reports and recommendations issued on March 29, 2004, and September 27, 2005, and a conciliation award dated April 6, 2005.

Both the Sheriff and the Association called witnesses to testify in support of their respective proposals.

The parties declined to submit post hearing briefs, and, with the receipt on March 21, 2014, of the information requested by the Fact-Finder, he declared the evidentiary portion of the hearing closed.

In consideration of the cases on the Fact-Finder's docket which closed earlier, the parties graciously consented to extend the time within which the Fact-Finder might issue his Report and Recommendations.

In making his analyses of the evidence and his recommendations upon the unresolved issues, the Fact-Finder has been guided by the factors set forth in O.R.C. Section 4117.14(C)(4)(e) and Ohio Administrative Code Section 4117-9-05(K) namely:

"(a). Past collectively bargained 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 interest 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 stipulation 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".

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## THE FACT-FINDER'S REPORT:

The only issue in dispute involves the compensation to be paid to the Sheriff's Civilian employees. In applying the statutory listed factors to be considered in resolving this issue, it appears that predominant consideration must be given to: (1) The County's ability to pay while continuing to provide the services its residents require based on its prospective financial condition; (2) the employees' demand for compensation increases in light of their recent history of wage freezes and the erosion of their real income resulting from increases in their health care responsibilities and the Consumer Price Index.

### A. The Sheriff's Proposal:

The Sheriff offers to increase base wages by 1% for calendar year 2014 by 1.5% for 2015 and by another 1.5% for 2016. He would also allow employees who are not at the top of their respective wage scale to move up one-step in each year.

The Sheriff also proposes to "unfreeze" Section 26.3, "Longevity",[1] to allow employees who have completed five (5) years, but less than ten (10) years of continuous service on or before November 1st of each calendar year to receive a payment of 2% of their base salary each year, and those completing each succeeding five years of service to obtain additional 0.25% increments up to a maximum of 3.0% after twenty-five years.

The total of the proposed increases in base wages, associated roll-ups and longevity would increase the aggregate compensation for members of the Unit in 2014 by approximately 2.5%.[2]

**B. The Association's Proposal:**

[1] The Sheriff had already agreed to revive the longevity payment schedule for members of the Supervisors' Unit and the Deputies Units.

[2] The 2013 total compensation of $3,158,516.00 would increase by $188,348.00 in 2014 to $3,346,864.00.

The Association seeks to amend Article 26, Section 26.1 so as increase base wages by 3% in each of the three calendar years.[3]

The Association would also adopt the Sheriff's proposal to allow, during each calendar year, employees who are not currently at the top of their relevant wage scale to move up one (1) step each year on the anniversary date of their employment.

The Association would further accept the Sheriff's proposal to reinstate the pre-2010 longevity step progression, but make it available in all three years.

The Sheriff calculates that the Association's proposal would result in a budget deficit of $144,191.00 in 2014 increasing to $283,894.00 in 2015 and resulting in a $462,292.00 deficit in 2016. The likely result would be the layoff of at least five

[3] Effective as of January, 2014, the Sheriff made the following proposal: a 1% wage increase, a movement of one-step on the wage scale and longevity progression. In 2015 the Sheriff offered 1.75% and in 2016, 2% but without a step increase in either year. The proposal was submitted to Bargaining Unit members but voted down.

correction officers in 2014, three more in 2015 and five more in 2016.

### C. The Fact-Finder's Analysis, Findings and Recommendations:

#### 1. ABILITY TO PAY:

Montgomery County is the fifth most populous of Ohio's eighty-eight counties with 534,000 residents.

The Dayton area with its major aviation and aerospace industry led by the Wright-Patterson Air Force Base and its 27,400 employees is the County's largest revenue source.

Although the County's traditional automotive parts manufacturing base has been eroded, the loss has been largely offset by increases in the medical and high technology sectors.

Leading the County's technology base is the Miami Valley Research Park – a University-affiliated, world-class, high technology center. It is the home of forty-four organizations providing 4,500 jobs.

Nevertheless, the average unemployment rate for the County for calendar year 2012, was 7.8%, substantially higher than Ohio's average state rate of 7.2%.

Many of the area's largest employers are non-profit hospitals and medical centers. Among the largest "for-profit" employers located in the Dayton Metropolitan Area are Premier Health Partners; the Kettering Health Network and Lexis Nexis.

