

BEFORE THE  
STATE EMPLOYMENT RELATIONS BOARD

STATE EMPLOYMENT  
RELATIONS BOARD

FEB 24 8 56 AM '97

IN THE MATTER OF FACT FINDING BETWEEN:

MEIGS COUNTY SHERIFF

- AND -

S.E.R.B. CASE NOS. 96-MED-10-1022  
96-MED-10-1024

OHIO PATROLMEN'S  
BENEVOLENT ASSOCIATION

APPEARANCES:

For the Sheriff:

Kenneth L. Edsall  
Regional Supervisor  
Clemans, Nelson & Associates, Inc.  
Columbus, Ohio

For the Union:

Joseph M. Hegedus, Esq.  
Climaco, Climaco, Seminatore,  
Lefkowitz & Garofoli Co., L.P.A.  
Columbus, Ohio

REPORT AND RECOMMENDATIONS OF THE FACT FINDER

Frank A. Keenan  
Fact Finder

**BACKGROUND:**

This case, particularly well presented by the parties' advocates, was heard on February 4, 1997, in Pomeroy, Ohio. At the commencement of the hearing the parties had some seven (7) issues at impasse, including the issue of Department Vehicles. It appeared to the Arbitrator from the parties' pre-hearing submissions that there were no material differences with respect to Vehicles. The parties agreed and a tentative agreement with respect to Vehicles was signed off on. This left six (6) issues at impasse, namely, Personal Leave; Holidays; Insurance; Wages; Uniforms; and, Duration.

It is noted that in reaching the Recommendations hereinafter set forth, consideration was given to criteria listed in Rule 4117-9-05(J) of the State Employment Relations Board. Where applicable consideration was given to: past collectively bargained agreements between the parties; 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; 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; the lawful authority of the public employer; any stipulations of the parties; and 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-up dispute settlement procedures in the public service or in private employment.

The record reflects that the parties have tentatively agreed to numerous contractual provisions, including some minor economic matters, that they spent one entire session with a SERB-appointed mediator. It was felt therefore that further mediation efforts would not be productive and, accordingly, the parties reasonably declined mediation.

**OVERVIEW:**

Virtually all of the items remaining at impasse constitute direct economic items; all entail costs to the Employer not now incurred. That is to say that the Union seeks an improvement in the status quo with respect to each item and/or to add a provisions; e.g., personal days, a benefit the bargaining units do not now enjoy. Duration is indirectly a cost item because the Union seeks retroactivity with the effective date of the Contract being January 1, 1997.

The Sheriff proposes modest increases in each direct economic item except personal days, which latter it resists in its entirety, on the grounds that it can't afford more. In this regard, the Sheriff does not assert an inability-to-pay the Union's demands per se, but rather asserts as the principle position that its fiscal resources are significantly limited, and hence it must be cautious and conservative with respect to the

additional costs it incurs in its Collective Bargaining Agreement with the Union. Were it too generous with the bargaining units, it would face "me too" contentions from other County employees. The Union, on the other hand, emphasizes as to how, in its perception, the bargaining units are significantly behind other comparable bargaining units vis a vis the wages and fringe benefits at impasse, and it urges the Fact Finder to correct same in his Recommendations. Some of the statutory factors which must be considered are common to virtually all of the issues at impasse.

Concerning the latter point noted above, as has been seen, one of the statutory factors to be considered are those not specifically enumerated in the Statute, but which are "normally or traditionally taken into consideration," when the parties are at impasse and seek a resolution. Thus, an important fact here is that this proceeding involves recommendations for the parties' first collective bargaining agreement, the Union only recently having been certified, and the bargaining units having been unrepresented prior thereto. And, in that regard, the normal and traditional expectation would be that the parties first Contract would not fully resemble the Contract of a more mature bargaining relationship. This would be especially so where, as here, there are meaningful limitations on the County's income resources.

I note that the County relies on the following jurisdictions as its "comparables:" Adams, Athens, Gallia, Highland, Hocking, Jackson, Lawrence, Monroe, Morgan, Noble, Perry, Pike, Vinton,

and Washington. The Union relies on many of these same comparables as well.

