

**STATE OF OHIO  
BEFORE THE STATE EMPLOYMENT RELATIONS BOARD**

**In the Matter of:**

**CCNO CORRECTIONS OFFICERS  
ASSOCIATION, LOCAL 64/  
INTERNATIONAL UNION OF  
POLICE ASSOCIATIONS**

Case No.10-MED-12-1774  
Conciliator Jerry B. Sellman  
Dated February 13, 2012

**Employee Organization**

**And**

**CORRECTIONS COMMISSION  
OF NORTHWEST OHIO**

**Employer**

2012 FEB 15 P 2:26  
STATE EMPLOYMENT  
RELATIONS BOARD

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**REPORT AND AWARD OF CONCILIATOR**

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APPEARANCES

For Union

John M. Rocca, Esq. – Attorney with Gallon, Takacs, Boissoneault & Schaffer Co., L.P.A.  
representing the CCNO Corrections Officers Association

For the Employer:

Timothy McCarthy, Esq. – Attorney with Schumaker, Loop & Kendrick, LLP, representing the  
Corrections Commission of Northwest Ohio

### **Preliminary Information**

The instant case involves an examination of the current Collective Bargaining Agreement (“CBA”) between the Corrections Commission of Northwest Ohio (the “Employer” or “CCNO”) and the CCNO Corrections Officers Association, Local 64 of the International Union of Police Associations, AFL-CIO (the “Union” or “COs”) effective January 1, 2010 through December 31, 2012, which contains a provision for a reopener on wages for calendar year 2011 and 2012.

The CCNO operates a jail in Archbold, Ohio for five counties and one municipality, namely Defiance, Fulton, Henry, Lucas and Williams counties and the City of Toledo. The Commission is composed of a county commissioner, a common pleas judge and the sheriff from each of the counties, and the mayor, municipal judge and chief of police of Toledo. The facility houses pre-sentence felons and sentenced misdemeanants. Defiance, Fulton, Henry and Williams counties no longer maintain county jails. Lucas County maintains its own jail in addition to participating in the CCNO.

The Union represents approximately 110 corrections officers at the facility. The men and women serving in this position are responsible for maintaining the security of inmates housed at the correctional facility maintained by CCNO, as well as supervising said inmates. Part of Corrections Officers’ day-to-day activities on behalf of CCNO is supervising violent criminals. Thus, they are exposed on a daily basis to the dangers inherent in the custodial task of maintaining order amongst hundreds of criminal inmates. Corrections Officers are also responsible for the electronic monitoring of individuals convicted of crimes by certain jurisdiction members of CCNO, but who are not remanded to serve their sentences at CCNO’s facility.

Corrections supervisors are represented by CCNO Supervisors Assn., Local 53,

International Union of Police Associations, AFL-CIO and are not a party to this proceeding. It is relevant to note that the Supervisors received a 2.0% wage increase for 2011 in conciliation.

During the negotiations which led to the Collective Bargaining Agreement immediately preceding the instant one, the parties agreed upon a 3.0 % increase effective January 1, 2007, a 3.0 % increase effective January 1, 2008 and a 3.0 % increase effective January 1, 2009. This range of increases roughly corresponds to the past history of bargaining between the parties. As a result of these increases, by the end of the term of the 2006-2009 Collective Bargaining Agreement, an entry level bargaining unit employee earned \$14.13 an hour, a bargaining unit employee with five (5) years of service earned \$16.06 per hour, a bargaining unit member with ten (10) years of service earned \$16.38 per hour, a bargaining unit member with fifteen (15) years of service earned \$16.71 per hour and a bargaining unit employee with twenty (20) or more years of service earned \$17.05 per hour..

During the negotiations which led to the 2006-2009 Collective Bargaining Agreement, bargaining unit employees ended up paying ten percent (10%) of the monthly premium cost for health insurance with a proviso that an employee's monthly premium cost could not increase more than ten percent during any twelve (12) month period.

In finalizing the 2010-2012 Collective Bargaining Agreement the parties were not able to agree on the amount of wages to be paid for the entire three year period. As a result, they agreed upon a 1.0 % wage increase effective January 1, 2010 and agreed to negotiate wage re-openers for the second and third year of the effective term of the Collective Bargaining Agreement.

In 2010 bargaining unit employees' health care costs, such as prescription co-pays, co-insurance, deductibles and emergency room costs, increased and those increases had the effect of reducing the positive impact of the January 1, 2010 wage increase.

The parties met to discuss a re-opener for 2011. Unable to agree, a Fact-finding hearing was held on September 21, 2011 to consider the wage re-opener. On October 21, 2011 the Fact-Finder issued his Report of Findings and Recommendations. The Fact-Finder's Recommendations were not accepted by either party and unresolved issues were advanced to conciliation.

The Conciliator was appointed on November 15, 2011. The Parties mutually agreed to hold the Conciliation hearing on January 11, 2012 on the campus of Northwest State Community College in Archbold, Ohio. Pre-hearing statements were properly submitted by the parties. The parties waived any requirement for a transcript of the hearings.

