

2007 SEP 26 A 11:42

**IN THE MATTER  
OF  
CONCILIATION**

**FINDING & AWARD**

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<b>BETWEEN THE</b>	)	<b>SERB CASE #'s 06-MED-10-1168</b>
<b>HOCKING COUNTY SHERIFF</b>	)	<b>06-MED-10-1169</b>
<b>And the</b>	)	<b>06-MED-10-1170</b>
<b>FRATERNAL ORDER OF POLICE)</b>	)	<b>Conciliator: E. William Lewis</b>
<b>OHIO LABOR COUNCIL Inc.</b>	)	<b>Date of Hearing:</b>
	)	<b>August 23, 2007</b>
	)	<b>Date of Report:</b>
	)	<b>September 23, 2007</b>

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**REPRESENTATION  
BY**

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<b>Union Representatives</b>	)	<b>Employer Representatives</b>
<b>Andrea H. Johan, Staff, Representative)</b>	)	<b>Edward Kim, Counsel</b>
<b>Dustin Grove, Detective</b>	)	<b>Lanny North, Sheriff</b>
<b>Kevin Groves, Detective</b>	)	<b>Kenneth R. Wilson, Hocking</b>
<b>Eric J. Matheny, Sergeant</b>	)	<b>County Auditor</b>

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**AUTHORITY**

This matter was brought before Conciliator E. William Lewis, in keeping with applicable provisions of ORC 4117 and related rules and regulations of the Ohio State Employment Relations Board. The parties have complied in a timely manner with all procedural filings. The matter before the Conciliator is for consideration and directive based on merit and fact according to the provisions of ORC 4117, in particular those that apply to Safety Forces and mutual directives of the parties.

E. William Lewis was duly appointed by the State Employment Relations Board as Conciliator in this matter, in compliance with the Ohio Revised Code, Section 4117.14(D)(1) by letter dated July 5, 2007.

The Hearing was held on August 23, 2007, at the 911 Communications Center, located in Logan, Ohio. The parties timely filed the pre-hearing submittals.

According to the pre-hearing submittals and with the partys' confirmation at the commencement of the hearing, the following Articles remained unresolved.

**ARTICLE 17      MEDICAL INSURANCE**

**ARTICLE 27      WAGES**

**ARTICLE 30      HEALTH AND SAFETY**

**BACKGROUND:**

The Hocking County Sheriff, hereinafter known as the Employer, is located in the Hocking Hills in Southeastern, Ohio. The Sheriff provides law enforcement services to a population of approximately 28,000 residents. The Fraternal Order of Police, Ohio Labor Council, hereinafter known as the Union, represents three separate classified units under the existing Agreement. Unit A-consists of all Full-time sworn Deputies below the rank of Sergeant. Unit B-consists of all Full-time Sergeants, and Unit C-includes all Full-time persons classified as Secretary/Clerks.

There are no incumbents in Unit C, and Unit A has thirteen Deputies. Unit B has four Sergeants.

The parties began bargaining in November 2006 and met on five occasions through January 12, 2007. Unable to resolve four Articles, Fact Finding was requested. Factfinder N. Eugene Brundige conducted a hearing on March 9, 2007, and issued a Report on April 23, 2007.

The current Agreement expired on December 31, 2006, and the parties filed the necessary retroactivity waiver to ORC 4117.14(G)(11).

The Fact Finder's recommendations were rejected by the FOP and the parties were ordered to Conciliation by SERB on July 5, 2007. By mutual agreement between the parties and conciliator, the Hearing was scheduled for August 23, 2007. At the hearing the conciliator consulted with the parties regarding a potential mediated settlement, however, neither felt it would be fruitful. After each party acknowledged that they had no further information to present, the hearing was closed.

In determination of the Conciliation Award and in compliance with ORC 4117.14(G)(7) and related rules and regulations of the State Employment Relations Board, the following were taken into consideration in making this Award.

- (a) Past collectively bargained agreements, if any, between the parties;
- (b) Comparison of the issues submitted to final offer settlement relative to the employees in the bargaining unit involved 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, 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 the issues submitted to final offer settlement through voluntary collective bargaining, mediation, fact-finding, or other impasse resolution procedures in the public service or in private employment.

