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STATE OF OHIO  
THE STATE EMPLOYEE RELATIONS BOARD  
FACT FINDING REPORT

In Re:	:	
	:	
Sheriff of Muskingum County,	:	Case No. 97-MED-11-1219
	:	
Employer	:	
	:	
Fraternal Order of Police,	:	
Ohio Labor Council, Inc.,	:	
	:	
Employee Organization	:	

FACT FINDING REPORT

The undersigned, Steven L. Ball, appointed as State Employee Relations Board fact-finder, makes the following report:

I. Hearing

This matter was heard at the Sheriff's Office, Zanesville, Ohio, commencing at 10:00 a.m. March 17, 1998.

The following union and employer representatives were in attendance for part or all of the proceedings:

Union

Mel Walcutt  
Kim Hawbel  
Randy Wilson

Sheriff

Jim Stucko, Attorney at Law  
Sheriff Stephenson

II Mediation

This issues remaining at Fact-Finding were limited to wage scales for civilian corrections officers and for central control and communications officers. The last positions of the parties are

recited below. The parties have reached tentative agreement via a Letter of Understanding signed February 17 and February 20, 1998 on all other issues. Neither party reported any mediation attempts.

## II Criteria

The parties were advised prior to Fact-Finding that consideration would be given to the criteria listed in §4117.14 O.R.C. and Rule 4117.9-05(K) of the State Employee Relations Board, as follows:

- (1) Past collectively bargained agreements, if any, between the parties;
- (2) 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;
- (3) 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;
- (4) The lawful authority of the public employer;
- (5) Any stipulations of the parties;
- (6) Such other factors, not confined to those listed above, which are normally or traditionally taken into consideration in the determination of issues submitted to mutually agreed-upon dispute settlement procedures in the public service or in private employment.

## IV Issues and Recommendations

### Finding of Fact #1 - Corrections Officers

The Sheriff has proposed a modification to the prior practice (and agreement) by which civilian corrections officers and deputies working as corrections officers receive the same pay.

The Sheriff proposes a 2% pay raise per year to the civilian officers and a 3% pay raise per year to the deputies. In the alternative, the Sheriff proposes giving the civilian officers a 3% pay raise in the first and third years of the contract and no raise the second year.

The Union proposes that the current practice of paying the civilian officers the same as deputies continue. However, the Union would agree to a prospective alteration in the pay of civilian corrections officers if the current equal status of pay is continued for current employees via a “grandfather” clause.

The Sheriff acknowledges that the parity of deputy and civilian officers has been maintained for at least twenty years. The Sheriff took office approximately one year and two months ago, and believes the change in pay status is necessary to provide an incentive to the civilians to pursue deputy status. He wishes to achieve deputy status for all corrections officers. This appears to be a complete reversal from the prior Sheriff’s policy, which preferred civilian corrections officers.

The Sheriff argues that the civilian corrections officers may not be used to transport prisoners and cannot be used to take criminal complaints from the public. However, the Position Descriptions for the deputies and the civilian officers as to “Essential Duties and Responsibilities” are identical, except that a deputy “performs duties and responsibility of Deputy [Patrol] as assigned” whereas no such provision exists for the civilian officers.

The Sheriff also supports his pay proposal by practices of sheriffs in 5 other comparable counties. The Fact-Finder has reviewed the contracts, asserted as comparable by the Sheriff. The contracts do prove that those employers pay corrections officers (whether or not civilians) less than “road deputies” (or some other comparable term). The duties of such corrections officers may or may not be comparable to those in Muskingum County. Moreover, the question here is not whether “road deputies” should be paid more than civilian corrections officers but

whether or not deputies and civilian corrections officers who perform essentially the same functions should receive equal pay<sup>1</sup>.

The witnesses could not recall any instance wherein the transport of prisoners was impeded or wherein a citizen was hindered or unable to file a complaint under the current system. The Position Descriptions do not list "complaint taking" as a duty or responsibility of either the deputies or the civilian corrections officers. Both Position Descriptions do require the employees to prepare reports reflecting "unusual incidences, etc." Moreover, it appears that civilian officers could take complaints, if properly trained, and there is no legal requirement of Peace Officer Training for such activity. Certainly the use of deputies as corrections officers would provide the Sheriff more flexibility in the use of his staff.

The Sheriff's policy change, designed to achieve deputy status for all corrections officers may well be in the best interests of the operation of the facility and the Sheriff's Department in general. However, given the long-time past practice of parity, and no real difference in duties within the correctional facility, it appears that the morale of current civilian corrections officers would be negatively affected by the Sheriff's proposed change. There was no evidence to suggest that maintenance of the current policy would in any way negatively affect the interest and welfare of the public.