The Conciliator is required to select the offer of one party or the other without modification. The selection between the final offers is based upon the criteria set forth in Section 4117.14(G)(7) of the Ohio Revised Code. They are:

- (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 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, and 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;
- (e) The lawful authority of the public employer;
- (f) The stipulations of the parties;
- (g) Such other factors, not confined to those listed in this section, which are normally or traditionally taken into consideration in the determination of 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.

### Issues

The only issue before the Conciliator concerns a wage re-opener for 2011. The Fact-Finder recommended a 1% increase in wages, which recommendation was rejected by both parties. At Fact-finding, the Union sought a three percent (3%) increase in wages and the CCNO sought a wage freeze. At this conciliation, the Union proposes a 2% increase in wages and the CCNO proposes a 1% wage increase.

### Background

County jails are created by Boards of County Commissioners in order to provide for a place where prisoners can be housed. See, Ohio Revised Code Section 307.01(A). When such county jails are created, the County Sheriff has charge of said jails and all persons confined therein. See, Ohio Revised Code Section 341.01. It is then the responsibility of the Sheriff to assign sufficient staff to ensure the safe and secure operation of the county jail. See, Ohio Revised Code Section 341.05.

However, Ohio law allows counties that are adjacent to each other and municipal corporations located in said counties, to contract for the joint establishment of a multi-county correctional center. See, Ohio Revised Code Section 307.93(A). Such centers are intended to augment county and municipal jail programs and facilities by providing custody and rehabilitative programs for those persons under the charge of the Sheriff or any of the contracting counties or of the officers of any of the contracting municipal corporations. Id.

In this regard, on or about September 29, 1987, the counties of Defiance, Fulton, Henry, Lucas, and Williams, as well as the city of Toledo, entered into an agreement pursuant to Ohio Revised Code Section 307.93 creating the Corrections Commission of Northwest Ohio. Most recently, the aforementioned counties and the City of Toledo have entered into a third amended

and restated organizational and operational agreement dated February 25, 2004 (hereinafter referred to as the "Commission Agreement"). In turn, the Commission Agreement authorizes the Corrections Commission of Northwest Ohio or CCNO to apportion among the members who have established the Commission the apportionment of the costs of constructing, operating, controlling, occupying, maintaining, repairing and managing a corrections center.

Pursuant to the Commission Agreement, the member counties and the City of Toledo have agreed upon a system of appropriations to fund the Commission and its operations. Among other things, this requires each county and the City of Toledo to appropriate its share of the Commission's budget. If the aggregate of contributions made to the Commission's budget are insufficient to pay the commissions cost, each county and the City of Toledo are required to appropriate the amount necessary to satisfy such additional costs. Each county and the City of Toledo have agreed upon a percentage of the commission's cost for which they are responsible. Costs are allocated to the members based on the percentage agreed. The percentage of contribution is reflected by the number of beds projected to be used by each jurisdiction. For example, Williams County agreed to use 56 beds out of a total bed count of 642, which is 8.65%. However, the agreement permits charges for over or underutilization so that other member jurisdictions can increase or decrease usage. The result is the allocable share for Williams County of 8.15% for 52 beds out of 638 for 2009 and 2010. The City of Toledo and Lucas County currently comprise about sixty-nine percent (69%) of the budget.

Member jurisdictions are billed their allocated share of the costs in January. Property tax receipts are received by the counties in February and the County members usually pay from that revenue. The Executive Director testified in his annual budgeting exercise he has been required to choose between a wage freeze and wage cut or layoffs. He has attempted to protect staffing

leaving cuts to attrition in the interest of protecting inmates.

In addition to contributions by each of the CCNO members, CCNO has developed some programs to increase revenue streams. An example is the pay-for-stay program that began in 2009. Inmates are charged a \$100 booking fee when they arrive and the full \$67 per diem fee while incarcerated. This is recouped first out of their commissary account when they leave and then through a payment program arranged through a contractor organization after they leave. CCNO uses the same contractor that Lucas County jail uses. The 2010 annual report states CCNO collected \$174,617 at release and the contractor recouped \$130,294.02 afterwards. In addition, there is an inmate telephone system reimbursement program which produced \$331,983.62, an increase of about \$50,000 over the prior year. This is credited to the member jurisdictions on their quarterly invoices. The Executive Director stated that the CCNO is contractually obligated to give the credit. There's a medical co-pay charge to inmates instituted to discourage frivolous requests for treatment. That produced \$17,304, a decline from the prior year. There is also charge for alcohol testing that is required by the courts.

The following summarizes the positions of the parties, the evidence and arguments offered in support of each parties' wage proposal, the Conciliator's analysis and the Conciliator's Award on the issues presented.

#### **Article 26 - Wages**

The Union proposes a two percent (2%) increase for 2011 retroactive to the beginning of the year.

The Employer is proposing a one percent (1%) wage increase for 2011 retroactive to the beginning of the year.

### The Employer's Position

While the Employer proposed a wage freeze for 2011 at the Fact-finding hearing, it subsequently determined that a one percent (1%) increase for 2011 is more reasonable in light of increases given to the CO's in prior collective bargaining agreements, comparable wages paid to other corrections officers in other regional jail facilities and the current financial condition of the counties and cities funding the CCNO facility.

