

Before Louis V. Imundo, Jr., Fact Finder

In the matter of fact finding between

The Brown County Sheriff

(Corporals, Deputy, Administrative Deputy, Court Corporal, Court Deputy)

and

The Fraternal Order of Police,  
Ohio Labor Council, Inc.

SERB Case No. 2017-MED-09-0984

This matter was heard before Louis V. Imundo, Jr., Fact Finder, in Georgetown, Ohio on April 25, 2018.

## **1.0 Introduction**

### 1.1 Appearing For The Sheriff

- Gordon Ellis, Sheriff
- Robert W. Cross, President, Cross Management Consulting Services, Inc.

### 1.2 Appearing For The FOP/OLC

- Mark Scranton, Staff Representative
- Brandon Johnson, Representative and Deputy

## **2.0 Unresolved Issues**

**Article 16 – Holidays**

**Article 24 – Wages**

**Article 25 – Hospitalization**

**Article 36 – Duration**

## **3.0 Findings And Recommendations**

### **Article 16 – Holidays**

The Union proposed a change in the existing language that would give members a choice to either take holiday pay in the pay period in which it occurs, or at their discretion bank the time and use it throughout the year when staffing allows for such.

The Union proposed that any of the banked holiday time not used before November 1st in any calendar year be paid at the rate of one hour's pay for each unused banked hour. Banking of holiday time could only be done for seven of the ten listed paid holidays. The excluded holidays would be Veterans Day, Thanksgiving Day and Christmas Day. The Union further proposed that if a member is scheduled to work on one of the eligible to be banked holidays and he/she elects to bank the holiday time the hours worked would be banked at time and one-half.

It was the Union's position that the sought change in language would allow those members who choose not to use their banked holiday time and in return be paid for the credited time could use the additional income for family related expenses and in particular to buy more presents for their children at Christmas.

It was the County's position that no change in the existing language is warranted. It was the County's position that in view of the fact they had already agreed to allow members to bank and be paid for used personal days off the Union's rationale for the proposed change has no merit.

Designated holidays are an inherit part of our country's heritage and culture, except for Christmas, a religious holiday, and New Year's Day. Designated holidays recognize important events or times in our nation's history. One, Columbus Day, far predates the founding of the country. Congress, in several instances, created federal holidays after a sizable number of states had taken such action. In most instances Congress took the lead in designating the holidays. The FLSA does require payment for designated holidays. Pay for not working on designated holidays resulted from either such being voluntarily done by employees or collectively bargained by unions and employees.

Not being required to work on designated holidays and being paid for the normal hours worked on those holidays allows employees to celebrate them with friends and family, or alone. When employees are required to work on designated holidays, employers are often required, not by law, to pay premium wages for the time worked because of the inconvenience to employees who would normally prefer to have the time off to celebrate the day.

The Parties' respective positions and the reasons for them were discussed at length at the Hearing. After considering everything the Union decided to withdraw their Article 16 proposals. The current language will be carried over intact into the successor Agreement.

**Article 24 - Wages**

The Union proposed a three percent (3%) across the board increase for 2018, 2019 and 2020. The Union proposed that Corporals, not including longevity, be paid eight percent (8%) above the applicable rate paid to Deputies. The Union proposed doubling the hourly longevity pay in each of the four brackets for every hour worked.

The Union proposed that the current night shift differential be increased from fifty cents (\$0.50) an hour to seventy-five cents (\$0.75) an hour.

The Union proposed a new paragraph wherein Deputies acting in the capacity of a Field Training Officer would be paid an additional sixty cents (\$0.60) an hour for every hour they worked in that capacity.

The Union, in Off Duty Details, proposed new language that would prohibit member from using other Sheriff's Office employees' names in order to secure a detail.

The Union proposed Off Duty Details rates of \$29.00 in 2018, \$30.00 in 2019, and \$31.00 in 2020. The County agreed to the proposed rates for all three years.

The County proposed a two percent (2%) across the board increase for 2018, 2019 and a re-opener for the third year of the Agreement. The County proposed to maintain the current longevity rate. The County proposed deleting the thirty cents (\$0.30) per hour supplement paid to investigators/detectives. The County proposed changing the posting of off duty details from 96 hours to 48 hours.