With the participation of many private sector business leaders, the County established a Financial Planning Committee which produced a five year General Fund Financial Plan for 2010 through 2014.

The County's Comprehensive Annual Financial Report for the year ended December 31, 2012, as reviewed and approved by the Auditor of State on July 22, 2013, revealed the following information:

Montgomery County's assets exceeded its liabilities as of year-end 2012 by $1,253,132,911.00 of which amount $242,997,679.00 was considered to be unrestricted. The net amount increased by some

$11,346,723.00 over that of 2011. The County's long-term liabilities decreased by $4,699,027.00.

The County's total revenues, however, decreased from $629,000,000.00 in 2011 to $586,730,000.00 in 2012.

In addition to the cut in Local Government Funds, the revenue reduction was largely the result of three factors - a $9.2 million decrease in investment earnings; a $1.2 million decrease in property tax revenue; and a $2.6 million decline in inter-governmental revenue receipts. A $2.1 million increase in sales tax revenue was insufficient to offset the reduction in revenue from the three sources.

The County's 2013 budget projected a 6.3% increase in sales tax revenue from 2012 to $68 million and a 2% yearly growth rate thereafter to 2017.

On the other hand, Local Government Fund receipts were projected to amount to only $7.3 million for 2013 and to remain at or close to that level through 2017.

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The 2012 CAFR noted that "At the end of the current year, [2012] unassigned fund balance for the General Fund was $56,640,436.00 which represents 49.81% of General Fund expenditures".

The County's 2013 General Fund Budget allowed for expenditures of $134.5 million, representing a 4% increase over the 2012 Budget which, in turn, had provided 6.6% less than the amount allocated for 2011.

The Montgomery County Office of Management & Budget provided a December, 2013 General Fund Status Report which disclosed that although the 2008 pre-recession sales tax receipts of $65 million had declined to $58.9 million in 2009, recovery began in 2010, and the total 2008 sales tax receipts was surpassed in 2011. Sales tax revenue continued to increase through 2013 where that year's revenues exceeded $70.6 million.

In 2013, the County was able to reduce the annual cost of health insurance for its employees from $51.3 million in 2011 to $34.5 million in 2012 and 2013. The savings were attributed to the County's "wellness incentive program", which had been designed to reduce the need for medical care, and the adoption of a "Health Savings Account" option which encouraged employee enrollment in a less costly, high deductible insurance plan.

The Association presented an analysis of the County's revenues and expenditures from 2009 through 2013 by Mary Schultz, CPA, CFE, of Sargent & Associates. The report observed that the Sheriff's Office is financed primarily from the General Fund, and that the General Fund's unencumbered balance of $35,892,000.00 as of year-end 2012 had increased to $38,611,000.00 as of year-end 2013. (Unaudited).

The General Fund balance reflected a "very healthy" 28% reserve carryover. $7,235,000.00 had been set aside as an operational reserve fund, and an additional $1,841,000.00 had been designated as a General Fund Capital Reserve.

The Sargent & Associates Report noted:

"The Government Finance Officers Association advises that a minimum carry-over reserve balance should be two months of expenditures, which equates to 16%. That is considered a target amount and the GFOA acknowledges that `in practice, a level of unrestricted fund balance significantly lower than the recommended minimum may be appropriate for … (cities, counties and school districts) because they often are in a better position to predict contingencies … and because their revenues and expenditures often are more diversified and thus potentially less subject to volatility".

Since the Sheriff's Office is primarily financed from the General Fund, the effect upon its operations of changes in the Fund's revenue picture was also summarized in the Consultant's Report:

The 2013 budget allocation for the Sheriff's Office reversed a five year trend of annual reduction in the Sheriff's allotments. The 2008 Budget had decreased the Sheriff's compensation allotment by 3% or $630,447.00. The following year the Sheriff's Office was given a 3% reduction in all General Fund Budget line items, totaling $799,499.00. In 2010, the Sheriff's budget was reduced by another 7%, or $1,694,164.00. In 2011 the Sheriff's General Fund Budget line items were decreased by a further 3% or $857,629.00. In 2012, a 3.5% decrease was imposed upon the jail and facility management allotment and a 9.1% decrease in all other General Fund Budget lines was enforced, amounting to $1,536,137.00. Thus, over the five year period, 2008 through 2012, the Sheriff Office's budget was cut by a total of $5.5 million.