### Past Collective Bargaining Agreements

Under the current labor agreement, the Corrections Officers at CCNO received an increase of one percent (1%) in their base rate on January 1, 2010. There was also a reduction in employee contributions by Corrections Officers for their health insurance that was the equivalent of an additional one to two percent (1-2%) wage increase.<sup>1</sup> In the prior collective bargaining agreement the Corrections Officers received a three percent (3%) increase for each year of the three year agreement.

By contrast to the increases given in past collective bargaining agreements to the Corrections Officers, wage increases for employees in the City of Toledo and Lucas County were zero percent (0%) in 2010. Also, wage increases for nonunion employees in Defiance, Fulton and Henry Counties were zero percent (0 %) in 2010.

### Financial Condition in General

Declines in the economy across the country, which have impacted northwest Ohio with particular severity, have resulted in a stagnant budget picture for CCNO, particularly since 2008. As an illustration, the CCNO total Operation and Capital Budget for 2007 was

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<sup>1</sup> CCNO's Corrections Supervisors, on the other hand, received a 1 percent increase in the base rate effective January 1, 2010, but increases in those employee contributions toward health insurance yielded a net increase of zero percent. This was a fact pointed to by the Corrections Supervisors in the conciliation hearing in the negotiations in that bargaining unit, and was a factor cited by the Conciliator in his Award.

\$15,903,201 and the total 2010 Operation and Capital Budget was \$15,723,889. During that period of time, CCNO eliminated 17.5 staff positions. Upon the retirement of the Director of Support Services, who directly reported to the Executive Director, the position was eliminated in order to reduce costs.

Funding for capital purchases has decreased dramatically due to financial strain on all of the CCNO member counties, as well as the City of Toledo. The following chart demonstrates this:

<u>CCNO Capital Purchases</u>	
FY 2007	\$181,206.00
FY 2008	\$390,570.86
FY 2009	\$ 74,624.35
FY 2010	\$ 15,959.09

The Employer operates with an extraordinarily tight margin. While CCNO ended 2010 with a carryover balance of \$437,518.52, (2.8 percent of the total budget), the carryover would not provide sufficient funds to cover two payroll periods, as each payroll is approximately \$265,000.<sup>2</sup>

As 2011 progressed, budget reductions became necessary. In October, 2011, CCNO's Board enacted a 3 percent reduction in the year's budget, reducing it by \$510,580. For 2012, the Board adopted a decrease of 5.3 percent, amounting to \$835,627. CCNO's operating budget for 2012 is \$14,663,046, as opposed to \$16,335,409 in 2009.

The "Pay for Stay" revenues generated by CCNO are not kept by CCNO for reduction of

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<sup>2</sup> The Conciliator would note, as did the Fact-Finder in this case and the Conciliator in the CCNO Sergeants' case, that the amount of the carry-over is a matter of budget policy rather than a matter of fiscal health. If the CCNO

any of its expenses, but are funds returned to CCNO members; it is not available for use by CCNO as insinuated by the Union.

### Financial Condition of Member Entities

The budget of CCNO is dependent on a financial health of the member jurisdictions.

Both parties presented competing considerations concerning this subject.

#### *City of Toledo*

The City of Toledo is the largest payor to CCNO, comprising 37.62 percent (37.62%) of CCNO's operating budget. Understandably, the City's financial posture is critical to its ability to fund CCNO operations.

In April, 2010, the City of Toledo's Annual Information Statement indicated that at the end of 2009 it had a fund deficit of \$9.1 Million resulting from uncertain economic conditions causing significant and unforeseen reductions in revenue. The City proposed to reduce and eliminate the deficit by multi-faceted reductions in expenditures and a range of revenue enhancements.

An August, 2010, Fact-finding Report involving employees of the Solid Waste and Water Reclamation Division of the City of Toledo summarized current and projected budget deficits. The Fact-Finder noted: "Income tax revenues for 2007 were \$169.7 million, for 2009, \$141.5 million and they are projected to be in the \$138.1 million for 2010. This helps to explain the projected \$30+ million deficit."<sup>3</sup>

Due to these economic conditions, the City's police, fire and five AFSCME bargaining units agreed to wage concessions in 2010.

Summaries of the City's budget published by *The Blade* on July 13, 2011, projected that

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members advanced more funds to operate the facility there would be a larger carry-over.

the 2011 budget would have to address a carryover deficit of \$6 million to \$8 million, even after stronger than expected income tax revenues. Due to this improvement, notwithstanding the ongoing deficit picture, the City restored the wage concessions its police, fire and five AFSCME units took in 2010. These concessions negotiated by the City of Toledo amounted to \$2.5 million in the Police Patrolmen's unit, \$3.2 million in the Fire Fighters unit, and \$550,000 in the two AFSME Local 7 bargaining units.

