THE 1983 OHIO COLLECTIVE BARGAINING LAW AND ITS PERCEIVED IMPACT UPON MANAGEMENT IN LAW ENFORCEMENT AGENCIES

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ABSTRACT

THE 1983 OHIO COLLECTIVE BARGAINING LAW AND ITS PERCEIVED IMPACT UPON MANAGEMENT IN LAW ENFORCEMENT AGENCIES

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The focus of the study was to identify changes in labor relations between police employer and sworn police employees that resulted from the 1983 Ohio Public Employee Collective Bargaining Law. The methodology used was exploratory in nature and drew from a variety of data-gathering strategies such as social surveys, mail surveys, unobtrusive measures, secondary analysis, official statistics, and litigation history surrounding this law.

The study is divided into four parts. Part I describes the litigation history of the law as it affects Ohio police departments. Part II examines the police management-union relationship from the standpoint of police administrators, and part III focuses on the police union-management relationship from the union/bargaining agent viewpoint. Part IV consists of insights, opinions, and professional observations of legal experts concerning the impact of the law on the changes in police employer-employee relationships.

It was found that the 1983 Ohio Public Employee Collective Bargaining Law has impacted police departments throughout the state in three areas: "forced" bargaining, contract length, and required provisions. Surveys from the police administrators, union representatives and legal experts provided information indicating that there is an increasing concern that the policing occupation is being deprofessionalized by excessive grievance filings, heated negotiations and extreme economic conditions.

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CHAPTER I

INTRODUCTION

With the passage of Senate Bill 133 in July of 1983, the public sector in the state of Ohio underwent a series of changes related to formal labor relations. Perhaps the most dramatic impact of this legislation was on those employed in the public safety forces arena, in particular, the administrators of law enforcement agencies.

The Ohio Collective Bargaining Act (codified as Ohio Revised Code, Chapter 4117) is a comprehensive statute which sets forth specific guidelines for labor relations between public employers and public employees. In the Act, the Ohio General Assembly not only defined the rights and obligations of both parties involved but also determined procedures concerning union representation, the complete collective bargaining process, the limited right to strike and finally, binding arbitration (Ohio Public-Sector Collective Bargaining Framework, 1988 p. 589-590).

The ways in which this law has impacted and influenced the operation of police agencies in Ohio were evidenced by the number of new contracts that were developed where there were

none previously and in the content of collective bargaining contracts with reference to the scope of negotiation, management rights, agency shop agreements, and forced "voluntary recognition". Police management was further affected by the amount of time and energy put forth to absolve grievances, contract language, and managing multiple representative groups within an agency. To some, it appeared as though the parties were constantly bargaining and negotiating. In some cases, it developed an environment of internal conflict between the union and administrators. It also took time away from other important administrative functions.

Statement of the Problem

The Ohio Collective Bargaining Act applies to all public employees in the state. The Act establishes specific guidelines with regard to employee bargaining unit recognition, scope of negotiation, impasse resolutions, and grievance procedures. This study, however, is restricted to the analysis of the impact of the Act on police agency labor relations. The term "police" as used in this study refers to those political subdivisions in Ohio that are municipal, township, and county law enforcement agencies, while "labor relations" refers to the total relationship between administrative personnel (management) and bargaining unit members (labor).

The purpose of this study is to identify those changes that have occurred since 1983 in labor relations between police employer and sworn police employees that are characteristic to the Act. The focus of this study is on those changes which affect management and the decision-making process within the police agencies.

Importance of the Problem

A study of the Ohio Collective Bargaining Act concerning its impact on management in Ohio law enforcement agencies is important because the implementation of the law is still evolving, with some sections of it being contested at the Ohio Supreme Court level. Therefore, it is timely and crucial since the Act is still relatively young. It also relates to a wide population, because it affects all citizens of Ohio as recipients of police services and as taxpayers. The study such as this not only fills a research gap but sharpens the understanding of an important concept (collective bargaining).

The study attempts to document the changes in law enforcement management brought about by the Act regarding the established scope of negotiation and managerial rights clauses. More importantly, the impact of the Ohio Collective Bargaining Act has many implications for social and political life. Social implications include both the general welfare of the public and the police officers because they are directly affected by the Act as public employees. This Act

has implications for political life because the police are always involved in political lobbying efforts. Moreover, taxpayers provide revenue to city policy makers who then determine the level and type of police service. The public also is beginning to hold police executives and their supervisors more accountable for the productivity and actions of officers.

Overview of Thesis

This thesis is divided into five chapters with Chapter One outlining the problem, need, and purpose of this study. Chapter Two consists of a literature review divided into two parts: a brief history of the national public-sector collective bargaining movement followed by the history of public-sector collective bargaining in Ohio. The methodology of the study is presented in Chapter Three where the techniques used to gather data are introduced and discussed. Chapter Four contains the findings of the study and analyzes the data generated from it. Chapter Five identifies and interprets the significant implications of the research and includes the thesis summary as well as recommendations for further study in the area of police collective bargaining at the state level.

CHAPTER II

LITERATURE REVIEW

Much has been published on the general issue of public sector collective bargaining and on the subarea of police collective bargaining (Burpo; Garmire; Lieberman; Shafritz, Balk, Hyde, & Rosenbloom). A search for scholarly literature regarding the impact of Ohio's collective bargaining act on police agency management yielded nothing. Therefore, the literature review examines the general evolution of public sector collective bargaining nationally and in Ohio.

The Evolution of National Public-Sector Collective Bargaining

Unionism in the public sector had its origin in America in the late 1800s with postal employees, teachers, and police officers providing the largest source of independent support. Formal police organizations were present as early as 1900 with 37 cities recognizing the existence of police political activity. Any attempt made by the police to unionize at this

time was viewed by the public as being an affront to the fundamental mindset of democracy. In addition, when aligned with organized labor, police unions failed to gain public support in the collective bargaining environment (Billings & Greenya, 1974).

However unpopular, police unionism continued to expand until 1919 when the police officers of Boston, Massachusetts went on strike after several fellow officers were fired for engaging in union activity. Ultimately, over 1100 striking officers were fired following major civil unrest which resulted in a substantial loss of property. The state militia was called in to restore order. From 1919 to the beginning of World War II, police unions and the support for collective bargaining in the public sector remained fairly dormant.

It was not until the 1930s that established labor unions were gaining recognition and status for themselves as collective bargaining agents, and public employee unions were emerging in an environment where no patterns or precedents had been set previously. With the exception of a few solitary incidents, collective bargaining agreements in the public-sector did not exist (Billings & Greenya, 1974, p. 26).

The first state to channel its efforts into creating public employee labor unions was Wisconsin, which in 1930 had perhaps the most effective civil service system throughout the nation. With the liberal Phillip LaFollette in the governor's chair in 1932, union organizers believed that the time had come to establish a union of Wisconsin state employees. In May of 1932, the Wisconsin State Administrative, Clerical, Fiscal, and Technical Employees Association was created. The name was later changed to Wisconsin State Administrative Employees Association and then once more to Wisconsin State Employees Association (Billings & Greenya, 1977, p. 14).

In January of 1933, a Democratic senator introduced a bill into the Wisconsin legislature containing several clauses that would have changed the civil service system of that state. In desperation, the Wisconsin State Employees Association turned to the American Federation of Labor for support. The scare, however, was short-lived and through extensive organized lobbying, the Wisconsin State Employees Association defeated the bill and established the necessary roots needed for growth. In 1933, 700 of the 1,700 eligible state employees had joined the Wisconsin State Employees

Association and soon other states' legislatures began to notice the events taking place in Wisconsin (Billings & Greenya, 1977, p. 16-17).

Arnold Zander, the chief advocate for the Wisconsin State Employees Association, used this victory as a stepping-stone to enlist support for a national union of state, county, and municipal employees. Zander, with the help of the American Federation of Labor, travelled outside the state to solicit support for his dream. The American Federation of Labor soon thereafter, through its executive council, passed a resolution to affiliate the Wisconsin State Employee Association with the American Federation of Government Employees (a federal workers' union) as the dominant partner. In 1935 the new union of Zander's now became the American Federation of State, County, and Municipal Employees (AFSCME) as an affiliate of the American Federation of Government Employees (Billings & Greenya, 1977, p. 23).

In 1935, Congress passed the National Labor Relations Act (sometimes referred to as the Wagner Act) which granted to some employees the right to organize (29 USC 151-168,1976); U.S. Department of Labor, 1976, p. 22). Specifically exempted

from the conditions of the National Labor Relations Act were those employed by state and local governments.

Arnold Zander spent the next several years lobbying for his union's independence and finally, in October of 1936, the American Federation of Labor and the American Federation of Government Employees granted the American Federation of State, County and Municipal Employees a separate charter as a national union of state, county and municipal employees (Billings & Greenya, 1977, p. 23).

Inflation and the post-World War II period brought to workers in private industry higher salaries and an abundance of jobs. At the same time, those employed in the public-sector found themselves being paid less, which only served to aggravate their perceived status as second-class citizens. In 1946, city employees in Detroit, Cleveland, Niagara Falls, Houston, San Francisco, and others engaged in strikes. In addition, there were 16 teacher strikes across the nation (Billings & Greenya, 1977, p. 39).

State reaction to public employee unionization was quick. For example, in 1946, the state of Virginia refused to acknowledge public employee unions and rejected any attempts to negotiate with them. In 1947, the Supreme Court of Ohio

in Hagerman v Dayton (1947) ruled that unions had no authority when dealing with civil service appointees and therefore, it was decided that the check-off of union dues was illegal for public employees (Billings & Greenya, 1977, p. 39; Lewis & Spirn, 1983, 5; O'Reilly & Grath, 1983, p. 892).

Michigan passed the Hutcheson Act in 1947 which specified strict penalties for striking public workers. A similar measure, the Condon-Wadlin Act of New York, outlawed public employee strikes and set penalties. Privileges to state and local public employee unions were few even though several federal actions (which applied only to federal workers) had given them support (Billings & Greenya, 1977, p.39).