The Parties provided information about what each believed where the comparable counties in order to justify their respective positions about comparable wages. In the Fact Finder's opinion, each made persuasive and compelling arguments. After a thorough review of the relevant comparables presented and argued by the Parties the Fact Finder believes that, retroactive to January 1, 2018, a two percent (2%) increase in the hourly rate is appropriate for all members. The Fact Finder recommends a three percent (3%) increase for all members in 2019. The Fact Finder does not believe that in 2020 there will be a significant enough change in the State's financial condition, the County's economy, or financial situation to justify a wage reopener for the last year of the Agreement. The Fact Finder believes that a three percent (3%) in the hourly wage rate in 2020 for all members is appropriate.

In the Fact Finder's opinion, it is reasonable to assume that inflation in 2019 and 2020 will be slightly over two percent. Considering that bargaining unit members' wages appear to lag a little behind deputies doing the same work in demographically comparable counties in Ohio the three percent increase in 2019 and 2020 will likely allow the compensation disparity to slightly shrink. The Fact Finder believes that the

County's proposed two percent for the first two years with the re-opener in the third year would cause the compensation disparity to widen.

After considering the Union's arguments with respect to the increase in the percentage pay differential between a Road Deputy and a Road Corporal and a Court Service Deputy and a Court Service Corporal the Fact Finder is convinced that the current pay differential insufficient and should be increased to eight percent (8%) for the life of the Agreement for both classifications.

In Section B, Longevity Pay, in the current Agreement the Union proposed that it be increased from the current twenty cents (\$0.20) per hour at five (5) years of service to forty cents (\$.40) per hour, at ten (10) years of service from the current twenty five cents (\$0.25) to fifty cents (\$0.75); at fifteen (15) years of service from the current thirty cents (\$0.30) to sixty cents (\$0.60), and at twenty (20) years of service from the current thirty-five cents (\$0.35) to seventy cents (\$0.70). After discussing the matter at the Hearing Management said they could accept a two percent (2%) increase in each of the current service intervals. After reviewing the matter in its entirety, the Fact Finder recommends the following: twenty-five cents (\$0.25) at five (5) years, thirty cents (\$0.30) at ten (10) years, thirty-five (\$0.35) cents at fifteen (15) years; and forty (\$0.40) cents at twenty (20) years.

In their current Section F, the Fact Finder believes that the Union's proposed increased in the night shift differential from fifty cents (\$0.50) per hour to seventy-five cents (\$0.75) per hour for the life of the Agreement is reasonable and should be adopted. In that same section the County proposed that the sentence: "The Brown County Sheriff's Office will pay an additional \$0.30 per hour to all employees assigned to investigations/detectives." The Fact Finder is not convinced that at this time the sentence should be removed and recommends that it be carried over into the new Agreement.

The Union proposed a new section titled: "FTO Compensation". The proposed Field Training Officer language was fully discussed at the Hearing and it was, with the Fact Finder's concurrence, jointly agreed to be memorialized in the new Agreement. The agreed-on language is: "Deputies who have OPOTA field training certification and are assigned to do field training will receive an additional thirty cents (\$0.30) per hour for every hour worked in that capacity." This will appear as a new paragraph G. The subsequent paragraphs in this Article will have a one alphabet letter change.

In the current Section G, "Off Duty Details", Section 1, the County proposed that ninety-six (96) hours of posting be changed to forty-eight (48) hours. The Fact Finder agrees with the County and recommends that this proposed change be adopted.

The Union proposed a new sentence; "Bargaining unit members may not use other Sheriff's Office employees' names in order to secure detail." The reason for this proposal was discussed at length at the Hearing. It was jointly agreed that this sentence should appear as Item 4 in this section.

In the current Section I, "Off Duty Detail Rate", the Parties jointly agreed that effective January 1, 2018 the rate will be \$29.00/hr., effective January 1, 2019 the rate will be \$30.00/hr., and effective January 1, 2020 the rate will be \$31.00 per hour.

