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IN THE MATTER OF FACT FINDING

BETWEEN

FRATERNAL ORDER OF POLICE, OLC, INC.

(3 Units: FT Deputies, FT Sergeants & Above, FT Correction Officers & Matron)

AND

CARROLL COUNTY SHERIFF

SERB CASE # 14-MED-08-0986, 0987, 0988

Robert G. Stein, Fact-finder

LEAD ADVOCATE FOR THE FOP:

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INTRODUCTION

The parties to this matter are the Fraternal Order of Police, OLC, Inc. (hereinafter "Union") and the Carroll County Sheriff's Department (hereinafter "Employer," or "Department."). The Employer is located in East Central Ohio. The parties engaged in multi-unit bargaining and all three (3) bargaining units are comprised of approximately twenty-six (26) employees who hold various positions in the Sheriff's Department, such as Deputy, Corrections Officer, Matron, Sergeant, Captain, etc., as identified in the Collective Bargaining Agreement. The effective dates of the current Agreement are January 1, 2012 through December 31, 2014. Initially, approximately ten (10) issues were brought to fact finding. Following mediation efforts six (6) issues were resolved, leaving unresolved: Article 9, Wages, Article 17.3, Hours of Work and OT, Article 19.3, Holidays, and Article 32.1 Duration, Entire Agreement and Subsequent Negotiations.

General/State/Local Economic Overview: It can finally be said with some certainty that the economy is improving on the national, state, and local levels. Certainly if you use the measure of the Stock Market, things are very much improved for those relatively few who depend upon it for their income. But for the majority of Americans a better metaphor is "the bleeding has stopped and the patient's (a.k.a. economy) condition is stable with signs of sustained improvement." From the evidence, the County's financial condition is at the current time heavily influenced by a boom in the exploration of oil and natural gas through hydraulic fracturing, which recently seems to be somewhat restrained by dramatically

falling oil prices. The national economy is still plagued by the fatigue and frustration of politics that for the moment appear to be in a state of remission, but given what the nation has endured regarding gridlock, only time will determine whether the nation's concerns and future will take precedent over partisan politics. The sobering reality is that conditions post 2008 are unlikely to be the same as they were prior to the recessionary crash and its aftermath that have caused local governmental operations to be substantially impacted. One difference is one of economic structure and the considerable loss of the manufacturing base in northern Ohio, along with the loss of good paying jobs. It was this very vigorous manufacturing base that led Ohio out of past recessions, but it has been eviscerated by the movement of manufacturing outside of Ohio and the United States.

Prior to the past year it appeared Ohio, which then was near the top in states creating jobs was in the forefront of recovering state economies. There are also positive signs, the housing market continues showing signs of recovery and the auto industry has had record sales in recent years. Yet, uneasiness persists among the millions of people remaining unemployed, and many others underemployed. The long road to recovery has been uneven, with some government entities recovering faster than others. Carroll County with a small population of approximately 28,000 residents is a very rural county, which has in recent years been heavily impacted by oil and gas exploration. Two new hotels have been built, and an influx of workers in the exploration and extraction industry has, until recently, been very active in Carroll County, Ohio.

The parties have been in multi-bargaining unit negotiations since October of 2014, but only held a few bargaining sessions, prior to going to SERB directed mediation on January 27, 2015 and to fact-finding on February 16, 2015. In the prior round of negotiations leading up to the current Agreement, the parties agreed to raises of 3% for each year of the Agreement. In the Agreement prior to the current Agreement the parties agreed to multiple year periods of maintaining wages with no increase, which was common to bargaining units throughout the state of Ohio in the years immediately following the start of the recession in 2008.

CRITERIA

OHIO REVISED CODE

In the finding of fact, the Ohio Revised Code, Section 4117.14 (C) (4) (E) establishes the criteria to be considered for fact-finders. For the purposes of review, the criteria are as follows:

1. Past collective bargaining agreements
2. Comparisons
3. The interest and welfare of the public and the ability of the employer to finance the settlement.
4. The lawful authority of the employer
5. Any stipulations of the parties
6. Any other factors not itemized above, which are normally or traditionally used in disputes of this nature.

The recommendations contained in this report are guided by the above statutory criteria and are intended to be in accordance with them.

For the sake of brevity the specific rationale proffered by the parties was provided in mediation/fact-finding. In order to expedite the issuance of decision in this matter the parties further agreed to have the fact-finder render his decision based upon the parties' arguments and evidence during and following the mediation process and with limited rationale.