The reduction required the elimination of eighty General Fund supported positions, including twenty-four Corrections Officers jobs.

While the bleeding was stopped, nevertheless, the 2013 Sheriff's Office budget was still some $5,600,000.00 less than that of 2009, and the sum of the compensation paid to all employees in 2013 (exclusive of elected official compensation and retirement, sick leave and vacation pay-outs), was $13,773,680.00, approximately $2,500,000.00 less than the total paid in 2009.

The Report calculated that, for 2014, each 1% wage increase for the Sheriff's civilian employees (including "fringes" and "rollups") would cost approximately $167,419.00.

Looking to the future, the Report predicted that sales tax revenue would continue to grow, and that the "State budget cut of … [Local Government Funds] would be offset by increased Sales Tax receipts, and Casino revenue, of which $702,000.00 was received in 2012 and $3,028,000.00 was received in 2013".

Optimistic economic forecasts were provided by the County's Bond Rating Agencies. Moody's Investors Service gave Montgomery County a "Aa1" rating. Its credit research report issued on October 3, 2013, in connection with the issuance of the County's General Obligation Limited Tax Refunding Bonds, reaffirmed the "Aa1" rating.

The Moody's report commented that Montgomery County has a "very large tax base" and has a record reflecting a "three-year trend of solid financial operations". It complimented the County Commissioners and Administrators on providing a "strong, forward-looking fiscal management that has offset revenue pressure with expenditure control. It also added that the County retains the "flexibility to increase county-wide sales tax rate to generate additional revenue".[4]

These positive factors outweighed such challenges as a "seven year trend of real estate tax based devaluation and a "somewhat challenged demographic profile inclusive of modestly declining population and above average unemployment".

Standard & Poor's Credit Rating Service also issued a very favorable "AA/stable" rating on the County's General Obligation Refunding Bonds.

This Service relied upon the fact that the 2012 audited available General Fund reserves represented 51% of yearly expenditures, and its assessment that the County possessed an "adequate economy which benefits from access and participation in the broad and diverse Dayton, Ohio employment base".

Standard & Poor's concluded:

[4] Collection of the county's 1% sales tax comprised 50% of fiscal 2012 General Fund revenues. Although Ohio counties have the flexibility to increase a local sales tax rate up to 1.5%, such an increase would be subject to voter repeal, and Montgomery County Commissioners currently have no intention of raising the rate.

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"In our opinion, the county's budgetary flexibility remains very strong with reserves above 30% of expenditures for the past several years and no plans significantly to spend the reserves down".

The Sheriff's additional presentation at the Fact-Finding hearing included information that total General Fund Revenues for 2013 amounted to $138.9 million, equaling the 2012 total, but still below the $158 million received in 2008, the $151 million received in 2009, and the $143.6 million received in both 2010 and 2011.

$70.6 million, or 51.6%, of the total General Fund revenues were derived from the County sales tax. This amount exceeded the 2008 pre-recession total, and the total collected in each of the last three years.

Following the bursting of the "real estate bubble" property tax receipts fell significantly. In 2008 the receipts totaled $15.3 million. The amount declined in each succeeding year, and in 2013 receipts totaled only $13.4 million or 9.6% of that year's aggregate revenue collection.

Real estate based fees, which in 2008 had amounted to $5.5 million, managed to not only equal, but exceed that figure in 2013.

The Local Government Fund contributed $7.2 million or 5.1% of the County's 2013 gross revenues.[5] Inter-governmental funds contributed $6.9 million or 5%.

Because of the unprecedentedly low interest rates resulting from the Federal Reserve Bank expansionist policy, investment income receipts declined from $20.9 million in 2008 to only $6.6 million in 2013. Recent Federal Reserve pronouncements suggest that modest rate increases may be instituted in 2015.

Charges for services which also support the General Fund reached a peak of $20 million in 2010 and declined to $18.7 million or 13.6% of total revenues by 2013.

State casino revenues brought in $3.4 million in 2013 or 2.5% of total revenues, and are estimated to bring in slightly more in 2014.

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[5] As a result of legislative action, the Local Government Fund receipts declined from $15.3 million, and are estimated to bring the same amount in 2014 as in 2013 - $7 million.

