

ALAN M. WOLK
IMPARTIAL CONCILIATOR
STATE EMPLOYMENT RELATIONS BOARD

STATE EMPLOYMENT
RELATIONS BOARD

2002 MAY 24 A 10: 19

IN THE MATTER BETWEEN:

OHIO PATROLMAN'S)	
BENEVOLENT ASSOCIATION)	
)	
Union)	NO. SERB No. 01-MED-09-0806
)	
and)	CONCILIATION
)	
ASHTABULA COUNTY SHERIFF)	
)	
Employer)	

APPEARANCES:

FOR THE UNION:

Coleen M. Bonk, Esq. of Climaco, Lefkowitz, Peca, Wilcox & Garofoli Co. L.P.A.

FOR THE EMPLOYER:

Gary C. Johnson, Esq., of Johnson & Angelo; Sheriff William R. Johnson

SUBMISSION

I. Parties

The bargaining unit or union is the Ohio Patrolman's Benevolent Association (O.P.B.A.).

The union's principal representative is Coleen M. Bonk, Esquire, Suite 900, 9th Floor, The Halle Building, Cleveland, Ohio 44115. Phone: 1-216-621-8484; FAX: 1-216-771-1632.

The Employer is the Sheriff of Ashtabula County, Ohio, which is located in Ashtabula County, Ohio in the northeastern corner of the State of Ohio. It is the largest county in Ohio at 704 square miles and includes 27 townships, eight (8) school districts and nine (9) municipalities.

The Employer's principal representative is Gary C. Johnson, Esquire of Johnson and Angelo, 1700 North Point Tower, 1001 Lakeside Avenue, Cleveland, Ohio 44114. Phone: 1-216-696-5222; FAX: 1-216-696-5288.

II. Description of the Bargaining Unit

The bargaining unit consists of all full-time Corrections Officers employed by the Ashtabula County Sheriff.

The Ohio Patrolman's Benevolent Association is the exclusive representative, and the employees are responsible to protect the safety and rights of citizens in Ashtabula County, Ohio.

History of the Proceedings

Negotiation

Shift selection still an issue i.e. would accept economic proposals if Sheriff will accept non-economic e.g. shift selection and sick leave

Mediation failed and impasse declared

Factfinding

Recommendations regarding disputes between the Sheriff and three bargaining units: Corporals (Case # 01-MED-09-0804, Dispatchers (Case No. 01-MED-09-0805) and Corrections Officers (01-MED-09-0806) contained in a combined decision of Fact-finder, Harry Graham, PH.D. were issued February 21, 2002. The issues considered by the Fact-finder were:

1. Hours of Work/Overtime
2. Sick Leave/Personal Leave/Leave Bonus/Sick Time Bank
3. Wages
4. Shift Selection
5. Miscellaneous

The Recommendations were rejected 18-1 by the Union resulting in this statutory procedure for Conciliation

Pursuant to Ohio Revised Code Chapter 4117, and by letter issued by SERB, the undersigned was selected by the parties through the State Employment Relations Board of Ohio [SERB] to serve as impartial neutral CONCILIATOR to hear and choose between positions of the parties.

Hearing commenced at 10 a.m. at the office of the Ashtabula County Sheriff in Jefferson, Ohio (Ashtabula County) on Thursday, April 25, 2002. A court reporter was not present. [Supplemental materials were provided regarding "pattern" bargaining by May 8, 2002 (See attachments)], and the hearing was then declared closed.

The current Collective Bargaining Agreement expired December 31, 2001, however, the parties stipulated that the conciliation decision herein would be effective retroactively beginning January 1, 2002.

Union position in general

There was no management claim of an inability to pay, nor any evidentiary support for such a claim.

The Union rejects the assertion that the other bargaining units all agreed with the Employer, which amounts to "pattern" bargaining, i.e. the terms and conditions agreed to by one internal bargaining unit bind all the other units. The evidence reflects that: the "mixed" bargaining unit agreed, however, three (3) of the six (6) members are retiring and are taking advantage of the Sheriff's cash-out proposal; the Road Deputies represented by the FOP reached agreement with one meeting without counsel; the Dispatchers agreement was deemed accepted when four (4) rejected out of seven (7) were in favor; and three (3) of four (4) voting Corporals voted to approve. It is asserted that this does not support pattern bargaining on which the Employer and the Fact-finder relied.