An August 2011 Fact-finding Report contained information about the City's economic condition as of July 2011. Finance Director Patrick McLean testified that the City's economy and budget were fragile and that there was a structural deficit as expenses exceed revenues. Income tax equals approximately 60% of the City's general fund revenue and unemployment is back on the rise. After peaking at 14.3% in mid-2009, it dropped to 9.7% in early 2011. As of July 2011, it rose to 11.2%. Income tax collections peaked in 2007 at \$169 million. They dropped to \$141 million in 2009, rose to \$144 million in 2010, and are projected to be \$147 million in 2011. As of August, 2011, they have increased from 8-11%.<sup>4</sup>

The same report discussed the decrease in local government funding from the State of Ohio, as well as the elimination of the estate tax, and explained the consequences of those cuts for the City of Toledo. Toledo received \$16 million from the State of Ohio in 2010, will receive about \$13 million in 2011, and projects approximately \$8 million in 2012. The casino referendum that Ohio voters passed provides for a casino in Toledo. It is scheduled to open in the second quarter of 2012 and the City projects \$4.5 million in revenues from it in 2012. It will not, however, equal the projected loss in local government funding. Further, Ohio has eliminated the estate tax effective January 1, 2013. This will eliminate another source of

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<sup>3</sup> See Fact Finding Report and Recommendations, SERB Case No. 2009- MED-08-0817.

revenue. In 2010, the City received approximately \$2.9 million in estate taxes. It projects \$3 million for 2011 and \$2.7 million for 2012.

The Fact-Finder in the City of Toledo recommended a wage freeze for 2012 and 2013; decreases in the City's portion of the employee's pension contribution from 10 percent to 7 percent in 2012 and 3 percent in 2013; and increases in employee health insurance contributions from monthly premiums.

The City of Toledo's budget forecast for 2012 is equally challenging. A report by *The Blade* regarding the proposed budget submitted by the Mayor to City Council noted that wage and benefit cuts were needed from the City's safety forces.

### ***Lucas County***

Lucas County contributes 31.03 percent (31.03%) of CCNO's total operating budget. Like the City of Toledo, its general fund financial resources are an integral part of CCNO's financial picture, and, not surprisingly, Lucas County shares most all the same financial pressures as are experienced by the City of Toledo. In the County's Comprehensive Annual Financial Report for 2009, its revenues fell \$8,500,984 short of the original budgeted amount for the year ended December 31, 2009. Much of the shortfall came from the lack of sales tax revenues, which were off \$7,877,938 from the original budget. For the year ended December 31, 2010, County revenues fell \$3,899,378 short of the original budgeted amount, despite the adoption of budgets at times when the recession was clearly in full bloom. The Lucas County Auditor has noted a decline of 12.8 percent in real estate values, which corresponds to a decrease in property tax revenues. A recent Revenue Estimate Comparison prepared for Lucas County confirms the County's declining revenue position. The 2012 initial estimate of

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<sup>4</sup> See Fact Finding Report Findings and Recommendations, SERB Case Nos. 11-MED-03-0500 and 11-MED-04-

revenue showed revenue \$8,019,090 less than the 2011 original estimate, which is a revenue decline of 6.4 percent. Like the City of Toledo, the cuts in state funding were significant, as the decrease in the Local Government Fund was \$2,657,947 and the decrease in HB 66 revenue was \$1,544,000. In light of these decreases, the Lucas County Commissioners have directed all departments to make a 10 percent cut to their general fund budgets for 2012.

In light of the financial constraints, the County renegotiated its labor agreement in the Sheriff's Department, resulting in wage freezes from 2009 through 2011. Also, in 2011, employees agreed to 115 furlough hours, which results in a deduction of 4.423 hours' pay each payroll period.

*Lucas County* and the *City of Toledo* both pay more in wages than CCNO and both also pay 100% of the retirement contribution, which is additional income to their employees.

#### ***Fulton County***

Fulton County, comprising 8.15 percent (8.15%) of CCNO's budget, has experienced significant financial pressures. General fund revenue was flat from 2006 to 2008, and has dropped significantly since that point. Recently, the County Commissioners imposed, without a vote of the public, a sales tax increase of one-half percent for three years, to expire in 2012, which was meant only to see the County through these critical years.

General fund spending has been reduced by reducing full-time employment from 104 to 94 employees. Furlough days were instituted in 2010, which resulted in a 3.8 percent salary reduction and was coupled with a wage freeze and some wage cuts.

Fulton County Sheriff Department Sergeants received the equivalent of a three percent (3%) increase in 2010 and a wage re-opener in 2011. Fulton County Deputy Sheriffs received a

lump sum payment in 2010 equaling an approximate three percent (3%) increase and a two percent (2%) increase for from April 1, 2011, through the first full payroll after October 2011, and a one-half percent (.5%) increase for the remainder of the year.<sup>5</sup>

### *Williams County*

In order to balance its budget, as counties in Ohio are required by law to do, Williams County [representing 8.15 percent (8.15%) of CCNO's budget] has had to implement significant staffing reductions. Layoffs in the Sheriff's Department two years ago reduced staffing by eight employees, and those reductions have continued. Earlier this year (2011), the Williams County Engineer laid off five employees due to declining revenues. Recently, the Williams County Sheriff negotiated a one-year wage reduction of \$1.50/hour for its deputies and sergeants, effective December 19, 2011, through December 19, 2012, in return for an agreement to forego layoffs. The Sheriff and OPBA also agreed to a one-year suspension of holiday premiums.