The Sheriff's witnesses calculated that the General Fund unencumbered balance at year-end 2013, amounted to $26.2 million - a total which was estimated to approximate 19% of the 2014 year budget.

For 2014, the Sheriff's General Fund compensation budget was increased by 2.5% or $353,646.00, to a total of $14,499,502.00.

As related by Office of Management and Budget Director Timothy S. Nolan:

"The County General Fund has stabilized from the impacts of the recession, and the state of Ohio budget reductions. …. With a slow and favorable growth in General Fund Revenues, we have proposed a 2.5% increase to [each Department's] Salary Line Items over the 2013 adopted budget".

The optimism expressed by the County Auditor in his 2012 CAFR report and the favorable outlook recorded in Standard & Poor's and Moody's credit rating evaluations proved to be justified as 2013 turned out to be a year of continuing measurable, if modest, economic recovery.

The Fact-Finder concludes that Montgomery County is relatively financially well-off, and finds it to be probable that its revenues will continue to increase in 2014 and 2015, and that its General Fund reserve will prove large enough to absorb any unanticipated revenue losses without endangering the County's quality credit standing.

**EXTERNAL WAGE COMPARISONS:**

In their presentations of the compensation paid to employees in other County Sheriff Departments, neither party offered an explanation as to why their designated Departments were "comparable" to that of Montgomery County. Their list of Departments are reproduced in Appendix "C".

The only factor each set forth was County "population". Even here, however, the Association gave no reason why, for example, Auglaize County, population 45,949, is comparable to Montgomery County, population 535,153.

And, the Sheriff suggested no basis for including in its array, for example, Cuyahoga County, population 1,283,925.

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Factors usually considered in determining "comparability" include, inter alia, Department size, labor market participation, per capita income, property valuation, sales and property tax and other revenue sources.

The Sheriff portrays the entry level and maximum rate of compensation of its Dispatchers and Corrections Officers as falling just above the median of the compensation paid in his list of nine "comparable" County Departments, although the identity of the nine differed for each job classification.

The Association asserts that Corrections Officers receive only some 96% of the average beginning and maximum rates of compensation paid by the County Departments it advances as "comparable", Dispatchers receive only some 85% of the averages paid by the six Departments in its list of "comparables" for this classification.

The Fact-Finder is not persuaded by the evidentiary record that the comparable data offered is entitled to paramount consideration.

**INTERNAL WAGE COMPARISONS:**

As of the date of the Fact-Finding hearing, of the eight County Bargaining Units, only the County Engineer's employees, represented by Teamsters Local No. 957, had agreed upon wages for 2014 and 2015. The parties agreed to a 2.5% increase plus a $500.00 lump sum payment in each year.

The Sergeants and Lieutenants in the Sheriff's Supervisor Unit under their 2011-2013 Contract received a one-time lump sum payment of $600.00 and "longevity pay" eligibility. The Lieutenants also received an additional 1% increase in the differential over the Sergeants' compensation.

The Sheriff's Deputies Unit had been through a Fact-Finding proceeding to determine the wages for the three year period 2013-2015. Consideration of the

Fact-Finder's Recommendations was in progress as of the time of the preparation of this Report.

The Clerk of Courts Unit, represented by AFSCME Local No. 101, had received a 2.5% wage increase in 2013, and agreed to reopen negotiations for wages for both 2014 and 2015.

The employees of the County Board of Developmental Disabilities Services, represented by the Professionals Guild of Ohio who had accepted a 2% wage increase in 2013, while the Veterans Service Commission employees represented by AFSCME, Local No. 101, who had agreed to a 2.5% wage increase in 2013, both elected to reopen the wage provision of their Contracts for 2014. Another AFSCME represented unit (the "wall-to-wall" employees) had received a 2.5% wage increase without step advancement in 2013, and agreed with the County to reopen wages for both 2014 and 2015,

The Nursing Unit, represented by the Service Employee International Union and the County had not agreed upon wages for 2013 and beyond.

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The employees of the County Board of Developmental Disabilities Services, represented by the Professionals Guild of Ohio, agreed upon a 2% increase as of June, 2013 plus one-time lump sum payments. However, step increases remained frozen for 2013. A wage reopener for the Contract year 2014 was agreed upon.

