



Sheriff Deryl Loar

Indian River County

July 8, 2019

Honorable Bob Solari, Chairman
Honorable Susan Adams, Vice-Chairman
Honorable Joseph E. Flescher, Commissioner
Honorable Tim Zorc, Commissioner
Honorable Peter D. O'Bryan, Commissioner
1801 27th Street
Vero Beach, FL 32960-3388

RE: Collective bargaining impasse between the Indian River County Sheriff's Office and the Indian River County Deputies' Association, I.U.P.A., Local 6080; SM-2018-029

Dear Commissioners:

As you know, an impasse was declared by the Indian River County Deputies' Association, I.U.P.A., Local 680 in contract negotiations with the Indian River County Sheriff's Office for the 2018-19 fiscal year. The sole issue at impasse is a dispute over salary increases. A Special Magistrate was appointed by the Florida Public Employees Relations Commission (PERC) to conduct a hearing and issue a recommendation to resolve the impasse issue. His Report and Recommendation is attached for your review. On June 28, 2019, I filed with PERC a written rejection of the Special Magistrate's Recommendations. In accordance with Section 447.403(4)(a), Florida Statutes, I am now submitting to you as the legislative body my recommendations for resolving the impasse issue.

Background

The Sheriff and the Indian River Deputies Association, I.U.P.A. Local 6080 (hereinafter "IUPA" or "the Union") are signatories to a collective bargaining agreement which by its terms expires on September 30, 2019. Pursuant to Article 38 of the Agreement, the parties annually re-negotiate wages, which are established in Article 17 of the Agreement. Negotiations for fiscal year 2018/19 wage increases with the Union, as well as the Sheriff's other unions, began in the summer of 2018. Agreement was reached with Teamsters Local 769 on behalf of the Lieutenants' bargaining unit for a 5% across the board increase, or a \$1,500 lump sum to those at the top of the pay grade. Agreement was likewise reached with IUPA on behalf of the Sergeants' bargaining unit for a 5% across the board increase and the same arrangement for those at or near the top of the range. Agreement was also reached with PBA on behalf of the Correctional Deputy bargaining unit for a 5% across the board increase and the same arrangement for those at or near the top of the range. The Correctional Deputy agreement also included an increase of starting pay from \$38,950 to \$42,000.



Negotiations with IUPA for the Deputy bargaining unit began in August of 2018. Based on anticipated salary dollars to be appropriated by the County Commission, the Sheriff offered to IUPA a wage proposal consisting of the following:

1. A 5% across the board increase in base pay effective the first full pay period in October 2018 for those Deputies not within 5% of the maximum of the pay grade and who have not reached the maximum of the pay grade;
2. For those Deputies who are within 5% of the maximum of the pay grade and their base salary increase to the top of the pay grade is less than \$1,500, their salary would be increased to the top of the pay grade and any difference between the amount of the base salary increase and the \$1,500 would be paid in a lump sum;
3. For those Deputies who are topped out, a lump sum increase of \$1,500;
4. Bargaining unit members hired after April 30, 2017 would have their salary adjusted from \$38,950 to \$42,500 effective the first full pay period of October 2018;
5. Bargaining unit members hired after April 30, 2018 would have their salary adjusted from \$38,950 to \$42,000 effective the first full pay period of October 2018; and
6. Newly hired bargaining unit employees would start at \$42,000.

The Union summarily rejected this proposal and instead offered two alternative counter-proposals. Option 1 only included an increase in the starting pay (and the pay for those hired after April 30, 2017) from \$38,950 to \$41,000. Option 1 also included a provision requiring that bargaining unit members who have at least twenty years of experience with the Sheriff's Office who have not reached topped out salary be brought up to the maximum of the pay grade (\$63,151). The latter component of the Union's first alternative proposal would have resulted in fifteen (15) bargaining unit members receiving between a 2.6% and an 8.8% increase in pay, with the vast majority (11) receiving the 8.8% increase. Option 2 of the Union's proposals simply eschewed Option 1 in favor of an increase in pay to all bargaining unit members of \$3,550.