The Corrections Officers voted 18-1 against approving the Fact-finder's report.

The Corrections Officers contend that Shift Selection is still an issue i.e. would accept economic proposals if Sheriff will accept its non-economic proposals e.g. shift selection and sick leave.

Employer's position in general

The Deputy Sheriffs and Sergeant Deputy Sheriffs, represented by the F.O.P. and the Clerks, Cooks and Maintenance (sometime "Mixed" employees, and Dispatchers, all represented by the OPBA have settled on successor contracts, which amounts to binding "pattern" bargaining. Furthermore, the Fact-finder properly decided all issues properly.

PRELIMINARY NOTES

Conciliator's Responsibility

Counsel for the Employer asserts that the conciliator has little latitude to disagree with the Fact-finder's report and recommendations. Were that view adopted; there would be no need for conciliation in the statutory scheme. Management's counsel seems to charge the conciliator with the robotic duty of merely confirming the Fact-finder as to *pattern bargaining* [see below] and as to all of the Fact-finder's recommendations. I agree with Arbitrator Jonathan Dworkin that neither point is a "see-all end-all" as suggested by the Sheriff.

It must be remembered that ORC Chapter 4117, which contains no distinction mandating that greater weight be given internal comparables versus external comparables, governs conciliation. Several distinguished arbitrators have suggested helpful guidelines to limit the overruling of fact-finders' reports and recommendations. A conciliator is charged with choosing and ONLY choosing between two positions on each issue presented.

Other arbitrators allow similar exceptions: *Should conciliators find a mistake in fact, or a clear error or determine a report to be convincingly proven erroneous, or an overriding reason or a mistake in logic or any other relevant other cause contrary positions may be taken.* [See Appendix]. Such exceptions are particularly significant in statutory conciliation, which makes further appeals virtually unavailable. Although greater weight should be given to findings of fact, in my view, a conciliator has some flexibility regarding the Fact-finder's recommendations or conclusions. Furthermore, coming to a different conclusion on the same facts does not require proof beyond a reasonable doubt.

(Indeed, appellate courts have been known on occasion, to reverse and remand for further consideration in accordance with an appellate ruling, or it may reverse and enter final judgment. In the resolution of civil disputes the test of proof is by preponderance. In grievances arbitrators need to be persuaded, perhaps by the greater weight of the evidence).

Otherwise, I agree in principle that *conciliators must apply a high standard of proof or logic and reason before overruling a Fact-finder's report and recommendations.*

Bona Fide Internal Pattern Bargaining

The underlying conflict revolves upon what the Employer claims is *internal pattern bargaining*, insisting that other bargaining units have agreed to certain terms and conditions therefore the Union in dispute here is *bound* by the provisions agreed to by other bargaining units. As discussed below, each issue decided herein requires consideration of a number of elements, including but not limited to *bona fide internal patterns*.

As an historical note, attention is drawn to *Collective Bargaining and Industrial Relations* (1980) Thomas A. Kochan of the New York State School of Industrial and Labor at Cornell. At page 460, the following is excerpted:

"There is very little evidence of any form of *pattern bargaining* occurring in the public sector." [Emphasis added].

Among the citations provided by Sheriff's counsel, it would appear that much has changed. Dr. Graham, who served as Fact-finder here, has ruled in other cases favoring pattern bargaining. These rulings *assume* the existence of pattern bargaining therefore "the principle of pattern bargaining must be upheld." [*Ohio State Highway Patrol and Fraternal Order of Police* (5/31/94) (no case number provided) [Harry Graham – Fact-finder]. Dr. Graham also concluded that it "protects against whipsawing" as occurred historically in the auto industry [*State of Ohio and the Ohio Troopers Association* 97-MED-04-536, 537 (11/4/97) [Jonathan Dworkin – Fact-finder] at page 19.

However, whether there is a *bona fide internal pattern* is a threshold issue. If there is a satisfactory basis for such a finding, it is for a fact-finder, and later for a conciliator to then consider such *pattern* as one persuasive element.

While contractual consistency is generally desirable for managing and for stability in the workforce, if *bona fide internal pattern* is established and binding, there seems to be no reason for separate negotiations or separate agreements with separate bargaining units. All would be bound to the terms upon which some bargaining units agree. That may be appropriate when the State of Ohio first negotiates and settles with the union representing two-thirds of its employees.