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<sup>1</sup>The Union's position statement refers to a prior fact-finding which held that road deputies and jail deputies should receive equal pay. This Fact-Finding does not reach that issue.

The Union is willing to acknowledge the Sheriff's policy change via a departure from parity in the future, and its "grandfather clause" proposal seems reasonable. The public employer herein is able to finance the proposed pay increase.

**Recommendation**

The Sheriff's wage proposal contained in the attached appendix I relating to corrections officers should be adopted. Provided, however, that the following "grandfather" clause also be incorporated into the agreement:

Any civilian corrections officers employed by the Sheriff  
on or before March 1, 1998 shall be paid at the rates as  
stated in the attached appendix II.

The Fact-Finder is unable to locate any reference in the current agreement to the wage rates as stated in the appendix. Accordingly, the Fact-Finder further recommends that the above noted language be inserted in Article 24.1 preceded by the following language:

The salary and salary ranges for all members of the  
collective bargaining unit are as stated in the attached  
appendix I.

**Finding of Fact #2 - Central Control and Communications**

Pay raises of 3% have been agreed to by all other bargaining units in the Sheriff's Department (excepting corrections officers as stated above). The Sheriff is willing to provide the Central Control and Communications officers 3% annual increases. The Union, however, wishes larger yearly increases of \$.41, \$.43, \$.44 for these classifications, to prevent these employees from falling "further back."

The Union points out that the cooks received other concessions in agreeing to their 3% raise, and that the workload for these employees has increased over the life of the past agreement.

This fact-finder readily sees the potential inequities of percentage increases. However, any potential inequities can be addressed when they occur. The current pay of these employees is favorably comparable to that paid in other communities and will remain so in the Sheriff's proposal for the next three years. The public employer involved herein is able to finance the proposed pay increase.

Recommendation

The Sheriff's wage proposal contained in the attached appendix I relating to Central Control Officers, Communications Officers, and Communications Supervisor should be adopted.

Respectfully submitted,



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Steven L. Ball, Fact Finder  
March 25, 1998

CERTIFICATE OF MAILING

I hereby certify that a copy of the above report was mailed (overnight mail) to Catherine A. Brockman, 222 East Town Street, Columbus, Ohio 43215 and to James K. Stucko, Jr., 50 West Broad Street, Suite 2500, Columbus, Ohio 43215, the 25<sup>th</sup> day of March, 1998 and on the same date the original of said report was mailed by regular mail to the State Employee Relations Board.



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Steven L. Ball

APPENDIX I

The hourly rates for bargaining unit positions shall be as follows:

<b>CORRECTIONS OFFICERS</b>	<b>3/1/98</b>	<b>1/1/99</b>	<b>1/1/2000</b>
Step A	\$9.75	\$9.94	\$10.14
Step B	\$10.65	\$10.86	\$11.08
Step C	\$11.59	\$11.82	\$12.06
Step D	\$12.31	\$12.56	\$12.81
Step E	\$14.07	\$14.35	\$14.64
<b>CENTRAL CONTROL OFFICERS</b>	<b>3/1/98</b>	<b>1/1/99</b>	<b>1/1/2000</b>
Step A	\$7.88	\$8.12	\$8.36
Step B	\$8.78	\$9.04	\$9.31
Step C	\$9.73	\$10.02	\$10.32
Step D	\$10.46	\$10.77	\$11.09
Step E	\$11.67	\$12.02	\$12.38
<b>COMMUNICATIONS OFFICERS</b>	<b>3/1/98</b>	<b>1/1/99</b>	<b>1/1/2000</b>
Step A	\$9.53	\$9.82	\$10.11
Step B	\$10.35	\$10.66	\$10.98
Step C	\$11.23	\$11.57	\$11.92
Step D	\$11.90	\$12.26	\$12.63
Step E	\$13.26	\$13.66	\$14.07
<b>COMMUNICATIONS SUPERVISOR</b>	<b>3/1/98</b>	<b>1/1/99</b>	<b>1/1/2000</b>
	\$14.32	\$14.75	\$15.19

**APPENDIX II**

The hourly rates for bargaining unit positions shall be as follows:

<b>CORRECTIONS OFFICERS (SWORN AND CIVILIAN)</b>	<b>3/1/98</b>	<b>1/1/99</b>	<b>1/1/2000</b>
Step A	9.85	10.15	10.45
Step B	10.75	11.07	11.40
Step C	11.70	12.05	12.41
Step D	12.43	12.80	13.18
Step E	14.20	14.63	15.07