It was not until 1959 that Wisconsin led the move to grant "government employees the right to organize and bargain collectively" (Public Employee Collective, 1983, p. 219; Shafritz, Balk, Hyde & Rosenbloom, 1978, p. 206). Collective bargaining rights for public employees were left primarily to the states in 1976, when the U.S. Supreme Court determined that a national movement would prove to be unconstitutional (National League of Cities v. Usery, 426 US 823, 1976).

In 1968, the First Amendment, according to Shafritz, Balk, Hyde, and Rosembloom, was being interpreted as not

protecting the rights of public employees when organizing labor unions. Therefore, states were able to forbid them by law (Shafritz, Balk, Hyde & Rosenbloom, 1978, p. 206). However, this approach was reversed later in 1968, when the United States Court of Appeals, in McLaughlin v. Tilendis, (1968) ruled that regulations which forbade public employees from organizing were unconstitutional. Although not specifically mentioned, this decision could have brought into question the constitutionality of laws, such as those of North Carolina and Alabama, which prohibited unionization (Shafritz, Balk, Hyde & Rosenbloom, 1978, p. 206).

This appellate decision, however, did not mandate that governments participate in the collective bargaining process; therefore, many alternatives were left to state lawmakers. Moreover, during the 1960s, judicial reasoning leaned toward the position that unless it was specifically outlawed, collective bargaining was allowed (Shafritz, Balk, Hyde & Rosenbloom, 1978, p. 206).

The 1960s were indeed the period of growth for public-sector collective bargaining rights for state and local government employees. Public-sector collective bargaining, if present, was by individual arrangement and tolerated by

a few local jurisdictions (Lieberman, 1980, p. 23). By 1966, the states of Connecticut, Delaware, Massachusetts, Michigan, Minnesota, and Wisconsin, had passed comprehensive collective bargaining laws for all public employees. These laws encompassed many factors such as the right to organize and bargain collectively, guidelines for grievance and redress, and procedures for negotiating. In addition, separate statutes regulating teacher - school board relations had been established in California, Connecticut, Oregon, Rhode Island, and Washington (Steiber, 1967, p. 73).

By 1970, 38 states had developed some type of bargaining legislation. According to Myron Lieberman in his book, Public-Sector Bargaining, membership in public-sector unions increased four-fold. Also, where there were 36 strikes by public employers in 1960, by 1970 they had increased to 412. Not only did the number of strikes increase, but also they tended to last longer and involve more employees (Lieberman, 1980, p. 23).

By 1981, with the rising numbers of workers employed in the public sector, 39 states, the District of Columbia, and the Virgin Islands had enacted some type of bargaining process

for public-sector employees. Each process varied by degree and scope and was enacted to meet individual state needs.

The History of Ohio Public-Sector Collective Bargaining

In 1947, Ohio passed the Ferguson Act (Ohio Revised Code Annotated, 4117.01-.05), which set the tone for Ohio collective bargaining. The Ferguson Act was designed to prohibit strikes. Employees who engaged in a strike were not exempt from disciplinary action, not guaranteed job security, and could have heavy fines levied against them. Although the Act provided a means of due process, an employee who participated in a work stoppage would not be considered "on strike" until the employer notified the employee that he was being viewed as such, after which penalties would be applied. This forced the employers to withhold punitive action as a means of settling strike disputes before the event was legally proclaimed a forbidden action (Bumpass & Ashmus, 1985, p. 596; O'Reilly & Grath, 1983, p. 983; Public Employee Collective, 1983, p. 221).

Employee attempts to organize and bargain were again curtailed in 1947 when the Ohio Supreme Court announced in Hagerman v. City of Dayton (147 OS 313, 1947) that labor

unions "have no function which they may discharge in connection with civil service appointees" and that the city employer may not relinquish any of its powers to such an organization. The philosophy of this decision continued to serve as precedence in Ohio for the next thirty years.

The first draft of the Ohio public-sector labor relations legislation was readied in 1971 and proponents gained a considerable foothold in 1973 under Democratic Governor John J. Gilligan. However, the gains made were crushed by the Republican dominated Senate Commerce and Labor Committee, where the legislation died.

The outlook began to improve once again for public employees in 1975 when the Ohio Supreme Court in Dayton Classroom Teachers Association v. Dayton Board of Education, 41 OS (2d) 127 (1975), ruled that "agreements" once thought not to be binding were indeed binding. Although it was not required that employers bargain, once they did, the bargaining contract was binding. O'Reilly and Grath (1983) in their article, "Structures and Conflicts: Ohio Collective Bargaining Law for Public Employment," stated that should the contract "conflict with or purport to abrogate duties and

responsibilities imposed on it by law," the public employer has the right not to honor it (p. 983).

One year later judicial limitations were placed upon the type of public bodies that were allowed to enter into collective bargaining contracts with their employees. According to O'Reilly and Grath (1983), the legal reasoning for this might have been that the "power to enter into collective bargaining was created by statute alone and was not inherent in any particular employer" (p. 983).

Public collective bargaining legislation surfaced once again in 1975 and passed both houses of the state legislature after extensive lobbying. Republican Governor James Rhodes vetoed the bill, in part, because of concerns that the legislation would not reduce the number of strikes (Lewis & Spirn, 1983, p. 4) and although an attempt was made to override the veto, it failed. The contents of the bill were borrowed primarily from the 1970 Pennsylvania Employees Relations Act and were modified many times before being introduced again in 1977. Again, the bill passed both houses and was vetoed by Governor Rhodes. A second attempt at overriding the Governor's veto failed (Bumpass & Ashmus, 1985, p. 596-597; Ohio Public-Sector Collective, 1988, p. 586).

With the elections of 1982, the composition of the Ohio legislature changed considerably, resulting in a Democratic majority in both the House and the Senate. The collective bargaining bill passed quickly through the House because much of the same debate and lobbying efforts had been heard many times before during the previous decade. The bill, now designated as Senate Bill 133, was presented to the Ohio Senate on March 17, 1983. The Senate Commerce and Labor Committee voted on April 19 to recommend the bill to the full Senate. It narrowly squeezed though the Senate by a 17-16 vote three days later. During the month of June, Senate Bill 133 successfully cleared both the House Commerce and Labor Committee and the House of Representatives. Democratic Governor Richard Celeste signed the Bill on July 6, 1983.

Opponents of collective bargaining labor legislation were quick to claim that large campaign contributions were given to the Democratic candidate for governor, who was a proponent of public-sector bargaining legislation. Supporters of Senate Bill 133 countered with the fact that Governor Celeste was a known advocate of public-sector bargaining legislation and supported the 1977 legislation well before the 1982 electoral campaign (O'Reilly & Grath, 1983, p. 984).

The Act went into effect on October 6, 1983 with its lengthy and complex provisions becoming law on April 1, 1984. Although the Ohio Collective Bargaining Act granted selected public employees the right to strike, it forced Ohio public employers to "bargain collectively" with labor representatives.

SUMMARY

The national public sector collective bargaining movement began its struggle for recognition during the late 1800s with postal employees, teachers, and police officers being in the forefront for the struggle. It was not until the mid 1930s that established labor unions gained the status and recognition that they had tried so hard to achieve. Wisconsin was the first state to formally recognize public labor unions. Later in 1935, Congress passed the National Labor Relations Act which granted to some employees the right to organize and form unions. Exempted from this Act were employees of state and local governments.

Collective bargaining rights for public employees failed to grow during the 1940s, and, in fact, several states refused to acknowledge public employee unions. Other states,

including Michigan, New York, and Ohio enacted legislative measures prohibiting strikes for public employees.

The first state to statutorily grant government employees the right to organize and form unions was Wisconsin in 1959. Thereafter, similar measures were taken by the states of Connecticut, Delaware, Massachusetts, Michigan, and Minnesota. Efforts to create public employee labor unions continued during the next decades and by 1981 a total of 39 states had developed some type of collective bargaining legislation.

In Ohio, the topic of collective bargaining rights for public employees gained attention during the 1940s when the Ohio Supreme Court ruled that labor unions had no function regarding civil service employees, thus setting the tone for public employee collective bargaining in Ohio. It was not until 1971 that the first Ohio state public employee collective bargaining legislative measure was drafted and presented for vote. After 12 years and several attempts at passing such a measure, the Ohio Collective Bargaining Act went into effect on October 6, 1983. It set forth comprehensive guidelines for labor relations between public employees and public employers. It defined the rights and

obligations of both parties and established the procedures to be followed concerning the negotiation and arbitrary processes.

Prior to the establishment of the Act and immediately following it, much was written regarding the debate about such legislation and its actual applications. However, no scholarly material has been identified regarding the Act's impact on police management in Ohio.

CHAPTER III

STUDY DESIGN

The focus of the study was to identify changes in labor relations between police employer and sworn police employees that resulted from the 1983 Ohio Public Employee Collective Bargaining Law. The methodology used was exploratory in nature and drew from a variety of data-gathering strategies such as interviews, mail surveys, unobtrusive measures, secondary analysis, official statistics, and litigation history surrounding this law.

An exploratory methodology was selected because of the lack of any previous research regarding the impact of the Ohio Public Employee Collective Bargaining Act on Ohio police agencies. According to Rebecca F. Guy, Charles Edgley, Iltihaj Arafat, and Donald Allen in their book, Social Research Methods: Puzzles and Solutions, exploratory research is undertaken "to satisfy the researcher's curiosity and desire for a better understanding; to test the feasibility of undertaking a more comprehensive study; and to formulate a problem for more precise investigation for developing hypothesis (p. 103)." Its use is justified in this study

because the Act, signed in 1983, is still evolving, with some sections of it being contested at the Ohio Supreme Court level as well as the lack of available scholarly research or information regarding this topic.

Sample

The primary sample for this study was chosen specifically from those who were police administrators prior to the implementation of the Ohio Public Employee Collective Bargaining Law. This was done because it was believed that they were in a position to witness the changes brought to law enforcement through this Act. A total of 68 questionnaires were mailed to police chiefs throughout the state of Ohio. To encourage participation, a second questionnaire was sent to those respondents who did not reply to the initial mailing. An additional 22 surveys were mailed to police chiefs regardless of the number of years in office, raising the total to 90.

