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In the Matter of Factfinding

Between SERB Case No. 2016-MED-10-1250, 1251

Ohio Patrolmen's Benevolent Association Before: Harry Graham

And

Lake County Sheriff's Office

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**APPEARANCES:** For OPBA:

Andrea F. Rocco  
Ohio Patrolmen's Benevolent Association  
10147 Royalton Rd., Suite J  
North Royalton, OH. 44133

For Lake County Sheriff's Office:

Tom Grabarczyk  
Labor Relations Management, Inc.  
6800 W. Central Ave., Suite L-2  
Toledo, OH. 43617

**INTRODUCTION:** Pursuant to the procedures of the Ohio State Employment Relations Board a hearing was held in this matter before Harry Graham. At that hearing the parties were provided complete opportunity to present testimony and evidence. The record was closed at the conclusion of oral argument in Painesville, OH. on July 28, 2017.

**BACKGROUND:** The Lake County Sheriff's Office has eight bargaining units. To the date of this proceeding seven had concluded negotiations for successor collective bargaining agreements. This bargaining unit, consisting of ten people, is the last unit to

conduct negotiations in the current round of bargaining. The other bargaining units in the Sheriff's Office have all settled on the same terms and conditions for the term of their forthcoming agreements. This unit seeks to alter the pattern established by the other bargaining units in the Sheriff's Office. As will be set forth more fully below, that is a difficult proposition.

Unusually, the parties have a different view of the issues in dispute between them. The Union in its prehearing statement itemized six issues. These are:

- 1 Article 18, Wages
- 2 Article 18, Rank Differential
- 3 Article 14, Sick Leave
- 4 Article 15, Holidays
- 5 Article 16, Annual Leave Vacation
- 6 Article 27, Overtime

The Employer addressed two issues in its prehearing statement. These are:

- 1 Article 18, Wages
- 2 Articles 24 and 25, Hospitalization Insurance/Dental Insurance, Life Insurance

#### ISSUE 1, ARTICLE 18, WAGES

POSITION OF THE UNION: The Union proposes there be three wage increases as follows: effective April 1, 2017, 2.5%, effective April 1, 2018, 2.5% and effective April 1, 2019, 2.5%. In support of this proposal the Union indicates there can be no question the Employer has the ability to pay. At the hearing testimony was presented by Mary Schultz of Sargent & Associates. That firm specializes in analysis of financial statements of public entities in Ohio. It works on behalf of labor organizations, e.g. the OPBA and other unions. Ms. Schultz presented copious data in support of her opinion that the Employer can afford the proposal of the Union without difficulty. Further, the difference between the cost of the proposal of the Union and that of the Employer with

respect to wages is small.<sup>1</sup> As that is the case no consideration of inability to pay should be given in this proceeding according to the Union.

Union Exhibit 5 represents a comparison of members of this bargaining unit to others in the area. With respect to a 10 year Correction Officer Sergeant the Union compares Lake County employees with their counterparts in Geauga, Lorain, Portage and Trumbull Counties. Lake County 10 year Correction Officer Lieutenants are compared with those in Lorain and Trumbull Counties. When looking at the total compensation of 10 year Correction Officer Sergeants they are at 88% (rounded) of the total compensation of their counterparts in the region. The analogous figure for 10 year Correction Officer Lieutenants is 87%. There is no question that members of this bargaining unit are underpaid relative to their counterparts in the area. As that is the case the Union contends its wage proposal should be recommended.

The Union is aware that other bargaining units in the Sheriff's Office have reached agreement on contracts for the 2019 contract year. So be it according to the Union. Whatever the settlements in those bargaining units no weight should be given to them in the opinion of the Union. This bargaining unit should stand alone it contends. As that is the case its wage proposal should be recommended in its entirety the Union urges.

POSITION OF THE EMPLOYER: The Sheriff is proposing wage increases of 2.5%, 2.0% and 2.0% for the 2017, 2018 and 2019 contract years. Included in this proposal is a "me too" for the second and third years of the Agreement. It provides that if the County makes general wage increases above 2.0% in the second and third years of the Agreement, any such increases will be extended to members of this bargaining unit as

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<sup>1</sup> Union Ex. 4

well as other employees of the Sheriff. The proposal of the Employer includes retroactive pay to the April 1, 2017 pay period. Such retroactive pay excludes overtime pay.

The Sheriff stresses the history of bargaining in the current round of negotiations. There has been established the 2.5%, 2.0% and 2.0% pattern of wage increases. The other seven bargaining units in the Sheriff's Office have agreed upon those wage increases. In situations involving multi-unit bargaining the appeal of "pattern bargaining" is strong. That appeal should weigh heavily in this case. No other employees of the Sheriff received increases of the magnitude sought by the Union in this instance. As that is the case its proposal should be recommended the Employer contends.

DISCUSSION: The Employer is correct to rely upon pattern bargaining in support of its proposal in this matter. That reliance has been accepted and ratified by a legion of distinguished neutrals in Ohio when confronted with identical situations.<sup>2</sup> There is good reason that pattern bargaining has been accepted: it is to prevent the phenomenon of "whipsawing." In the context of collective bargaining that means that when union A secures a contract if union B secures a better one union A will return to the table for the agreement secured by union B, and better. The employer is thus engaged in a continual game of catch-up when the rules are set by multiple unions, or in this situation, multiple bargaining units. That should not occur. If there is a pattern, particularly when it has been accepted by several bargaining units as here, departure from the pattern should

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<sup>2</sup> See for instance: James Mancini, SERB Case No. 2014-MED-01-0034, OPBA and Lake County Sheriff, Jerry Fullmer, SERB Case No. 89-MED-10-1063 etc. Lake County Sheriff Employee Association and Lake County Sheriff, John Meredith, SERB Case 12-MED-10-1135, OBPA and Lake County Sheriff, SERB Case No. 93-MED-02-0081, AFSCME Ohio Council 8 and Lake County Sheriff.

not be expected to be endorsed by a neutral absent extraordinary circumstances. No such circumstances are present in this situation.

The history of negotiations in the Lake County Sheriff's Office bears this out. At the hearing it was related that since the advent of collective bargaining at the Sheriff's Office in 1984, some 33 years ago, not once did deviation from the pattern occur. That is a very, very powerful argument on behalf of the Employer in this proceeding.

Further, it requires no stretch of imagination to conceive that if this group secures an agreement more favorable than that secured by the other seven bargaining units in the Sheriff's Office resentment and envy will follow amongst the employees. These factors compel a recommendation on behalf of the Sheriff in this proceeding. This is the case notwithstanding that the Employer can afford the proposal of the Union and that members of this bargaining unit are paid modestly less than their counterparts in Northeast Ohio. The entire proposal of the Employer on this issue is recommended to the parties. This includes retroactivity and the "me-too" included in the proposal of the Sheriff.

Based upon the preceding discussion no change is recommended in the other articles presented by the Union: e.g. Article 18, proposed new Section 5, Rank Differential, Article 14, Sick Leave, Article 15, Holidays, etc.

At the hearing discussion was had about a proposal from the Employer to merge Article 24 dealing with hospitalization and Article 25 which is concerned with life insurance. The proposal of the Employer is recommended to the parties.

All tentative agreements are incorporated into this report by reference and recommended to the parties.

Fri, 08/25/2017 08:16:33 AM SERB

Electronically signed and dated this 21<sup>st</sup> day of August, 2017 at Solon, OH.

Harry Graham  
Factfinder