The Sheriff rejected the Union's two options. Option 1 was rejected because, as more fully set forth below: (1) the Union's proposal did not raise starting pay to a level that allowed the Sheriff to be competitive with comparable jurisdictions (\$42,000); and (2) the Union's proposal unfairly favored those more senior bargaining unit employees at the expense of those at the lower end. (R.57-58). Option 2 was rejected because: (1) it was far costlier than the Sheriff's proposal and inconsistent with the dollars that had been allocated to the Sheriff by the County Commission for salary increases; (2) it was wholly inconsistent with that agreed to and provided to other Sheriff's employees; and (3) as a "flat amount" increase versus a percentage, it disproportionately favored newer employees at the expense of more senior deputies.

Ultimately, the Sheriff gave the Union a proposal that was designed to encourage the bargaining unit members to either accept it or face economic consequences. Specifically, on November 2, 2018, the Sheriff proposed to implement its previous offer retroactive to the first pay period in October of 2018 if the Union ratified the Agreement prior to November 30, 2018. Otherwise any subsequent agreement for salary increases would not be made retroactive. The Union rejected this proposal and declared impasse.

The parties presented their respective positions to Special Magistrate Dennis Campagna on April 5, 2019. The Special Magistrate thereafter issued his Report and Recommendations. Specifically, the Special Magistrate recommended the following:

1. Increase the starting base wage rate to \$42,000;
2. Those Deputies hired on or after April 30, 2018 shall have their salary adjusted from \$38,950 to \$42,000 effective the first full pay period of October 2018. Those Deputies having one year of service shall have their salaries increased to \$43,000 and that any remaining funds be paid to any such Deputy in a lump sum fashion.
3. Bargaining Unit members hired before April 30, 2018 and unaffected by (2) above shall receive a 4.3% increase in their base salary;
4. Increase the top salary by 4.3% resulting in a new top salary of \$65,867;
5. Move those bargaining unit members who have at least 20 years of experience with the County to an annual salary of \$63,151;
6. Those bargaining unit members who were at the top of the pay grade (\$63,151) shall move to the new top salary of \$65,867.

As previously mentioned, I filed with the Florida Public Employees Relations Commission a written rejection of the recommendations of the Special Magistrate in their entirety for the following reasons:

1. Although the Special Magistrate agreed with raising the starting salary for Deputies to \$42,000, he largely rejected the Sheriff's mechanism for dealing with the resulting compression problems that would be created if those existing Deputies at the lower end of the pay scale did not have their salaries raised in an associated manner. Specifically, the Special Magistrate agreed with the Sheriff's proposal to raise the pay of Deputies hired after April 30, 2018 from \$38,950 to \$42,000, but made an exception for those with more than one year of experience by raising those Deputies to \$43,000. Also, the Special Magistrate rejected the Sheriff's proposal to raise the salaries of those existing Deputies hired after April 30, 2017 from \$38,950 to \$42,500, instead recommending that their salaries be raised by the lower amount of 4.3%. These recommendations of the Special Magistrate would not adequately address the compression issues for existing employees at the lower end of the pay scale inherent in raising the starting salary to \$42,000.
2. Although the Special Magistrate recommended that the starting rate for Deputies, as well as the salaries for Deputies hired on or after April 30, 2018 and those Deputies having one year of service, all be raised, he recommended that the raise be made retroactive to the first full pay period of October 2018. The Sheriff rejects the retroactive component of this recommendation as the Sheriff gave the Union the opportunity to accept raises for employees in these categories back in November of 2018 as an incentive to settle the contract consistent with what the other Unions at the Sheriff's Office had agreed to. The Sheriff made this offer with the specific understanding that if it were to be rejected, the Sheriff would take the position in the impasse process that any increase in salary to these bargaining unit members would not be made retroactive. To accept the Special Magistrate's recommendation in this regard would be to give the Union, and indeed all other Unions at the Sheriff's Office, little incentive in the future to voluntarily resolve contract issues.