The original survey was then modified and sent to 30 police union officials and bargaining unit presidents throughout the state to further measure the impact of the Act. Attorneys who taught early classes about the Ohio collective bargaining law were contacted to explore their experience with

the Act and perceptions of impact. The Ohio Historical Society and Cleveland State University Institute of Labor Studies were also contacted to identify documented reports, special studies or surveys related to public employees. After several attempts to contact them no response was received.

Secondary sources included court cases, grievances, opinions of the state Attorney General, and rulings made by the State Employee Relations Board, all of which influence the collective bargaining process in Ohio law enforcement agencies.

Content and numerical analysis was proposed to identify measures of impact of the Act. These include:

1. The number of law enforcement grievances filed with the state board and by whom.
2. Analysis of case law associated with the relevant sections of the collective bargaining law.
3. Changes in the length (duration) of negotiated contracts.
4. The number of registered collective bargaining representative agencies that did not exist before 1983.
5. Observations by "experts" in the area of police collective bargaining relations.

The advantage to using this type of methodology is that it enables the sampling of a wide geographical area at a lower cost, less effort, and less time. Mail surveys further

eliminate interviewer bias-effects as well as affording "the respondent greater privacy and an opportunity to think out their responses, thus gaining more considered answers" (Hagan, 1982, p. 64). A disadvantage to using this exploratory methodology is the overreliance upon mail surveys for data. By incorporating unobtrusive measures such as court cases, statistics, and field reports, additional information is gathered to further supplement the research.

However, there are limitations to the use of exploratory research methods. One disadvantage of mail surveys is nonresponse. Other mail survey disadvantages include "lack of uniformity in response, slowness of response to follow-up attempts, the possibility that a number of respondents may misinterpret questions, and escalating costs if several follow-ups are required" (Hagan, 1982, p. 64).

The limitations of using grievances, court cases and SERB rulings include the problems of locating data, "the validity and reliability of such data, possible misinterpretation of codes, and other nuances in the data that may not have been of concern to the researcher" and the inadequate form of data may also serve as a problem (Hagan, 1982, p. 142). Because of these limitations and the realization that such research has not been undertaken previously, the study should provide guidance for future related research.

CHAPTER IV
ANALYSIS AND FINDINGS

In this chapter the data collected concerning the perceived impact of the Ohio Public Employee Collective Bargaining Law on labor relations between police employers and sworn police employees are reported. The methodology used was exploratory in nature and drew from a variety of data-gathering strategies such as social surveys, mail surveys, unobtrusive measures, secondary analysis, official statistics, and litigation history relevant to the laws.

This chapter is divided into four parts. Part I describes the litigation history of the law as it affects Ohio police departments. Part II examines the police management-union relationship from the standpoint of police administrators, and part III focuses on the police union-management relationship from the union/bargaining agent viewpoint. Part IV consists of insights, opinions, and professional observations of legal experts concerning the impact of the law on the changes in police employer-employee relationships.

The litigation history was identified and documented using sources from the State Employment Relations Board (SERB), commercially published annotated versions of the Ohio State Code, Attorney General Opinions, and court opinions.

The primary information source for part II was a mail survey of selected police officials who were employed as police chiefs prior to the implementation of the Ohio Public Employee Collective Bargaining Law. They were specifically chosen because it was believed that they were in a position to witness any changes brought to the law enforcement field through this statute. Additional surveys were then mailed to Ohio police chiefs regardless of tenure.

The original survey instrument was then modified and sent to police union officials and bargaining unit presidents throughout the state to further assess the impact of the act (part III of this chapter). The professional opinions of attorneys who taught early classes about the Ohio collective bargaining law and those who currently act as legal counsel representing either public employers or police unions were sought for part IV of this chapter. Surveys similar to the others were sent.

Part I: Court Cases and Litigation

The Ohio Public Employee Collective Bargaining Act is codified as Ohio Revised Code (ORC), Chapter 4117. The Act is divided into 24 sections beginning with section 4117 and ending with 4117.23. Each section relevant to law enforcement in Ohio is analyzed and discussed here.

RC 4117

Section 4117 concerns itself with the purpose, the legality and constitutionality of the legislation as it relates to public employees within the state of Ohio.

In Franklin County Law Enforcement Association v. FOP Lodge #9 (1988 SERB 4-33) the purpose of the Act was outlined as being necessary for the settling of disputes and representation issues between employers and employees. Additionally, in In re Dayton (SERB 85-006, 3-14-85) the Board stated that the Act was simply an exercise of state police power. The Ohio Supreme Court ruled the Act affected individuals in all counties making it a law of "statewide concern" (State ex rel Dayton FOP Lodge #44 v SERB, 22 OS, 3d, 1, 1986).

Because the Act is of "statewide concern," it is to prevail over charter city ordinances guaranteed in the Ohio Constitution, Article XVIII, section 7 and Ohio Constitution, Article XVIII, section 3 was determined in Twinsburg v SERB, (1984-86 SERB 418).

Finally, in Kettering v SERB, 26 OS (3d) 50, (1986), the Act was determined to be of "statewide concern" and affected all of Ohio, thereby prevailing over any city ordinances which define "supervisors" (who cannot engage in collective bargaining).

RC 4117.01

Section 4117.01 of the Act defines the terms ranging from what is a public employer to those included and excluded from coverage under this statute. In 1986, SERB ruled (In re Franklin County Sheriff, SERB 86-007, 2-26-86) that "public employers," as defined by RC 4117.01, do include legislative bodies and elected county officials. Therefore, a sheriff is considered to be a public employer. This section further identifies members of bargaining units that are included and excluded from coverage. Part-time employees with more than 45 days annually in a 7-year period are not considered to be "casual employee" and cannot be excluded from security under this law (In re Greene County Sheriff, SERB 85-019, 5-6-85). This section further establishes the fact that security officers at zoos, airports, parks, etc., are indeed "members of police departments" (Columbus v SERB, 1984-86 SERB 420, CP, Montgomery, 12-21-84).

In addition, sworn employees who work as dispatcher-secretaries and are not appointed from a civil service list are not viewed as a "confidential employee" and therefore cannot be excluded from a bargaining unit (In re Loveland, SERB 85-010, 3-28-85).

While section 4117.01 defines those who are eligible for inclusion in collective bargaining units, those excluded from eligibility are police sergeants, lieutenants, and captains because they are considered to be "supervisors." This was

challenged in In re Gahanna (SERB 85-052, 9-30-85) where bargaining units comprised of sergeants and lieutenants were permissible. This decision further grants collective bargaining rights to police and fire supervisors (except the chiefs and temporary acting chiefs) by exception "to the general denial by RC 4117.01(C)(7) of bargaining rights to management employees" (State Employment Relations Board, 1988, p. 7)

The Board in In re Central State University (SERB 86-031, 8-29-86) and in In re Office of Collective Bargaining (SERB 09-016, 7-13-89) ruled that police sergeants and lieutenants are not classified as supervisors or management-level employees. Employers then cannot object to a petition for voluntary recognition from a bargaining unit which seeks to include them. For those jurisdictions that classify sergeants, lieutenants and captains as supervisors who can be excluded from bargaining units, the decision of Kettering v SERB, 26 OS (3d) 50 (1986) gives RC 4117 the power to prevail over any city ordinances which classify them as such. In other words, where sergeants, lieutenants, and captains listed as "supervisors" in some jurisdictions cannot be denied a bargaining unit of their own because of the "supervisor" classification. RC 4117 takes precedence over these city ordinances and allows for collective bargaining rights.

RC 4117.02

This section of the Act created the State Employment Relations Board (SERB), which oversees the management and administration of the Act as well as overseeing all public sector labor relations and public employee personnel practices. Regarding Ohio police personnel practices, SERB cannot take the initiative on its own and investigate complaints but can only act once a charge has been filed (SERB v Warren County Sheriff, 1989 SERB 4-7, CP, Warren, 1-13-89). The decision made in In re Cuyahoga County Sheriff (SERB 85-021, 5-15-85) gives SERB the right to disqualify counsel because of conflicting interest between department and employees.

RC 4117.05

Section 4117.05 addresses the various methods by which an employee organization can obtain exclusive representation as the primary bargaining agent for public employees. Although villages with fewer than 5,000 are not required by law to bargain with their police departments, it cannot waive its exemption from this law by ignoring requests by unions for voluntary recognition (In re Dublin, SERB 86-034, 9-10-86). However, should an employee organization petition for recognition and fail to appear at the recognition hearing, the petition for representation will be dismissed (In re Hocking County Sheriff, SERB 85-047, 9-24-85).

RC 4117.06

Several conflicts have surfaced regarding Ohio law enforcement agencies and those units considered appropriate for collective bargaining. These conflicts have focused on the composition of members within a designated unit, the number of individuals necessary for membership, and what constitutes a majority vote.

Decisions made by SERB as to appropriate bargaining units are protected from appeal under RC 4117.07 as determined in State ex rel Dayton FOP, 22 OS (3d) 1 (1986). In a dispute with the Franklin County Sheriff (SERB 86-007, 2-26-86), it was clarified that an elected official is the sole "employer" and does not need permission or agreement from the county commissioners in order to negotiate with employees. The composition of employee bargaining units in recent SERB decisions is defined in In re Wauseon (SERB 88-019, 12-23-88) where it was decided that bargaining units contain as little as one member where that member cannot be included in a union with other employees because of rank or sworn law enforcement status. It was further decided in In re Warren County Sheriff (SERB 85-016, 5-1-85) that correction officers (civilian) and civilian dispatchers may be included together in the same collective bargaining unit.