EMPLOYER'S PROPOSALS ON THE OPEN ISSUES including rationale:

WAGES:

First Year: 3% Second Year 2.5% Third Year 2.5%

ARTICLE 17 HOURS OF WORK/OVERTIME

*Section 17.3 Overtime All employees in the bargaining unit, for work actually performed in excess of forty (40) hours in the work period, shall receive one and one-half (1-1/2) times the employee's regular straight time rate. Overtime shall be paid in either wages or compensatory time. Employees may select, in writing at the time the overtime is worked, to be compensated in compensatory time. **Employees may accumulate compensatory time to a maximum of eighty (80) hours. The compensatory time bank shall consist of two parts: up to forty (40) hours of earned compensatory time and up to forty (40) hours of holiday time as referenced in Article 19. Employees may only accumulate up to eighty (80) hours in a calendar year. Any balance of compensatory time at the end of a calendar year will be carried over to the next calendar year and reduce and be credited to the eighty (80) hour maximum for that year. That is, if the balance at the end of the year is forty (40) hours the employee may only accumulate and additional forty (40) hours in that year which includes any holiday time converted to compensatory time.***

Annually in December, employees may request the conversion of unused, accumulated compensatory time to a cash payment to be paid in December or January. The Sheriff may agree to the conversion of all or a portion of the requested conversion amount. The Sheriff, in his discretion, may deny a request in total if there is demonstrated evidence that the budget of the office is not sufficient to support a conversion request. Compensatory time balances of employees earned from working overtime shall be converted upon the separation of an employee.

For purposes of this Article, hours actually worked shall not include time spent on sick leave. Overtime, in order to be compensated under this Article, must have prior approval of the Sheriff or his designee.

*Section 19.3 Rescheduled Holidays Employees assigned twenty-four (24) hour operations may request, in writing, each December to be able to "bank" up to five (5) holidays (**or forty hours**) to be scheduled off during the following calendar year. Rescheduled holidays must be taken in eight (8) hour increments. Requests must be submitted in writing and approved for rescheduled holidays. The rescheduled holidays will be added to the employee's compensatory time bank and will be in addition to the compensatory time earned in Article 17 (which may result in a maximum of **eighty (80) hours** in an employee's compensatory time bank). Holidays not rescheduled by December 31 each year will be carried over or at the discretion of the Sheriff,*

be paid in January of the following year at the previous year's rate of pay. It is the employee's responsibility to timely request scheduling of rescheduled holidays.

Employees who separate during the calendar year will have their compensatory time bank reduced by the number of hours for designated holidays which did not occur prior to the time of their separation. Employees who do not have sufficient time in their compensatory time bank will have the adjustment made in their final pay check.

**ARTICLE 32 DURATION, ENTIRE AGREEMENT AND
SUBSEQUENT NEGOTIATIONS**

Section 32.1 Duration The provisions of this Agreement unless otherwise provided for herein, shall become effective January 1, _____ upon the parties, and shall remain in full force and effect until 11:59 p.m., on December 31_____.

The Employer proposes a three (3) year Agreement.

Articles 17 and 19 Compensatory Time bank and Accumulation:

The proposal of the Employer on compensatory time is to reduce the maximum amounts an employee can accumulate in a year from the current 120 hours to 80 hours. The proposal is contained in sections 17.3 and 19.3 of the proposals.

This proposed revised ceiling includes the hours of comp time an employee may choose for working overtime. In addition, the bank includes holiday hours employees have the option to add to their comp time bank from the holidays provided in Article 19, currently up to 40 holiday hours. The comp time ceiling would also apply to the total number of hours that employees are able accumulate or convert in a year and further provide that the carryover balance at year end would apply to the ceiling for the following year.

The accumulation and usage of compensatory time has been a practice which creates coverage and logistics issues. Employees have the added advantage in this contract to have holiday hours included, up to 40, in the compensatory time bank. This additional time amplifies the coverage challenges. The scheduling of vacation time off was a major issue for the union in its proposals created limits on the scheduling for vacation time.

With a 24 hour operation, with 3 separate functions requiring the 24 hour coverage (road patrol, jail, and dispatch) coverage of manpower is a critical factor. The reduction in the comp time bank is intended and believed to be able to provide relief to the operations of the Sheriff's Office. The County previously struggled with providing employees with time off to use their comp time balances. The County must also maintain a cash balance for the payment of the comp time, an accrued liability.

The assertion that comp time is beneficial to the County, and somehow does not cost the County money, is not accurate. While the County does not favor comp time, the County also recognizes that for the less senior employees the accumulation of a small amount of comp time allows the employees to have some time off when not accumulating larger amounts of vacation leave. The cost of comp time includes the monetary/payroll cost for coverage for the 24 hour slots, or a reduced amount of coverage on the road for the safety of the public and other deputies.

The County proposes to reduce the amount of comp time that may be accumulated and maintained and determine later if a further reduction would be warranted in future negotiations. The trend in law enforcement has been to reduce the comp time bank and one adjacent County Sheriff's Office has eliminated comp time. The Employer has made efforts to maintain lower balances for employees by having employees use comp time in periods when there is adequate manpower.

