

State of Ohio

State Employment Relations Board

In the Matter of Fact Finding	:	SERB Case Number: 2013-MED-10-1459
	:	2013-MED-10-1460
Between:	:	2013-MED-10-1461
	:	
Crawford County Sheriff,	:	
Bucyrus, Ohio	:	Date of Hearing: April 29, 2014
Employer	:	Date of Report: May 13, 2014
	:	
And:	:	
	:	
Fraternal Order of Police, Ohio	:	Felicia Bernardini, Fact Finder
Labor Council, Inc.	:	
Union	:	

Fact Finder Report and Recommendation

Appearances:

For Crawford County Sheriff, Ohio

Edward Kim, Counsel, Fishel Hass Kim Albrecht LLP., Fact Finding Spokesperson
 Scott Kent, Crawford County Sheriff
 Doug Weisenauer, Commissioner, Crawford County

For Fraternal Order of Police, Ohio Labor Council

Ross Rader, FOP/OLC Representative, Fact Finding Spokesperson
 Joel Glasser, FOP/OLC Representative
 Chris Heydinger, Sergeant, Road Supervisor
 Chris Eicher, Sergeant, Corrections Supervisor
 Tyson Estrada, Deputy, Corrections
 Chris Easterday, Dispatcher

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 February 7, 2014 in compliance with Ohio Revised Code (ORC) Section 4117.14C(3). The case concerns a fact finding proceeding between the Crawford County Sheriff (hereafter referred to as the “Employer” or the “Sheriff’s Office”) and the Fraternal Order of Police, Ohio Labor Council (hereafter referred to as the “Union” or “FOP/OLC”).

Issues

This fact finding matter pertains to a wage reopener. The contract effective dates are January 1, 2012 through December 31, 2014. Article 41: Compensation, contains a pay increase of 2% effective July 1, 2012 and a wage reopener for hourly rates for 2014. Both parties propose an effective date of January 1, 2014 for a wage increase resulting from these proceedings.

General Background Information

Crawford County is located in the north central region of Ohio. The county seat is Bucyrus. The county population in 2012 was recorded as 42,849.¹ The population of Crawford County has been on the decline since its peak in 1970 at 50,364.² The countywide population declined by 6.7% from 2000-2010 and is projected to decline another 6.6% between 2010 and 2020.³ The per capita personal income for Crawford County as of 2011 was \$31,286⁴. The March 2014, not seasonally adjusted, unemployment rate for Crawford County was 7.2% - above both the statewide rate of 6.2% and the national rate of 6.9%.⁵

¹ Ohio County Profiles, Crawford County, June 2013, Ohio Development Services Agency, Office of Policy Research and Planning

² Ibid

³ Ibid

⁴ Ohio Counties Per Capita Income 2011 Map, May 2013, Ohio Development Services Agency, Office of Policy, Research and Planning

⁵ Ohio Not Seasonally Adjusted Unemployment Rates March 2014 Map, Ohio Department of Job and Family Services, Office of Workforce Development, Bureau of Labor Market Information

The Crawford County Sheriff is an elected official of the County. His office provides countywide law enforcement services including police and traffic control services, courthouse security, operation of the county jail, operation of a dispatch center, and several other specialized services and programs. The Sheriff's Office is funded primarily by the Jail Operating Levy Fund, a sales tax revenue fund of one-half of one percent on retail sales; the Criminal Justice Levy Fund, a property tax revenue fund for five years commencing in 2011; transfers from the county General Fund to cover budget shortfalls; and various other operation-specific revenues such as fines, fees and service charges.

There are three represented bargaining units within the Sheriff's Office. All three are represented by Fraternal Order of Police, Ohio Labor Council. The bargaining units include fulltime Dispatchers, Deputies (both corrections and road patrol), Sergeants, Lieutenants and Captains. There is one master contract covering all three bargaining units.

Positions, Discussion and Recommendation

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 6% pay increase across the board for all bargaining unit members effective retroactive to January 1, 2014. In support of this position the Union provides comparable

wage data from five contiguous counties (*i.e.*, Marion, Marrow, Richland, Seneca and Wyandot). Where available, the Union has also provided comparable wage data from a few law enforcement organizations operating within Crawford County (*i.e.*, Galion City Police, Bucyrus City Police, and Ohio State Highway Patrol).

As for Dispatchers in the Crawford County Sheriff's Office, the data show that both their entry level wage and their top career wage are below the statewide average as evidenced by State Employment Relations Board (SERB) benchmark data. When compared to dispatcher wages in adjoining counties, Crawford County Dispatchers are below the area average by 5.9% at entry level and 12.75% at the top level. In comparison to dispatchers working in other jurisdictions within the County, Crawford County Dispatchers are paid considerably below the average – more than \$3000/yr. below average. The requested 6% increase would go a long way to making Crawford County Dispatchers' wages competitive by putting them just at the area average.