**ISSUE 1: ARTICLE 25 - WAGES**

**EVIDENCE AND PARTIES' POSITIONS:**

The Union seeks the establishment of a six (6) step pay step system. Step six would be arrived at after four (4) years of service in classification. It also seeks a \$.25 per hour shift differential for all hours worked between 4:00 p.m. and 8:00 a.m. Additionally, it seeks a longevity pay supplement, commencing with \$50.00 for each year of service after the 5th year and up to the fifteenth year. In terms of an across-the-board increase, the Union seeks 7% the first year and 4% in 1998, and another 4% in 1999. As for Sergeants and Lieutenants, it seeks a 3% differential in 1997; 5% in 1998; and, 7% in 1999. The Union would freeze the DARE Officer until 1999, at which time he would advance to \$11.26/hour. The Union points out that dispatchers with three children qualify for food stamps and medicaid. Longevity pay is received by 7 out of 12 jurisdictions in Southeast Ohio, asserts the Union. With a County population of 24,000 and some 432 square miles to cover, obviously the Department is understaffed, asserts the Union. The County proposes as follows:

**ARTICLE 25**

**WAGES**

Section 25.1. Effective January 1, 1998, bargaining unit employees shall receive a three percent (3%) across-the-board wage increase.

Section 25.2. Effective January 1, 1999, bargaining unit employees shall receive a two percent (2%) across-the-board wage increase.

Section 25.3. Effective January 1, 1998, Sergeants shall be paid one and one-half percent (1 1/2%) above the top Road Patrol Officer (such rate as of January 1, 1997 was at \$9.73). Effective January 1, 1998, Lieutenants shall be paid one and one-half percent (1 1/2%) above the pay rate for the Sergeants.

The Union points to the fact that in April, 1996, Engineering Department employees received a 4% across-the-board increase. And for Sheriff's Department's State-wide, deputies are being paid but 69.89% of the average wage; sergeants are being paid but 60.97% of the average; and Lieutenants but 55.36% of the average. In terms of Southeastern Ohio Sheriff's Departments, the Union-submitted data shows that Meigs Department employees get 84.09% of the average starting pay and but 87.94% of the average top pay. State-wide data reflects that the average differential between Sergeants and Deputies is 11%; that the average differential between Lieutenants and Sergeants is 9.6%.

The County notes that its Engineering Department has a different funding source than the County's general fund. The County also points out that any wage increase entails 19.25% additionally in roll-up costs; e.g., PERS costs. It also asserts that both in the County and in the comparables, increases in the "threes" have been the norm. The CPI is but 3.6 asserts the County. It's relative poverty is manifested by the following

factors, asserts the County: it experiences but 74.40% of the State average vis a vis its citizens' federal adjusted gross income; its lower standing among comparables concerning public utility tangible personal property taxes; it's 1996 decrease in real and personal property tax revenues; its population loss since the last census; its 10+% unemployment rate, twice that of the State average; the decrease in new construction taxes in 1996. Notwithstanding all of this, the Union points to the steady modest increases in general fund receipts over the last three years.

**RATIONALE:**

As the Union concedes, as a Southeastern Ohio County, the Employer is one of the State's poorer jurisdictions. Nonetheless, the Department does not claim inability to pay per se. Rather, it urges restraint due to its limited resources and the unforeseeability of any meaningful improvement therein. The case for restraint is certainly made out. With employees eligible for public assistance and unable to afford essential health insurance coverage, a significant improvement is called for in the County's only true safety force. The typical "threes" of the past and of the mid-nineties are inadequate here. At the same time, as a first contract, provisions such as shift differential and longevity pay and unprecedented percentage increases are not warranted at this time. It's simply too steep of a package. Similarly, insufficient justification for a

dramatic overhaul of the pay scheme with the inauguration of a step system has been put forth. It's suggestion appears to be but another method of effectuating more income for the bargaining unit. These conclusions point and support the recommendation made below.

**RECOMMENDATIONS:**

The parties' Agreement at Article 25 shall provide as follows:

" **ARTICLE 25**

**WAGES**

Section 1. Effective with the signing of this Agreement, bargaining unit employees shall receive a 4.2% across-the-board wage increase.

Section 2. Effective January 1, 1998, bargaining unit employees shall receive a 4% across-the-board wage increase.

