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STATE-EMPLOYMENT
RELATIONS BOARD

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FACTFINDING REPORT

STATE OF OHIO

STATE EMPLOYMENT RELATIONS BOARD

December 15, 1995

In the Matter of :

Ashtabula County Sheriff)	
)	
and)	Case No. 95-MED-09-0718
)	Deputies Unit
Fraternal Order of Police,)	
Ohio Labor Council, Inc.)	

APPEARANCES

For the Employer:

John N. Barkan Jr., Consultant
William R. Johnson, Sheriff
Joe Bernardo, Lieutenant

For the Union:

Rick Grochowski, Staff Representative
Rick Keane, Negotiating Committee
Van Robinson, Negotiating Committee

Factfinder:

Nels E. Nelson

BACKGROUND

The instant dispute involves the Ashtabula County Sheriff and the Fraternal Order of Police, Ohio Labor Council, Inc. The union represents approximately 31 deputies including road patrol deputies and detectives. Negotiations for a collective bargaining agreement to replace the one expiring on December 31, 1995 began in October 1995. When no agreement was reached, the Factfinder was appointed on December 1, 1995.

A hearing was held on December 6, 1995. Four of the eight issues presented were settled through mediation. The Factfinder's recommendations for the remaining four issues are based upon the criteria contained 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

There are four issues before the Factfinder. For each issue the Factfinder will state the positions of the parties and very briefly summarize the rationale for their positions. He will then present a brief analysis of the issue. Finally, the Factfinder will offer his recommendation and, where appropriate, recommended contract language.

1) Article 10 - Hours of Work/Overtime, Section 3 - Comp Time Bank - The current contract provides that the employer may offer compensatory time for overtime worked in the same pay period. The employee may accept or reject the comp time.

Union Position - The union demands the creation of a comp time bank. Employees would be able to accumulate comp time up to a maximum of 40 hours. The accumulated hours would have to be used in the year that they are accumulated. Any unused balance would have to be paid by a separate check during the last pay period of December.

The union argues that some sheriffs' departments have comp time banks. It points out that its proposal will allow employees more flexibility in using overtime hours. The union notes that under its proposal accumulated hours cannot be carried over to the following year.

Employer Position - The employer seeks to delete the current contract language which allows employees to take time off for overtime worked during the pay period in which it is worked. It contends that employees should be paid for overtime hours when they are worked.

Analysis - The Factfinder recommends that the current contract language be retained. It allows employees some flexibility in using accumulated hours but avoids the scheduling problems that could arise with a comp time bank. Most importantly, there was no showing by either the employer or the union that the current system is creating problems.

Recommendation - The Factfinder recommends current contract language be retained.

2) Article 32 - Wages/Longevity, Section 1 - Wages - The current contract contains a four-step salary schedule. The top step annual salary is \$29,078.

Union Position - The union demands wage increases of 4% effective January 1, 1996; 6% effective January 1, 1997; and 6% effective January 1, 1998. It acknowledges

that it first proposed three 5% increases which the employer countered with an offer of 4%, 4%, and 5% effective on January 1 of 1996, 1997, and 1998. The union states that it then amended its proposal to a one-year agreement with a 7% wage increase effective January 1, 1996. It indicates that when the employer did not modify its position, it adopted its current position.

The union contends that its demand is supported by comparison to contiguous sheriffs' departments. The annual salaries are as follows:

Ashtabula	\$29,078
Geauga	35,090
Lake	36,754
Trumbull	29,099

The union maintains that the employer has the ability to pay its wage demand. It points out that its financial consultant indicated that in October 1995 the County Auditor reported revenue for the first nine months of 1995 was \$775,348 more than in 1994 due to increased sales tax revenues and interest income. The union notes that the auditor also stated the county's cash balance had increased by \$1,154,268 over the past 12 months.

Employer Position - The employer offers wage increases of 4%, 4%, and 5% effective January 1 of 1996, 1997, and 1998. It argues that this offer far exceeds other settlements. The employer indicates that the SERB Quarterly revealed that the recommendations of Factfinders during the first quarter of 1995 averaged 3.02%.

The employer stresses that deputies have received substantial increases in the recent past. It reports that the annual salary rose from \$21,465 in 1990 to \$29,078 in 1995. The employer calculates that if its wage proposal is adopted, the annual salary will reach \$33,030 in 1998 which results in a 53% salary increase between 1990 and 1998. It adds that during the same time period a ten-year deputy's longevity payments would have risen from \$643 to \$1321.

The employer observes that its proposal will result in a substantial increase in earnings since Bill T. Johnson became sheriff. It states that by its proposal a ten-year

deputy's annual salary plus longevity will rise by 34.9% to which 9.5% must be added to reflect the fact that it pays the employee's retirement contribution which results in a 44.4% increase in compensation.