This internal compensation information is of little assistance in determining the recommendations to be made in the present proceeding. The job duties and qualifications for Corrections Officers and Dispatchers are vastly different from those of other County employees, and the Contract settlements thus far reached are not only not uniform, they do not extend for all three years - 2014, 2015 and 2016 - which are the years with which the Fact-Finder is concerned.

The Fact-Finder accordingly does not find the internal wage comparative data offered to be of substantial assistance in making his recommendations for the Sheriff's Civilian Unit employees.

**PRIOR CONTRACTS:**

The Fact-Finder does find the compensation history of the employees in the Sheriff's Civilian Unit to be the most valuable in the formulation of his recommendations for changes to Article 26.

The members of the Bargaining Unit received no pay increases in 2010, 2011 and 2012 and a 1% increase in base wages in 2013. Obviously, the employees not only did not improve their economic status, they suffered a decline in their "real wages" since the Consumer Price Index[6] over the same period increased by a total of 8.6%. Moreover, beginning in 2011, their potential share of health insurance premiums for family coverage increased from $120.00 to $315.00 in 2013. Their cost for electing single coverage rose from $57.50 in 2010 to $185.00 in 2013. Further, members' responsibilities for deductibles, co-insurance and prescription drugs increased.

The Fact-Finder believes it fair to note that employees could, and many did, reduce their premium

[6] The Index utilized was for the "Midwest Urban Area which included Ohio and ten other States.

liability by fulfilling the modest requirements of the County's "wellness program". Employees who fully participate therein could reduce, for example, their family coverage premium from $315.00 to $180.00.

The Fact-Finder finds that the Corrections Officers and other civilian employees in the Bargaining Unit have suffered a significant decline in their real income in every year since 2009 resulting from the wage freeze in effect from 2010 through 2012, and the limited 1% increase in 2013 (along with the allowed movement of one-step in the pay scale) while the cost of living over the same period exceeded 8%. The concomitant increase in employees' health insurance costs simply added to the deterioration of their financial position.

In making a recommendation for the structuring of compensation for a three year Contract commencing January 1, 2014, the Fact-Finder takes into account that when his Report issues, the County will be in the fourth month of its 2014 budget year, and that any recommended increases in compensation for 2014 beyond that in the budget may require a significant and possibly disruptive reallocation of resources.

While the Fact-Finder cannot recommend the 3% across-the-board wage increase retroactive to January 1, 2014 as sought by the Association, the Fact-Finder does find that the County is well able to afford substantial wage increases in both 2014 and 2015 based upon the forecast of continued revenue growth, and the fact that the General Fund's unencumbered carry-over for 2014 is unusually high, and, if necessary, can be reduced by as much as 2% without jeopardizing the County's excellent credit rating.

Taking these factors into consideration, the Fact-Finder finds appropriate and recommends that the Bargaining Unit employees receive a 2% base wage increase effective as of July 1, 2014, and a $250.00 lump sum payment (which will not be included in the base wage rate) within thirty-days of the date the successor Contract has been executed. He further finds

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appropriate and recommends that Bargaining Unit employees receive an additional 2% base wage increase effective as of January 1, 2015.

The compensation structure that the Sheriff has agreed to over the years with this Unit tends to favor long-service, senior employees through annual steps in the salary scale and quinquennial step increases in longevity pay supplements. Taking this into account, the Fact-Finder recommends that employees who are not at the top step of their relevant pay scale be allowed to move up one-step in 2014 and 2015. Employees at the top-step should receive a lump sum payment of $600.00 in 2015. Further, employees who satisfy the years of continuous service requirements should be allowed to move to the appropriate longevity step in light of their years of continuous service in both 2014 and 2015.[7]

[7] During the first two years of the successor contract (2014 and 2015), it appears that 155 bargaining unit employees will be eligible to move-up a step in the longevity pay progression.

Although the Fact-Finder is aware of the uncertainty created and the additional expense involved in reopening negotiations, he does not find appropriate and does not recommend the setting of compensation levels for 2016.

While the economic projections for 2015 have substantial credibility, the same cannot be said for 2016.

The continued relatively high unemployment, slow economic growth and the possibility of international events adversely impacting the economy make recommendations for 2016 too unstable.