The depressed northwest Ohio economy has had its impact on Williams County. In the County's 2009 financial report, it was reported that sales tax revenues had fallen 14.2 percent and real and personal property tax collections had decreased 5.7%. Sales taxes account for 46 percent of the County's revenue, and real property taxes account for 18 percent of its revenues. Sales taxes and real and personal property taxes rebounded a bit in 2010. Yet, the sales tax revenues were at levels lower than they had been from 2005 through 2008, and were about the same as 2004. Real and personal property tax collections had decreased by 10% from 2006 through 2010.

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<sup>5</sup> Notwithstanding the painting of a grim financial picture, the Conciliator awarded the County's position, and not the higher wages sought by the Union, in part because the County maintained a 25% reserve and a \$500,000 rainy

### ***Defiance County***

Defiance County, representing 9.40 percent of CCNO's budget, is also experiencing challenges. Cuts in local government funding under the State of Ohio budget could impact the 2011 budget year with a loss of approximately \$450,000 in local government funds. That funding decrease could escalate to \$1 million in 2014. The inventory and personal property tax of \$1.7 million for Defiance County will be phased out through 2016. The County has also experienced significant losses in interest.

All Defiance County employees had wage freezes in 2010 and 2011. In addition, the number of paid holidays was reduced by two.

### ***Henry County***

Henry County represents 5.64 percent of CCNO's operating budget. After years of annual operating surpluses, the recession has reduced those surpluses from well over \$1 million to \$70,287 in 2008 and \$97,971 in 2009. An operating deficit of \$538,911 is projected for 2010.

Like the other Counties, Henry County is anticipating a decrease in local government funding from the State of Ohio. That decrease will represent approximately \$80,000 in 2011 and will increase to \$310,000 in 2013.

### **Unemployment rates**

A key factor often examined in determining the economic health of governmental entities is the rate of unemployment. In Northwest Ohio, unemployment rates have been severe, and the following sets forth the unemployment rates for member jurisdictions in January, 2011:

Defiance County	10.8%
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day fund, thus negating arguments of an inability to pay.

Fulton County	12.8%
Henry County	12.8%
Lucas County	11.0%
Williams County	12.0%

A report by the Ohio Department of Job and Family Services notes that Ohio's unemployment rate in 2010 was the highest since 1983. Also, the long-term unemployment rates are such as to indicate that significant segments of the work force were abandoning employment searches.

Unemployment rates in member jurisdictions have improved since the beginning of the year, and stood as follows in November, 2011:

Defiance County	8.3%
Fulton County	7.6%
Henry County	7.9%
Lucas County	8.5%
Williams County	9.2%

The unemployment rates for Lucas, Defiance and Williams Counties exceed the United States average unemployment rate.

Comparables

The only true comparables in the Employer's opinion are other regional jails in Ohio. The wages of Corrections Officers working in City and County jails are not comparable because the facilities in which they operate are operated by entities with taxing authority. CCNO Corrections Officers receive the highest starting rate and second highest top rate among the four regional facilities in Ohio.

In this case, increases referenced by the Union to corrections at the Lucas County jail are unique and not comparable. Lucas County operates a jail that houses inmates from that county, including the City of Toledo. The Lucas County Jail is a much older facility that is currently,

and has for many years been, operated pursuant to a federal court order, which mandates services and staffing levels. It houses pre-sentence felons, while individuals sentenced on less serious misdemeanor offenses are incarcerated at CCNO. While the City of Toledo and Lucas County are required to pay for these facilities, they also pay for and account for approximately sixty nine percent (69%) of the payments by CCNO's member jurisdictions.

Any comparison to deputy sheriffs employed by counties or police officers employed by cities is clearly inappropriate. The duties, responsibilities and training are dramatically different. Corrections Officers are required to attend 142 hours of training at the Academy, while deputies and police officers are required to attend 582 hours of training. The job of a corrections officer in a jail is in marked contrast to the responsibilities of sworn deputies and police officers who engage in road patrol and policing criminal activity with one or two officers and limited backup, and those differences are particularly different in an urban area such as the City of Toledo and Lucas County. They consequently earn more than Corrections Officers.

### The Union's Position

The Union argues that the legal nature of the Employer in the instant matter is important because it illustrates that funding issues as they relate to the instant proceedings are determined by the pooling of resources by the five (5) counties and the City of Toledo, which are the governmental entities funding CCNO. Thus, no one county or the City of Toledo is solely responsible for funding the activities of the Commission, but rather, they share, on a proportional basis, the costs associated with the operations of the Commission and the Correctional Center. Consequently, any wage increase will not be funded by any one governmental entity, but rather, by the pooled proportionate resources of all six (6) governmental entities.

Of further importance, the Corrections Center operated by the Commission provides a governmental service for all of the contracting entities that would otherwise have to be provided by each entity individually. Thus, the counties of Defiance, Fulton, Henry and Williams no longer maintain their own county jails. For these aforementioned counties, the Corrections Center is the only jail available for the housing and custody of prisoners. The Corrections Center has supplanted the county jails for the counties of Defiance, Fulton, Henry and Williams. This fact is important for the same reason that the pooling of resources for the maintenance of the Corrections Center is important as noted above. The aforementioned counties are relieved from the expense of maintaining their own individual county jails and have joined together to save resources by entering into the Commission Agreement.