A Seneca County ruling (In re Seneca County Sheriff, SERB 84-005, 10-1-84) allowed the combining of deputies, transportation officers, and dispatchers into the same unit

providing that they all are employed full time as stipulated under RC 311.04. Likewise, In re Loveland (SERB 85-010, 3-28-85) provided that a sworn officer serving as secretary to the chief and as dispatcher may be included into a bargaining unit with "patrolmen below the rank of sergeant." The 1987 SERB ruling, University of Cincinnati v SERB (1987 SERB 4-25, CP, Hamilton, 2-9-87) provided for the inclusion of both police and fire supervisors into the same bargaining unit as long as they are not specifically defined as "supervisors." Acting chiefs under RC 4117.06 are not forbidden in bargaining units (In re Loveland (SERB 85-026, 6-14-85).

RC 4117.07

Section 4117.07 concerns representation election procedures. Included under this section is union decertification. One relevant issue related to the law enforcement field was decided in In re Cuyahoga Sheriff (SERB 85-021, 5-15-85). In this case, it was determined that a law firm would be disqualified from representing a bargaining agent if it could be shown that the same firm represents a rival union.

RC 4117.08

The issue addressed in this section is the scope of collective bargaining. Items pertaining to the law enforcement arena include residency requirements, content of

management rights and promotional criteria. Under RC 4117.08, residency requirements as a condition of employment are considered to be an appropriate collective bargaining issue (In re St. Bernard, SERB 89-007, 3-15-89).

Management rights under this section do not include the "right" to impose other terms on a contract beyond what is stated in the contract (Deeds v Irontown, 48 App, 3d, 7; 548 NE, 2d, 254; Lawrence, 1988). In Lakewood v SERB (1990 SERB 4-35; 8th Dist Ct. App, Franklin, 7-4-90), the court ruled that when a collective bargaining contract specifically states that a city has the right to determine scheduling, the city cannot unilaterally change the scheduling system without notifying the other parties. Finally, in Columbus v SERB (190 SERB 4-60; 10th Dist Ct. App, Franklin, 7-4-90) it was determined that any civil service rules enacted under a city charter cannot interfere with the employee bargaining unit's right to negotiate standards for promotions.

RC 4117.09

The content of collective bargaining agreements and required provisions are outlined in section 4117.09. This section further stipulates that collective bargaining agreements be put in writing, contain a grievance procedure, a dues "check off" provision and have a duration period of less than three years.

Collective bargaining provisions may be enforced by the common pleas court and remedies can be sought under this section (Lakewood v SERB, 1990, SERB 4-35, 8th Dist Ct App, Cuyahoga, 6-21-90). Although agreements are enforceable, cities when entering into arbitration do not legally delegate powers away (Cleveland Police Patrolman's Association v Cleveland, 24 App, 3d, 16; 24 OBR 38; 1984-86 SERB 393; 492 NE, 2d, 861, Cuyahoga, 1985).

In Stark County Sheriff v Personnel Board of Review (1984-86 SERB 455, Ct. Claims, 2-7-86), it was decided that where binding arbitration is provided for, that the control of the state board concerning disputes is disregarded.

One area of constant contention is that of what to do with union dissenter fees. In McGlumphy v Akron FOP (633 F Supp 1074, 1986), it was determined that any union procedures for rebating dissenter fees for purposes other than bargaining, grievances, and contract administration, etc., is a violation of dissenter's first-amendment rights. However, if the fees are to be used for other purposes than bargaining, these purposes must be disclosed, verified by an auditor, and the union must notify the dissenter about the rebate procedure and fairly address any objections raised by dissenter. The McGlumphy decision suggests that dissenter fees should be deposited into interest bearing accounts. This, in turn, lets officials figure the amount of fees to be returned and at the same time render a prompt decision regarding these returns.

regarding these returns. It was decided that this case is not within the jurisdictional review of SERB.

RC 4117.10

The consequences of a conflict between a collective bargaining agreement and a state law are the concerns of RC 4117, Section 4117.10. The first issue to be addressed in this section is the contention over who is to be considered the employer of county employees. In In re Franklin County Sheriff (SERB 86-007, 2-26-86), it was decided that while county commissioners are in one sense the "employers" of those they hire directly, they do not have the power to negotiate. The Franklin County Sheriff decision continued by stating that the county commissioners and sheriff are not joint employers. The sheriff is the sole employer. This SERB decision interpretation also makes it clear that an elected county official is the sole employer of those working in his office and does not need to enter into an agrement with the county commissioners unless a law specifies doing so. This is evidenced in RC 4117.10(C) where collective negotiations are discussed. This was interpreted as meaning that negotiations are not to be jointly conducted by the office holder (sheriff) and the county commissioners.

The second issue addressed in section 4117.10 concerning collective bargaining and Ohio police agencies is that of dispute resolution and grievances. The Board in In re Warren

County Sheriff (SERB 88-014, 9-28-88) ruled that an employee who remarks that he will seek legal action if subjected to discipline is not being insubordinate and has the right to redress grievances.

In Stark County Sheriff v Personnel Board of Review (1984-86 SERB 455, Ct. Claims, 2-7-86), it was determined that the supervision of the state personnel board of review concerning dispute resolutions is not valid where binding grievance arbitration is appropriate. Prior to grievance arbitration, a public employer's right to a hearing before SERB is an adequate remedy for legal recourse as decided in Franklin County Sheriff v FOP Lodge #9 (1989 SERB 4-66, CP, Franklin, 2-10-89). Should arbitration proceedings go slowly and it is evident that one party is intending to appeal, the party intending to appeal cannot bypass the administrative process and proceed directly to court but must continue through the proper steps of the grievance arbitration procedure.

The final issue in section 4117.10 is that of salary differences and union dues deduction. SERB has determined that salary differences between patrol officers and court service officers working within one department is not something that could be determined by a simple mathematical formula. Instead, it is a matter to be discussed between employer and employee (In re Nicolaci, SERB 89-003, 10-16-89).

In collective bargaining agreements where employers are required to deduct union dues from paychecks, it has been determined that employers must accept signed deduction forms from the union, even if the employer did not see them being signed or suspects that it was not done voluntarily (In re Clermont County Sheriff, SERB 89-024, 10-5-89). Should the employer fail to do this, he would be guilty of unfair labor practices under RC 4117.11(A)(1) and 4117.11(A)(5).

RC 4117.11

Section 4117.11 is perhaps one of the Act's most important sections. This section defines eight common unfair labor practices that employers and bargaining unions are to avoid. Those practices commonly disputed by law enforcement agencies include such things as disciplinary practices, termination of employment, the refusal to execute a conciliator award, and discrimination for union activity involvement.

In Franklin County v SERB (1990 SERB 4-51, 10th Dist Ct. App, Franklin, 8-28-90), it was decided that where an employer's reasons for unfair labor practices were not found to be mere pretexts or made with mixed motives, there is no reason to question the validity of the "in-part" test. In In re Warren County Sheriff (SERB 88-014, 9-28-88) the Board suggested that public employees faced with discrimination by their employers should pursue legal recourse under RC 4117.11

and 4117.12 before resigning. The case in question here involved the delaying of disciplinary action by an employer in order to prevent an employee from engaging in union activities.

This same decision also dealt with unfair labor practices related to discrimination against employees for their involvement in union activities. It was determined that discrimination against an employee because of union activity must first "be proven by a preponderance of evidence" (In re Warren County Sheriff, SERB 88-014, 9-28-88). Other reasons justifying the accusation of discrimination are that the employee was a public employee at the time of discrimination, that the employee was involved in union-related activities, and that the employer took action against the employee without a chance of rebuttal. With all of these factors combined, an inference was made that the discrimination was union-activity-related and political in nature.

Discrimination based upon union activity involvement can be further proven if it is shown that the employee had been evaluated as a good worker during the previous years, that the employee was not seriously disciplined prior to a union representation election petition filing, that the employee was repeatedly disciplined for minor incidents by superiors known to oppose unions, and finally, that the dismissal of the employee occurred before the election (In re Warren County Sheriff, SERB 88-014, 9-28-88). It does not need to be proven

that the employer opposes unionism in general to be guilty of unfair labor practices under RC 4117.11. Sufficient evidence exists when it is proved that the employer opposes one union (In re Warren County Sheriff, SERB 88-014, 9-28-88).

Many times an employer is guilty of unfair labor practices when improperly disciplining or discharging an employee from duties. As determined in Franklin County Sheriff v SERB (1990 SERB 4-51, 10th Dist Ct. App, Franklin, 8-28-90), indirect proof may be used to determine an employer's motives for delaying the disciplinary process in order to prevent an employee from engaging in protected union activity. Necessary "proof" includes departure from routine disciplinary procedures, the failure to give written notice prior to discipline, discipline given after employee exercise of rights; employer's inconsistent explanations for a discipline, and a display of anti-union feelings by employer. Thus, any discipline given must be done within close proximity to the activity meriting discipline, otherwise it can be said that the discipline was improperly motivated.

One area of unfair labor practices often disputed by law enforcement agencies is unfavorable working conditions. One such case exemplifying this was SERB decision 88-014 (In re Warren County Sheriff, 9-28-88). In this case, it was shown that serious discipline was administered for minor rule infractions. The sheriff also stated that certain pressures would ease if the deputy abandoned his support for the union.

It was also proved that threats were made as to the unavailability of backup should it be required. Included in this was the fact that the sheriff publicly stated his dislike of the deputy and that the watch commander went out to get doughnuts instead of answering the deputy's calls for assistance. With working conditions such as this, the deputy sheriff is protected under RC 4117 when he can show that he was "constructively discharged" and that the sheriff was motivated by the employee exercising rights guaranteed by RC 4117 (In re Warren County Sheriff, SERB 88-014, 9-28-88).

RC 4117.12

RC 4117.12 describes the procedure to be followed by SERB in processing and deciding charges of alleged unfair labor practices. Also under this section, SERB has the authority to determine appropriate remedies for unfair labor practices (Franklin County Sheriff v SERB, 1990 SERB 4-51, 10th Dist Ct. App, Franklin, 8-28-90). Inquiries by SERB can only be made if charges are filed with SERB under OAC 4117-7-01(A) within 90 days after the occurrence of the action claimed to be unfair (SERB v Warren County Sheriff, 1990 SERB 4-41, 12th Dist Ct. App, Warren, 7-79-90). SERB cannot issue notice for a hearing for any unfair practices occurring more than 90 days before a charge was filed (Highway Safety Department State Highway Patrol v SERB, 1989 SERB 4-76, CP, Franklin, 6-13-89).

