

Portage County Sheriff,	(Case No.:	2014-MED-10-1372
Portage County Board of Commissioners	(
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and	(
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Ohio Patrolmen's Benevolent Association,	(Hearing Dates:	August 6, 2015
Portage County Corrections Officers	(August 21, 2015
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	(Findings and	
	(Recommendations:	November 9, 2015
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Representing the Employer: Ronald J. Habowski, Esq.
Attorney

Representing the OBPA: Daniel Leffler, Esq.
Attorney

George Gerken, Esq.
Attorney

Michelle Miller-Kotula
Fact-Finder

SUBMISSION

This matter concerns the Fact-Finding proceedings between Portage County Sheriff, Portage County Board of Commissioners (hereafter referred to as the "Employer") and the Ohio Patrolmen's Benevolent Association, representing the Portage County Corrections Officers, (hereafter referred to as the "Union"). The State Employment Relations Board (SERB) duly appointed Michelle Miller-Kotula as Fact-Finder for this matter.

The Fact-Finding proceedings were conducted pursuant to the Ohio Collective Bargaining Law, and the rules and regulations of the SERB, as amended. The Employer and Union previously engaged in the collective bargaining process before the appointment of this Fact-Finder.

Prior to the hearing, the parties submitted detailed position statements to the Fact-Finder in accordance with the Ohio Revised Code. These statements have been received and carefully considered. The Fact-Finding occurred on August 6, 2015 and August 21, 2015. Subsequent to the conclusion of Fact-Finding, the parties agreed to extend the submission of this report. The parties also agreed to the following stipulations during the initial hearing.

1. The Employer and AFSCME, Local 1695 (Job & Family Services employees) agreed to a 1.50% + 1.50% + Reopener wage adjustment, effective 1/1/15, 1/1/16 and 1/1/17, respectively.
2. The Employer and Teamsters, Local 24 (Solid Waste Management employees) agreed to a 1.50% + 1.50 + Reopener wage adjustment, effective 11.1.14, 11/1/15 and 11/1/16, respectively.
3. The Employer and Teamsters, Local 436 (Sanitary Engineer employees) agreed to a 1.50% + 1.50% + Reopener wage adjustment, effective 9/1/14, 9/1/15 and 9/1/16, respectively.

4. The Employer and Teamsters, Local 436 (Dog Warden employees) agreed to a 1.50% + 1.50 + Reopener, effective 1/1/15, 1/1/16 and 1/1/17, respectively.
5. The Employer and OPBA (Portage County Deputies) agreed to a 1.50% + 2.00 + 2.00% wage adjustment, effective 1/1/15, 1/1/16 and 1/1/17, respectively.
6. The Employer and OPBA (Portage County Deputy Supervisors) agreed to a 1.50% +2.00+2.0% wage adjustment, effective 1/1/15, 1/1/16 and 1/1/17, respectively.
7. The Employer and OPBA (Portage County Corrections Officers Supervisors) agreed to a 1.50% +2.0% + 2.0% wage adjustment, effective 1/1/15, 1/1/16 and 1/1/17.
8. The Employer and OPBA (Portage County Dispatchers) agreed to a 1.50% + 2.0% + 2.0% wage adjustment, effective 1/1/15, 1/1/16 and 1/1/17, respectively.
9. The Employer and OPBA agreed to decertify the Portage County Dispatchers Supervisor position and eliminate that collective bargaining agreement.
10. The Portage County Deputies; Deputy Supervisors; Corrections Officers; Corrections Officers Supervisors and Dispatchers currently receive the same vacation entitlements.
11. The Portage County Deputies receive a \$1,000.00 per year uniform/equipment allowance that includes the costs of maintaining specialty equipment such as leather holsters and weapons. Dispatchers currently receive an \$800.00 per year uniform allowance.

The parties also agreed to maintain the following current contract language in the successor collective bargaining agreement:

Article 1	Preamble	Article 25	Insurance
Article 2	Purpose and Intent	Article 27	Holidays
Article 3	Management Rights	Article 28	Personal Days
Article 4	Recognition	Article 29	Sick Leave
Article 5	Union Representation	Article 30	Injury Leave
Article 6	Dues Deductions	Article 31	Family Medical Leave
Article 7	Employee Rights	Article 33	Jury Duty Leave
Article 8	Residency	Article 34	Military Leave
Article 9	Probationary Period	Article 35	No Strike
Article 10	Duty Hours	Article 36	Health & Safety
Article 11	Work Schedules	Article 37	Bulletin Boards
Article 12	Seniority	Article 38	Non-Discrimination

