

**STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD**

IN THE MATER OF FACT FINDING BETWEEN:

Fraternal Order of Police,
Ohio Labor Council

Case No. 2014-MED-10-1482

and

Date of Hearing: March 18, 2015

Date of Report: April 14, 2015

Erie County Sheriff

Sherrie J. Passmore, Fact Finder

FACT FINDER'S REPORT AND RECOMMENDATIONS

APPEARANCES:

For Fraternal Order of Police, Ohio Labor Council:

Jackie Wegman, Staff Representative
Chuck Aliff, Staff Representative
Dennis Wolfe, Corrections Officer
Scott Hamernik, Sergeant
Yon C. Roth, Sergeant

For Erie County Sheriff:

Jason R. Hinnners, Assistant Erie County Prosecutor
Paul A. Sigsworth, Sheriff
Nancy Ostrander, Human Resources Director
Jared Oliver, Chief Deputy
Casey Proy, Jail Administrator

This case is a fact-finding proceeding between the Fraternal Order of Police, Ohio Labor Council (FOP or Union) and the Erie County Sheriff (Sheriff or Employer). The State Employment Relations Board (SERB) appointed Sherrie J. Passmore as the Fact Finder.

The Employer is a law enforcement agency. Its purpose is to preserve the law and order of the county, operate the detention facility, and provide service of process for the County courts. The bargaining unit consists of 6 employees in the classification of Corrections Corporals and 19 employees in the classification of Corrections Officer.

The last agreement negotiated by the parties was in effect from January 1, 2012 through December 31, 2014. Negotiations for a successor agreement commenced on September 3, 2014. Bargaining sessions were held on the following dates: June 10, July 10, July 24, September 3, September 24, October 28, November 25, 2014 and January 15, 2015. During negotiations, the parties reached tentative agreements on the following:

- (1) Article 5-Grievance Procedure
- (2) Article 10-Reduction in Force
- (3) Article 22-Labor/Management Meetings
- (4) AS IS list
- (5) Article 36 – Duration of Agreement

By agreement of the parties, a fact-finding hearing was convened on March 25, 2015 at 10:00 A.M., at the Erie County Sheriff's Office located at 2800 Columbus Avenue, Sandusky, Ohio 44870. Both parties submitted the required pre-hearing statements in a timely manner. Assistant Erie County Prosecutor Jason Hinnars

represented the Employer. Representing the Union was FOP Staff Representative Jackie Wegman.

At the outset of the hearing, the Fact Finder and the parties agreed to attempt a mediated resolution before formal presentation of evidence. The parties' negotiations teams were able to simplify and resolve their current dispute by agreeing to:

- (1) Revise Article 14 to make vacation request and approval procedures consistent with the Employer's other bargaining units and to require that a minimum of one Vacation or Personal Day request be approved per shift;
- (2) Revise Article 15 Holidays to incorporate the Memorandum of Understanding between the parties which allows employees to use holiday hours as time off in 8 (eight) hour increments in lieu of a lump sum cash out and to provide that Vacation and Personal Day requests take precedence over Holiday requests;
- (3) A wage increase of 3% effective January 1, 2015, 2% effective January 1, 2016 and 2% effective January 1, 2017;
- (4) Revise Article 24 Hospitalization/Major Medical to standardize the language among bargaining units regarding contribution rates and the implementation of changes recommended by the Cost Containment Committee.
- (5) Revise Article 23 to provide for Weather/Emergency Closing pay when the Sheriff or his designee for Erie County declares a Level Three Snow Emergency.
- (6) Add a new article limiting the use of intermittents to three per shift unless there are multiple sick leaves for a shift and providing that if there is a layoff, intermittents must be laid off first.

To implement these changes, the parties' representatives agreed to the revised contract language in the Addendum attached hereto.

The parties requested that the Fact Finder prepare a final report adopting their settlement as her recommendation and issue that report on April 14, 2015.

SERB's Fact-Finding Guidebook provides for this procedure, as follows:

Should the parties reach a settlement agreement with the assistance of the fact finder, the fact finder upon the request of the parties may submit a mediated settlement report that outlines the terms of the settlement. The report is not a fact-finding report and is not subject to the 3/5's voting standards of the statute. If the settlement agreement is rejected, the fact finder should schedule a hearing and issue a final report. Alternatively, if the parties request that the fact finder issue the mediated settlement as the final report and the fact finder agrees to this request, then the report is a fact-finding report subject to the 3/5's voting standards of the statute. (Emphasis added.)