The two percent (2%) wage increase sought by the Corrections Officers is justified because they are currently underpaid in comparison to officers in other jurisdictions and the CCNO members can afford to pay the increases.

The Union compares the wages of the CCNO Corrections Officers to those of employees in sheriff offices within member jurisdictions and correctional officers and jailers in Ohio and nationwide. They are paid less per hour than the road deputies in Fulton and Henry and Williams counties, less than dispatchers in Henry and Fulton Counties, less than corrections officers in Lucas County and less than police officers in Defiance County. The Bureau of Labor Standards for the State of Ohio show that corrections officers are paid a median of \$20.52; the national median is \$18.77. CCNO Corrections Officers are currently paid a median of \$15.75.

Comparables of other jurisdictions both within and outside the jurisdictions of the contracting counties in the City of Toledo demonstrate that the increases sought in the instant case are reasonable.

In addition to Corrections Officers, CCNO also has in its employ Corrections Supervisors. The Corrections Supervisors work hand in hand with the Corrections Officers maintaining order among inmates as well as supervising inmates. The Corrections Supervisors also supervise the Corrections Officers.

The Corrections Supervisors are represented for the purposes of collective bargaining by the CCNO Supervisors Association Local 53, International Union of Police Associations, AFL-CIO. Pursuant to fact-finding and conciliation proceedings conducted pursuant to the provisions of Ohio Revised Code Section 4117.14 and pursuant to wage re-opener labor contract provisions, the Corrections Supervisors were recently awarded a 2.0 % increase in wages for 2011.<sup>6</sup> The existence of the Corrections Supervisors' unit and their recent gains is important for a number of reasons. Historically, the Corrections Officers have been paid approximately \$3.50 per hour more than Corrections Officers. Thus, presently, and without including the recent 2.0 % conciliation increase received by the Corrections Supervisors, a Corrections Supervisor with one year of service earns approximately \$3.27 more than a Corrections Officer with one (1) year of service. Likewise, the differential is approximately \$3.75 per hour between Corrections Supervisors and Corrections Officers with five (5) years of service, \$3.42 per hour between Corrections Supervisors and Corrections Officers with ten (10) years of service, \$3.47 per hour for Corrections Supervisors and Corrections Officers with fifteen (15) years of service and \$3.57 per hour between Corrections Supervisors with twenty (20) years of service and the corresponding Corrections Officer.

Consequently, inasmuch as CCNO has consistently maintained the above wage differential between Corrections Supervisors and Corrections Officers over many years, this

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<sup>6</sup> At Fact-finding the Union proposed a 3.5% increase and the CCNO a 0% increase. In Conciliation, the Union

differential is at risk of being distorted if the Corrections Officers are not afforded a similar increase to keep pace with a group of employees who more often than not perform similar duties to those performed by Corrections Officers. As a result, this differential must be maintained when considering a wage recommendation in the instant proceeding.

In light of this most recent bargaining history, the Corrections Officers in the instant matter have not received a real pay increase since January 1, 2009. This is so because, as discussed above, the increases in the employee share of health care costs associated with co-pays and like costs eliminated the one percent increase in wages that they received on January 1, 2010. Thus, the wage increase sought herein is necessary in order to provide a modicum of fairness and reward for bargaining unit employees after going for such a long period of time with no wage increases. CCNO's refusal to budge from its position that bargaining unit employees should receive no raises whatsoever during these reopening proceedings would only exacerbate the reality of employees continuing to be employed with no additional real compensation for well on two years.

#### Financial Condition of CCNO

The Union argues that the Employer can easily fund and pay for the increases sought by the Union because the entities comprising the CCNO share proportionately the cost of operation of the Corrections Center and pool their resources accordingly. No one jurisdiction is required to expend resources individually for all of the costs of operations of the Employer. The Employer's general fund is healthy and can easily pay for the increases sought by the Union. The total cost of the two percent (2%) increase sought amounts to approximately \$72,419. When this is divided among the members, it is miniscule in comparison to their overall budgets.

The CCNO management could increase revenue by keeping “pay-to-stay”, telephone and medical fees collected, but credit them back to the counties. By keeping these fees in the general fund of CCNO, these would easily pay for the majority of the increase sought by the Union. The increase sought is a small part of the participating jurisdiction budgets.

If each of the jurisdictions had to maintain their own facilities rather than pooling resources, their additional costs would be significant. The costs to maintain an inmate would be more than twice that of CCNO. As an example, Lucas County, based upon inmates received from Lucas County in 2011, would have paid \$4.5M more to house their own inmates. With these major changes, the CCNO members can afford the increases sought.

#### Increases given by other CCNO member jurisdictions

Collective Bargaining Agreements with County Sheriffs in CCNO contracting counties show that those County Sheriffs are providing increases to their bargaining unit employees equivalent to the increases sought herein. If these counties can give increase to these officers, they should give like increases to similarly situated employees such as the Corrections Officers.

