

FACTFINDING REPORT

STATE OF OHIO

STATE EMPLOYMENT RELATIONS BOARD

April 24, 1996

STATE EMPLOYMENT RELATIONS BOARD
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In the Matter of :

Mahoning County Sheriff)

and)

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

Case No. ⁵~~93~~-MED-06-0565
Correction Deputies

APPEARANCES

For the Employer:

Michael J. Angelo, Attorney
J. Kevin Sellards, Human Resource Director
Michael V. Sciortino, Assistant County Administrator

For the Union:

Patrick B. Daugherty, Staff Representative
Mark A. Shaff, Correction Officer Representative
Richard Geraci, Correction Officer Representative
Dale Thomas, Correction Officer Representative

Factfinder:

Nels E. Nelson

BACKGROUND

The instant dispute involves the Mahoning County Sheriff and the Correctional Deputies who are represented by the Fraternal Order of Police, Ohio Labor Council. The parties met on a number of occasions to negotiate an initial collective bargaining agreement but were unable to reach agreement. The Factfinder was appointed on August 4, 1995 but the parties extended the time limits for factfinding to allow for further negotiations.

When no agreement was achieved, the factfinding process went forward. A mediation session took place on March 15, 1996 which resulted in the settlement of a number of issues. A factfinding hearing was conducted on March 28, 1996 at which time the parties presented evidence and arguments in support of their positions.

The recommendations of the Factfinder are based upon the criteria set forth in Section 4117-9-05(k) of the Ohio Administrative Rules. They are:

- (a) Past collectively bargained agreements, if any, between the parties;
- (b) 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;
- (c) The interest and welfare of the public, and 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;
- (d) The lawful authority of the public employer;
- (e) The stipulations of the parties;
- (f) Such other factors, not confined to those listed in this section, which are normally or traditionally taken into consideration in the determination of issues submitted to mutually agreed upon dispute procedures in the public service or in private employment.

ISSUES

Four issues were presented to the Factfinder. For each issue the Factfinder will

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Four issues were presented to the Factfinder. For each issue the Factfinder will state the positions of the parties, summarize the arguments and evidence submitted, and present his analysis of the issue. Finally, he will offer his recommendation for resolving the issue and provide suggested contract language.

1) Article 22 - Clothing and Maintenance Allowance - The union demands a clothing and maintenance allowance to be paid to employees in a lump sum. It seeks a payment of \$500 to be made upon execution of the agreement and \$400 to be paid January 1, 1997 and January 1, 1998. The employer proposes a uniform allowance of \$300 in 1996 and \$250 in 1997 and 1998. It suggests that employees be required to submit receipts to the county personnel department and be reimbursed by the auditor's office within 30 days.

Union Position - The union argues that its demand is justified because General Order #95-015 requires correction officers to purchase uniforms. It estimates that the cost of purchasing the required uniform is \$567. The union contends that the larger first year amount is intended to better meet the cost of initial purchase which correction officers were forced to pay themselves.

The union maintains that its position is supported by the uniform allowance for correction officers and deputies in Portage, Columbiana, Stark, and Trumbull counties. It adds that its demand is also consistent with the fact that deputies in the county receive a \$750 annual allowance.

Employer Position - The employer argues that its proposal is more reasonable. It stresses that the union is negotiating a first agreement so that it should not expect to enjoy the same allowance that other unions have negotiated over a number of years.

Analysis - There are two issues regarding the uniform allowance. The first is how it is to be paid. The Factfinder believes that correction officers should be paid on the same basis as the deputies who receive two equal installments on April 1 and September 1 of

each year. Since deputies are not required to provide receipts, there appears to be no reason to require correction officers to provide receipts.

The second issue is the amount of the allowance. The Factfinder believes that it is appropriate to examine uniform allowances provided to corrections officers in nearby counties. The employer's comparisons included Geauga, Portage, Stark, and Trumbull counties. The union's comparisons consist of Portage, Columbiana, Stark, and Trumbull counties. The uniform allowances for 1996 are as follows:

<u>County</u>	<u>Allowance</u>
Columbiana	\$400
Gauga	100 *
Portage	550
Stark	Quartermaster
Trumbull	525

* Leather only - uniform supplied

The Factfinder feels that it is also useful to consider the uniform allowance provided to deputies in the county. Article XXV of the deputies' collective bargaining agreement establishes a uniform allowance of \$750. It is paid to deputies in installments of \$375 on April 1 and September 1.

The Factfinder recommends that the corrections officers receive a uniform allowance of \$500 in 1996 and \$350 in subsequent years. The larger allowance in 1996 will compensate employees for their initial outlay. The smaller dollar amount for correction officers compared to deputies reflects the \$567 cost of a correction officer's uniform compared to the \$1400 cost of a deputy's uniform.

Recommendation - The Factfinder recommends the following contract language:

Current employees shall be paid a clothing and maintenance allowance of \$500 upon execution of this agreement. In 1997 and 1998 employees shall be granted a clothing and maintenance allowance of \$350 per year which shall be paid in equal installments on April 1 and September 1 of each year. Clothing and maintenance allowances shall be paid in separate checks.