3. The Special Magistrate recommended that multiple Deputies at the top of the pay range be given as much as 8.8% pay increases, funded by a reduction in the 5% increase offered to the majority of remaining bargaining unit members. This would result in most Deputies in the bargaining unit receiving less than the 5% increase offered by the Sheriff. The 4.3% increase recommended by the Special Magistrate would also be less than that received by all other employees of the Sheriff, and less than the 5% received by employees of Indian River County and the employees of its Constitutional Officers. The Sheriff is unwilling to reduce the 5% offer to the majority of Deputies in this bargaining unit in order to fund a larger increase for a relatively few Deputies at the top of the range.

Recommendation to Resolve the Impasse Issue

For the above reasons, I recommend that the County Commission resolve the impasse issue by voting to accept the following:

Effective upon resolution of the impasse issue by the County Commission, bargaining unit members would receive the following salary increases:

- a. A 5% across the board increase in base pay for those Deputies not within 5% of the maximum of the pay grade and who have not reached the maximum of the pay grade;
- b. For those Deputies who are within 5% of the maximum of the pay grade and their base salary increase to the top of the pay grade is less than \$1,500, their salary would be increased to the top of the pay grade and any difference between the amount of the base salary increase and the \$1,500 would be paid in a lump sum;
- c. For those Deputies who are topped out, a lump sum increase of \$1,500;
- d. Bargaining unit members hired after April 30, 2017 would have their salary adjusted from \$38,950 to \$42,500;
- e. Bargaining unit members hired after April 30, 2018 would have their salary adjusted from \$38,950 to \$42,000; and
- f. Newly hired bargaining unit employees would start at \$42,000.

Thank you.

Sincerely,



DERYL LOAR, SHERIFF

cc: Jason E. Brown, County Administrator
Dylan Reingold, Esq., County Attorney

STATE OF FLORIDA

In the Matter of Impasse Between:

SHERIFF OF INDIAN RIVER COUNTY

PERC Case No. SM-2018-029

-And-

INTERNATIONAL UNION OF POLICE
ASSOCIATIONS, AFL-CIO, LOCAL 6080

Before: Dennis J. Campagna, Special Magistrate

Hearing Date: April 5, 2019

APPEARANCES

A. For the County:

Wayne L. Helsby, Esq. – Allen, Norton & Blue, PA, Counsel
James Harpring – Undersheriff

B. For IUPA:

Ryan W. Burton, Esq. – IUPA General Counsel
Katheryn Gibson – Secretary-Treasurer

THE ISSUE

What is the recommended & appropriate wage increase for fiscal year 2018-2019?

BACKGROUND

A. The Parties to this Impasse:

The International Union of Police Associations, Local 6080 (“Union”) and the Sheriff of Indian River County (“Sheriff”) are in the third year of a three-year collective bargaining agreement (“CBA”). The bargaining unit at issue includes all Law Enforcement Deputies employed by the Indian River County Sheriff’s Office. Excluded are all supervisors (Sergeants and above) and Corrections Deputies. Wages for each year of the agreement have been subject to reopeners

pursuant to the agreement by and between the Parties hereto. Pursuant to the CBA, wage changes are negotiated during the prior fiscal year and are effective on October 1 (or the beginning of the next fiscal year). The record reflects that for the first two years of this CBA, wage increases were negotiated at 3.5% for the first year, (with additional monies for longevity), and a 5% increase for the second year. These agreed-upon wage increases were evenly applied to all bargaining unit employees (and have been effective or retroactive to October 1 2016 and 2017). The wages for the current (2018-2019) fiscal year offered to other employees were offered "across the board"; however, not for this bargaining unit. (Sergeants and Lieutenants bargaining units received "across the board raises".)