However, here the *pattern* relies mostly on settlements with non-union staff, smaller unions and/or weaker bargaining units. One common thread among the Agreements assertedly supporting a *bona fide internal pattern* is that they are with one employer. All happened to accept a 3%-3%-3% wage increase, but these terms alone do not support a finding that a *pattern* was established on most of the other terms and conditions. In my view there must be more than was submitted to establish a *pattern* regarding general *benefits and terms and conditions*. Much more is necessary to apply a *bona fide internal pattern* to members of a particular bargaining unit if their duties are significantly disconnected.

If *bona fide*, a determination should be made whether the *pattern* applies to the bulk of an Agreement. Only then does it become the Union's heavy burden to overturn *each* such a *pattern* by *proving the necessity* of defeating each such a *pattern*. However, the evidence is unclear if or how Corrections Officers' conditions are disconnected from other employees of the Sheriff. Assuming a *bona fide internal pattern*, the Union has not met that burden on more than a few issues.

Nothing but *pattern* reflects why *external* comparables are disregarded and *internal* comparables are more significant than *external* comparables. Viewed with hindsight, the report and recommendations may have rationalized excessively on the principle of *pattern bargaining*.

In my view, *bona fide internal pattern bargaining* is valid as an *element* to be considered in light of other aspects of the labor-management relationship, such as the comparable size and strength of the membership, the bargaining unit's connection with the comparable external employment market, and the various *specific* functions its members perform in support of distinctive negotiation treatment. These are important elements to be considered to determine comparability.

Here, Dr. Graham found a *pattern* and applied it to all but the miscellaneous aspects now presented to the conciliator. Although he may have been provided solid supporting evidence, it is troubling that neither his discussion nor the evidence submitted here is reflective of clear reasons confirming a *bona fide internal pattern* or how broadly the *pattern* applies to all provisions of the Agreements. The Fact-finder's report and recommendations concluded that "the internal pattern is controlling" (on at least the first four issues).

A very comprehensive and well-reasoned analysis is contained in *State of Ohio and the Ohio Troopers Association 97-MED-04-536, 537 (11/4/97)* [Jonathan Dworkin – Fact-finder] at pp 16-24. [See Appendix]. Some highlights appear below.

Arbitrator Dworkin notes that methods and goals of the government in "pattern" bargaining differ from unions in the auto industry, which negotiate with one manufacturer and then impose a pattern on other manufacturers. The State of Ohio first negotiates all issues with the largest and strongest bargaining unit. It is in this context that Arbitrator Dworkin reports that Dr. Graham (contrary to Prof. Kochan) concluded, "pattern bargaining is *well-established* in both the private and *public* sectors" thus placing a "very, very heavy burden upon a union which seeks to deviate from it." Dworkin agrees, "Practical realities make patterns compelling."

Included in this analysis, Arbitrator Dworkin suggests some questions to consider in determining whether there is *pattern bargaining*:

Are the meaningful breaks in the pattern? Is management attempting to abolish unique rights and privileges achieved by the objecting unit? Are changes contrary to the history of the bargaining unit? Does the position ruin the integrity, privacy, power or power of a bargaining unit or its representative? Is the economic offer strikingly insufficient to compensate equitably? What is the relative strength of the Union?

He commented that “pattern” may be overcome upon proof that it is disconnected from *these* employees. It is noteworthy that, after a full analysis, Arbitrator Dworkin, acting as fact-finder proceeded to rule some issues to be within a *pattern* and some issues were not in a *pattern*.

With all of this review in mind, this decision proceeds accordingly.

DECISION

ARTICLE 19. HOURS OF WORK/OVERTIME

Section 7.

Union Proposal *Revise first sentence to read:*

“When the Employer authorizes overtime, the Employee may elect to accrue compensatory time.”

As argued to the Fact-finder, the Union contends that “the ability to accrue comp. time is commonplace in law enforcement.” [Citing: O.P.B.A. agreements with Lake, Geauga and Trumbull County Sheriffs].

It is contended by the Union that the Sheriff does not treat the Corrections Officers like other bargaining units. Soon after Factfinding report was issued here, 14 of 24 Corrections Officers were laid off due to alleged budget concern, but no others were laid off. ORC 4117.14(G)(7) indicates appropriate comparables are other Corrections Officers. Therefore, approval of the “pattern” argument nullifies the intent of the statute. The Union asserts that the impact of compensatory time on this unit is different. In addition, Corrections Officers employed by other comparable county sheriffs enjoy a compensatory time alternative. Such a benefit allows an employer to work employees as needed and pay later thereby gaining a saving. For this reason, internal comparables should not be persuasive.