Voluntary settlement by the parties is the preferred method of resolving public employee labor disputes. Therefore, so long as the mediated settlement is consistent with statutory criteria, the fact finder, on request, should adopt it as her report and recommendation. The criteria to be considered under Ohio Revised Code 4117.14 are as follows:

- (1) Past collective bargaining agreements, if any, between the parties.
- (2) 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.
- (3) 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.
- (4) The lawful authority of the public employer.
- (5) Any stipulations of the parties.
- (6) Such other factors, not confined to those listed above, which are

normally or traditionally taken into consideration in determination of issues submitted to mutually agreed-upon dispute settlement procedures in the public service or in private employment.

The parties' settlement agreement clearly comports with these criteria. The wage increase is generally comparable to increases given to public employees doing comparable work in surrounding counties. An inability of the Employer pay the cost of the wage increase was not at issue.

Revisions to Article 24, Hospitalization and Major Medical, standardize the procedure for implementing cost containment measures among bargaining unit employees and the premium contributions of all employees. Similarly, the revisions to weather pay under Article 23.07 and vacation request and approval procedures under Article 14 make those provisions consistent with other Employer bargaining units. Such standardization provides ease of administration.

The other provision added to Article 14, a requirement that a minimum of one Vacation or Personal Day request per shift be granted, strikes a balance between the Employer's operational needs and employee preferences for using vacation days.

The language added to Article 16 Holidays, allowing the use of holiday time as time off versus a lump sum cash-out, was previously agreed to as part of a Memorandum of Understanding. Similar language was also recently put in the Deputy/Sergeant contract.

The new article regarding the use of intermittents addresses the concerns of both parties. Providing that intermittents must be laid off first protects against

erosion of the bargaining unit. Limiting the number of intermittent employees that may be used per shift addresses concerns about safety as well as erosion of the unit. Allowing the Employer to exceed those limits where a shift is impacted by multiple sick call-offs allows the Employer to better manage staffing levels within budgetary constraints.

After giving due consideration to the criteria enumerated in Ohio Revised Code 4117.14, the Fact Finder recommends the mediated settlement reached by the parties and the revised contract language in the addendum hereto. In addition, all tentative agreements reached by the parties are hereby incorporated by reference into this report and should be included in the resulting Collective Bargaining Agreement.

Respectfully submitted,

/s/ Sherrie J. Passmore
Sherrie J. Passmore
Fact Finder

April 14, 2015

ADDENDUM

ARTICLE 14 VACATIONS

14.03 Vacations shall be taken in minimum increments of one (1) hour. Vacations are scheduled in accordance with the workload requirements of the individual divisions. Vacation requests made sixty (60) or more days before the requested vacation date will be awarded based upon seniority. Vacation requests made less than sixty (60) days prior to the requested vacation date will be granted on a first come, first serve basis, and seniority will not apply. Adjustments to the schedule will be made based upon seniority, and in accordance with the workload requirements as determined by the Employer. On each shift, a minimum of one (1) Vacation or Personal Day request shall be approved even though it may cause overtime, with additional personnel considered based on the workload requirement of the Employer. The Employer may waive advance notice if the employee can show that there is a bona fide emergency.

14.09 For vacation requests submitted less than sixty (60) days in advance under Article 14.03, the Employer shall approve or deny said request within five (5) business days, defined as Monday through Friday excluding Holidays. If a request remains unanswered after five (5) business days, it shall be deemed to have been approved and shall not be cancelled by the Employer except for a declared emergency as defined in Article 31.01 of the bargaining agreement.

ARTICLE 15 HOLIDAYS

15.06 Payment for all holidays outlined in §15.01 above shall be made to an employee at his regular straight time hourly rate in a lump sum in three individual checks for each benefit (longevity, holiday and regular paycheck) on the normal pay day in the second pay period of November of each year. An employee shall not be entitled to any interest which may accrue on such deferred holiday pay. In lieu of pay, bargaining unit members shall have the ability to take any/all holiday hours as time off in eight (8) hour increments. The Employer may decline the request if the request generates mandatory overtime. Vacation and Personal Day requests shall take precedence over Holiday requests in accordance with Section 14.03.