The employer states that it is not contesting its ability to pay. It maintains that since it did not raise the ability-to-pay issue, the union's presentation regarding county finances is irrelevant. The employer does note that the sheriff cannot get more than what is in his own budget regardless of county revenues.

Analysis - The Factfinder recommends that the employer's wage offer be adopted. First, the offer of 13% over three years exceeds other settlements in the state. As the employer indicated, SERB has reported that Factfinders' recommendations in the first quarter of 1995 averaged 3.02%. In addition, it is accepted that three-year settlements in Ohio generally are close to 10%.

Second, the salary comparisons which the union offered are somewhat misleading. Lake and Geauga counties are wealthier than Ashtabula County which is emerging from a period of economic malaise. Furthermore, the population of Lake County is more than twice that of Ashtabula County. However, the Factfinder expects the gap between Ashtabula and Lake and Geauga counties to continue to narrow and the employer's proposal will have that effect.

Third, the union comparisons fail to take into account the fact the employer pays the employees' retirement contribution which is not the case in Lake or Geauga counties. The 9.5% payment by the employer cannot be ignored in any wage comparison. In addition, Ashtabula County employees do not pay any share of the premiums for health insurance. SERB's Report on the Cost of Health Insurance in Ohio's Public Sector states that for 59 counties in Ohio the average monthly employee contribution for health insurance for family coverage is \$53.21 (Table 4, Page 9).

Fourth, the Factfinder cannot ignore the settlements that the employer has reached with other units in the department. The sergeants, who are represented by another union,

settled for the employer's offer as did the corrections officers, corporals, civilian employees, and mechanics all of whom are represented by the United Steelworkers.

Recommendation - The Factfinder recommends the following contract language:

Wages shall be increased 4% effective January 1, 1996; 4% effective January 1, 1997; and 5% effective January 1, 1998.

3) Article 32 - Wages/Longevity, New Section - Shift Differential - The current collective bargaining agreement does not provide for the payment of a shift differential.

Union Position - The union demands a shift differential of \$.20 for the afternoon shift and \$.30 for the night shift. It contends that employees should be compensated for being away from their families and for working the least desirable shifts. The union notes that its position is also supported by the fact that both complaints and arrests are higher on the afternoon and midnight shifts than on the day shifts. It reports that the Trumbull County sheriff's department pays the same shift differential that it is seeking and that the city police departments in Ashtabula and Geneva as well as the Ohio State Patrol pay shift differentials.

Employer Position - The employer opposes the union's demand. It points out that employees bid on shifts by seniority every six months so that senior deputies do not have to work the afternoon and night shifts. The employer states that normally shift differentials are not paid by sheriffs' departments.

Analysis - The Factfinder must deny the union's demand. First, the payment of a shift differential would involve a significant cost to the department. While the department might have the ability to pay a shift differential, it is already granting a significant wage increase. If the wage increase were lower, the Factfinder would be more likely to consider the union's demand for a shift differential. Second, two of the three contiguous sheriffs' departments do not pay a shift differential which is probably reflective of the situation in a

broader area. Comparisons to city police departments are less often relied upon than comparison to other sheriffs' departments.

Recommendation - The Factfinder recommends the union's demand be denied.

4) Article 32- Wages/Longevity, New Section - Officer in Charge Pay - The current contract has no provision for officer-in-charge pay.

Union Position - The union proposes that an employee who performs the duties and responsibilities of a supervisory position be paid at the hourly rate for the supervisory position for all full hours actually worked in the position. It maintains that it is simply asking to be fairly compensated for the performance of supervisory duties that require extra responsibilities.

Employer Position - The employer denies the union's demand. It indicates that when a supervisor is absent and a deputy fills in, the deputy does not perform the full range of duties of the absent supervisor. The employer contends that a deputy is required to call a lieutenant regarding decisions that must be made.

Analysis - The issue is the rate of pay for the senior deputy when a sergeant on a shift is absent. While the Factfinder believes that an employee should be compensated for the work he or she does, he cannot grant the union's demand. First, although some extra compensation might be due, the fact that the full range of duties is not performed might dictate a lower rate of pay or perhaps overtime for the extra work performed. The details of any extra compensation should be left to the parties. Second, it is a benefit to deputies to be in charge of a shift. Such experience should be valuable for promotion within the department and for opportunities outside the department. Third, there was no showing that officer-in-charge pay is the norm in sheriffs' departments. There certainly are numerous departments where officer-in-charge pay does not exist.

Recommendation - The Factfinder recommends that the union's demand be denied.

A handwritten signature in cursive script, reading "Nels E. Nelson". The signature is written in black ink and is positioned above a horizontal line.

Nels E. Nelson
Factfinder

December 15, 1995
Russell Township
Geauga County, Ohio