The employer asserts that the Fact-finder found no such provision with the Ashtabula County Sheriff, and, further, that the party proposing to change an established “pattern” bears a heavy burden, concluding that the “pattern” should be respected.

Further it is argued that it “does not represent cost savings and often becomes a cost generator.” [Citing: D.O.L. Opinion Letter, 1994 W.L. 1004861 SX-E - letter ruling (8/19/94) to the effect that an agency may not turn down a request from an employee for compensatory time off unless it would impose an unreasonable burden (under F.S.L.A.; *Debraska v Milwaukee*, 131 F. Supp. 1032 (E.D. Wisc. 2000)]. In addition management expects complications also arise from scheduling compensatory time.

Although the Fact-finder determined that “internal comparability unquestionably favors the position of the Employer on this issue”, in my view, the required “heavy burden” necessary for change was met with the evidence of compensatory time provisions contained in several other external comparable agreements. While it may be necessary to negotiate in good faith regarding potential scheduling problems and other reasonable limitations, I disagree that internal comparables found in a mix of different bargaining units outweighs provisions that have been accepted by other county sheriffs in external agreements.

The Union position is fair and reasonable. I concur and *the Union position is adopted.*

ARTICLE 19. HOURS OF WORK/OVERTIME

Section 7.

Union proposal: *Add a last sentence to read:*

“Compensatory time shall be cashed out on termination of employment.”

It is my view that the Union has not met its’ “heavy burden” to justify *this* proposed change. The Lake County Sheriff may allow a cash-out for any reason, but the present system is also fair and reasonable and consistent with internal and many external collective bargaining agreements. Furthermore, if timing of *termination* is unlimited, the terminating employee may place the employer in a disadvantageous financial and scheduling position.

I concur with the Sheriff and the Union proposal is rejected.

ARTICLE 25. SICK LEAVE/PERSONAL LEAVE/LEAVE BONUS/SICK TIME BANK

Section 5(B) FUNERAL LEAVE [SETTLED]

Employees may take sick leave to attend funerals of “aunts and uncles.”

The Union proposes to amend:

Section 9. *If upon investigation, the Employer has probable cause to find abuse of sick leave, he may require the employee to provide proof of illness in the form of a physician statement of disability or other satisfactory proof to grant sick leave benefits for the time of the leave. If the employee fails to provide such proof, sick leave for the period in question shall be denied, and corrective action may be implemented.*

The Fact-finder suggested that upon being disciplined for sick leave abuse by the employer, “that discipline may be challenged in the grievance procedure.” He pointed to evidence that the Union had successfully rebutted the Sheriff’s Exhibits (1 & 2). The Fact-finder rejected the Union’s proposal suggesting it is unnecessary to add a provision to allow employees a right that already exists.

However, Arbitrator Joseph W. Gardner, Esq. was called upon to resolve a Union claim that the Sheriff violated the collective bargaining agreement when he unilaterally made a determination that sick leave used by a particular employee was excessive for which discipline could issue. The Sheriff contested the grievance. The Arbitrator found that memos issued by the Sheriff made a unilateral determination that sick leave taken by an employee was an abuse of sick leave [UX 18]. The employee was required to bring in a doctor’s excuse for all absences resulting from illness or be subjected to discipline for insubordination.

In granting the Union’s grievance on March 29th, 2001, the Arbitrator found the Sheriff’s actions went beyond a warning, and contained written findings of abuse. These findings violated the ability of the employee to challenge the finding that sick leave had been abused or was excessive.

After Dr. Graham’s Award on February 21, 2002, the Union was granted Summary Judgment on February 25, 2002 by the Court of Common Pleas of Ashtabula County confirming the Arbitration Award [UX-19]. The Sheriff filed a Notice of Appeal on March 7, 2002 commencing an appeal from the Summary Judgment, which is currently pending [UX-20].

Under the Union proposal, if the Sheriff asserts probable cause to find sick leave abuse, management may require the employee to provide proof of the disability, and failing satisfactory compliance, the

sick leave is denied and corrective action may be implemented. This clarification is necessary to provide closure to a contentious issue. This is not a *pattern* issue.