Section 3. Effective with the signing of this Agreement, Sergeants shall be paid five percent (5%) above the top Road Patrol Officer. Effective with the signing of this Agreement, Lieutenants shall be paid three and one half percent (3.5%) above the pay rate for the Sergeants."

**ISSUE 2: ARTICLE 31 - DURATION OF AGREEMENT**

**THE EVIDENCE AND PARTIES' POSITIONS:**

The County seeks a two year agreement; the Union seeks a three year agreement. Both parties' Section 1 would set forth the Agreement's effective date and its expiration date and provide time frames for notice of intent to negotiate and for

commencing negotiations. Both parties are agreed as to how Section 2 and Section 3, constituting in essence a zipper clause, should read. Thus, the parties are agreed that these Sections should read as follows:

Section 2. The parties acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right to make demands and proposals on any subject matter not removed by law from the area of collective bargaining and that the understandings and agreement arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement. Therefore, the Employer and the Union, for the life of this Agreement, each voluntarily and unequivocally waives the right, and each agrees that the other shall not be obligated, to bargain collectively or individually with respect to any subject or matter not specifically referred to or covered in this Agreement, even though such subjects or matters may not have been within the knowledge of either or both parties at the time they negotiated or signed this Agreement.

Section 3. This Agreement supersedes all previous agreements (either written or oral) between the Sheriff, its Employees, and the Union.

For Section 1, the Union would provide that the effective date be "12:01 a.m. on January 1, 1997." The County would have the Agreement become "effective upon signing by both parties." As for an expiration date, the Union would have the Agreement "remain in full force and effect until 12:00 midnight, December 31, 1999." The County, however, would have the Agreement "remain in full force and effect for a two (2) year period" from and after the effective date it urges.

An expiration date of December 31st is critical, asserts the Union, in order to avoid in the future the statutory "conciliation" glitch, which would put in peril any economic

improvements for the bargaining units for a year in the event of an impasse, were the expiration date otherwise.

**RATIONALE:**

As the Union urges, there is no justification for risking imperiling all economic improvement in a successor contract for an entire year due to the statutory glitch, by providing for an expiration date other than December 31st. Accordingly, such date shall be recommended. At the same time, in light of the substantial Wage and Health Insurance improvements recommended, providing for an effective date "upon signing," as the County urges, would result in some savings for the County, while at the same time reducing the term of the Contract by but a few months, in the event the instant Report and Recommendations are accepted. Hence, such shall be recommended. A two year Contract is in my view more desirable for this, the parties' first contract, affording the parties an earlier opportunity to adjust matters arising in their newfound relationship.

**RECOMMENDATION:**

It is recommended that the parties' Contract at Article 31 provide as follows:

"

**ARTICLE 31**

**DURATION OF AGREEMENT**

Section 1. Except as otherwise provided herein, this Agreement shall be effective upon signing by both parties, and shall remain in full force and effect until 12:00 midnight, December 31, 1998. Written

notice of the intent to negotiate a successor Agreement shall be given no earlier than one hundred twenty (120) calendar days prior to the expiration date, nor later than ninety (90) calendar days prior to the expiration date of this Agreement. Such notice shall be by certified mail with return receipt. The parties shall commence negotiations within two (2) calendar weeks upon receiving notice of intent.

Section 2 and Section 3 shall read as set forth hereinabove."

**ISSUE 3: ARTICLE 24 - INSURANCE**

**THE EVIDENCE AND THE PARTIES' POSITIONS:**

Employees who elect to participate are covered by the County-wide health insurance plan. Currently, the family plan health insurance premium costs \$500.00 per month. The Employer and Employee share in the premium 60-40; i.e., the Employer pays 60%, the Employee pays 40%; i.e., the Employer pays \$300.00 and the Employee pays \$200.00 per month. The County proposes to only require a payment of \$180.00 a month toward the premium for the term of the Contract. The County would also spell out that it has sole discretion to "determine the carrier and the nature of the plan to be provided" and to "implement various cost containment features ... provided any changes ... are applicable to all employees who are subscribers." In this regard, it appears that County managers and executives participate in the same health care plan. Several bargaining unit employees do not participate in the plan, or take only the single plan, because, they assert, they can't afford it.