Once SERB has determined that a possible unfair labor

practice might exist, SERB will not rearrange the chronological order of events submitted by the hearing officer to better suit the parties (In re Warren County Sheriff, SERB 88-014, 9-28-88); change the tone of the findings of fact if they are presented in a neutral way (In re Warren County Sheriff, SERB 88-014, 9-28-88); add any information to the hearing officer's report where the proposed additions are not obvious from the record; or interfere with the credibility of facts (In re Warren County Sheriff, SERB 88-014, 9-28-88).

RC 4117.13

This section is concerned with the scope and authority of SERB pertaining to unfair labor practices. While SERB's power and authority are outlined in RC 4117.02, many times issues are presented which fall beyond the authority of the State Employment Relations Board to act upon. These issues are therefore brought before common pleas courts when "clear violations of the law are obvious" (Gahanna v FOP Lodge #9, 1988 SERB 4-37, CP, Franklin, 3-24-88). An example of this is the application of RC 325.17 regarding the legal rights and the required involvement of employers and employees in the negotiating process. This is not a matter to be decided by SERB (Franklin County Law Enforcement v FOP Lodge #9, 1990 SERB 4-4, 10th Dist Ct. App, Franklin, 11-16-89). This falls under the jurisdiction of the common pleas court.

Appeals processed to the common pleas court can be made under RC 4117.13. This applies instead of the standard RC 119.12, made applicable by RC 4117.02(M) (SERB v Warren County Sheriff, 1990 SERB 4-41, 12th Dist Ct App, Warren, 7-9-90). When a court of common pleas hears an appeal taken from a SERB order, the conclusions made by SERB will be taken under consideration when making a decision (SERB v Warren County Sheriff, 1989 SERB 4-7, CP, Warren, 1-13-89). Should more evidence be needed to support a finding or further a case, a common pleas court can remand a case to SERB under RC 4117.13(B) (Franklin County Sheriff v SERB, 1990 SERB 4051, 10th Dist Ct App, Franklin, 8-28-90).

RC 4117.14

The negotiating procedures to be followed when entering into binding arbitration are discussed in section 4117.14. One relevant issue under this section is the requirement of the safety forces to submit to binding arbitration. At first the condition that safety forces resign themselves to arbitration under RC 4117.14(I) was ruled to be constitutional and did not violate a city's right to home rule (Rocky River v SERB, 1984-1986 SERB 408, 8th Dist Ct App, Cuyahoga, 11-2-86). This board decision, however, was overturned by the Ohio Supreme Court in 1988 where it was determined that RC 4117.14(I) does indeed violate a city's right to home rule under the Ohio Constitution, Article XVIII, sections three and

seven (Rocky River v SERB, 430 OS, 3d, 1; 1989 SERB 4-41, 539 NE, 2d, 103, 1989). This decision was based upon the determination that RC 4117.14(I) unlawfully delegated a city's power over wages and benefits to binding arbitration. While RC 4117.14(I) is no longer valid, the procedures defined in RC 4117(D) thru 4117.14(G) remain in effect (River v SERB, 43 OS, 3d, 1; 1989 SERB 4-41, 539 NE, 2d, 103 (1989). This binding decree in RC 4117.14(I) is not an illegal delegation of authority since it "promotes orderly public-sector labor relations, provides for judicial review, and contains procedural standards to be met" (Rocky River v SERB, 43 OS (3d) 1, 1989 SERB 4-41, 539 NE (2d) 103, 1989).

Conciliator awards and dispute resolution procedures are also included in RC 4117.14. In Rocky River v SERB (1984-86 SERB 408, 8th Dist Ct App, Cuyahoga, 11-20-86), it was determined that a "legislative body can direct other government selected individuals to enforce specified policies such as conciliator under RC 4117.14 to determine the final offer award and the standards from which to guide the conciliator are found in RC 4117.22 that RC 4117 uses to promote orderly and constructive relationships between all public and their employers" (Rocky River v SERB, 1984-86 SERB 408, 8th Dist Ct App, Cuyahoga, 11-20-86). This right of a conciliator to enforce awards and settle disputes of safety officers in final offers is said not to "contravene municipal powers of self-government guaranteed by Ohio Constitution,

Article XVIII, section 3 (Rocky River v SERB, 1984-86; In re SERB v Licking County Sheriff, SERB 88-003, 4-5-88).

With regard to conciliator awards, the word "award" when appearing in RC 4117.14(H) is invalid where referring to a binding award by a third party (Rocky River v SERB, 43 OS, 3d, 1; 1989 SERB 4-41; 539 NE, 2d, 103, 1989). An award however, can be amended or modified by either party at any time under RC 4117.14(G)(11) (Licking County Sheriff v SERB; 1988 SERB 4-138, CP, Licking, 11-14-88). An award, can also be taken away under RC 2711.10(D) where an arbitrator overrides the power and authority given under RC 4117.14 (FOP Ohio Valley Lodge #112 v SERB, No. CA 87-04-031 12th Dist Ct App, Clermont, 1-26-87).

In re SERB v Licking County Sheriff (SERB 88-003, 4-5-88), concluded with SERB ruling that an employer who refuses to carry out a conciliator's award (without union agreement) is guilty of "coercion, interference, and refusal to bargain under RC 4117.22(A)(1) and 4117.14(A)(5)" (In re Licking County Sheriff, SERB 88-003, 4-5-88). This does not, however, include the employer who refuses to put contested awards into action. They are not guilty of committing an unfair labor practice under RC 4117.11(A)(1) providing that the uncontested parts of the award are put into effect (In re Clermont County Sheriff, SERB 87-015, 7-21-87).

RC 4117.17

Section 4117.17 focuses on the formal charges, petitions, complaints, etc., of SERB which are considered to be public record and available for inspection. The files and proceedings of SERB "prepared in the course of an unfair labor practice under Ohio's public record law are not considered confidential" (Franklin County Sheriff v SERB, 1990 SERB 4-15; 10th Dist Ct App, Franklin, 8-28-90). The reference of "other proceedings instituted" by SERB in RC 4117.17 are considered to be public record concerning unfair labor practices. RC 149.43(A) gives SERB the authority to withhold information from the public if considered to be an exception to the rule (Franklin County Sheriff v SERB, 1990 SERB 4-51; 10th Dist Ct App, Franklin, 8-28-90). This same decision found material gathered during unfair labor practice investigations "law enforcement investigatory records" for purposes of RC 149.43. Because RC 4117.12 calls for SERB to "investigate violations, the burden of proof to exempt law enforcement investigatory records from disclosure under RC 149.43(A)(2) falls upon the agency refusing to cooperate (Franklin County Sheriff v SERB, 1990 SERB 4-51; 10th Dist Ct App, Franklin, 8-28-90).

RC 4117.22

Section 4117.22 is called the Liberal Construction Clause. This section provides that the Act "be construed

liberally to accomplish its purpose of promoting orderly and constructive relationships between all public employers and their employees" (Lewis and Spirn, 1984, 117). As applied to law enforcement, the decision of Rocky River v SERB (1984-86 SERB 408; 8th Dist Ct App, Cuyahoga, 11-20-86) has determined that a legislative body can direct selected individuals of other governments to enforce policies such as conciliator awards under RC 4117.14 and the standards to guide the conciliator under RC 4117.22 are used to "promote orderly and constructive relationships between all public employees and their employers."

In summarizing Part I, the 1983 Ohio Public Employee collective Bargaining Law has impacted police departments throughout the state in three areas: "forced" bargaining, contract length, and required provisions. Section 4117.01 of the Act requires virtually every public employer in the state to bargain collectively and negotiate in good faith at reasonable times and places. It mandates that municipalities and jurisdictions with populations of 5,000 and more formally recognize bargaining unions who wish to represent employees in contract negotiations. Thus, police adminstrators in Ohio must recognize their jurisdiction's obligation to negotiate with employee organizations chosen by employees.

Section 4117.09(D) limits the duration of collective bargaining agreements (in years) to no more than three. This impacts police management in terms of time and energy. By

putting a time limit to the duration of contracts, police administrators know the time frame in which they have to work. This can either limit their power to manage or encourage it by giving them power to implement change and/or new ideas.

The third area of impact is evident in section 4117.08 where the scope of bargaining; management rights; and mandatory, permissive, and prohibited subjects are stated. This impresses management because it includes mandatory provisions which are those concerns which must be bargained, such as wages, while at the same time limiting those things which cannot be bargained for, such as the rating of civil service candidates.

Part II: Police Management-Union Relationship

The following section is a compilation of the thoughts of 43 Ohio police administrators who responded to the Collective Bargaining in Ohio Law Enforcement Agencies Questionnaire (see Appendix B). A total of 90 questionnaires were sent.

The average age of the respondents was 50 with the mean level of college education being three years. The number of sworn officers in the departments surveyed varied from as few as nine to as many as 490. Of the 43 departments, the mean number of bargaining units representing sworn personnel was two.

According to the responses, a formally recognized police union existed prior to the implementation of the Act in 22 of the 43 departments. There was no difference between the size of the department and whether or not a police union existed prior to 1983. Of those that did exist before the Act, the conditions of employment have changed in the area of union representation. The three administrators who elaborated about this issue explained that a "forced" bargaining atmosphere was created with the unions assuming the role of a legal representative rather than acting as an "intermediary helping to defuse" issues of a sensitive nature.

The police administrators agreed that the internal morale of the officers did not change with the coming of the collective bargaining act. Seven departments reported an increase of morale and six departments reporting a decrease. It was interesting to find that one administrator noted that officer morale decreased only during negotiations and remained constant throughout the rest of the year.