The Union proposal is adopted.

The Sheriff proposes to insert:

“Any abuse or patterned use of sick leave may result in disciplinary action”

This Sheriff’s proposal is adopted.

The Fact-finder believes this right already exists, but recommended there be added:

“Any such discipline shall be for just cause.”

The Fact-finder’s recommendation is adopted.

[Comment:

These proposals as agreed to by the parties, recommended by the Fact-finder, and as ruled upon above may be, as a suggestion, combined as follows:

Section 9.

“Any abuse or patterned abuse of sick leave may result in disciplinary action.” “Any such discipline shall be for just cause.”

If upon investigation, the Employer has probable cause to find abuse of sick leave, or patterned abuse of sick leave, he may require the employee to provide proof of illness in the form of a physician statement of disability or other satisfactory proof to grant sick leave benefits for the time of the leave. If the employee fails to provide such proof, sick leave for the period in question shall be denied, and corrective action may be implemented].

Section 11. Personal Leave [withdrawn]

Section 12. ADD “Cash-out”

Union proposes

Section 12

After “retirement” include the terms “resignation or death.”

Employer position:

Currently cash-out is available only upon *retirement* for this bargaining unit as well as all other bargaining units employed by the Sheriff. [See also: O.R.C. 124.38 and O.R.C. 3319.141 (10 or more years service at the time of retirement based on the employees rate at the time of retirement. Greater benefits are allowable (O.R.C. 124.39©; *Metzker v Frederick*, 74 Ohio App.3d 632 (1991)]. The Employer points out that this proposal would expand sick leave cash-out even upon *voluntary* separation.

The Fact-finder recommended no change.

I reject the proposal to expand to “include the term “resignation” after “retirement,” however, the addition of the words “or death” are clarifying.

The Employer also proposed the following:

960 hours accumulated permits 240 hours cash-out
1250 hours accumulated permits 360 hours cash-out
1550 hours accumulated permits 480 hours cash-out

The Fact-finder recommended adoption of the above.

Although, the Union had requested a maximum cash-out set at 480 hours, *the Union agreed to accept the Employer's proposal regarding the sick-leave cash-out schedule as an incentive to "save" sick time.*

The foregoing cash-out schedule is adopted.

ARTICLE 27. COURT TIME
Section 1. [Withdrawn]

ARTICLE 30. WAGES/LONGEVITY

Section 1. WAGES

The Employer proposes 3.0%-3.0% and 3.0%.

The Union at Conciliation proposes 3.3%-3.0% and 3.0% based on external comparable i.e. Geauga County Sheriff's employees collective bargaining agreement. Furthermore, the Union contends this is not a "me-too" or "pattern" argument, but they only want equitable treatment.

It is noted that the Fact-finder found that the other unions accepted and recommended 3% for each year of the contract retroactive to 1/1/02. It is also noted that the longevity package recommended will also raise the total compensation received by many bargaining unit members.

While I do not agree that internal comparables constitute a pattern that outweighs external evidence, my view of the evidence is that the external information is insufficient to justify a .3% differential the first year of this three-year contract.

The Sheriff's position is adopted.

Section 2. MEDICAL OFFICER

The Union proposes a change to require a full-time medical officer with an added stipend of \$200.00 per year. The Union did not meet the evidentiary burden to justify this proposed change.

The Union proposal is rejected.

Section 3. LONGEVITY [SETTLED]

Employer proposes same longevity package as adopted by the other unions. The Union *accepts*.

This proposal is fair and reasonable. I concur.

ARTICLE 33. SHIFT SELECTION

Section 3.

Management proposes a change and seeks to have a shift rotation system so that in the course of a year all employees will work all shifts on a shift rotation every sixty (60) days bid by seniority to which the FOP/OLC deputies and Road Deputies have agreed.

The Union proposes continuing the current shift selection scheme unaltered "a one-time per year shift selection."

Furthermore, "certain typographical errors .. be corrected." [I have no information on typographical errors, however, if there are any they should be attended to by the parties].

The Fact-finder found *pattern settlements* carry great weight and agreed with the Employer relying on the FOP/OLC Agreement with the Deputies, and the Road Deputies Agreement.