2) Article 32 - Shift Preference - The union demands that employees be allowed to indicate their shift preference including days off. The employer's proposal does not include bidding on days off and is limited to employees with three or more years of seniority.

Union Position - The union argues that the language that it seeks is similar to the provision in the deputies' contract except that it includes bidding on days off. It contends that bidding on days off will encourage some senior correction officers to bid on afternoon and evening shifts in order to get Saturdays and Sundays off. The union complains that deputies have been denied Saturdays and Sundays off on a subjective basis.

The union maintains that its position is supported by comparisons. It states that Columbiana, Portage, Trumbull, and Stark counties bid on shifts and all but Columbiana also bid on days off. The union claims that it negotiated bidding on days off for deputies in the county but that it was omitted in error when the contract was drafted.

Employer Position - The employer argues that its position should be recommended. It points out all of the correction officers were hired in the last two years and that a minimum level of experience is necessary to run the new jail. The employer indicates, however, that it is willing to agree to allow employees with three or more years of seniority to bid on shifts.

The employer claims that comparisons to nearby counties support its proposal. It states that correction officers in Geauga and Portage counties do not have shift preference and that in Stark County employees have no guarantee that they will get their preferred shift.

Analysis - The Factfinder is sympathetic to the union's demand for broad rights to bid on their work assignments but he cannot recommend the union's proposal on shift preferences. At the time of the hearing the new jail was about to open which undoubtedly requires flexibility on the part of the employer in making assignments. The need for discretion in assigning days off is also increased by the fact that all of the correction

officers are recent hires rather than experienced personnel who might be viewed as interchangeable.

The Factfinder cannot accept the employer's demand that the expression of shift preferences be limited to employees with more than three years of seniority. This would appear to eliminate bidding for shifts for all or most of the employees in the bargaining unit for at least the initial year of the contract. Furthermore, new hires would have to wait for three years before having any right to bid on shifts.

The Factfinder must also comment on the comparisons to nearby counties offered by the parties. While the union argued that bidding on shifts and days off is the usual practice, the fact is that such does not take place in either Geauga or Portage counties and employees in Stark County have no guarantee that they will be granted their preference.

The Factfinder recommends that the corrections officers be granted the same rights regarding shift preference as the deputies. They have been organized for a number of years and have negotiated a number of collective bargaining agreements. At such time as they secure the right to bid on days off as well as shifts, the corrections officers' rationale for this demand will be strengthened.

Recommendation -The Factfinder recommends the following contract language:

32.01 Employees in positions which operate on more than on shift may submit a written application to their Division Commander indicating their first and second preferences for shift assignment each shift, during the first full week in November of each Agreement year, where two (2) or more shifts are available, in an employee may indicate additional preferences in order of priority.

- A. Each Division commander shall post a schedule of available shifts during the application period for reference by employees.
- B. Shift preferences shall be awarded on the basis of departmental seniority within recognized divisions of the department, subject to the operational needs of the department. That is, the employer may ensure that a proper balance of senior and junior employees exists on a shift where applicable.
- C. Applications for shift preferences shall be maintained on file until replaced during a subsequent application period as set forth in this

section.

- D. Should a shift vacancy occur within a given division, the vacant position shall be offered to the most senior employee assigned to that division, who had applied for but did not receive assignment to the shift or vacancy during the most previous application period.

32.02 Employees failing for any reason to timely submit a written application indicating their shift preference will be assigned to a shift designated by the employer. Applications must be received by the Division Commander by the close of business hours (i.e. 4:00 pm) on the final day of the application period. For employees assigned to the Corrections Divisions, applications that have been received, time stamped and initialed by the shift Commander by such time shall be accepted as timely submitted.

32.03 the Employer shall post the amended work schedule for all employees at east seven (7) days in advance of its implementation. Such schedules shall maintain an updated schedule between application periods, which shall be made reasonably available for review by each employee upon request. The schedule to be implemented in January of each Agreement year shall be posted no later than the third Monday of that month.

32.04 This procedure shall be suspended for the period of sixty (60) days prior and thirty (30) days subsequent to the opening of the new jail. shift bidding will take place during this period to take effect on the thirty-first (31) day after the opening of the new jail.

3) Article 34 - Lunch and Break Time - The union demands contract language that requires a 30-minute paid lunch and pay at time and one-half for time not received. The employer proposes language that states only that relief for all breaks will be provided by other bargaining unit members.

Union Position - The union argues that employees are entitled to a paid lunch away from their work area. It complains that employees have not always received their lunch.

Employer Position - The employer contends that comparisons support its position. It indicates that Geauga, Portage, and Trumbull counties have no language in their contracts regarding lunch breaks.