The Act, which obligates public employers in jurisdictions of 5,000 or more to bargain in good faith, had no effect upon the relationship between the administration and the officer union, according to the respondents. Of the 43 surveys, 10 replied that the relationship deteriorated and six agreed that the overall relationship had improved.

The average length of the current collective bargaining contract was three years. This possibly has been influenced

by the provisions of the Act which mandate that "no agreement shall contain an expiration date that is later than three years from the date of execution" (RC 4117.09(D)).

One of the most important clauses contained in a collective bargaining agreement is that of grievance procedure resolution. According to the survey, police administrators reported that approximately 1% of the work week is spent in resolving grievances. The breakdown of responses appears in Table 1.

TABLE 1

Time Spent to Resolve Grievances Per-Week

Frequency	% of work week resolving grievances
1	.005
1	.01
1	.02
1	.03
1	.05
1	.2
7	1
1	1.2
2	2
1	3
1	5
1	10
1	20
1	50
22	N/R

N/R = No Response

N = 43

Twenty-one police administrators believed that the number of internal grievances have remained fairly constant since the passage of the Act. However, 11 police managers reported an increase, whereas six indicated a decrease in the number of grievances filed. It is not clear whether the Act affected these responses, although the Act requires the establishment of a grievance procedure (RC 4117.09) in any negotiated agreement.

As a result of certain required provisions, Ohio police managers reported mixed feelings concerning their ability to manage various factors within the agencies. Table 2 shows the range of diverse responses given.

TABLE 2

Ability to Manage

	Reduced	Improved	Not Applicable	N/R
Scheduling officers:	16	5	16	
Scheduling of shifts:	16	13	8	
Discipline of officers:	16	12	7	2
Training (in-service):	7	9	21	
Discretion in fiscal allocations:	10	3	24	
Responding to citizen demands:	7	6	24	
Control of overtime:	23	4	10	
Setting goals and objectives:	11	6	19	1

N = 37
No response from 6

Police administrators were asked whether or not any management rights were lost with the onset of the Ohio Public Employee Collective Bargaining Act. The Act stipulates that public employers are not required to bargain on subjects considered to be reserved to management. While public employers are not required to bargain over "rights" or those matters identified in the Act (RC 4117.08), they must negotiate decisions which "affect wages, hours and terms and conditions of employment." This language however is confusing rather than explicit and is more often than not the center of conflict and negotiation. To safeguard "management rights," they are often included in collective bargaining contracts. Of the responses given, 13 administrators believed that they lost management rights. These rights include the areas of discipline, scheduling, overtime, and dress code.

When asked to describe the most "radical changes" occurring in their departments since 1983, police managers listed such things as the negotiation of time off, the required time needed to negotiate contracts, the impact of seniority on scheduling, and (most frequently reported) hospitalization and employee benefit packages.

Unusual changes in agency collective bargaining agreements which have changed the overall negotiating environment within Ohio police departments have been in the area of union representation. For example, police unions (instead of an officers association) are growing in popularity

popularity and now represent police officers. There is now a separate union for ranking officers and correctional personnel. Contrary to what was expected, police administrators reported a strong professionalized/formalized negotiating atmosphere. Relationships were described as being heightened, negotiating time was used wisely and both parties negotiated rather than fought for items.

One area which has changed in the overall negotiating environment within Ohio police departments is that of grievance procedures. RC 4117.09 provides that a grievance procedure be incorporated into all collective bargaining agreements. Therefore, all collective bargaining agreements negotiated after 1983 contain an avenue for grievance resolution. For the safety forces arena, binding arbitration is mandatory. Secondly, the grievance procedure is written down and available to all employees.

In spite of the "forced" negotiating procedures for Ohio public employees, the management-union negotiating atmosphere prior to the Act was described as being relatively one-sided with the city adopting a "take it or leave it" attitude resulting in "after contract" bitterness. Now both parties are obligated to bargain in good faith and perhaps come away from the table with a feeling of gaining something rather than losing everything.

When asked their professional concerns for the future of collective bargaining in their agencies, the police

administrators listed higher salaries and excessive health benefits as being a problem for local tax dollars to support. Time was another issue in which administrators believed would adversely affect collective bargaining. It was noted that too much time was devoted to "nonsense" issues. A third concern was that of loss of management rights. Administrators believed that management rights would be eroded or handed up over to police unions. Finally, the issue of police professionalization was identified as a concern of these respondents. Whether or not collective bargaining will make police departments more "professional" and the identification of the police with other occupations as being professionalized was again listed but this time as a future concern.

The police administrators were asked to make recommendations for changes to the law that would promote professional police management. Issues identified by them included the management rights provision (RC 4117.09), employee organization activities (RC 4117.19), and the power and authority of the State Employment Relations Board (RC 4117.02; RC 4117.14).

Questions were raised by the administrators pertaining to management rights because they were worried that the power to manage the organization was going to be handed over to the employees and the union that represents them. The ever-increasing power of the unions was the second largest concern. Finally, police administrators throughout the state were

bothered by the law and the strength of the State Employment Relations Board in the investigation and handling of unfair labor claims. SERB was perceived as pro-union and anti-management by nature. Three administrators suggested that the Ohio collective bargaining law be repealed because it does more harm than good to Ohio police departments. One administrator went so far as to suggest that smaller departments be given the right to strike instead of submitting to binding arbitration in order to call attention to existing problems.

When asked for any additional comments regarding experiences or concerns with collective bargaining as they believed that it affected the police administrator's job, three of the managers looked forward to legislation that would mandate higher education for Ohio police officers. Five administrators were concerned that collective bargaining forces the policing occupation to remain at the blue-collar level and questioned whether or not collective bargaining is necessary in this field. Other negative concerns included the extinction of the police administrator position with the departments being run entirely by employees and/or citizens and the fear that employees will eventually "out-price themselves" out of a job if things continue to go as they have been.

Part III: The Police Union-Management Relationship

This section examines the responses of 12 police union representatives (out of a sample of 30) who completed a collective bargaining survey similar to the questionnaire sent to Ohio police managers (see Appendix C).

The average age of the respondents was 40 with the mean level of formal education being two years of college. The number of sworn officers in the departments they represented varied from as few as 10 to 1,400. Like section II, many of the departments had two bargaining units. Formally recognized police unions existed prior to the Act, in nine of the 12 agencies who returned surveys. A major change occurring since 1983 was in the choice of employee bargaining representation with larger organizations such as the FOP and OPBA replacing smaller (and local) police associations.

According to the respondents, the internal morale of the officers either increased or remained the same since the passage of the Ohio Public Employee Collective Bargaining Law. This might be partially attributed to the fact that police officers believe that they are being fairly represented and supported. Union officials reported that the relationship between the officers' union and administration has either improved or remained the same. The current contracts are binding for an average of three years to conform to the standards provided for in RC 4117.09(D). Generally, the term

(in years) of negotiated contracts increased from two to three years according to the responses given.

The grievance procedure is perhaps one of the most controversial sections in any collective bargaining agreement. According to the union representatives, the percentage of time and energy (percentage of work week) spent on resolving grievances ranged from 5.1% to 70.1%. The number of internal grievances have increased as well. In spite of the high number of grievances and time spent trying to resolve differences, the union officials agreed that the overall negotiating atmosphere improved or remained the same.

Table 3 depicts the responses of police union representatives concerning selected issues and the perceived impact of the collective bargaining statute.

TABLE 3

Gains Made Through Collective Bargaining

	Reduced	Improved	Not Applicable
Scheduling officers:	1	10	0
Scheduling of shifts:		11	0
Discipline of officers:	1	9	2
Training (in-service):	2	5	3
Discretion in fiscal allocations:	1	5	4
Responding to citizen demands:	1	4	4
Control of overtime:	2	10	0
Setting goals and objectives:	1	6	3

N = 12

Union officials were asked whether or not any management rights (those rights specifically reserved for management) were gained by the unions or employees. The most frequently "gained" rights were made in the areas of overtime, scheduling, discipline, and grievance investigation.

Since the law was implemented in 1983, the most "radical changes" occurring in collective bargaining contracts, according to union representatives, were made in the areas of salary, benefits, working environment, and discipline. Other changes include mandatory drug testing and the destroying of detrimental paperwork from personnel files. One unusual contract provided that all major decisions be "run by" the union for approval prior to implementation.

Union representatives saw changes made in departmental grievance procedures since 1983. These included the formal documenting of procedures for all employees to have, that safety forces must now submit to binding arbitration as a last resort, a grievance procedure where there was none previously, and the ability to seek a neutral third party to fairly evaluate disputes.

The representatives of police unions described their union-management negotiating atmosphere in their departments prior to the Act as very poor or non-existent. Since the Act, cities are being forced to maintain meaningful labor/management relations. Agents from larger departments reported good relations with management. Most likely, this

is attributed, in part, to the fact that larger cities had some type of collective bargaining procedure prior to the Act.

Professional concerns for the future of collective bargaining in their agencies were expressed as positive. Many welcomed the new law because it gave them a chance to let their voices be heard. Other concerns included worries of police departments becoming less professional by involving themselves in excessive disputes and union-antagonism from city administrators and an almost "we must win" attitude from present union leaders.

One suggestion solicited from police union personnel to modify sections of the Ohio Public Employee Collective Bargaining Law included the addition of a Police Officer's Bill of Rights, sections which would pertain to the defense and indemnification of police officers in civil lawsuits. Another concerned the process of fact-finding, specifically modifying the voting procedure which overturns the fact-finding process (RC 4117.14).

Additional responses regarding experiences or concerns with collective bargaining as affecting the police union official's job included the fear of politicians becoming too involved and shutting the union out of the process altogether. Others have called the police union movement infantile and still in the developmental stages with much to be learned.

Part IV: Opinions of Legal Experts Throughout Ohio

Survey questionnaires (see Appendix D) were mailed to 15 selected attorneys throughout the state soliciting their input regarding Ohio's Public Employee Collective Bargaining Law. They were selected because they were quite familiar with the law in their capacities as either instructors, consultants, union representatives, or legal counsel to SERB. Questionnaires were returned by nine respondents.