I do not concur that this is a *pattern settlement*, and management did not show sufficient evidence that such a system is common compared to other Corrections Officers working in County Sheriff's Departments in Ohio. However, there is strong evidence favoring this change on the merits of the Sheriff's position. Whereas the union wants to plan vacations a year in advance, management presented evidence that, in addition to equalization, shift rotation has been a scheduling nightmare, the change would allow all members of the bargaining unit more day time with their families, provide knowledge of all duties for each shift, and achieve balanced overtime.

In view of that evidence, I cannot overrule the conclusion of the Fact-finder. I have no authority to impose a compromise.

The Sheriff's position is sustained.

ARTICLE 27. DURATION OF AGREEMENT

Section 1.

This Agreement shall be effective January 1, 2002 and shall remain in full force and effect until December 31, 2004.

The parties agreed to waive the limitations of the Conciliator to award rates of compensation and other matters with cost implications within the same fiscal year.

This proposal is fair and reasonable. I concur.

ARTICLE 28. MISCELLANEOUS

Section 1. The Union has *accepted* the Sheriff's counter offer to copy and then distribute copies of the collective bargaining agreement to the bargaining unit.

The Employer has pledged and the Union agreed that the Sheriff's contributions to the LE-PERS pension system without contractual commitment. *This agreement is accepted and approved.*

The Union proposed that its members be permitted to wear shoulder patches reading "Deputy" rather than "Corrections Officers." Management disagrees. *The Union proposal is rejected.*

The Fact-finder's recommendations are approved and accepted.

All other agreements via negotiation, accepted portions of the Fact-finder's report, and those provisions accepted or settled herein, or ruled upon herein, shall be incorporated into the final agreement and/or by reference to this decision..

Issued and made effective in
Ashtabula County this 22 day of May, 2002


Alan M. Wolk Conciliator

EXHIBITS:

Joint

JX-1 Agreement 7/1/99 through 12/31/01

JX-2 Factfinding report issued 2/21/02 by Harry Graham Fact-finder

Sheriff

SX-A Factfinding report issued 2/21/02 by Harry Graham Fact-finder [Also JX-2]

SX-B Agreement 7/1/99 through 12/31/01 [Also JX-1]

SX-C Dispatchers Successor Agreement 1/1/02- through 12/31/04

SX-D Cooks, Clerical and Maintenance Agreement 1/1/02- through 12/31/04

SX-E Department of Labor (DOL) letter ruling (8/19/94) to the effect that an agency may not turn down a request from an employee for compensatory time off unless it would impose an unreasonable burden ...

SX-F List of Corrections Officers –Top Scale 2000, 2201, 2002

Union

- UX-1 Popular Annual Financial Report, County Auditor, Ashtabula County, Ohio 1999**
- UX-2 Popular Annual Financial Report, County Auditor, Ashtabula County, Ohio 2000**
- UX-3 From the Desk of Sandra O'Brien, January 7, 2002**
- UX-4 Amended Certificate of Estimated Resources January 5, 2002**
- UX-5 Factfinding report issued 8/16/99 by William J. Miller, Jr. Fact-finder
Ashtabula County Sheriff and O.P.B.A.**
- UX-6 Copy of phone call message 11/29/01 from Sheriff canceling negotiation meeting**
- UX-7 Ground Rules (for negotiating sessions)**
- UX -8 Cooks, Clerical and Maintenance Agreement Agreed 12/12/01
Proposed Agreement with Corrections Officers 12/6/01**
- UX-9 Proposed Agreement with Corrections Officers Responded to 12/12/01**
- UX-10 Factfinding report issued 2/21/02 by Harry Graham Fact-finder**
- UX-11 Employee Organization Certification of Factfinding Vote of Corrections Officers dated
2/27/02**
- UX-12 Proposal for a Successor Agreement with O.P.B.A. for Cooks, Clerical and Maintenance,
Corrections Officers, Corporals and Dispatchers**
- UX-13 A NOTICE from S.E.R.B. dated March 4, 2002 (01-MED-08-0804/805 Accepted; 01-MED-08-
0806 Rejected)**
- UX-13B Employee Organization Certification of Factfinding Vote dated 2/27/02**
- UX-13C Employee Organization Certification of Factfinding Vote dated 2/27/02**
- UX-14**
- UX-15 Agreement effective April 1, 1999
Lake County Sheriff's Dept. and O.P.B.A. Corrections Officers**
- UX-16 Agreement effective through 9/30/01
Trumbull County Sheriff and O.P.B.A.**
- UX-17 Agreement effective through 12/31/03
Geauga County Sheriff and O.P.B.A.**
- UX-18 Arbitration Award issued March 29, 2001 (Arb. Joseph W. Gardner)
O.P.B.A. and Ashtabula County Sheriff**
- UX-19 Judgment Entry filed 2/25/02 in Ashtabula Common Pleas Court Case # 2001-CV-383
William R. Johnson vs O.P.B.A.**
- UX-20 Notice of Appeal filed March 7, 2002 from UX-19**
- UX-21 Agreement Ashtabula County Sheriff and Fraternal Order of Police effective January 1,
1999**
- UX-22 Factfinding report issued 4/12/02 by Anna DuVal Smith Fact-finder
O.P.B.A. and Trumbull County Sheriff**
- UX-23 Year 2002 Pay comparisons among Geauga, Lake, Trumbull and Ashtabula Sheriff's
Corrections Officers**
- UX-24A Corrections Officers Top Pay in Descending Order (by County)**
- UX-24B Deputy Salaries – Top Level in Descending Order (by County)**
- UX-25 Regarding "Petition for Recognition filed by FOP 11/229/01 for an election 2/12/02**