The Union seeks a contract provision guaranteeing "the

percent benefit levels." It would also phase in total funding by the Employer in 1999. In support of its funding scheme, the Union points out that in 69% of all bargaining units State-wide, the Employer pays 100% of the insurance premium. For County units State-wide, the average employee contribution is but 80.62. Regionally, for Southeast Ohio, the average employee contribution is only 50.33 per month.

The County points out that of comparable Southeast counties, only it is self-funded. In that regard, from time to time, County Departments must contribute lump sums from their budgets to the fund in order to maintain stability in rates. The Union points to the county's own comparable data with respect to employee contributions as a percent of the premium and correctly asserts that only Vinton matches the high employee, low employer contribution as Meigs. For comparable jurisdictions reporting their contributions in percentages, four jurisdictions (Athens, Highland, Hocking and Jackson) are 100% Employer-paid premiums; Gallia 85%; Lawrence 75%; and, Washington 70%.

**RATIONALE:**

The Health insurance benefit is a particularly important feature of employment in America today. It's clear that the County is rather parsimonious, even as compared to most other of the poor Southeast jurisdictions. Over the life of the contract, a more generous contribution toward the health insurance premium is called for. Additionally, employees are simply entitled to

greater assurance as to the nature of the benefits which is in place for them for the term of the Contract, than the total discretion the Employer proposes. The concept of "substantially equivalent" offers flexibility in this regard, and moves toward meeting the goals of both parties. Such shall be recommended. A percentage sharing is more equitable in that increases in the premiums cost are shared by the parties, and such concept shall be recommended.

**RECOMMENDATION:**

It is recommended that the parties' Contract at Article 24 provide as follows:

"

**ARTICLE 24**

**INSURANCE**

Section 1. The Employer shall continue to provide all Employees in the bargaining unit with health insurance at the present, or substantially equivalent, benefit levels, both single and family coverage. Effective with the signing of the Agreement, the Employer shall pay 60% of the health insurance premium and the Employee pay 40%; effective September 1, 1997, the Employer shall pay 70% of the health insurance premium and the Employee pay 30%; effective September 1, 1998, the Employer shall pay 75% of the health insurance premium and the Employee shall pay 25%."

**ISSUES 4 & 5: ARTICLE 22 - HOLIDAYS**

**THE EVIDENCE AND PARTIES' POSITIONS:**

The County would provide for eight (8) hours of holiday pay for ten (10) holidays. Employees working holidays shall, in

addition be paid for time worked. Effective January 1, 1998, and thereafter, employees who work Thanksgiving Day or Christmas Day shall in addition be paid time and one-half for time worked. Effective January 1, 1999, employees required to work Independence Day shall also be paid time and one-half for time worked.

The Union would also provide for eight (8) hours of holiday pay for the same ten (10) holidays and add two personal days per year for all employees, said entitlement to personal days, commencing one year after an employee's hire, and setting forth certain procedures and limits for the use of personal days. And, it would accelerate the phase-in as to when employees working a holiday would be paid time and one-half for time worked on the holiday. Thus, effective upon the execution of the Agreement, employees required to work Thanksgiving Day and/or Christmas Day would be paid at time and one half; effective January 1, 1998, employees working Labor Day, Thanksgiving Day, and/or Christmas Day would be paid at time and one-half; effective January 1, 1999, employees working Memorial Day, Labor Day, Thanksgiving Day, and/or Christmas Day.

In support of its position, the Union points to the County's collective bargaining agreement with the County Engineering Department, which provides for eleven (11) paid holidays; time and one-half for all holidays worked; and one (1) personal day. It also points to the compilations regarding holidays and personal days set forth in SERB's 1995 Second Quarter Quarterly.

That document reflects that for SERB's South Central Region (embracing Ross, Pike, Scioto, Hocking, Vinton, Jackson, Gallia, and Lawrence Counties) and SERB's Southeastern Region (embracing Morgan, Athens, Meigs, Washington, Noble, and Monroe Counties) the mean number of holidays is 10.9 and 10.0, respectively. The mean number of personal days is 1.5 and 1.4, respectively. SERB notes that two-thirds of all collective bargaining agreements State-wide provide for ten or eleven holidays. SERB also notes that "just over 60 percent of all contracts provide employees with at least one paid personal leave day per year." The Union points to the County's "comparables" chart for "Holiday and Personal Leave Comparison," and notes that even this data shows an average of 10.3 holidays and 1.3 personal days, with the consequence that the Union's proposals are therefore "in line with comparables."