Consequently, he finds appropriate and recommends that the parties reopen Contract negotiations limited to Article 26, and, attempt to agree on base wage schedules and longevity step increases for that year.

Accordingly, the Fact-Finder finds appropriate and recommends the parties adopt the following text of Sections 26.1 and 26.3 of Article 26:

"Article 26

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"Wages:

"Section 26.1 – Wages:

"The wage rates set forth in Appendix `A' hereto shall be increased during the term of this Agreement as follows:

"a. Effective as of July 1, 2014, all wage rates as set forth in Appendix `A' will increase by 2%. Furthermore, effective as of July 1, 2014, employees who are not currently at the top of the wage scale shall be permitted to move one-step.

"b. Effective as of January 1, 2015 the wage rates set forth in Appendix `A' will be increased by an additional 2%. Furthermore, effective as of January 1, 2015, employees who are not then at the top of the wage scale shall be permitted to move one-step. Employees who are at the top of their respective wage scale shall receive a one-time lump sum payment of $600.00 not later than June 30, 2015. The sum shall not be included in the base wage rate.

"c. Not later than September 1, 2015, the parties will reopen negotiations for the establishment of the effective wage rates for the period commencing on January 1, 2016 and ending on December 31, 2016.

"d. Within thirty-days after the execution of this collective bargaining agreement, each member of the bargaining unit will receive a lump sum of $250.00 which shall not be included in the wage base.

"Section 29.2 – Field Training Officers [Text as set forth in a Tentative Agreement].

"Section 22.3 – Longevity:

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"A. Employees with continuous service with the Montgomery County Sheriff's Office will be eligible for annual longevity payment according to the following schedule:

"Employees who have completed five (5) years, but less than ten (10) years of continuous service, on or before November 1st of each calendar year will receive a payment of two percent (2%) of their base salary each year.

"Employees who have completed ten (10) years, but less than fifteen (15) years of continuous service, on or before November 1st of each calendar year will receive a payment of two and one-quarter (2.25%) of their base salary each year.

"Employees who have completed fifteen (15) years, but less than twenty (20) years of continuous service, on or before November 1st of each calendar year will receive a payment of two and one-half percent (2.5%) of their base salary each year.

"Employees who have completed twenty (20) years, but less than twenty-five (25) years or more of continuous service on or before November 1st of each calendar year will receive a payment of two and three-quarters percent (2.75%) of their base salary each year.

"Employees who have completed twenty-five (25) years of more of continuous service on or before November 1st of each calendar year will receive a payment of three percent (3%) of their base salary each year.

"B. Employees not in active pay status (off payroll) at any time during the pay schedule of each calendar year will not be eligible to receive longevity pay. Disciplinary suspensions do not apply.

"C. The above payments will be paid in a lump sum on the second payday of November in each calendar year."

Report of Findings and Recommendations issued at Cleveland, Ohio this 16th day of April, 2014.

Respectfully submitted,

Alan Miles Ruben
Fact-Finder

AMR:ljg

April 16, 2014

Joseph M. Hegedus, Esq.,
OPBA
92 Northwoods Blvd., Suite B-2
Columbus, OH 43235

Major Dave Hale
345 West Second Street
Dayton, OH 45422

RE: Case No: 2013-MED-OPBA
Montgomery County Sheriff -and- OPBA

<u>For Services Rendered:</u>

| | |
|---|---|
| Fact-Finding Hearing – 3/18/14 | |
| 1 day at $950.00 per day | $ 950.00 |
| Mileage – Bratenahl, OH/Dayton, OH | |
| 436 miles at $.55 per mile | $ 239.80 |
| Travel Time – 1 day at $950.00 per day | $ 950.00 |
| Hotel – 3/17/14 | $ 202.72 |
| Meals – No Charge | $ 0.00 |
| Postage – No Charge | $ 0.00 |
| Duplication – No Charge | $ 0.00 |
| Consideration and Preparation of Report and Recommendations | |
| 4 days at $950.00 per day | $3800.00 |
| Total Amount Due: | $6142.52 |
| The Sheriff's Share: | $3071.26 |
| The Association's Share: | $3071.26 |

Respectfully submitted,

Alan Miles Ruben
Fact-Finder
TAX ID NO: 189-24-1171

AMR:ljg

****Received Friday, April 25, 2014 11:37 AM-SERB****