Henry County Sheriff, a jurisdiction which has contracted to implement and operate the Employer, has most recently agreed to wage increases in the amount of three percent (3%) for Sheriff Deputies and Command Officers for 2011, 2012 and 2013.

Fact-finder Donald R. Burkholder, in a November 17, 2010 report, recommended 3% increases for CY 2010 and 2011 for Fulton County Sheriff Deputies. Fulton County is a participating county in CCNO.

Fact-finder Susan Grody Ruben, Esq., recommended that Fulton County Sergeants continue to receive the 9% differential between Sergeants and Deputy’s wages for CY 2010 and not incur reductions sought by the employer. This, in effect, granted a 3% increase to Sergeants

as well as Deputies.

Conciliator Michael Paolucci awarded the Fulton Sheriff's bargaining unit a \$1,100 bonus in lieu of a wage increase for the period January 1, 2010 through March 31, 2010, and 2% on April 1, 2011, and an additional 1/2% starting October 1, 2011.

Defiance County deputies had 3% for each of 2008, 2009, 2010 and 2011, but in recent negotiations, gave up their wage increases for 2011.

Williams County, a participating CCNO county, granted 3% to employees for 2008, 2009 and 2010, and are now in Fact-finding for 2011.

The City of Toledo, a participating CCNO jurisdiction, has shown an increase in revenue, and restored wages and benefits previously conceded by the police union.

### **Analysis**

A determination of the appropriate wage rate for Corrections Officers working at the CCNO and the ability of the CCNO to pay those wages requires an examination of unique circumstances. First, the CCNO provides services for multiple counties and, while operated under the direction of an Executive Director, its services and operating budgets are determined by representatives of the various member counties who ultimately define the level of service provided by CCNO by agreed-to contributions from their jurisdictions, not by revenue generated. Secondly, the CCNO does not have any ability to impose taxes to meet expenses, so budgets are not based upon projection of revenues and anticipated expenses but upon a determination of expenses and assessments to member counties. Under this scenario, the CCNO cannot raise any taxes to meet increased operating demands; it is somewhat dependent upon member entities willingness to continue to participate in the multi-county operation and continue to pay its fair share as determined by the number of inmates housed at the facility over the course of time.

These factors are kept in balance by the fact that each of the counties is mandated to maintain jail facilities.

Second, while the comparable or market wage rate for Corrections Officers is a factor to be considered in the wage determination, there are few traditional comparable wages of other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved. Since the Corrections Officers are performing work that has been consolidated in the multiple, contiguous county area, there are no wages of other corrections officers in the region to compare. Comparisons with other corrections officers in other regional jail facilities do not necessarily result in comparable results. Other regional jail facilities are often situated in a more rural area, thus the wages are generally less. Jail facilities in major cities generally pay higher wages because they are in much larger metropolitan areas. A comparison of deputy sheriff wages in the region is worthy of comparison, but the difference in training and responsibilities between the two groups cannot be ignored.

Third, each of the member entities has to deal with their own jurisdictional budgets and, in a declining or stagnant economy, obtaining a consensus from all the members is a challenge when they are dealing with loss of revenue and budget cuts on their own turf. If revenue increases are not supported, the Executive Director of the CCNO is faced with balancing the budget which usually results in layoffs.

Under the above unique circumstances, balancing the interest and welfare of the public with the ability of the public employer to finance and administer the issues proposed in light of wages paid relative to the employees in the bargaining unit with those to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved becomes less straightforward.

Notwithstanding the deficit spending from reserves and challenging economic times faced by Defiance, Fulton, Henry, Lucas and Williams Counties, as well as the City of Toledo since 2008, they have continued to support CCNO and have worked toward providing a fair wage and benefits to the Corrections Officers employed by the CCNO facility. Even though the Corrections Officers received a three percent (3%) increase in 2008 and 2009 and a one percent (1%) increase in 2010, budgets of CCNO member entities have been slashed, employees laid off, furloughs mandated, wage freezes put in place and other wage concessions negotiated.

The Counties are not out of the dark economic woods yet. Over the last several years unemployment is up (although moderating in 2011), tax revenues are down, deficit spending continues, state contributions to the CCNO member entities are down, and none of these factors significantly improved in 2011. Due to these economic conditions, in October, 2011, CCNO's Board enacted a 3 percent reduction in the year's budget, reducing it by \$510,580. For 2012, the Board adopted a decrease of 5.3 percent, amounting to \$835,627. CCNO's operating budget for 2012 is \$14,663,046, as opposed to \$16,335,409 in 2009.

The Union points out that notwithstanding these economic factors and trends, increases have been given to other employees of the member entities for 2011 and 2012. In 2010, four out of the six jurisdictions had wage freezes or worse at the time when the Corrections Officers were able to provide a 1% increase, but in 2011 only two of the jurisdictions had wage freezes and the rest provided wage increases.<sup>7</sup> In the case of Toledo, wage concessions given by various unions in 2010 were restored in 2011 due to an improvement in revenues.

During uncertain economic times, wage re-openers are in the public interest, as well as employees' interest, for it allows the parties to retain or attain fair wages and maintain public

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<sup>7</sup> It is noted that some of the increases were due to Conciliation Awards, but in several instances the County was

services over a multiple year period with more current financial information. This particular re-opener is unusual in that a final result is being rendered for a preceding year (2011) and not for the remainder (with retroactive application) to a current year. As such, much of the information upon which this Award is based is in consideration of what has happened in 2011 as opposed to what was projected to happen financially.