Article 13	Vacancies & Promotions	Article 39	Miscellaneous
Article 14	Lay-Off & Recall	Article 40	Waiver/Emergencies
Article 15	Discipline	Article 41	Conformity to Law
Article 16	Disciplinary Procedure	Article 42	Gender & Plural
Article 17	Grievance Procedure	Article 43	Headings
Article 18	Arbitration Procedure	Article 44	Opportunity to Negotiate
Article 20	Acting Supervisor	Article 45	Total Agreement
Article 21	Shift Differential		

The following issues were considered during this Fact-Finding:

Article 19	Compensation
Article 22	Overtime Pay and Court Time
Article 23	Longevity Pay
Article 24	Clothing/Equipment Allowance
Article 26	Vacation
Article 29	Sick Leave
Article 32	Funeral Leave

Issue No. 1

Article 19 – Compensation

Employer Position

The Employer proposes wage increases as follows:

Effective 1/1/15	1.50%
Effective 1/1/16	1.50%
Effective 1/1/17	1.50%

The Employer contends the evidence shows for the last 25 years or more the parties compared wages for the Deputies, Corrections Officers and Dispatchers employed in Ohio’s Northeast Counties. These comparisons are proper to continue. The Employer states the evidence shows the Deputies earn 98.01% of the nine County Deputy average and the Dispatchers earned 100.07% of the nine County average. The Corrections Officers currently earn 105.62% of the nine county average. The Employer points out it reached Agreement with eight different locals that represent 275 Union employees. The Employer implemented a 1.50% wage increase for most of the 500 non-bargaining unit County employees.

The Employer notes it agreed to an additional one half percent (½%) in the second and third year of the Agreement with the Deputies because they were about two percent (2%) below the average compensation of the other Northeast County Deputies doing comparable work. The Employer agreed to the additional one half percent (½ %) in the

second and third year of the Agreement with the Dispatchers because they agreed to eliminate a position. The Employer argues the Corrections Officers currently receive above average compensation and did not agree to eliminate any positions.

Union Position

The Union proposes across the board wage increases as follows:

Effective 1/1/15	2.0%
Effective 1/1/16	2.0%
Effective 1/1/17	2.0%

The Union asserts the Employer has funds available to pay for wage increases. The data establishes the Employer's financial situation remains stable with the one percent (1%) sales tax surpassing the 18 million dollar mark for the first time. Unemployment remains lower in this County than in many surrounding Counties.

The Union notes at the end of the most recent reported fiscal year the Employer had an increase of \$3,731,608.00 over projected budget revenues. After actual expenditures the Employer had a positive variance over budgeted fund balances. The Union states the Employer's fund balance was 17%. There is no evidence that indicates the financial health of the Employer has changed dramatically from the most recent reports.

The Union takes the position the Fact-Finder for the Deputy Sheriff's unit concluded the most appropriate units to compare where the Northeast nine. The Union contends this unit is slightly below the average wage paid to those similar work forces. The Counties in the Northeast nine will receive wage increases greater than two percent (2%) over the next three years. The Union submits its position would maintain the status quo and keep its members comparable to the other listed units.

Findings and Recommendations

I have carefully considered and reviewed the submissions and supporting documentation provided by the parties related to wages. The internal comparisons establish the Employer offered a higher wage increase to the Deputies and the Dispatchers. The Deputies rates increased slightly higher than what the Employer proposed in this instance because they were behind the other Deputies in the Northeast nine. The Dispatchers were provided with a higher wage increase because positions were eliminated which resulted in savings. The non-bargaining unit employees received an increase of one and one-half percent (1.5%) which is the proposal offered to the Corrections Officers.

The external comparisons using the Northeast nine establish the current rate of the Corrections Officers is on par with the other Counties. However, it is important to note the Corrections Officers could fall behind in their wage rates if they are not receiving similar wage increases.

It is this Fact-Finder's recommendation that the following wage increases are justifiable based on the evidence. These increases would be equitable and would provide a fair resolution to this matter.

Effective 1/1/15	1.50%
Effective 1/1/16	2.0%
Effective 1/1/17	2.0%

Issue No. 2

Article 22-Overtime Pay and Court Time

Employer Position

It is the Employer's position to maintain the current contract language. The Employer takes the position the nature of its operation in the Sheriff's Department requires 24/7 hour operations. Staffing needs are not known with certainty on a particular day until the start of the shift. Requests made with prior approval may need to be rescinded depending on the immediate needs on the day.

The Sheriff must be concerned with the interest and welfare of the public. The Union's proposal decreases the Employer's ability to administer staff. The normal standard of public service could be decreased. Thus the Union's proposal must be rejected.