Analysis - The Factfinder believes that corrections officers are entitled to assurance that they will receive a lunch break. He further feels that the employer's proposal is problematic because it appears to make one employee responsible for another employee's

lunch break rather than making it a management responsibility. However, given the nature of the work environment, the Factfinder must allow for the possibility that conditions on a particular day might not permit a regular lunch break and cannot require that time and one-half be paid to employees in such situations. He recommends that the lunch provision in the Stark County correction officers' contract which addresses both of these points be adopted.

Recommendation - The Factfinder recommends the following contract language:

Employees shall be granted a one-half hour lunch break per shift. Due to the nature of operations, employees may be interrupted or prevented from lunch breaks.

4) Article ?? - Wages - The current salary for correction officers is \$18,315. The union seeks a 29% increase in 1995, a 3.5% increase in 1996, and a 5.25% increase in 1997. The employer offers the following salary schedule:

	1996	1997	1998
Entry	\$18,315.00	\$18,315.00	\$18,315.00
After 1 Year	18,864.00	18,864.00	18,864.00
After 2 Years	19,430.00	19,430.00	19,430.00
After 3 years	*****	20,110.00	20,110.00
After 4 Years	*****	*****	20,714.00
After 5 Years	*****	*****	*****

Union Position - The union argues that salary comparisons strongly support its position. It points out that the starting rate for deputies in Mahoning County is 13% above the average starting rate for deputies in Columbiana, Portage, Stark, and Trumbull counties and the top rate is 6% above the average while the starting rate for correction officers in Mahoning County is 15% below the starting rate for the other counties and 49% below the top rate. The union indicates that for the similar sized counties -- Lake, Lorain, Portage, Stark, Trumbull, and Wood -- the starting rate of correction officers in the county is 16% below the average and the top rate is 52% below the average.

The union also relies upon the report of Factfinder Dennis Byrne in the dispute between the county and the dispatchers. It points out that he recommended a 6% wage

increase in 1996, a 9% increase in 1997, and a 7% increase in 1998 based on the fact that the starting rate for dispatchers was 16% to 18% below other counties and the top wage was 40% below other counties. The union claims that Factfinder Byrne would have awarded even larger increases had there not been a tentative agreement between the parties calling for lesser increases.

Employer Position - The employer acknowledges that the correction officers' salaries are a little low. It stresses, however, that it cannot close the gap in the first contract. The employer claims that its position is supported by the fact that other county employees have received three year settlements of 3%, 3%, and 3.5% and the fact that it has already agreed to grant longevity payments to the correction officers.

Analysis - The Factfinder believes that the data for correction officers in Mahoning County and neighboring counties must be examined. The data are as follows:

County	<u>DEPUTIES</u>		<u>CORRECTION OFFICERS</u>	
	<u>Starting</u>	<u>Top</u>	<u>Starting</u>	<u>Top</u>
Columbiana	\$19,406	\$27,976	\$19,406	\$27,976
Portage	23,771	27,725	22,406	26,199
Stark	21,008	30,680	21,008	30,680
Trumbull*	24,710	29,099	21,320	25,126
AVERAGE	22,223	28,870	21,040	27,495
Mahoning	25,303	30,640	18,388	18,388
DIFFERENCE	+13%	+6%	-15%	-49%

*1995 salary

These data make two things clear. First, correction officers in Mahoning County are paid less than correction officers in nearby counties. Their salary is 15% less than the average starting salary for the other counties and 49% below the top salary. Second, it is not a matter of all Mahoning County employees being paid less than other counties. In fact, the deputies earn a starting salary 13% above the neighboring counties and a top salary 6% higher.

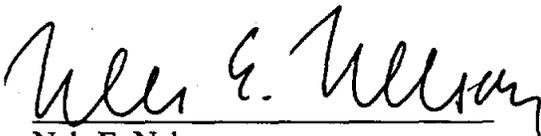
The dispatchers appear to be in the same situation as the correction officers. Factfinder David Byrne reported that the starting rate for dispatchers in the county was 16% to 18% less than dispatchers in comparable counties and the rate for senior dispatchers was 40% less than other dispatchers.

Despite these findings Factfinder Byrne refused to recommend the 39% wage increase sought by the dispatchers. He stated that it was unrealistic to expect the wage gap to be closed in one year. On that basis he recommended that the dispatcher receive the wage increases received by most other county employees -- 3% in 1996, 3% in 1997, and 3.5% in 1998 - plus a 9.5% equity adjustment paid as 3% in 1996, 3% in 1997, and 3.5% in 1998.

Although the dispatchers rejected Factfinder Byrne's recommended wage increase, this Factfinder believes that he should recommend the same settlement in the instant case. A raise of nearly 20% over three years is a significant increase by nearly any standard and represents a meaningful step toward reducing the salary gap that currently exists between correction officers in Mahoning County and in nearby counties. However, even with this very substantial salary increase, a considerable salary gap will remain which will need to be addressed in future negotiations.

Recommendation - The Factfinder recommends the following contract language:

Wages shall be increased 6% effective January 1, 1996; 6% effective January 1, 1997; and 7% effective January 1, 1998.


Nels E. Nelson
Factfinder

April 24, 1996
Russell Township
Geauga County, Ohio