### **Article 25 – Hospitalization**

The Parties jointly agreed to the following language:

- A. The Brown County Sheriff's Office will offer medical insurance coverage for eligible bargaining unit employees pursuant to the same terms and conditions as insurance is offered to all other non-bargain, General Fund Brown County employees, except where such terms and conditions are expressly modified by this Article. The Brown County Sheriff's Office will contribute the same amount for each employee's monthly health care premiums as is contributed to other non-bargaining County General Fund employees for coverage except that the Employer shall contribute a minimum of eighty-five percent (85%) of the monthly premium toward the cost of the employee's insurance premium and eligible bargaining unit employees shall contribute fifteen percent (15%).

Should other non-bargaining Brown County General Fund employees be offered "holiday" or "reprieve" from premium contributions, the same benefit will be offered to employees covered by this agreement.

- B. It is agreed and understood that the schedule of benefits for bargaining unit employees electing insurance coverage shall be the same as procured by the Board of County Commissioners and set forth for all other Brown County non-bargaining General Fund employees, including all conditions, payments and premium contributions as specified or required by individual carriers/providers of the health insurance plan and/or the County.

In the event the County chooses to utilize a Health Savings Account ("HSA"), the County will partially fund the HSA of bargaining unit employees electing coverage in the following amounts on an annual basis in the following amounts (whichever is greater):

Single Coverage: \$1500 or sixty (60) percent of deductible  
Employee and Spouse: \$3000 or sixty (60) percent of deductible  
Employee and Child: \$3000 or sixty (60) percent of deductible

Family: \$3000 or sixty (60) percent of deductible

The Employer's portion of the employee's HSA will be funded in pro-rata monthly contributions. The Employer shall contribute a minimum of one hundred and twenty-five dollars (\$125) per month for each eligible bargaining unit employee electing single coverage. Additionally, the Employer shall contribute a minimum of two hundred and fifty dollars (\$250) per month for each eligible bargaining unit employee electing either Employee and Spouse, Employee and Child, or Family coverage. This number will increase in accordance with any increase specified above. However, employees electing coverage under the County's health insurance plan may seek assistance with medical and prescription costs on a case-by-case basis consistent with the County's Health Savings Hardship Policy effective April 1, 2010.

It is further agreed and understood that during the term of this Agreement, such individual carriers/providers may, through no fault of the Employer, Union, or employees cease coverage. Should such occur, any employee adversely affected shall be given the opportunity to enroll with an alternative carrier with the appropriate premium rates subject to the premium rate applied herein or to waive coverage and receive an appropriate pro-rata amount of the waiver of coverage payment.

Additionally, it is agreed and understood that during the term of this Agreement specific carriers/providers under the plan may unilaterally institute payments or conditions which modifications will be required for subscription to that carrier/provider.

A bargaining unit employee's eligibility to obtain County health insurance benefits is based upon the following:

1. An employee who is on the active payroll (receives pay) for a period of five (5) days in any month is entitled to this benefit.
  2. An employee who does not receive pay for at least five (5) days in any month will be responsible for payment of the total premium due for continued hospitalization coverage.
- C. The Brown County Sheriff's Office will continue to provide a \$10,000 AD & D policy in conjunction with the hospitalization policy as stated in paragraph A above.
- D. The Brown County Board of Commissioners shall be the sole arbiters of the carrier of the Brown County hospitalization plan.

- E. The Employer shall continue to try to make available to bargaining unit members and their eligible dependents substantially similar group health and hospitalization insurance coverage and benefits. The Employer reserves the right to change or provide alternate insurance carriers, health maintenance organizations, or benefit levels or to self-insure as it deems appropriate for any form or portion of insurance coverage referred to in this Article. The Employer will not be responsible for changes unilaterally imposed by an insurance provider in benefits, co-payment provisions or deductibles so long as the Employer uses its best efforts to minimize changes by incumbent insurance providers from one plan year to another. Should the group and hospitalization insurance coverage and benefits change, the Employer, upon written request of the Union, agrees to meet in good faith, consider options and discuss the effects of the changes. Written request from the Union must be presented within fourteen (14) calendar days of the notice of the change.
  
