

STATE OF OHIO
PUBLIC SAFETY DIVISION
SERB 2 10 21 11 100

**STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD**

FACT-FINDING BETWEEN:)
)
DARKE COUNTY SHERIFF,) **SERB Case No.**
 Employer,) **99-MED-0628**
)
 and) **Before Fact-Finder**
) **Cynthia Stanley**
FRATERNAL ORDER OF POLICE,)
OHIO LABOR COUNCIL, INC.,) **Decision Issuing**
 Employee Organization.) **November 30, 1999**

I. Hearing

The undersigned fact-finder, Cynthia Stanley, conducted a fact-finding hearing between the Fraternal Order of Police, Ohio Labor Council, Inc. ("FOP") and the Darke County Sheriff ("Sheriff" or "employer") on November 15, 1999, in the Darke County Government Center, Greenville, Ohio. Mediation commenced at 10 a.m. and was followed by hearing which continued until approximately 2:40 p.m.. The parties agreed that the fact-finder's opinion is due to issue no later than December 1, 1999.

The FOP was represented by Tom Fehr, Staff Representative. Also participating for the FOP were Bargaining Team members Robert Bryan, Barbara Skinner, and Mark Whittaker. The Sheriff's Office was represented by Timothy Werdmann, Senior Consultant, Clemans-Nelson & Associates, Inc., who was accompanied by Chief Deputy Ronald Smalldon and Julie Arostegui, Senior Consultant.

Timely-filed pre-fact-finding submissions were reviewed and considered. The fact-finder wishes to thank the parties and their representatives for their well-organized presentations. The bargaining unit consists of approximately fifty-five (55) employees in four classifications: Patrol Officer, Corrections Officer, Dispatcher and Cook. Their duties involve the safety and security of the citizens of Darke County, Ohio.

II. Mediation

The parties participated in a mediation process which, though useful, did not lead to resolution of outstanding issues.

III. Criteria

The fact-finder has given consideration to the criteria set forth in Rule 4117-9-05(J) of the State Employment Relations Board.

IV. Issues and Recommendations

Each party's fact-finding proposal is incorporated herein by reference. The fact-finder recommends that all portions of the just-expired contract not specifically amended by the parties' own agreements or by this report should continue as they were, through the term of the contract.

The parties had tentatively-agreed to the following articles prior to fact-finding:

Article 6	FOP/OLC Representation
Article 7	Labor Management Meetings
Article 8	Grievance Procedure
Article 9	Discipline
Article 10	Drug/Alcohol Testing
Article 12	Probationary Periods
Article 13	Seniority
Article 15	Bidding and Vacancies
Article 16	Bulletin Board
Article 23	Holidays
Article 24	Vacations
Article 25	Sick Leave
Article 27	Equipment and Uniforms
Article 28	Education and Training
Article 29	Travel Expense Reimbursement
Article 30	Paid Leaves of Absence
Article 31	Unpaid Leaves of Absence
Article 32	Severance Pay

The fact-finder will not attempt to summarize every argument offered by the parties. The reader will find the arguments cogently presented in the pre-fact-finding submissions. Proposed language is in bold-face.

a. Article 2 Dues Deduction and Fair Share Fee

The employer proposes amending this article to delete reference to a fair share fee, which came into the last contract via a fact-finder recommendation. Employer argues that this is the only bargaining unit in Darke County which has a fair share fee for employees who have never voluntarily joined the union. Employer is not opposed to a contract service fee.

FOP opposes removing fair share, pointing out that FOP services in negotiation, representation and administration do not come free. FOP also argues the provision has not had time for a fair trial.

The fact-finder recommends the current Fair Share language, as she believes to recommend otherwise would prevent settlement.

b. Article 19 Hours of Work and Overtime

FOP seeks to remove language in Section 19.6 referring to part-time and auxiliary officers performing bargaining unit work. FOP also has written language allowing Unit A members to work overtime from Unit B under certain circumstances. The employer worked with FOP on developing the language.

Employer resists any attempt to remove or further limit its right to utilize part-time or auxiliary officers. Employer proposes: a) adding language to clarify the fact that the Sheriff is utilizing a 207(k) exemption under the Fair Labor Standards Act to set a twenty-eight (28) day work period for those employees in the classifications of corrections officer, corrections officer/corporal, and patrol officer; b) deleting the limitation in Section 19.6 on utilizing part-time personnel and auxiliary officers; c) changing the language regarding work during the daylight savings time change. Proposals a) and c) are clarifications, not substantive changes.

FOP does not resist employer's proposal to add language to clarify the 207(k) exemption already being utilized, or the proposal to change the language regarding work during the daylight savings time change. FOP vehemently resists the proposal to delete the limitation currently on use of part-time personnel and auxiliary officers.

The fact-finder recommends FOP's language creating a paragraph at the end of Section 19.6: **Bargaining Unit Members from Unit A may work overtime of Patrol Bargaining Unit Members from Unit B only after it has been offered and declined by all members and before Unit B members are mandated to work overtime. The assigning of overtime for Corrections Officers and Correction Corporals shall follow the same procedure.**

The fact-finder recommends employer's proposed addition of the phrase "**in accordance with section 207(k) of the Fair Labor Standards Act**" to Section 19.2. She also recommends the employer-proposed changes regarding daylight savings time work under Section 19.9 which would make the last sentence read: "**Those employees required to work fewer hours than normally scheduled because of the time change shall receive applicable straight time pay in accordance with this Article.**"

Otherwise, the fact-finder recommends current language. She believes agreement would be derailed by any other recommendation on this article.

c. Article 21 Health & Life Insurance

The employer proposes changing the language of Article 21 regarding employees who opt for family plan health insurance coverage. Currently, the contract provides that employees with single coverage do not share in the cost of premiums, while family plan employees pay 25% of the difference between the cost of single plan coverage and the cost of family plan coverage. The employer's proposal would increase the contribution to 25% of the total cost of family plan coverage.