As for the County's comparables, some five jurisdictions (Adams, Highland, Jackson, Perry, and Washington Counties) provide for ten (10) holidays and no personal days, as the County proposes here. In resisting personal days, the County emphasizes the cost factor and emphasizes the cost factor as well vis a vis its less generous phase-in of time and one-half pay for holidays worked. The County points out that the Sheriff's Department is a twenty-four (24) hour operation whereas, except for snowy days, the Engineering Department is an eight (8) hour per day operation. Thus, overtime payments and personal day payments for the Sheriff's Department would clearly be more costly, asserts

the County. The County also points out that a majority of its comparables have ten (10) holidays [some nine (9) counties in addition to Meigs] and seven of the fourteen counties in addition to Meigs which constitute the County's comparables have no personal days.

**RATIONALE:**

There's no question but that personal days constitute a meaningful cost factor. If provided for, they are certain to be utilized. The County's comparables indicate that one-half of comparable counties provide for no personal days. This circumstance enhances the propriety of viewing personal days as a relatively sophisticated provision reserved for more mature bargaining relationships, as alluded to in the "Overview" discussion. Likewise, as discussed in the "Overview" section hereinabove, and as the County urges, for this the parties' first contract, the costs of such relatively sophisticated provisions are more properly reflected in, for example, the wage package. Moreover, Athens County's 4, Monroe County's 5, and Pike County's 3 personal day provisions skew the personal day comparables data. These circumstances militate against recommending person days at this time.

As for the opposing time and one-half phase-in provisions of the parties, to be kept in mind is the fact that certain of these holidays which both parties are agreed upon, are traditionally more family activity oriented, and the Union's proposal has

identified these holidays, namely, Thanksgiving, Christmas, Labor Day, and Memorial Day. Working these holidays is therefore a morale issue. Payment of time and one-half for working these particular holidays bolsters morale. But good morale among the County's principle safety force is clearly in the public's interest and advances the public's welfare, a statutory factor. Likewise, good morale among the safety force workforce enhances the standard of public service, another statutory factor. Accordingly, the Union's phase-in schedule of time and one-half for holidays worked shall be recommended.

**RECOMMENDATIONS:**

It is recommended that the parties' Contract at Article 22, read as follows:

"

**ARTICLE 22**

**HOLIDAYS**

Section 1. All Employees shall be entitled to eight (8) hours of holiday pay for each of the following holidays:

- New Year's Day
- Martin Luther King Day
- President's Day
- Memorial Day
- Independence Day
- Labor Day
- Columbus Day
- Veterans Day
- Thanksgiving Day
- Christmas Day

Section 2. Effective upon execution of this Agreement, if an Employee is required to work on any of the holidays listed in Section 1 above, he shall be entitled to pay for such time worked plus he shall receive eight (8) hours of holiday pay except that all

Employees who are required to work Thanksgiving Day and/or Christmas Day shall be compensated at one and one-half (1 1/2) times his regular rate of pay for all hours worked on those days.

Section 3. Effective January 1, 1998, if an Employee is required to work on any of the holidays listed in Section 1 above, he shall be entitled to pay for such time worked plus he shall receive eight (8) hours of holiday pay except that all Employees who are required to work Memorial Day, Labor Day, Thanksgiving Day, and/or Christmas Day shall be compensated at one and one-half (1 1/2) times his regular rate of pay for all hours worked on those days.

**ISSUE 6: ARTICLE 30 - UNIFORMS**

**THE EVIDENCE AND THE PARTIES' POSITIONS:**

The County would maintain the status quo concerning who is responsible for purchasing required uniform and equipment items. In this regard, an employee is required to purchase his own gun, leather, badges, and handcuffs. The Sheriff purchases trousers, winter shirts, summer shirts, ties, winter jacket, winter hat, summer hat, and body armor. The County would spell out that clothing and equipment purchased by the Employer be turned in when an employee is separated from service or the value of the missing items will be withheld from the departing employee's separation pay. The Employer would also provide that "uniforms

"sufficiently damaged or worn out in the line of duty will be replaced upon return of the damaged or worn out uniform to the Employer." The County would also have the contract spell out that dry cleaning or laundering shall be the responsibility of the employee, "and that non-issued equipment or other items may be utilized or worn only with the permission of the Employer."