Negotiations for the current wage reopeners began in early 2018. The record reflects that the intention of starting negotiations so early was to provide the Sheriff an opportunity to hear the Union's proposals before he presented his budget request to the Indian River Board of County Commissioners ("County") in July 2018. Pursuant to the CBA, wages determined pursuant to the agreed-upon terms of this Agreement become effective on October 1, 2018.

B. Position of the Parties on 2018-2019 Wage Increases

In fiscal year 2018-19, employees of the Indian River consisting of the Sheriff, County Clerk, Property Appraiser, Comptroller, Supervisor of Elections County Board of County Commissioners and the County's respective Constitutional Officers all received a 5% increase in pay as funded through dollars approved by the Board of County Commissioners. The record reflects that the Sheriff extended this same percentage increase to all non-unionized employees. In addition, the record reflects that those Unions representing three other bargaining units at the Sheriff's Office each accepted the same percentage increase of 5%.

Following application of a 5% wage increase to those County employees noted above, the County extended the same percentage increase for this IUPA/Deputy unit, and at the same time increasing the starting salary and addressing compression issues for recently hired Deputies. Following their review of this County proposal, the Union rejected the County's proposal. The Union's proposal consisted of the following options:

Option 1: To lower the starting salary from what the County had proposed and instead use that money to single out a small group of highly paid Deputies and give to them large percentage increases, as much as 8.8% for most. This option was rejected by the County since it did not achieve the Sheriff's objective of raising the Deputies' starting salary with the goal of becoming competitive with surrounding law enforcement agencies. In addition, the County notes that Option 1 as proposed, reduced the amount of available funds so as to allow the Sheriff to afford lower level Deputies salary increases to address compression issues at the expense of larger increases to more senior Deputies.

Option 2: To afford every Deputy in the bargaining unit a flat \$3,250 increase. Option 2 was also rejected by the County since the County believed that this Option if implemented would do an injustice to those at the higher end of the wage scale and more importantly, would exceed the total funds allocated by the County Commission for wage increases for the fiscal year 2018-19.

The County, through approval by the Board of County Commissioners, approved funds which would permit a 5% increase to all employees, a position rejected by the Union.

DISCUSSION

A. The Established Statutory Criteria

Section 447.405 of the Florida Statutes provides, in relevant part, that in formulating a recommendation on the subject issue, the Special Magistrate must consider the following criteria:

1. Comparison of the annual income of employment of the public employees in question with the annual income of employment maintained for the same or similar work of employees exhibiting like or similar skills under the same or similar working conditions in the local operating area involved.

2. Comparison of the annual income of employment of the public employees in question with the annual income of employment of public employees in similar public employee governmental bodies of comparable size within the state.
3. The interest and welfare of the public.
4. Comparison of peculiarities of employment in regard to other trades or professions, including:
 - Hazards of employment.
 - Physical qualifications.
 - Educational qualifications.
 - Intellectual qualifications.
 - Job training and skills.
 - Retirement plans.
 - Sick leave.
 - Job security.
5. Availability of funds

B. Application of the Foregoing Criteria

In applying the foregoing criteria, the following relevant facts should be considered:

First, recent Florida legislative actions require each public school in each of Florida's Counties to staff each such school with a school safety officer. Uncontested testimony offered by Undersheriff Harpring noted that such mandate would place a "substantial drain on manpower and created a need for hiring." (See TR 74). As a result, the County will be compelled to hire new Deputies in order to meet this mandate. Accordingly, it is in the County's best interest to have a starting salary that would attract and retain the best possible candidates for such positions.

Second, the County offers the following entities for purpose of comparison:

- (1) Martin County Sheriff;
- (2) Stuart Police Department;
- (3) Indian River Shores Public Safety Department;
- (4) St. Lucie Sheriff's Office;
- (5) Port St. Lucie Police Department;
- (6) Ft. Pierce Police Department;
- (7) Vero Beach Police Department;
- (8) Sebastian Police Department; and
- (9) Fellsmere Police Department.

(See Sheriff Exhibit 7).

There was no objecting from the Union as to the use of the foregoing entities.