**RELEVANT CONTRACT LANGUAGE:**

**ARTICLE 17 HEALTH INSURANCE**

**Section 17.1** As additional compensation for employees covered by this Agreement, the Employer will pay the medical insurance premiums on the existing medical insurance plan, which is subject to the provisions of this Article. The Employer shall pay the equivalent of the single plan coverage on behalf of all employees covered by this Agreement.

**Section 17.4** If employees voluntarily cease health insurance coverage provided by this Agreement, they shall be entitled to an annual lump sum payment of \$400.00 (four hundred dollars). Such payment shall be made in the first pay period in December.

**ARTICLE 27 WAGES**

**Section 27.1** The wages for the years 2004-2006 for the classifications covered by this Agreement are set forth below.

<b>Classification</b>	<b>Entry</b>	<b>1YR.</b>	<b>2YR.</b>	<b>3YR.</b>	<b>4YR.</b>
<b>Deputy</b>					
<b>2004 (3%)</b>	<b>11.33</b>	<b>12.12</b>	<b>12.41</b>	<b>12.81</b>	<b>13.21</b>
<b>2005 (5%)</b>	<b>11.90</b>	<b>12.73</b>	<b>13.03</b>	<b>13.45</b>	<b>13.87</b>
<b>2006 (5%)</b>	<b>12.50</b>	<b>13.67</b>	<b>13.68</b>	<b>14.12</b>	<b>14.56</b>

**Sergeant**

In year one of the Contract, the wage for Sergeants will be five (5%) above top-step Deputy, for year two (2) six percent (6%) above top-step Deputy and for year three (3), seven (7%) above top-step Deputy.

<b>2004</b>	<b>13.87</b>
<b>2005</b>	<b>14.70</b>

**2006            15.58**

Wages for the following classifications will be frozen at the year 2000 level until such time as these classifications are once again filled

Secretary    \$8.51

Increases for years 2004, 2005, and 2006 become effective on the first pay period of each January. Anniversary wage increases are effective the first pay period following the employee's anniversary date.

Employees assigned to full time detective duties shall receive an additional twenty-five cents (25) supplement to their base rate of pay.

**Section 27.2**    No change

**Section 27.3**    As additional compensation longevity payment will be made to Bargaining Unit members in each year of this agreement as follows:

<b>Completed years of Service</b>	<b>Additional Amount per Hour</b>
3 Years	10 cents
5 Years	25 cents
9 Years	30 cents
12 Years	35 cents

**Section 27.4            Officer in Charge**

**Working out of Rank**    If a Bargaining Unit member performs work in a higher classification, that member shall be paid at the higher wage rate for all hours actually worked in excess of four (4) hours in that higher classification. If the Sheriff or designee assigns a Bargaining Unit member, prior to the start of his shift, to perform work in a higher classification that member shall be paid at the higher wage rate for all hours actually worked.

**27.5    Shift Differential**    Afternoon and midnight shifts shall receive a shift differential of \$.20 per hour.

## **ARTICLE 30 HEALTH AND SAFETY**

1<sup>ST</sup> Paragraph---no change

2<sup>nd</sup> Paragraph---no change

The Sheriff agrees to have at least two (2) certified deputies on road patrol at all times so that a member will not be responding to hazardous calls alone.

## **ISSUES AT IMPASSE**

### **ARTICLE 17 HEALTH INSURANCE**

#### **UNION POSITION:**

Current Contract provides that the Employer pays 100% of the cost of single coverage. The Union's position is to continue the current language for single coverage, and the Employer is to pay 95% of the differential cost between single and the cost of the Employee + One Plan. In addition, the Employer is to pay 90% of the differential cost between the Single Plan and the Family Plan. The Union's position also limits the employee's monthly out of pocket costs to \$200.00 for the Employee + One Plan, and \$250.00/ per month for the Family Plan.

The Union also proposes to increase the Medical Insurance lump sum opt out in Section 17.4, from \$400.00 to \$3000.00.

In support of their position, the Union references SERB's Southeastern, Ohio cost of health Care Report, showing the employee cost portion of single coverage at 8.9% and 13.9% for family coverage.

They also point out that no bargaining unit members subscribe to the Employer's health plans above single coverage, because of the exorbitant amount it would cost. Because of the exorbitant employee costs some bargaining unit members have had to resort to public assistance for children's health care, claims the Union. It is unconscionable, states the Union, for the Employer to offer health coverage that is impossible for employees to afford.