The evidence demonstrates that the Corrections Officers are deserving of an increase in wages, in light of the wages paid to other employees doing comparable work, but any increases must be given in light of the declining revenues that existed in 2011 and projected for 2012 by all of the CCNO member entities. The Union is mostly correct that the wages of local sheriff deputies are the most comparable of other workgroups, but the Conciliator is mindful that the Corrections Officers do not have the training and the responsibilities of sheriff deputies and any comparison of wages must take this factor into consideration. It is clear that CCNO employees with five or more years of experience receive far lower wages than sheriff deputies with five or more years of experience. It would take several years of substantial increases to make the wage rates of these employees comparable, if those are the true market wage rates for corrections officers. While the Union opines that it is underpaid in comparison to State of Ohio and national wage benchmarks for corrections officers, one must consider the location of CCNO (mostly rural northwest Ohio) as a factor in moderating the level of wages that are appropriate.

The Union also argues that to deny a two percent (2%) increase would exacerbate the disparity between the wages of corrections officers and the sergeants who supervise them. Since the CCNO Sergeants received a two percent (2%) increase for 2011 through conciliation, they must receive a two percent (2%) increase in 2011 to maintain this historical wage spread. The

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proposing a wage increase, albeit not as high as proposed by a union.

Conciliator would note in this regard that the conciliator in the case of the Sergeants had a choice between zero percent (0%) and two percent (2%). Recognizing that some increase was justified in light of all factors submitted to him, he chose the two percent (2%).

Based upon the economic factors presented, the current wages of the corrections officers relative to the employees in the bargaining unit with those issues related to other public and private employees doing comparable work as cited, 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 under the structure of CCNO herein, and the effect of the adjustments on the normal standard of public service, I find the last best offer of the County to be appropriate in this case.

While the CCNO started this wage re-open negotiation by proposing no wage increase, it eventually recognized that an increase was appropriate, notwithstanding the economic woes of its county and municipality members. While the Union's argument that a two percent (2%) increase could easily be absorbed by the multiple counties under the current economic conditions of each member entity of CCNO, it is not about the amount of money for one bargaining unit, but the comparison of a current increase, and increases over the last several years by all bargaining units and employees, that must be taken into consideration when governmental entities are deficit spending due to dramatically reduced revenues. Any increase that is given is not just for one year, but must be sustained by the governing entity over multiple years. While new sources of revenue will help decrease each entities deficit (even considering the "Pay for Stay" fees), the evidence indicates that revenues were not enough in 2011 to significantly reduce pending deficits. Operating reserves were not improved in 2011 and it would not be prudent to pay increased wages, other than on a minimal basis, out of those reserves. Perhaps the

Corrections Officers can find some solace in the fact that they will take home more pay as a result of the retroactive one percent (1%) increase in wages for 2011 and the additional money due to a reduction in insurance co-pays due to a new insurance program initiated by CCNO. Since the Union has the opportunity for a 2012 wage re-opener, such negotiations should commence immediately. If conditions improve within the jurisdictions of CCNO entities, disparities can be rectified, which is the intent of re-openers.

**Award**

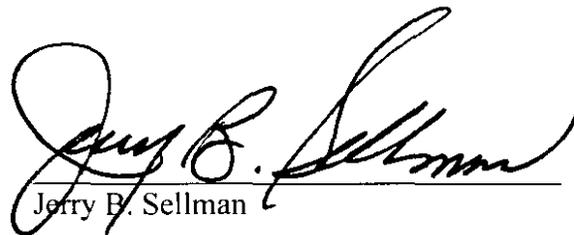
The Conciliator selects CCNO's final offer which is a one percent (1%) wage increase for 2011, retroactive to January 1, 2011.

**Conclusion**

After due consideration to the positions and arguments of the parties and the criteria enumerated in ORC §4117.14(G)(1) and ORC §4117.14(G)(3) regarding the scope of the issues before the Conciliator and ORC 4117.14(G)(7), the Conciliator awards the last best offer of CCNO on the issue of Wages.

This concludes the Conciliator's Report and Award.

February 13, 2012  
Columbus, Ohio



Jerry B. Sellman

## CERTIFICATE OF SERVICE

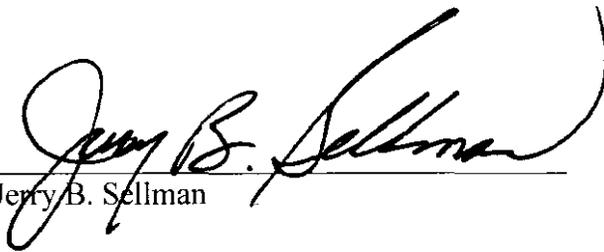
The undersigned certifies that a true copy of the Conciliator's Report and Award was sent via email, receipt confirmed, and by First Class Mail on February 13, 2012 to:

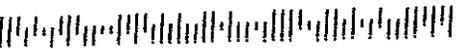
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