A. Recommendation for Newly Hired Deputies:

The record evidence reflects that the current starting salary for Deputies at the Indian River Sheriff's Office (\$38,950) is lower than all but one of those jurisdictions, Fellsmere. When comparing the starting salary for Deputies at the Indian River Sheriff's Office with the list of comparable jurisdictions noted above, such starting salary is more than \$8,500 lower than that of the neighboring Martin County Sheriff's Office, and over \$6,000 less than neighboring St. Lucie County Sheriff's Office. As a result, all Parties hereto agree that the starting salary for Deputies must be raised substantially in order to attract and retain qualified Deputies necessary for continued and expanded service in Indian River County. In accepting this challenge, the Union's last proposal sought to increase the starting salary for those Deputies hired after April 30, 2017 to \$41,500, and those hired after April 30, 2018 to \$41,000. The Sheriff, on the other hand, proposed to increase starting salary for newly hired Deputies to \$42,000. Following my careful review of the comparable jurisdictions, it is Recommended that the Starting Salary for Deputies be increased to \$42,000. It is also Recommended that Deputies with one year of service receive an increase of base salary to \$43,000.

B. Recommendation for Established Deputies

As noted above, the Indian River Board of County Commissioners (“Legislative Body”) approved a 5% increase for their own employees, as well as for the employees of all other County Constitutional Officers, including the Sheriff.¹ Currently, while the County does not have a salary schedule for Deputies, it notes that Deputies are paid somewhere in the range starting at \$38,950 and topping out at \$63,151.(See County Exhibit 3). Therefore, an increase of the base salary to \$42,000 as proposed by the County amounts to an increase of approximately 7.8% to the base/starting salary. The County has also proposed that all other Deputies not at the top of the paygrade receive a 5% increase, and that those Deputies currently at the top of the pay grade receive a “lump sum” increase of \$1500. In this later regard, the County proposes that “anyone not at the top of the paygrade but within 5% of topping out, that employee would be moved to the top of the paygrade in base pay and receive the balance in a lump sum.” While the Union has not taken issue with a 5% wage increase, it has opposed the manner in which the County seeks to apply this 5% increase. It is the Union’s position that those employees with 20 or more years of County service be placed at the top of the wage schedule.

In formulating a recommendation for the Deputies, it is boilerplate interest based bargaining logic that the key to any such recommendation should be to attract outstanding candidates for the position of Deputy Sheriff, as well as to retain the uniquely skilled and dedicated Deputies currently on the Sheriff’s roster. In this regard, the record reflects that while the bargaining unit consists of approximately 150 employees, a total of 31 bargaining unit Deputies and four Detectives have voluntarily departed from the Sheriff’s office of which the majority of those Deputies and Detectives had at least 2 or more years of experience, with the average experience of those who departed as 10.5 years. To any law enforcement agency, this number of departing Deputies and Detectives should be cause for concern. The key question to be addressed is whether there was a common issue which triggered their departure. In addressing this common issue, the Union maintains that has it has “[m]ade the Sheriff aware that the retention epidemic is result of low wages and benefits.” (Union brief at page 7). The County has not disagreed and in

¹ The County notes that this 5% increase would cost the County \$483,360.56. Accordingly, using basic math, each 1% increase would cost the County approximately \$96,672.

fact has acknowledged the need to establish a pay scale that would attract new Deputies. (“As explained by Undersheriff/General Counsel Harpring in his testimony, at this point in time it is much more compelling for the Sheriff to attract new Deputies . . . “.)