The Union, on the other hand, would spell out and list in the contract the uniform and equipment items "which make up the appropriate complement required for duty." Having done so in Section 1, the Union would further provide in Sections 2 and 3 as follows:

" Section 2. The Sheriff agrees to replace all damaged or worn items listed above as part of the required uniform. Body armor shall be replaced in accordance with the manufacturer's specifications.

Section 3. The Sheriff shall replace or repair all personal property of the Employee commonly worn or used while working which is damaged or destroyed in the line of duty so long as the damage is not due to the Employee's negligence."

In a Section 4, the Union would provide for a clothing maintenance allowance, as follows:

" Section 4. Each bargaining unit member shall receive a clothing maintenance allowance of Three Hundred Dollars (\$300.00) to be paid in bi-annual installments on January 1 and July 1 of each year of the Agreement."

The Union asserts that the uniform provisions it seeks are borrowed from the contract provisions in effect with the Sheriff's Department in Gallia County, and is well within the parameters of contractual uniform provisions state-wide.

The County resists the Union's clothing allowance proposal, asserting that it would represent a cost of \$300.00 per employee per annum, or the equivalent of a \$.07 per hour wage increase. This kind of expense should be reflected in the basic wage package and not in this type of fringe benefit.

**RATIONALE:**

I am constrained to agree with the County's contention that the focus in this, the first contract of the parties' in terms of compensation, ought to be in the basic wage package and not the indirect compensation of a clothing allowance. Such allowance is traditionally the product of a more mature bargaining relationship. And too, the Union's clothing allowance would constitute a meaningful additional cost to the County.

As for the Union's proposed Section 1, at the hearing herein the itemization served the useful purpose of delineating what items of uniform clothing and what items of equipment are involved and necessary, and who pays for what. This exposition reveals that the individual employee is required to procure and pay for a highly unusual number of uniform and equipment items at substantial personal expense. I believe the more normal course of events would be for the Department to be responsible at the outset for the furnishing, at its expense, of at least several of the items the employee is now responsible for. Thus, the Union's concept of providing that the Sheriff at least be responsible for the replacement of uniform items is a sound one. Unlike the

clothing allowance proposal, I believe the Department ought to have expected that collective bargaining, and the statutory impasse procedures, would serve to at least modify the highly unusual delineation of who is responsible for what uniform items that exists here in a manner to alleviate the quantum of the employee's burden. The recommendation shall reflect such a modification.

In my judgment, the need at this juncture for stripping the Sheriff of the discretion to determination and to modify the items making up the "appropriate uniform," by the means of listing all such items in the Contract and characterizing such list as the appropriate uniform, as the Union urges, has not been made out.

Replacement of body armor to the manufacturer's specifications is clearly a safety issue and it shall be recommended.

**RECOMMENDATION:**

It is recommended that the parties' Agreement at Article 30 provide as follows:

"

**ARTICLE 30**

**UNIFORMS**

**Section 1.** The Employer shall provide, at the same level as provided as of the effective date of this Agreement, uniforms and equipment for those bargaining unit employees required by the Employer to wear a specific uniform. The Employer shall determine the appropriate uniform, if required to be worn by the employee, and employees shall be required to be in proper uniform upon reporting for duty.

Articles of clothing and equipment purchased by the Employer remain the property of the Employer and must be turned in when an employee is separated from service. Failure to do so shall result in the value of the missing items being withheld from the employee's separation pay.

Section 2. Uniform items, whether purchased by the Employer or the Employee, sufficiently damaged or worn out in the line of duty, will be replaced, upon turning in the damaged or worn out uniform item to the Employer. Equipment replacement shall remain the responsibility of the party (Employer or Employee) who purchased same. It is understood that body armor shall be replaced by the Department in accordance with the manufacturer's specifications.

Section 3. Equipment and other items not issued or required by the Employer may be utilized or worn only with the permission of the Employer or designee."

This concludes the Fact Finder's Report and Recommendations.

Dated: February 19, 1997

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FRANK A. KEENAN  
Fact Finder