The attorneys agreed that the overall relationship (from their perceived observation) between the police administration and police officers' union has remained the same.

Although Ohio's collective bargaining law (RC 4117.09(D)) limits collective bargaining contracts to three-year terms, legal experts believe that they have seen the term of negotiated contracts decrease. Furthermore, the overall "negotiating environment" between administration and its police officers has remained the same or improved.

Professional opinions regarding the loss of management rights because of this Act indicated that police departments and public employers in general are being far more restrictive on implementing the policies since anything affecting wages, hours, and terms of employment MUST be negotiated. The level of restriction depends on the language in the agreement because many times public employers who negotiate their own contracts have problems understanding the implications of what they have accepted.

According to the legal experts, the most radical changes in police collective bargaining agreements since 1983 have occurred in the areas of internal investigations and discipline. For example, disciplinary procedures have become much more sophisticated, allowing for union representation at every level, often restricting the use of polygraphs, limiting the extent to which discipline can be used, and requiring that citizen complaints be committed to writing before an investigation occurs.

Only one attorney elaborated on the question which asked for unusual changes in contracts which changed the overall negotiating environment in police departments. It was believed that with mandated higher education for police officers now becoming increasingly popular, negotiators for both sides must now become more professional as well as educated in order to meet the demands of both parties.

Another respondent indicated that police personnel are becoming more and more professional in the negotiating field and that the approach (since 1983) to negotiating the grievance procedure has changed in two major ways. In 1985, the United States Supreme Court decided in Cleveland Board of Education v Loudermill (651 F Supp 92, 1985) that a public employee has a right to a pre-disciplinary hearing. This has been incorporated into a number of grievance procedures. Secondly, binding arbitration is generally viewed by unions as an indispensable part of any grievance procedure.

The respondent further stated that the Act has affected in a positive way the general management-union negotiating atmosphere in those departments which have administrators who accept the police unions. When employees feel supported, morale is higher. Negative impacts surrounding the negotiating atmosphere were not reported.

The respondents listed union competition, economic concerns, and job preservation as professional concerns for the future of collective bargaining in Ohio police departments. An example of challenges which pressure changes in collective bargaining, in particular union competitions, are those police officers dissatisfied with management who misdirect their frustrations to their bargaining agents. This forces them to pursue grievances which they would not ordinarily pursue, and gives management the opportunity to play one union against another.

Suggestions to either modify or change parts of the Ohio collective bargaining law in order to promote professional police management in Ohio include section 4117.14(G)(11) which provides that in conciliation, a conciliator may not grant an economic increase during the fiscal year in which the conciliation was ordered, was said to be unworkable because it hinders effective negotiations and serves no useful purpose. In many agreements, this section is often modified by mutual agreement of the parties.

Section 4117.02 is another area which could be modified. Many times the State Employment Relations Board machinery is too slow and cumbersome. The time consumed in the investigation of unfair labor practices is often too long and the investigations themselves suspicious.

Section 4117.08(C), dealing with management rights, is another choice which was submitted as a possible area for change because more latitude to implement change was believed necessary if management was to survive.

Lastly, sections 4117.02 and 4117.13, which deal with the adjudication appeals process was a thought to be in need of better refinement.

Summary

Part I of Chapter Four examined the litigation history of the Ohio Public Employee Collective Bargaining Law as it affects Ohio police departments. Sources providing information for this section were publications from the State Employment Relations Board (SERB), commercially published annotated versions of the Ohio State Code, Attorney General Opinions, and state court opinions.

Surveys were mailed to police administrators and police union representatives. They were almost identical. The only difference between them was word order within sentences. They did ask the same questions in order to gain insight from both sides.

When comparing and contrasting the responses of the administrators and union officials, similarities were found. Areas of mutual concern impacted by the 1983 law included a higher percentage of grievances filed; the gain/input of employees into areas of scheduling, overtime, and discipline; and the deprofessionalization of police departments because of the law.

Both the administration and employee bargaining unit representatives reported a higher number of internal grievances filed. This could be explained by the presence of a required grievance procedure (in writing) now contained in every negotiated collective bargaining contract. Where once there were no avenues for grievances, the 1983 law provides an outlet for grievances to be met.

The erosion or loss of certain rights once specifically reserved for management was reported in both the surveys from the police managers and the police union leaders. Both sides agreed that the union-employees had gained input into areas of scheduling, overtime work/including compensation, shift rotation, and employee discipline procedures.

Perhaps the most surprising similarity found between the two sides was the expressed concern of the "deprofessionalization" of the policing field because of the "forced" and many times heated negotiating atmosphere. Professionalization, it was reported, is hard to achieve when constant antagonism and petty discrepancies continue to pull

apart the sides instead of pushing them closer to reaching an agreement.

Similar questionnaires were sent to attorneys with the legal expertise needed to examine the law and report on its impact on Ohio police departments. This was done primarily to solicit answers from a third party in order to gain greater insight into the "our side/your side" picture. Nine surveys were returned.

The legal experts agreed that the overall relationship between the police administration and police officers' union has remained the same. Although the Act limits the term of contracts to no more than three years, the attorneys polled believed that they have seen a decrease in the number of years that contracts are binding. In addition, the overall "negotiating environment" between administration and the police officer union has remained the same or improved.

Professional opinions regarding the loss of management rights because of this Act have indicated that police departments and public employers in general are being far more restrictive in implementing managerial policies because anything affecting wages, hours worked, and terms of employment must be negotiated and put into the collective bargaining agreement.

Radical changes since the implementation of the law are evident in the areas of discipline and grievance procedure. For example, there are now grievance procedures in every

collective bargaining agreement. Secondly, employees now have the right to a pre-disciplinary hearing prior to any disciplinary action. Finally, the presence of binding arbitration is an indispensable part of any contract because it provides for dispute settlement when an agreement cannot be reached.

Union competition, economic concerns, and job preservation were listed as professional concerns for the future of collective bargaining in Ohio police departments because of excessive grievances filed by unions.

Suggestions and recommendations for modification of the Ohio Public Employee Collective Bargaining Law were made in the areas of conciliation, SERB power and authority, and management rights.

CHAPTER V

CONCLUSIONS AND RECOMMENDATIONS

After examining the court litigation and the surveys of police managers, union representatives and legal experts, it was found that the 1983 Ohio Public Employee Collective Bargaining Law has impacted Ohio police management in three basic areas: "forced" collective bargaining, contract length, and required provisions. It may very well be that only three areas surfaced because of the short life span of the law.

Section 4117.01 addressed the law itself and its jurisdiction over populations of at least 5,000. This Act obligates public employers to bargain in good faith with their employees--regardless of city ordinance.

The second area of impact is that of contract length (in years). Section 4117.09(D) limits the duration of agreements to no more than three years. Thus, both parties must continuously maintain a good working relationship because the time that it takes to negotiate as well as the time between each new agreement is limited. However, the respondents were mixed in their perceptions of whether the contracts had generally increased or decreased in duration.

The third and perhaps the most important section of the Act to affect Ohio police management is RC 4117.08. This

section involves the scope of bargaining; management rights; and mandatory, permissive, and prohibited subjects excluded from negotiation. Management is affected both positively and negatively because the allowable subjects and prohibited areas are mandated in writing. This allows for the control by management over employees while succumbing to the authority of the law. However, management representations indicated several areas where their ability to manage was reduced. What constitutes "management rights" appears to remain an unsettled aspect of the law in Ohio.

Surveys from the police administrators, union representatives and legal experts provided information indicating that there is an "all-around" increasing fear of the policing occupation to being deprofessionalized by excessive grievances filed, heated negotiations, and extreme economic conditions. In an era of growing public demand for accountability on the part of public officials and concern for levels of taxation, all parties in the collective bargaining process need to be cognizant of these matters.

Some police administrators indicated that too much time is consumed engaging in the bargaining and grievance processes and that their ability to manage is limited. Such perceptions could inhibit positive internal relations in the future and could cause taxpayers and citizens to demand reform if such activities reduce police effectiveness. Where rising crime rates and concern for citizen safety are becomming serious

issues, the public may not have much sympathy for either side of labor-management disputes.

Several respondents expressed concerns about ever-increasing economic demands by the unions. While this is a legitimate concern, there is little evidence that it can be attributed to the enactment of the collective bargaining statute per se.

As measured by this study, the impact of the Act on police management is unclear, thus more refined techniques and measures are needed. However, the findings from this study should help define the focus of future research.

Recommendations for future research include changes in methodological approaches and in the analysis of practitioner interpretation of certain sections of the law. More refined and narrowly focused questionnaires would also be appropriate.

One change in methodology for future studies would be that of sample selection. It was found that union representatives and legal experts were reluctant to respond to the survey. This might be attributed to a number of reasons. For example, lack of experience with collective bargaining, lack of tenure and familiarity with the Act, a belief that secrecy and confidentiality must be maintained, and the general unwillingness to participate in this study may explain why so few union officials responded.

The small number of responses returned by Ohio attorneys might be explained by their lack of specialization in

collective bargaining and heavy work loads. Many attorneys do not actively represent clients and collective bargaining issues on a day-to-day basis and are unfamiliar with the impact of the law and its relationship to law enforcement in Ohio. A large portion of cases brought before SERB and the courts were those originating from Ohio county Sheriff Departments. Perhaps surveying a larger number of sheriffs would provide additional insight into the effects of this law. Also a study could be delimited to only county sheriff departments.

Another approach to measuring the impact of the Act would be to survey those persons who spoke before the senate committee hearings as either proponents or opponents of Senate Bill 133. In doing so, they would be able to express their concerns and thoughts about the law during the past seven years. Authors contributing articles to scholarly journals surrounding the Act could be surveyed as well.

One area of significant dispute appears to be that of "management rights" and their interpretation. A study devoted to this single issue could possibly identify the main concerns and areas of conflict for administrators and union representatives. Is it a matter of "authority" or "style" of management? Is it "control" or "method"?