ARTICLE 17 PERSONAL DAYS

17.06 On each shift, a minimum of one (1) Vacation or Personal Day request shall be approved even though it may cause overtime.

**ARTICLE 23
MISCELLANEOUS**

23.09 WEATHER/EMERGENCY CLOSINGS. In the event that the Sheriff or his designee declares a Level Three Snow Emergency for Erie County, bargaining unit employees required to work during the declared emergency period shall be compensated at double time their hourly rate for the same number of hours that are actually worked during the emergency.

**ARTICLE 24
HOSPITALIZATION/MAJOR MEDICAL**

24.01 The Employer shall select the carrier for the insurance programs herein. However, any change in carriers or programs will not reduce any of the current levels of benefits in force and effect as of, the date of ratification, as described in Appendix F unless otherwise mutually agreed between the parties as referenced below.

24.02 Employees of the Bargaining unit in full-time active pay status, or on approved Family and Medical Leave, are eligible to participate in the health insurance plan provided to the Employer's non-bargaining employees for the duration of this Agreement, as provided below:

A. Any change in carriers or programs, as recommended by the Cost Containment Committee and approved by the Board of Erie County Commissioners will amend this agreement to reflect said change.

B. Effective 1/1/15 Employees will be required to contribute at the same rate as non-bargaining unit employees provided that the premium contributions do not exceed twenty (20%) percent of the total cost of health care premiums during the contract term. The employee portion of any increase in health care premiums shall be increased by no more than four percent (4%) per contract year as recommended by the Cost Containment Committee and approved by the Board of Commissioners. Employees will be eligible to participate in the contribution credit program.

C. The mandatory spousal enrollment provision of the Health Insurance Plan will not be implemented during the life of this contract.

D. The Union's designee will continue to be a member of the County's Cost Containment and Wellness Committee and may attend these meetings on County time if during the employee's regularly scheduled shift; Attendance shall not be unreasonably denied nor shall it generate overtime.

24.03 Insurance Booklets shall be provided to all eligible employees. Eligibility for medical, vision, dental and life insurance begins after ninety (90) days of employment. The current Master Plan Document will be available on-line at www.eriecounty.oh.gov.

24.04 LIFE INSURANCE. The Employer will provide a Fifty-thousand (\$50,000) Term Life Plan with A. D. & D. for the life of this Agreement.

24.05 Health care/dental premium contributions will go through IRS Section 125 Plan (pre-tax). All medical premium deductions will be evenly split between the first two pays of each month as is the current practice for employees in the MedPlus 4 Plan.

24.06 VOLUNTARY PLANS Any plan in which the employee pays a portion of or the entire monthly premium is understood to be a voluntary participation plan. The County reserves the right to increase the premiums for such voluntary plans, including, but not limited to, COBRA and the family dental plan. Employees will be required to contribute at the same rate as non-bargaining unit employees.

24.07 Employees will be required to continue to use the mail order system when purchasing maintenance drugs after the second retail fill.

ARTICLE 25 WAGES

25.01 Each bargaining unit member who has completed his probationary period, and who is employed as of the date of the start of this Agreement, shall be compensated at the rates of pay established on the pay schedule as listed in Appendix B. The rate of pay will be increased three percent (3%) effective January 1, 2015; two (2%) effective January 1, 2016; and, two (2%) effective January 1, 2017.

NEW ARTICLE USE OF INTERMITTENT OFFICERS

Section 1 The Employer shall limit the use of intermittent employees to maximum of three (3) per shift. However, if there are multiple sick leaves for a shift, the Employer is permitted to use more than three (3) intermittent employees for that shift.

Section 2 In case of layoff, all intermittent employees shall be laid off first.

CERTIFICATE OF SERVICE

This is to certify that the foregoing Report was electronically filed with the State Employment Relations Board and electronically served on the parties by emailing it to their representatives listed below on April 14, 2015:

Jackie Wegman, Staff Representative
FOP/Ohio Labor Council
jackiewegmanfop@gmail.com

Jason R. Hinnners, Assistant Erie County Prosecutor
Erie County Sheriff
JHinnners@eriecounty.oh.gov

/s/ Sherrie J. Passmore
Sherrie J. Passmore