The Employer has concerns the language proposed by the Union will result in arbitration. The Union's proposal could negate or increase the current 40 hour cap on compensatory time. It is a budgetary incentive for the Employer to grant compensatory time requests and the Union's proposed language could affect the financial situation of the Employer.

Union Position

The Union proposes to modify Section 22.5 and add the following language:

“Compensatory time may be requested up to six months in advance of the date desired and the hours allowed will be deducted from the employees total time accrued at the time the request is granted.”

The Union points out employees want to plan to use accumulated compensatory time to coincide with future events. The Union proposes to deduct compensatory time when the request is granted. The language change in the Union's view would prevent confusion as to the availability of future compensatory time.

Findings and Recommendations

This Fact-Finder has reviewed the proposal submitted by the parties related to compensatory time. The Employer currently has a system in place to allow employees to utilize compensatory time. The employees are permitted to use compensatory time if the request can be granted. Consideration must be given to current staffing needs of the facility. In the past the Employer has not been able to fill requests up to six months in advance due to staffing issues.

It is my determination based on the 24/7 hour operation of the facility a hardship on the Employer would occur if the Union's proposed language was adopted. The Employer must be able to fill positions to staff its facility at all times. The Employer cannot be bound to language that schedules compensatory time up to six months in advance because it is unknown six months in advance of the staffing needs. The proposed language of the Union in my opinion would have the potential to increase the financial burden on the Employer because costs could occur when granting off time without knowing the staffing needs six months in advance. Therefore, based upon these reasons the language contained in Article 22 must remain unchanged.

Issue No. 3

Article 23 – Longevity Pay

Employer Position

It is the position of the Employer the current language plus the same 40% increase accepted by the Deputies and Dispatchers should be accepted by the Fact-Finder. The new language would read “Each full-time employee shall be entitled to a longevity benefit upon completion of five (5) years of continuous service. The longevity benefit shall be ~~five dollars (\$5.00)~~, seven dollars (\$7.00) per year per month.”

The Employer points out the Union has proposed a 245% longevity increase. Acceptance of the Union's longevity pay proposal would result in the Corrections Officers receiving more longevity than any of their counterparts in Northeast Ohio. The Employer contends such Union proposal is not warranted. The employees are already 5.62% above the nine County average for total compensation. Thus, the Union's proposal must be rejected by the Fact-Finder.

Union Proposal

The Union proposes the following language for Section 23.01:

Each full time employee shall be entitled to a longevity benefit upon completion of five (5) years of continuous service. The longevity benefit shall be:

5-10 years	\$6.00 per year per month
11-15 years	\$7.00 per year per month
16-20 years	\$8.00 per year per month
21-25 years	\$9.00 per year per month
26 + years	\$10.00 per year per month

The Union requests this modification based on the fact there was a modest increase in longevity during the negotiations related to the Deputy Sheriffs and other bargaining units. The Fact-Finder in the other cases found other Counties in the Northeast nine pay more in longevity than this Employer. Therefore, the Union concludes it is proper to increase longevity pay in this instance.

FINDINGS AND RECOMMENDATIONS

This Fact-Finder has carefully reviewed the arguments of the parties related to longevity. A current longevity system is in place. The Employer has recognized it may be necessary to increase longevity and has proposed increasing the current scale. In my opinion, the Employer's increase is appropriate to keep the employees comparable with the other employees in the Northeast nine and within this Employer. Therefore, I am recommending for the Employer's proposal to be accepted to increase the longevity benefit. The longevity benefit would increase from \$5.00 to \$7.00 per year per month.

Issue No. 4.

Article 24 – Clothing/Equipment Allowance

Employer Position

The Employer proposes for the Fact-Finder to maintain the current language. The Employer points out the Deputy and Dispatcher did not receive an increase in their respective allowances. The Employer states the Union's request is at the rate of ten times the current inflation rate. To change the current payment date of not later than the second pay period to January 1 of each year creates additional administrative problems for the Employer without significant benefit to the employees. The Employer contends the Union's request for a cash allowance in the odd numbered years and a voucher allowance in the even numbered years is beyond comprehension. The Employer states changing the system every year is an unnecessary administrative burden with little benefit.

Union Position

The Union is proposing the following modifications to Section 24.01:

Employees shall receive an annual \$1,000.00 cash uniform maintenance allowance on January 1, 2015; \$1,000.00 uniform maintenance on 1/1/16; and a \$1,000.00 cash uniform allowance on 1/1/17.