As noted earlier, it has been the Union’s position from the outset that all bargaining unit members having at least 20-years of experience with the Sheriff’s Office should be moved to the top of the salary scale, i.e., to an annual salary of \$63,151. The Union cost-out for this proposal amounts to approximately \$67,856.64 or 0.7%. (See Union Exhibit 3). Assuming, arguendo, that the County accepted the Union’s position, and assuming further that the total available funding is generated by 5%, there would be a net of 4.3% available for distribution to the remaining members of the bargaining unit, amounting to approximately \$415,554.²

Accordingly, assuming acceptability of the Union’s proposal regarding the 20+ year Deputies, and the County’s proposal regarding the availability and application of the remaining equivalent funds generated by 5.0%, this scenario would recognize the top priority of the County as well as the top priority of the Union while staying within the funding authorized by the Board of County Commissioners of Indian River County. It is for this reason that I make the following

RECOMMENDATION:

1. Increase the Starting Salary to \$42,000.
2. Those Deputies hired on or after April 30, 2018 who have one year of service shall have their salary adjusted to \$43,000 effective the first full pay period of October 2018.
3. Bargaining Unit members hired before April 30, 2018 and unaffected by (2) above shall receive a 4.3% increase in their base salary. Should this calculation produce a result that is less than \$43,000, any such Deputy so affected shall have his/her base salary adjusted to \$43,000 with any balance given to any such Deputy in lump sum fashion.
4. Increase the top salary by 4.3% resulting in a new top salary of \$65,867.
5. Move those bargaining unit members who have at least 20 years of experience with the County to an annual salary of \$63,151, and

² Assuming an increase of the base salary to \$42,000, there would be, at this juncture, no cost attached to this increase since such base salary would only apply to future bargaining unit employees. Assuming equal distribution to the remaining 135 Deputies, each would receive approximately \$3078.

6. Those bargaining unit members who were already at the top of the pay grade (\$63,151) shall move to the new top salary of \$65,867.

The foregoing recommendation satisfies the statutory criteria in the following manner:

First, with regard to the first two comparability criteria, the County maintains, with no dispute from the Union, that the Department lags behind other comparable jurisdictions with regard to entry level pay for its Deputies. In this regard, the County notes that "In terms of comparability, then, the starting salary of Deputies at the Indian River Sheriff's Office must be raised substantially in order to become and remain competitive." In addition, this recommendation achieves the goal of eliminating the compression issues at the bottom level of the Deputy pay scale by moving those Deputies hired after April 30, 2017 with a current base salary of \$38,950 to a salary that is higher than those Deputies hired after April 30, 2018 making the same base salary. To achieve this goal, I recommend an additional \$1000 differential thereby creating an established salary of \$43,000 for all bargaining Unit members with one year of service. All other Bargaining Unit Members shall have their base salaries increased by 4.3%.

The next statutory criteria, "availability of funds", is satisfied by fashioning a recommendation within the parameters already approved by the County Commissioners who, as noted above, approved a 5% increase for the 2018-2019 fiscal year.

The final statutory criteria, "the interest and welfare of the public" is likewise satisfied by fashioning Deputy salaries that will attract and retain qualified and dedicated law enforcement Deputies as reflected by recent actions by the Florida Legislature in demanding more Deputies to protect our students in their schools. Moreover, the public interest is always satisfied with a stable and dedicated police presence.

SUMMARY & CONCLUSION

For those reasons noted and discussed above, it is the Conclusion of this Special Magistrate that the following recommendations be adopted by the County and the Union in satisfaction of the current impasse that exists.

1. Increase the starting base wage rate to \$42,000;
2. Those Deputies hired on or after April 30, 2018 shall have their salary adjusted from \$38,950 to \$42,000 effective the first full pay period of October 2018. Those Deputies having one year of service shall have their salaries increased to \$43,000 and that any remaining funds be paid to any such Deputy in a lump sum fashion.
3. Bargaining Unit members hired before April 30, 2018 and unaffected by (2) above shall receive a 4.3% increase in their base salary;
4. Increase the top salary by 4.3% resulting in a new top salary of \$65,867.
5. Move those bargaining unit members who have at least 20 years of experience with the County to an annual salary of \$63,151.;
6. Those bargaining unit members who were at the top of the pay grade (\$63,151) shall move to the new top salary of \$65,867.

Dated: June 13, 2019

Respectfully submitted:



Dennis J. Campagna
Florida Special Magistrate