Deputies in the Crawford County Sheriff's Office are paid considerably lower than the statewide average deputy wage found in SERB benchmark data. At the top step of the Crawford County Sheriff's wage scale, Deputies are almost \$8000/yr. below average. In comparison to adjoining counties, the Crawford County Deputy's entry level wage is 11% below the area average and the top career wage is more than 18% below the area average. Even with the requested 6% increase, Crawford County Sheriff Deputies would remain significantly below their area counterparts. Within Crawford County, law enforcement officers with whom the Sheriff's Deputies work closely are paid considerably more than they are. At the entry level Crawford County Deputies are \$8500/yr. below the average and at the top of the scale they are \$9600/yr. below the average. Although funding sources for municipalities and the State are different than those for the County, the law enforcement work of Deputies is much the same as other law enforcement professionals and should be valued the same.

As for Sergeants, Lieutenants and Captains, the pattern is the same as what has been presented for Dispatchers and Deputies. All of the supervisory ranks are far below statewide averages, considerably below average wages for their counterparts in surrounding counties, and far below other law enforcement departments within the County. Depending on the rank, the step and the jurisdiction, the difference in average Crawford County Sheriff's Office pay and that in these other jurisdictions, ranges from \$7500/yr. below average to as much as \$22,000/yr. below average.

All together, the data tell a sad story of double digit deficiency and help is needed to bring this Sheriff's Office wages into a competitive range. In addition to these data, the Union offers an

additional document that shows that there are at least ten employees in the County Commissioners' office who received 10% wage increases this year. Several of these Commissioner Office employees are already making more than Deputies for less demanding job duties. Discrepancies in wage increases in Crawford County are not isolated to the Commissioners' Office; some Court employees have received as much as a 35% increase over the course of 5 years. Meanwhile, the Sheriff's Office wages are significantly below market and salary increases over the same 5-year period have not kept pace with inflation.

Employer Position

The Employer offers a 1.85% pay raise, which it argues is consistent with typical wage increases all across the State, within the region and contiguous counties, as well as generally within law enforcement as evidenced by SERB benchmark data.

The Sheriff's Office is funded primarily by the County's General Fund, the Jail Operating Levy and the Criminal Justice Levy. The County's financial outlook is stable but far from positive. The expenditures of the Sheriff's Office continue to rise while revenues remain flat or in some instances decline. This pattern consistently results in a deficit cash balance each year and the ongoing need for transfers from the General Fund to make up the difference. By 2016 the Jail Operating Levy Fund is projected to have a deficit of \$1.1million, and the Criminal Justice Levy Fund is projected to have a \$954K deficit. The Jail Operating Levy is due to expire in 2019 and the Criminal Justice Levy is due to expire in 2015. There is no guarantee that the voters of Crawford County will support continuation of these levies when placed on the ballot. The County General Fund, although showing a high carryover balance in 2012 and 2013 (\$3.9M and \$4.5M respectively) is forecasted to deplete the carryover in 2014 and 2015 resulting in a negative fund balance as soon as 2016. Some of the underlying financial and economic assumptions that drive these forecasts include a 5.72% decline in property tax revenue since 2010, a \$422K sales tax refund due from the County to the State in 2013 and 2014, a decline in local government funds from the State, lower than project casino revenue, and a significant decline in investment revenue. Expenditures from the General Fund are expected to increase on average at 4.87%. This rate of growth includes a 1.85% annual increase in salaries, double-digit increases in healthcare costs (14% in 2014 and 10% in 2015), and multiple building and equipment maintenance projects that have been identified for the next few years.

The Employer prefers to compare Crawford County to unionized counties with a population +/- 20,000 that of Crawford County rather than using statewide averages as the Union has. Furthermore, Crawford County funding is so different from that of municipalities or the State, that using those jurisdictions for comparison is not appropriate. The offered pay raise of 1.85% is directly related to the County's financial situation and the economy. In the past 4 years, and including the current proposed 1.85%, these bargaining units will have received salary increases totaling 5.5%. This percent increase is very much in the ballpark with wage increases over the same time period in the surrounding counties. When it comes to statewide averages, average wage settlement data for 2013 tell a different story than do the average salary data provided by the Union. By comparison the 1.85% offered by the Crawford County is actually a little above average.

As for individual employees working for the County Commissioners who received 10% pay increases, these employees experienced a wage freeze in 2010 and 2011, and were deemed to be under paid in comparison to similar jobs found in other Crawford County offices and departments. These were unique one-time market adjustments and are not representative of across-the-board pay raises for all employees in an Office or Department.

Discussion

It is the nature of fact finding that one rarely, if ever, knows for certain whether the data used to evaluate economic proposals is a reasonably accurate apples-to-apples comparison. Comparison data is never accompanied by a disclosure of the bargained trade-offs made by the parties in other jurisdictions to achieve the resulting financial numbers. As difficult as it is to impute equity and fairness when looking at multiple economic proposals in the context of a typical fact finding it is particularly difficult to do so when looking at a single economic factor as in a wage reopener.