The Union contends this increase from \$825.00 in the current contract keeps the Union members comparable to other Counties as well as internally within the Deputies unit.

Findings and Recommendations

This Fact-Finder has carefully considered the proposals presented by the parties related to the clothing/equipment allowance. The employees are provided with the uniform allowance of \$825.00 per year. No conclusive evidence was presented to establish the employees are not provided with an adequate uniform or that the employees do not have the appropriate uniform in place for their current allowance. This Fact-Finder is therefore recommending the uniform allowance remain at its current level for the life of this Agreement.

Related to the Union's request to change the way in which employees are compensated for their uniform, it is this Fact-Finder's opinion that a change in the payment method would create a hardship on the Employer in administering this benefit. It would also cause confusion to the employees as the system would change because in some years the employees would receive cash payment and other years the employees would receive a voucher. Thus, it is this Fact-Finder's recommendation for the current payment system for uniform allowance to be maintained.

Issue No. 5.

Article 26 – Vacation

Employer Position

The Employer proposes to maintain the current language. The Employer asserts the Union's vacation proposal is unprecedented in the Sheriff's department, and its contracts with its other unions and the non-union employees. The current vacation language provides a total of 4,320 paid vacation hours over a 30 year career. The Union's proposal would increase the total number of paid vacation days over a 30 year career from 4,320 hours to 4,720 hours per each employee. The Employer notes up to 36 of the 47 Corrections Officers currently employed would receive an additional three weeks of paid vacation over the life of a successor contract if the Union's proposal is granted.

Union Position

The Union proposes the following modification to Section 26.01:

Each full-time employee, upon completion of the appropriate amount of continuous full-time service, with the Employer, shall be entitled to the paid vacation in accordance with the following schedule:

Upon completion of years

1 year	80 hours
7 years	120 hours
12 years	160 hours
18 years	200 hours
25 years	240 hours

The Union contends the employees in the County are significantly behind their counterparts in the area of vacation accrual. The Union agrees to be eligible, employees must work at least ten (10) more years than the time they reach their maximum vacation accrual amount. The Union, therefore, requests an extra bracket for vacation accrual.

Findings and Recommendations

I have carefully considered the arguments of the parties related to vacation. The evidence shows the employees appear to be in line with their counterparts for vacation accrual from date of employment through 20 years of service. Some of the Counties appear to increase vacation accrual amounts in different intervals to 240 hours. However, in order to remain in parity with the other Employer departments the vacation schedule must remain in place. The result of the extra vacation time creates a hardship on the Employer by providing employees with extra time off and more hours that need to be filled in the workplace.

Issue No. 6

Article 29 – Sick Leave

Discussion was held related to sick leave. It was recommended by the Fact-Finder for the parties to modify Section 26.10 of the Agreement to be consistent with the modifications made for the other four bargaining units. This modification would read:

29.10 Upon retirement or disability of an employee who has not less than ten (10) years of continuous employment with the Employer and who, after execution of this Agreement by both parties has qualified for benefits from the state of Ohio Public Employees Retirement System State of Ohio Public Employees System, such employees shall be entitled to receive a cash payment equal to the following formula:

- A. 25% of the first 960 hours of unused sick hours earned by the Employee.
- B. 30% of the hours in excess of 960 but less than 1,501 hours of unused sick hours earned.
- C. 40% of the hours in excess of 1,500 hours of unused sick hours earned.

Issue No. 7

Article 32 – Funeral Leave

Employer Position

The Employer contends the Fact-Finder should retain the current contract language. The Employer takes the position adequate funeral leave is already provided and the proposal presented by the Union shall be rejected.

Union Position

The Union proposes to modify Section 32.01 as follows:

32.01 An employee shall be granted time off with pay (not to be deducted from the employee's sick leave) for the purposes of attending the funeral of a member of the family. The employee shall be entitled to a maximum of three (3) work days for each death in his immediate family (as defined in 29.09 above).

The Union requests for the Fact-Finder to adopt its proposal to remove the language that requires one of the leave days to be the day of the funeral. This allows the employee to have flexibility in assisting the family in duties surrounding the events of the passing of a family member.

Findings and Recommendations

It is this Fact-Finder's recommendation after considering the proposals presented by the parties to retain the current language. The bargaining unit employees are provided with adequate funeral leave. This Fact-Finder would suggest if a unique circumstance arises which requires flexibility for the employee to discuss this matter with supervision.

CONCLUSION

In conclusion this Fact-Finder submits the findings and recommendations as set forth herein.

Michelle Miller-Kotula

Michelle-Miller-Kotula
Fact-Finder
November 9, 2015