The opt out amount of \$400.00 is insufficient, according to the Union. Although the Factfinder recommended an increase to \$1000.00, it does not go far enough. The \$1000.00 does not balance the cost to provide the coverage versus the savings to the County, argues the Union. The Union referred the conciliator to a SERB Health Care Cost Report(UE-1), allowing the Employer to save over \$9000.00, even with a \$3000.00 opt out.

A Joint Health Care Review Committee, recommended by the Factfinder, is acceptable to the Union.

The Union requested the conciliator to adopt their positions on Health Care.

### **EMPLOYER POSITION:**

Current contract, is the Employer's position on health care coverage. However, the Employer is proposing to change the opt out amount from \$400.00 to \$1000.00, in accordance with the Factfinder's recommendation. Also, in accordance with the Factfinder's recommendation, the Employer is proposing a new Section 17.5, titled, Labor Management Health Care Review Committee.

All other employees of the County have the same coverage and premium sharing, states the Employer(Tabs-10-11-12). The single coverage cost is \$575.66/month, Employee + One is \$1147.66, and Family is \$1693.59/month. For the Employer to pay 95% and 90% of the differentials, would not be affordable, argues the Employer.

If the conciliator granted the Union's position it would start a trend that the County could not afford, declares their Representative. The Employer requests the conciliator to adopt their position on Article 17.

### **DISCUSSION AND DETERMINATION:**

Testimony showed that no members of this bargaining unit subscribe to health care benefits above single coverage. This is understandable, when to do so, would cost a bargaining unit member from \$6,864 to \$13,416/ year. This could cost a Deputy from twenty to forty percent of their annual salary, a hollow benefit, as stated by the Union. Many bargaining units and

employers have managed to find compromises in cost sharing and benefits, more equal than we have here.

The external comparables certainly show this Employer lacking in comparability, except for single coverage(UE-1). Internal comparables, as stated by the Employer, are the same as this bargaining unit(EE-10-11-12).

The County argues that the Union's position would cause a drastic change in health care costs, and therefore, would not be affordable. There is no doubt in the conciliator's mind that the Union's position would bring all non-single bargaining unit member into the health care program, as well as others, if extended. The County Auditor's testimony and evidence sustain the Employer's argument of affordability, in the conciliator's opinion (ORC 4117.14(G)(7)(c)).

Reluctantly, as stated by the Factfinder, I must award current language regarding health care costs in Sections 17.1, 17.2 and 17.3.

Regarding Section 17.4, opt out, it is usually determined by the parties through the "give & take" bargaining process. There is no formulae, that I am aware of, that would be a benchmark. In the conciliator's opinion, it should be substantial enough to encourage those who can be **insured elsewhere** to not have duplication of coverage. On the other hand, not so much that you encourage the healthy employees to leave the group.

I can find no compelling reason not award the Factfinder's recommendation. Section 17.4 is to read as follows:

If employees voluntarily cease health insurance provided by this Agreement, they shall be entitled to an lump sum payment of \$1000.00 (one thousand dollars). Such payment shall be made in the first full pay period in December.

Without objection, and as recommended by the Factfinder, I award adding a new Section 17.5:

**LABOR MANAGEMENT HEALTH CARE REVIEW COMMITTEE**  
There shall be a Joint Health Care Review Committee composed of representatives of the bargaining units covered by this Agreement and representatives of the County administration. The Committee will determine



the number of members. Other unions and other County employees may be invited to participate on this Committee.

The Committee shall meet quarterly or as determined by the Committee. The purpose of the Committee will be to share relevant information regarding health care issues, provide a conduit for the dissemination of information, and to review and make recommendations regarding health care plan design, costs, and other concerns.

The work and recommendations of the Committee will be shared with the appropriate County administrators and officeholders who have the final responsibility for the design, operation, and administration of the Hocking County Health Care Plan.

Hopefully this Committee will allow the parties to explore equitable, affordable health care alternatives, regarding coverages and premiums.

## **ARTICLE 27 WAGES**

### **UNION POSITION:**

The Union is proposing a general wage increase retroactive to the first pay in January 2007 of 5% , 1/08-5% and 1/09- 5%. They also propose a rank differential for Sergeants of 10% effective 1/07, 11% effective 1/08, and 12% effective 1/09.