FOP rejects this proposal strongly, arguing the effect of this element within the context of the employer's entire proposal at fact-finding would be a net decrease in the pocket of bargaining unit employees opting for family plan coverage. FOP seeks current language.

Both parties offer comparables in support of their positions.

The fact-finder recommends current language on Health & Life Insurance in the effort to find a position both parties could accept.

d. Article 22 Wages

FOP's seeks 5%-5%-5% across the board, plus a shift differential and a stipend of 50 cents per hour for Detectives and Deputy Correction Officers and Corporals. The Correction Officers who are deputized have additional duties for which they do not receive additional pay. Traditionally, these bargaining unit employees have compared themselves to neighboring Preble County.

The Sheriff's position on wages in the hearing was 50 cents-3%-3%. The first year proposal of 50 cents is roughly 6.6% for the lowest paid and 3.6% for the highest paid bargaining unit employees. Employer argues these are generous increases when judged against recent moderate increases in the CPI-U. In response to FOP's proposal on stipends, employer argues that Corrections Officers are already doing very well when compared to comparable jurisdictions.

The parties offer extensive comparables to support their positions in fact-finding.

The fact-finder recommends \$1-4%-5%, over three years, in the interest of giving a higher percentage increase to the lower-paid bargaining unit employees in the first year, and making some improvement overall in the bargaining unit's relative standing among the comparables. She does not recommend different increases for the classifications or stipends because she believes this could prevent agreement.

Under this recommendation, the language would read:

Section 22.1. Effective the beginning of the first full pay period following the execution date of this Agreement, the base hourly rate of pay for bargaining unit employees shall be: Increased by \$1.00.

CLASS	Step 0	Step 1	Step 2	Step 3	Step 4
Cook	\$7.90	\$8.36	\$8.83	\$9.30	\$9.78
Dispatcher	\$8.25	\$8.93	\$9.61	\$10.29	\$11.00
Corrections Officer	\$9.32	\$10.00	\$10.68	\$11.36	\$12.06
Patrol Officer	\$10.51	\$11.30	\$12.08	\$12.85	\$13.64
Corrections Officer/ Corporal	\$12.39				

Section 22.2. Effective the beginning of the first full pay period following the first anniversary date of this Agreement, the base hourly rate of pay for bargaining unit employees shall be: Increased by 4%.

CLASS	Step 0	Step 1	Step 2	Step 3	Step 4
Cook	\$8.22	\$8.69	\$9.18	\$9.67	\$10.17
Dispatcher	\$8.58	\$9.29	\$9.99	\$10.70	\$11.44
Corrections Officer	\$9.69	\$10.40	\$11.11	\$11.81	\$12.54
Patrol Officer	\$10.93	\$11.75	\$12.56	\$13.36	\$14.19
Corrections Officer/ Corporal	\$12.89				

Section 22.3. Effective the beginning of the first full pay period following the second anniversary date of this Agreement, the base hourly rate of pay for bargaining unit employees shall be: Increased by 5%.

CLASS	Step 0	Step 1	Step 2	Step 3	Step 4
Cook	\$8.63	\$9.12	\$9.64	\$10.15	\$10.68
Dispatcher	\$9.01	\$9.75	\$10.49	\$11.24	\$12.01
Corrections Officer	\$10.17	\$10.92	\$11.67	\$12.40	\$13.17
Patrol Officer	\$11.48	\$12.34	\$13.19	\$14.03	\$14.90
Corrections Officer/ Corporal	\$13.53				

e. Article 36 (proposed) Off Duty Employment

FOP proposes language that would guarantee full time bargaining unit employees the opportunity to work off duty details. Evidence shows that the off duty opportunities are controlled by the Sheriff's auxiliary. FOP wants the employer to administer the assignment of off-duty opportunities.

The employer submits this is not a proper subject for inclusion in the contract. Employer argues the FOP proposal would have a devastating effect on the Sheriff's auxiliary and would disrupt the Sheriff's operations. The auxiliary has a long history in Darke County, having originated as the original volunteer Sheriff's Department.

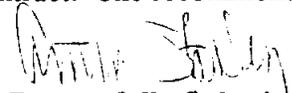
The employer points to the current situation in which deputies can attend auxiliary meetings and sign on the list for off-duty employment. This has developed only since bargaining began. FOP responds by identifying problems in that process for deputies, including scheduling of auxiliary meetings and the fact that deputies cannot use Sheriff's Office vehicles or auxiliary vehicles for this work, which significantly restricts which off-duty assignments deputies can be eligible for.

The fact-finder recommends no contract language on off-duty employment, as she believes agreement could not be reached with a recommendation for this language.

f. Article 37 Duration

Both parties seek a three-year term. FOP is looking for wage retroactivity to October 21, 1999. The Sheriff's Office resists retroactivity.

In the interest of focussing finances on the recommended wage increases, the fact-finder does not recommend retroactivity for this contract. She recommends current language on duration.


Respectfully Submitted,

**Cynthia Stanley
Fact-finder**

Certificate of Service

The undersigned hereby certifies that a true and accurate copy of the foregoing Fact-finder's Report and Recommendation was served on the following by overnight delivery this 30th day of November, 1999:

**Timothy Werdmann, Sr. Consultant
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**Cynthia Stanley
Fact-finder**