- F. The Employer reserves the right to institute cost containment measures relative to insurance coverage, so long as it tries to maintain a substantially similar level of benefits. Such changes may include, but are not limited to, mandatory second opinions for elective surgery, pre-admission and continuing admission review, preferred provider provisions, prohibition on weekend admissions except in emergency situations, and mandatory out-patient elective surgery for certain designated surgical procedures. Should the group and hospitalization insurance coverage and benefits change, the Employer, upon written request of the Union, agrees to meet in good faith, consider options and discuss the effects of the changes. Written request from the Union must be presented within fourteen (14) calendar days of the notice of the change.
  
- G. The extent of coverage under the insurance policies referred to in this Agreement shall be governed by the terms and conditions set forth in said policies or plans. Any questions or disputes concerning said insurance policies or plans or benefits thereunder shall be resolved in accordance with the terms and conditions set forth in said policies or plans and shall not be subject to the grievance and arbitration procedure set forth in this Agreement. The failure of any insurance carrier(s) or plan administrator (s) to provide any benefit for which it has contracted or is obligated shall result in no liability to the Employer, nor shall such failure be considered a breach by the Employer of any obligation undertaken under this or any other Agreement. However, nothing in this Agreement shall be construed to relieve any insurance carrier(s) or plan administrator(s) from any liability it may have to the Employer, bargaining unit member or beneficiary of any bargaining unit member.

- H. Employees who are eligible for the County's health insurance and waive coverage and at the completion of twelve (12) months without coverage shall receive a payment of one thousand dollars (\$1000) per year by way of separate check. Employees will be required to show they have proof of health insurance coverage to be eligible for payment. Employees receiving medical insurance benefits through another family member working for Brown County will be eligible for the one thousand dollar (\$1000) payment. In the event that the employee opts back into the coverage during the twelve (12) month period, the employee will be paid a pro-rata portion of the bonus for each month during which he/she opted out of coverage. Employees who are not enrolled in the Health Plan shall be eligible for the payment on April 15<sup>th</sup> of each year, provided that they are otherwise eligible pursuant to the above terms.
- I. In the event that the County returns to a "conventional or traditional" health insurance coverage plan after having provided coverage through an HSA plan, it shall be similar to the type of coverage plan in effect prior to the effective date of the HSA plan and, the Employer shall pay a minimum of eighty-five percent (85%) of the monthly premium of the plan chosen from the hospitalization, surgical, major medical plan or HMO plan made available to eligible bargaining unit employees electing coverage shall pay fifteen percent (15%) of the monthly premium.

### **Article 36 – Duration**

The Union proposed a three-year Agreement with no re-openers. The County proposed a three-year agreement with a re-opener for health insurance and wages in the third year. The proposals were thoroughly discussed at the Hearing and the Parties jointly agreed to a three-year agreement with a possible re-opener for health insurance in the third year. The Fact Finder recommends that the following be memorialized in the new Agreement:

#### **Article 26 Duration**

- A. This Agreement constitutes the entire contract between Management and the Union and settles all demands and issues with respect to all matters subject to collective bargaining. Therefore, Management and the Union, for the duration of this Agreement, waive the right, and each agrees that the other shall not be obligated, to bargain collectively with respect to any subject or matter, which is subject to collective bargaining whether or not such subject or matter is referred to herein. All past practices are specifically deleted unless addressed herein, and further, shall have no impact upon the terms and interpretation of this Agreement.

- B. This Agreement shall become effective as of January 1, 2018, except as otherwise indicated herein, and shall remain in effect up to and including December 31, 2020.
- C. If, at any time during the third year of the Agreement the health insurance premium cost to the County will increase by fifteen percent (15%) or more, at the written request of either party the terms of Article 26, Hospitalization, shall be re-opened for bargaining consistent with Chapter 4117, including statutory impasse proceedings. Notification of re-opening will be given no earlier than one hundred and twenty (120) calendar days prior, and no later than ninety (90) calendar days prior to December 31, 2019 for calendar year 2020.
- D. If notice of termination shall be given, negotiations for a new Agreement shall take place during the sixty (60) days prior to the expiration of this Agreement.

The Fact Finder recommends that all tentatively agreed on articles and sections be included in the successor Agreement.

May 1, 2018

Date

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Louis V. Imundo, Jr.  
Fact Finder