The hard ceiling or maximum accumulation together with the reduction in the amount that can be accumulated in a year will allow the Sheriff to determine if the comp time program will continue to create administrative and budgetary problems.

The County opposes the Union proposal to eliminate compensatory time. The Union asserts that all overtime and holidays should be paid in cash. Because the Union proposal was not presented until mediation, and no written proposal was presented, the County was unable to fully respond and not able to project the additional cost of the overtime and paid holidays. Note that the holidays in Article are all paid in cash, except that employees have the option to have 40 hours added to their comp time bank and not receive the additional cash payment. Additionally all holidays worked are paid at a premium rate of 1½ rate for hours worked on a holiday which will include over 50% of the workforce on the average on a given holiday. The cost of the additional overtime and paid holidays would require time to calculate. The Union did not provide any cost calculations for its proposal to eliminate the comp time.

Appendix A Wage Scale for classifications covered by the Agreement:

The County proposes wage increases each of the 3 years of the contract in the amounts of 3% in 2015, 2.5% in 2016 and 2.5% in 2017 with increases effective the first full pay period in January each year. As such, the County also proposes a 3 year contract.

The County's wage increases follow wage increases of 3% in each of the last 3 years 2012, 2013, and 2014. In the years employees did not receive increases, the years immediately following the recession; all other County employees also had their wages frozen. There were no furloughs and only a brief layoff of union employees in the Sheriff's Office.

This proposal exceeds the average of current settlements and awards. The average increases are below 2% per year. The past increases also exceed what has been awarded or negotiated in the past 3 years. (See SERB wage settlement report.)

County General fund employees received a 3% wage increase for this year, 2015. The County has had the good fortune of having the Utica Shale exploration occur in the County which has recently generated increased revenue for the County. This increase has been shared with the employees in the wage rate increases in the last contract.

Most importantly, considering revenues, the County cannot predict the level of revenue that may be generated from the oil drilling and exploration efforts in the County, which have already begun to recede with the recent major drop in oil prices. The County must increase its carryover and rainy day funds to be able to withstand the anticipated vacillations in the general fund revenue.

The County is taking steps to establish a stable economic environment such as taking ownership of the Atwood Lake Lodge. The County is working toward making the Lodge a long term investment and stable economic factor in the County.

The budget for the Sheriff's Office has been significantly increased over the past 3 years. The Budget for the Sheriff's Office was \$1.573 mil in 2013 and the budget is \$2.198 mil in 2015. Some of the highlights of how the additional monies were allocated include:

- 1. Additional 8 employees hired, jail and road*
- 2. 9 new cruisers purchased out of 11 in fleet*
- 3. Improved equipment for the 911*
- 4. Take home vehicles provided for some deputies*
- 5. Budget increased by over \$600,000 on an annual basis*

Monies are being set aside from the 911 fees to replace the 911 equipment within the next 2 years anticipated cost of over \$400,000.

The County has made major capital expenditures in the past 3 years to replace and repair County equipment, buildings and to make needed improvements, many which have benefited the employees of the Sheriff's Office. Additional repairs and replacements are required such as plumbing replacements in the jail and security cameras and equipment in the Sheriff's Office and Courthouse. The initial estimates for these repairs and replacements are over \$250,000. Employees of the Sheriff's Office pay less on their health insurance premiums than most all other County employees. For instance, the employees of the County Home do not pay premium contributions but are paid just above minimum wage rates. County Engineer employees pay less but are not funded by County General Funds as are the Sheriff's Office employees. All General Fund employees under the control of the Commissioners pay 20% of the health insurance premiums compared to the 12 % paid by employees of the Sheriff's Office.

The County opposes, as with without justification, the proposed wage increases proposed by the Union, which total over 13.5% over the 3 years of the contract. This is based on the wage

proposed of increases of \$1.00 per hour increase in the first year, and 4% in each of the second and third years of the contract.

The Union's sole argument for the increase was that the increases would bring them closer to Columbiana County, Holmes and Guernsey Counties. Only one is adjacent to Carroll, Columbiana, which is 3 times the population and has a retail tax base. Holmes and Guernsey are not adjacent and both also have much larger retail tax base.

The wage rates of the employees in this contract favor comparably with other adjacent, similar counties. The wage comparison chart shared in mediation indicates that the employees are above the wage rates in Belmont, Harrison and Jefferson County Sheriff's Offices. The County disputes the comparable counties offered by the Union of Columbiana, Holmes and Guernsey. All three have retail shopping which greatly exceeds the retail tax base of Carroll County. Holmes and Guernsey Counties are not adjacent. Columbiana County is three times the size of Carroll and its jail is administered by a private company. Tuscarawas County, another adjacent county, has double the population of Carroll County as well as having a significantly larger retail sales tax base.