The classification of Secretary is still unfilled so they are proposing current language.

Employees assigned to full time detective duties should be increased from a twenty-five cent (25) supplement to a one dollar (\$1.00) supplement to their base rate. The Union is also proposing to increase longevity payments to \$.20/hr. @ 3yr.; \$.35/hr. @ 5yr.; \$.50/hr. @ 9yr.; and \$.65/hr. @ 12yr.

Section 27.4 Officer In Charge, per Union proposal should read as follows:  
“In the absence of a sergeant on any shift for more than one **one (1)** hour (4) the most senior deputy on that shift shall serve as the OIC for all the hours of that shift where there is no sergeant. During the times that a deputy serves as IOC pursuant to this section, he shall receive the hourly sergeant wage.”

Afternoon and midnight shift differential should be increased from \$.20 to \$.50/hr., as proposed by the Union.

The Union points out in their Exhibit Section that even with a 5% wage increase, Hocking Deputies would be paid less than four of the six geographical comparisons. However, more relevant than their geographical comparisons is their population comparisons where Hocking would be 8<sup>th</sup> in a ten county comparison. In fact, says the Union, it would take a 6.25% increase to move Hocking Deputies to a tie for sixth in their population comparison.

The rank differential for sergeants, at 8% proposed by the Employer, would still leave them more than 2% below the Union's fifty county survey(UE-1). Therefore, the conciliator should award the Union's position.

The additional proposed changes, detectives, longevity, IOC, and shift differential will assist in bringing the bargaining unit members closer to comparable employers, claims the Union.

The conciliator was requested to adopt the FOP's positions and order their proposed increases.

#### **EMPLOYER POSITION:**

The Employer, like the Union, does not believe that contiguous or geographical comparisons are appropriate. Four of the six contiguous counties have populations ranging from 62,000 to 122,000. Hocking County believes that population comparisons are more appropriate, and they selected counties with a population of 35,000 or less.

Although, the Employer had proposed at Fact Finding a 3-2-2% wage increase, they are now proposing a wage increase of 3 % per year, in accordance with the Factfinder's recommendation. The Employer claims that their wage proposal is fair and equitable, and in line with comparable data(EE-5). They also pointed out that Hocking County's per capita income is very low compared to the rest of Ohio(\$23,677-vs- statewide \$31,860).

A proposal of 8-9-9 % for their sergeants differential which is more than the Factfinder recommended, is fair and equitable and more than comparable, states the County(EE-5).

The Employer proposed current language on the rest of the wage Article and they believe their comparable data justifies a no change decision(EE-5).

The County Auditor's financials projects a revenue versus receipts deficit for 2007, and he testified that he expects no more than a break even for 2008(EE-6). An award in compliance with the Employers ARTICLE 27 was requested.

### **DISCUSSION AND DETERMINATION:**

In reviewing the wage comparables, eleven of the twenty comparables selected by the County were also Union comparables. These were population comparables rather than geographical. A 3% wage increase would put these Deputies near the middle, and in accord with the internal comparables(EE-50. Furthermore, SERB Statewide data shows units of this kind receiving a wage increase of approximately 3 %<sup>1</sup>.

The County Auditor testified that the health care increases had been limited to one and two percent in the last three years. However, a provider estimate of ten percent has been projected for the coming year, a figure similar to projected national averages. Although the 2007 estimated deficit has been revised downward, the General Fund Analysis may still have a deficit(EE-6).

Based on the finances and the comparable data, the conciliator can find no compelling reason not to award the Factfinder's recommendation of 3% per year.

Regarding the Sergeant's differential, comparable data of the area of Southeastern Counties shows that the differentials average approximately 7 %. This data does not support a change in the Employer's position of 8%, 9 %, and 9%.

In the conciliator's opinion, based on the rationale provided and the limited submitted comparables regarding the other proposed changes to this ARTICLE 27, I can find no support to change the current language, or the Factfinder's recommendation.

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<sup>1</sup> 2006 SERB Quarterly

**ARTICLE 27 WAGES**, is to read as follows:

**Section 27.1** The wages for the years 2007-2009 for the classifications covered by this Agreement are set forth below.