In this particular case of fact finding the Parties have not negotiated prior to the hearing, therefore there has been no bargaining, no listening, and no opportunity to make a deal. Given this context it seems reasonable to frame the wage reopener as the pursuit of a reasonable cost of living adjustment, rather than as a market-based or an equity-based pay scale adjustment. The latter, most certainly, meriting the full give-and-take of bargaining prior to the declaration of impasse. This being the case, the most compelling evidence of what constitutes a reasonable cost of living increase is the SERB Wage Settlement Data for 2013. A review of this data reveals that the Employer's 1.85% across-the-board wage increase is very much in the ballpark of other Ohio wage settlements: in the

third year of a 3-year contract (1.58%), police units (1.66%), county jurisdictions (1.81%), and geographic region (1.49% in the Cleveland region, 1.39% in the Toledo region and 1.64% in the Columbus region).⁶ The Employer's 1.85% proposed wage increase also keeps pace with inflation as measured by the CPI-U: 1.5 in 2013, 1.6 in January 2014, 1.1 in February 2014 and 1.5 in March 2014.⁷ The County's financial picture is also an important consideration. The revenue forecasts for 2014-2016 are conservative, but not inappropriately so, given the uncertainty of the local economy and repeated defeat of various levies by voters. Expenditure assumptions are more difficult to judge; however both general inflation and healthcare inflation assumptions appear to be reasonable and consistent with actual experience. The expenditure assumptions project that wages will inflate through 2016 at the same conservative rate as general inflation – 1.85%. Included in the expenditure forecast, are three new employees paid from the Criminal Justice Levy Fund and a laundry list of capital improvements to physical assets paid from the Jail Operating Levy Fund (*e.g.*, replacement windows, plunger system, air conditioning repairs, shower repairs and painting). Also included in the expenditure projections are replacement cruisers and computers. The net outcome based on these revenue and expenditure assumptions is a \$2million deficit in Sheriff's Office funding by 2016 (\$1.1M deficit in the Jail Operating Levy Fund and \$950K deficit in the Criminal Justice Levy Fund). Funding deficits such as those projected for the Sheriff's Office are covered by transfers from the General Fund. These projections are neither right nor wrong; they are neither good nor bad; they are simply one scenario created from a set of data. With upcoming negotiations between the Parties, the scenario may change. Regardless, the record evidence in this fact finding case favors the Employer's proposal.

That having been said, in a different bargaining scenario between these two parties (*e.g.*, one where there is actual bargaining and the associated analysis of each proposal's value proposition) the Union's argument regarding the pay differential between Crawford County Sheriff's Office Deputies, Sergeants, Lieutenants/Captains and their counterparts in adjoining counties could result in a different outcome. Analyzing the proffered comparable data from both the Union (contiguous counties) and the Employer (population peer counties), after applying a 1.85% cost of living adjustment as proposed by the Employer, Crawford County Sheriff's Office employees (other than Dispatchers) appear to be paid substantially below the average wage of their counterparts. The differential is anywhere from 6.3% below average for entry level Deputies, to as high as 15% below

⁶ State Employment Relations Board, Wage Settlement Breakdown (2004-2013), Employer Exhibit 13

⁷ United States Department of Labor, Bureau of Labor Statistics, Databases, Tables & Calculators

average for employees with a rank above Deputy. Financially speaking there is never a “good time” to undertake an equity adjustment, but there are certainly better opportunities than in an end-of-contract wage reopener when there has been no bargaining between the Parties. The County has demonstrated an awareness of and sensitivity to, the importance of pay equity issues having recently made such an adjustment in wages for a small group of unrepresented employees in the Commissioners’ Office. Certainly the cost of those adjustments is far less than would be the cost of a pay scale adjustment for a large workforce such as that found at the Sheriff’s Office, and yet the principles at work are the same. This is precisely why the Parties should have an opportunity to bargain over (*and bargain vigorously*) a full slate of economic issues and make whatever tradeoffs they determine between them to be just and fair.

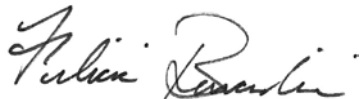
Recommendation

Based on my analysis of the data and arguments as outlined above I recommend a 1.85% wage adjustment for all pay scales in Article 41: Compensation, effective retroactively to January 1, 2014.

Conclusion

In this report I have attempted set forth a rationale for my recommendation that both Parties find acceptable, based on their positions and arguments, and the statutory criteria enumerated in ORC 4117.14(G)(7)(a) to (f). If errors are discovered or if the parties believe they can improve upon the recommendation, the parties by mutual agreement may adopt alternative language.

Respectfully submitted and issued at Columbus, Ohio this 13th day of May 2014.



Felicia Bernardini,
Fact Finder

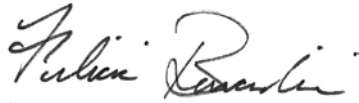
CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of this Fact Finder Report was sent by e-mail on May 13, 2014 to:

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