If the county population is to be considered, as the Union suggests with its comparison counties, then various other Appalachian Counties of similar population should be considered such as Monroe and Noble Counties and others.

The increases offered by the County will improve the standing of the County in the standings of comparable tax base, adjacent counties. Those rates were provided in the chart provided in the mediation session.

UNION'S PROPOSALS ON THE OPEN ISSUES including rationale:

WAGES:

First Year \$1.00 hour Second Year 4% Third Year 4%

Disposition The FOP proposals should be adopted to reduce the disparity Between Carroll Count Deputies and those of the following similar Counties:

| County | Population | Entry | Top |
|-----------|------------|--------|--------|
| Coshocton | 36 k | 40,322 | 41,932 |
| Defiance | 39 k | 37,652 | 48,099 |
| Henry | 28 k | 38,771 | 49,504 |
| Guernsey | 40 k | 30,160 | 44,844 |

Without oil and gas revenues the County enjoyed a one million plus in revenues from 2011-2012 with an unencumbered balance of 2.35 million at the end of year. While the FOP understands that the revenue projection for the oil leases have not been released and awaiting outcome of current negotiations, it will certainly be a gain for the County. Without substantial wage increases the Carroll County employees' wages will continue to lag behind others similarly situated.

CORRECTION SERGEANT

The Sergeant Deputy receives \$.66 an hour more than the Deputies they supervise. The Sergeant Correction receives the same rate of pay as the Deputies they supervise. A supervisor is a supervisor is a supervisor. Tusc County Sergeants receive the same rate of pay whether Deputy or Corrections.

ARTICLE 17.3 Hours of Work and Overtime Comp Balances

ARTICLE 19.3 RESCHEDULED HOLIDAYS

The above creates ever growing leave accruals causing an imbalance on the use of leave balances.

Therefore, denying some employee's the opportunity to use their contractual accumulation in a timely manner.

The Union also proposes a three (3) year Agreement.

Fact-finder's overall Findings.

The level of activity brought about in the County in the recent years has certainly created both the promise of greater prosperity and the challenge of having to manage a high level of economic activity. Of late oil prices on the world stage have taken a dramatic downturn, the impact of which has been felt and observed in Carroll County, but little information is available as to whether the reduction in activity is temporary or signals a trend. And, the type of activity commonly known as fracking is not without its strong critics and concerns about its long-term environmental impact. Overall the facts support the Union's effort to improve the wage position of the bargaining unit vis-à-vis like geographically situated counties, tempered by prudence. The County's financial condition, while improving, must be able to meet a variety of human as well as capital improvement demands. Therefore, while needed enhancements in the wage structure support an above average wage increase

at this time, it must be executed in an incremental and responsible manner. It should also be accomplished in a manner that immediately advantages those employees who are paid at lower wage rates. A combination of a cents per hour wage adjustment and a percentage wage increase is a common method to accomplish this goal. The bargaining units did not get into their economically disadvantaged position in the short run, and it will take a long run effort to bring wages in line with legitimate comparable jurisdictions. The changes being sought by the Employer in Articles 17.3 and 19.3, which are closely related, are reasonable and follow a trend by public employers to better manage their outstanding compensatory liabilities. It is also noted that the Agreement provides employees with a choice between compensatory time and receiving overtime pay. And while this fact-finder understands the pressures of the workplace, it is also important for employees to understand they have negotiated rights. Finally, the parties are in agreement on the length of the Agreement.

RECOMMENDATIONS:

WAGES: 1st year: retroactive to January 1, 2015: .75 per hour for all employees in the three bargaining units.

2nd year: 3% increase

3rd year: 3% increase

Articles 17.3 and 19.3:

Section 17.3 Overtime All employees in the bargaining unit, for work actually performed in excess of forty (40) hours in the work period, shall receive one and one-half (1-1/2) times the employee's regular straight time rate. Overtime shall be paid in either wages or compensatory time. Employees may select, in writing at the time the overtime is worked, to be compensated in compensatory time. **Employees may accumulate compensatory time to a maximum of eighty (80) hours. The compensatory time bank shall consist of two parts: up to forty (40) hours of earned compensatory time and up to forty (40) hours of holiday time as referenced in Article 19. Employees may only accumulate up to eighty (80) hours in a calendar year. Any balance of compensatory time at the end of a calendar year will be carried over to the next calendar year and reduce and be credited to the eighty (80) hour maximum for that year. That is, if the balance at the end of the year is forty (40) hours the employee may only**

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TENTATIVE AGREEMENT

Any tentative agreements reached by the parties as well as any current language that is not changed or not addressed above shall be considered to be recommended in the successor Collective Bargaining Agreement.

The fact finder respectfully submits the above recommendations to the parties this ____ day of February 2015 in Portage County, Ohio.

Robert G. Stein, Fact finder