<b>Classification</b>	<b>Entry</b>	<b>1 YR.</b>	<b>2 YR.</b>	<b>3 YR.</b>	<b>4 YR.</b>
<b>Deputy</b>					
<b>2007 (3%)</b>	<b>12.88</b>	<b>13.77</b>	<b>14.09</b>	<b>14.54</b>	<b>15.00</b>
<b>2008 (3%)</b>	<b>13.27</b>	<b>14.18</b>	<b>14.51</b>	<b>14.98</b>	<b>15.45</b>
<b>2009 (3%)</b>	<b>13.67</b>	<b>14.61</b>	<b>14.95</b>	<b>15.43</b>	<b>15.91</b>

**Sergeants**

In year one of the Contract, the wages for Sergeants will be eight percent (8%) above top-step Deputy, for year two (2), nine percent (9%) above top-step Deputy and for year three (3), nine percent (9%) above top-step Deputy.

<b>2007</b>	<b>16.20</b>
<b>2008</b>	<b>16.84</b>
<b>2009</b>	<b>17.34</b>

Wages for the following classifications will be frozen at the year 2000 level until such time as these classifications are once again filled.

Secretary \$8.51

Increases for years 2007, 2008, and 2009 become effective on the first full pay period of each January. Anniversary wage increases are effective the first pay period following the employee's anniversary date.

Employees assigned to full time detective duties shall receive an additional twenty-five cents(25 cents) supplement to their base rate.

<b>Section 27.2</b>	current language
<b>Section 27.3</b>	<b>Longevity</b> current language
<b>Section 27.4</b>	<b>Officer in Charge</b> current language
<b>Section 27.5</b>	<b>Shift Differential</b> current language

**ARTICLE 30 HEALTH AND SAFETY**

**UNION POSITION:**

The Union is proposing to increase current language of a “minimum of at least two deputies on road patrol at all times”, to three deputies on road patrol.

They argue that this is a safety concern, since Hocking County covers 423 square miles with 28,000 residents, two road patrol deputies is not sufficient. Because Hocking County has no jail, prisoners needing housing, have to be transported to the Regional Jail near Nelsonville. During those periods, only one deputy is on road patrol and would be at much higher risk when responding to a call.

By increasing the number of deputies on road patrol, the citizens as well as the deputies would be better protected. The Union requested the conciliator to increase the minimum staffing of certified deputies to 3.

**EMPLOYER POSITION:**

The Employer agrees that it is a safety issue, however, to increase road patrol staffing by one-third would be economically irresponsible, they argue. According to the Employer, no evidence was presented showing the amount of time spent transporting to the Regional Jail.

They propose no change to Article 30, as recommended by the Factfinder.

## **DISCUSSION AND DETERMINATION:**

As stated in the Union's pre-submittal, all deputies could be on road patrol and they still would have to cover twenty-six square miles. What is enough, at certain times probably more than three. All parties should be concerned with safety, however, no evidence was shown that this Agreement is out of line, or that jail transportation time is a major problem.

Article 30 is to remain current language.

## **CONCLUSION**

The Conciliator appreciated the opportunity to meet and work with the parties, and wishes them well. The Conciliation awards contained herein, were arrived at after giving due consideration to the positions and arguments of the parties, and the Criteria enumerated in ORC 4117.14(G)(7). In addition, I also incorporate by reference into this Report, the tentative agreements of the parties reached through negotiations, and the language of the expired Agreement which remains unchanged by the parties.

This concludes the Conciliation Report.

Respectfully submitted and issued at Columbus, Ohio, this 23<sup>rd</sup> day of September, 2007.



E. William Lewis  
Conciliator

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing Conciliator's Report was sent by regular U. S. mail to:

Edward Turner, Administrator  
Bureau of Mediation  
State Employment Relations Board  
65 East State Street, 12<sup>th</sup> floor  
Columbus, Ohio 43215-4213

And

Andrea H. Johan, Staff Representative  
FOP, Ohio Labor Council  
5399 Redwood Road  
Columbus, Ohio 43229

And

Edward S. Kim, Counsel  
Downes, Hurst & Fishel  
400 South Fifth Street, Suite 200  
Columbus, Ohio 43215

This 23<sup>rd</sup> day of September 2007.



E. William Lewis  
Conciliator