APPENDIX

“Pattern Bargaining” References

Union

“Last Rites for Pattern Bargaining” Audrey Freedman and William E. Fulmer, *Harvard Business Review* March-April 1982

Employer

**City of Lakewood and IAFF Local 382 00-MED-09-0952 5/1/02
-Dennis Byrne - Conciliator**

**Cuyahoga County Sheriff's Dept and Cuyahoga County Deputy Sheriff's Union 92-MED-08-0733
9/9/93
-Dennis Minni – Conciliator**

**City of Alliance and IAFF Local 480 93-MED-09-879 8/22/94
Anna DuVal-Smith – Conciliator**

**State of Ohio and the Ohio Troopers Association 97-MED-04-536, 537 11/4/97
-Jonathan Dworkin – Fact-finder**

**State of Ohio and SEIU District 1199 97 MED-03-0219, 0267 5/20/97
State of Ohio and District 1199, The Health Care and Social Services Union, SEIU, AFL-CIO97
MED-03-0219, 0267 5/20/97**

- Dennis Minni – Fact-finder

**Ohio State Highway Patrol and Fraternal Order of Police 5/31/94 [no case number provided]
- Harry Graham – Fact-finder**

Career Highlights

Alan M. Wolk, B.B.A., J.D., is an "AV-rated" lawyer and a labor arbitrator, who was elected President of the Cuyahoga County Bar Association in 1984, having previously served as Executive Director from 1963 to 1970, and Editor of its monthly publication for five years. He occasionally served as Acting Judge of the Shaker Heights Municipal Court. For 16½ years he was Director of Law for the City of University Heights focusing on municipal law, zoning and city planning, and for 13 years he was an Assistant Attorney General of Ohio focused solely on ODOT eminent domain jury trials and appeals. His appearances before the Ohio Supreme Court have been successful.

Since 1974, he has been privately selected by the parties as neutral arbitrator and/or mediator in some 400 labor disputes in the public and private sectors. He is primarily listed on AAA, FMCS, and Ohio's SERB panels of neutrals. He served on the Board of Governors of the Labor and Employment Section of the Ohio State Bar Association (1985-1999), and as Treasurer of the Public Sector Labor Relations Association.

On several occasions he was nominated by the Jr. Chamber of Commerce as one of the ten outstanding young men in Cleveland, and featured in the *Cleveland Press* as "A Man of Action." In 1965, he was named a "Fellow" by the Cleveland Academy of Trial Attorneys. In 1987, he was recognized by the county bar for his commitment to the legal profession. He is listed in *Who's Who in the Midwest* (20th Ed.) and is a Life Member of the *Kingston National Registry of Who's Who* (2002 Edition).

He was admitted to the bar of Ohio following graduation from the College of Law at The Ohio State University in 1955, and received his undergraduate degree in Business Administration in 1953 from Fenn College (now Cleveland State University). He also completed postgraduate studies at the College of Law at Case Western Reserve University.

He has been married to Phyllis (Grossberg) since 1957, and they have three adult sons and two grandsons.