Although not sufficiently documented in this research, the Act has appeared to stabilize the delivery of basic police services in some communities. The internal labor relations

conflict and strife in Ohio police departments is less visible to the public because of the "no strike" provision of the law. the conflicts have now been diverted to the arbitrators table, the hearing rooms of SERB and the courtrooms throughout the state. This may be more time consuming and financially burdensome to the parties involved, but it removes the disputes from broad public scrutiny and does not interrupt the providing of basic police services. For police administrators, this may be the most beneficial impact of all.

The certainty that collective bargaining is the law in Ohio requires police administrators to better equip themselves for everyday contract administration. The law has not been modified much, and few if any changes will occur unless the parties involved can clearly demonstrate the need for such changes. This study has uncovered a few concerns and proposed recommendations for changes, but further study is needed to clearly identify what those changes should be.

APPENDIX A

Summary of Court Cases, SERB Filings, Findings and Grievances Involving Police Agencies in Ohio

Summary of Court Cases, Serb Filings, Findings and Grievances Involving Police Agencies in Ohio

Section/ Citation	Jurisdiction/ Agency/Affiliation	Issue
RC 4117		
26 OS(3d) 50, 26 OBR 42, 1984-86 SERB 382, 496 NE(2d) 50 (1986)	Kettering v. SERB	Subject of Act prevails over a city ordinance which defines those as "supervisors" who cannot engage in collective bargaining because it is of "statewide concern" and affects Ohio population
22 OS(3d) 1, 22 OBR 1, 1984-86 SERB 373, 488 NE(2d) 181 (1986)	State ex rel Dayton FOP Lodge #44 v. SERB	Act affects individuals in all counties, therefore it is a law of "statewide concern"
SERB 84-009 (11-21-84)	In re Dayton	Sergeants, lieutenants, and captains of a city PD are "supervisors" but as public employees, they must be excluded from a collective bargaining union that wishes to include them
1988 SERB 4-33 (CP, Frankklin, 2-25-88)	Franklin Co. LEA v. FOP Lodge #9	This act provides the means for settling disputes and representation issues between employees and employers
1984-96 SERB 437 (CP, Summit, 1-17-86)	Twinsburg v. SERB	Because this Act is of "statewide concern," it prevails over charter city ordinances guaranteed in the OH Const Art XVIII, sec. 7 and O Const Art XVIII, sec. 3
1984-86 SERB 418 (CP, Montgomery, 12-21-84)	Kettering v. SERB	This act affects the whole state and is not restricted to one municipality; this law prevails over any local ordinances which classify police sergeants, lieutenants, and captains as "supervisors" into a bargaining unit from which they must be excluded
1984-86 SERB 407 (9th Dist Ct App, Summit, 10-1-86)	Twinsburg v. SERB	The Act is of "stateside concern" and therefore prevails over "conflicting provisions of city
SERB 85-006 (3-14-85)	In re Dayton	This act is an exercise of state police power and when applied, displaces local laws of same
22 OS(3d) 1, 22 OBR 1, 1984-86 SERB 373, 488 NE (2d) 181 (1986)	State ex rel Dayton FOP Lodge #44 v. SERB	The Act is a law of general nature and thus, the the second sentence of RC 4117.01 (F)(2) violates O Cont Art II, sec. 26
22 OS(3d) 1, 22 OBR 1, 1984-86 SERB 373, 488 NE (2d) 181 (1986)	State rel Dayton FOP Lodge #44 v. SERB	The second sentence of RC 4117.01 (F)(2) offends the equal protection guarantees of O Const Art I sec. 2 and US Const AM 14, therefore it is null and void
RC 4117.01		
22 OS (3d) 1, 22 OBR 1, 1984-86 SERB 373, 488 NE (2d) 181 (1986)	State ex rel Dayton FOP Lodge #44 v. SERB	The "Dayton Amendment" (declined to engage in collective bargaining with supervisors pursuant to judicial decision of June 1982 is made null and void by O Const Art I, sec. 2 and Art II, sec. 26

1984-86 SERB 418 (CP, Montgomery, 12-21-84) 12-21-84, affirmed by 26 OS (3d) 50 26 OBR 42, 496 NE 92d) 983 (1986)	Kettering v. SERB	RC 4117.01 (F)(2) is a proper exercise of state powerr and prevails over any city ordinances which ordinances which classifies sergeants and higher as supervisors to exclude them from all bargaining units
26 OS (3d) 50, 26 OBR 42, 1984-86 SERB 382, 496 NE (2d) 50 (1986)	Kettering v. SERB	Cities must bargain with command officers but continue to manage own department along tradtional lines should command officers disobey orders and cities can control promotions
22 OS (3d) 1, 22 OBR 1, 1984-86 SERB 373, 488 NE (2d) 181 (1986)	State ex rel Dayton FOP Lodge #44 v. SERB	Because the second sentence of RC 4117.01 (F)(2) offends the equal protection guarantees of O Const Art I & II and US Const Am 14, it is considered nulll and void
22 OS (3d) 1, 22 OBR 1, 1984-86 SERB 373, 488 NE (2d) 181 (1986)	State ex rel Dayton FOP Lodge #44 v.SERB	The second sentence of RC 4117.01 (F)(2) violates O Const Art II, sec. 26, is considered null and void
1987 SERB 4-25 (CP, Hamilton, 2-9-87)	University of Cincinnati v.SERB	RC 4117.01(F)(2) allows police and fire supervisors to be part of a bargaining unit if not classified as such
1984-86 SERB 420 (CP, Franklin, 3-8-85)	Columbus v.SERB	Security at zoos, airports, parks, etc. are considered "members of a police department" under RC 4117.14
1984-86 SERB 418 (CP, Montgomery, 12-21-84	Kettering v. SERB	Law is of "statewide concern" and therefore prevails over local ordinances which classify sergeants, lieutenants and captains as supervisors who can be excluded from bargaining units
SERB 86-015 (4-17-86)	In re Greater Cleveland Regional Transit Authority	"Members of a police department do not include transit police sergeants
SERB 86-031 (8-29-86)	In re Central State University	Under RC 4117.01, police sergeants are not supervisors and employer cannot object to a petition for voluntary recognition that seeks to include them in a bargaining unit
SERB 86-007 (2-26-86)	In re Franklin County Sheriff	"Public employers" as defined by RC 4117.07 do not include legislative bodies and elected county officials
SERB 85-052 (9-30-85)	In re Gahanna	Under RC 4117.01, it was intended that collective rights be given to all police and fire department supervisors except to the chief and his alter ego
SERB 85-052 (9-30-85)	In re Gahanna	Under RC 4117.01, a police lieutenant is neither a supervisor or management level employee
SERB 85-019 (5-6-85)	In re Greene County Sheriff	A part-time employee with over 45 days annually in a 7 year period is not considered to be a "casual employee" under RC 4117.01

SERB 85-010 (3-28-85)	In re Loveland	A sworn dispatcher-secretary, not appointed from a civil service list is not considered to be a "confidential employee" under RC 4117.01(J) and cannot be excluded from a bargaining unit.
SERB 84-009 (11-21-84)	In re Dayton	Police sergeants, lieutenants, and captains are considered to be "supervisors" under RC 4117.01 (F)(2) and are therefore excluded from a bargaining unit which wishes to include them
SERB 89-016 (7-13-89)	In re Office of Collective Bargaining	Those highway patrol sergeants who sometimes work in personnel or clerical related matters are not considered to be "supervisors"
SERB 84-009 (11-21-84)	In re Dayton	The constitutionality of the "Dayton" exception for supervisors under RC 4117.01 is beyond the authority of the SERB to consider
RC 4117.02		
1989 SERB 4-7 (CP, Warren, 1-13-89)	SERB v. Warren County Sheriff	SERB cannot take the initiative and investigate on its own but can only act once a charged is filed
SERB 85-021 (5-15-85)	In re Cuyahoga County Sheriff	SERB has the right to disqualify council because of conflicting interests
RC 4117.03		
RC 4117.04		
RC 4117.05		
SERB 85-047 (9-24-85)	In re Hocking County Sheriff	An employee organization petition for recognition will be dismissed when the petitioner does not appear at the hearing
SERB 86-034 (9-10-86)	In re Dublin	A village with fewer than 5,000 cannot waive its exemption from RC 4117 by ignoring requests by unions for voluntary recognition
RC 4117.06		
SERB 86-007 (2-26-86)	In re Franklin County Sheriff	An elected official is the sole "employer" and does need agreement from county commissioners to negotiate with employees
SERB 84-009 (11-21-84)	In re Dayton	A bargaininging unit of police sergeants,lieutenants, and captains may be certified upon request
SERB 88-019 (12-23-88)	In re Wauseon	A bargaining unit containing only 1 sergeant is permissible because sergeants cannot belong to the same union as with non ranking officers or police department employees who are not police
SERB 85-016 (5-1-85)	In re Warren County Sheriff	Corrections officers who are not deputies and those dispatchers who are not deputies may be included into one collective bargaining unit

22 OS (3d) 1, 22 OBR 1 1984-86 SERB 373, 488 NE (2d) 181 (1986)	State ex rel Dayton FOP	Determinations made by SERB as to appropriate bargaining units are protected against appeal under RC 4117.07
1987 SERB 4-25 (CP, Hamilton, 2-9-87)	University of Cincinnati v. SERB	Under RC 4117.01(F)(2), police and fire supervisors may be included in the bargaining unit as long as they are not defined as "supervisors"
SERB 85-026 (6-14-85)	In re Loveland	RC 4117.06 does not forbid the inclusion of an acting chief in the bargaining unit
SERB 85-010 (3-28-85)	In re Loveland	A sworn officer serving as secretary to the chief and as dispatcher may be included in a bargaining unit of "patrolmen below the rank of sergeant"
SERB 84-005 (10-1-84)	In re Seneca County Sheriff	The combining of deputies, transportation officers and dispatchers into one bargaining unit is permissible if all are full time under RC 311.04
RC 4117.07		
SERB 85-021 (5-15-85)	In re Cuyahoga Sheriff	A law firm representing a union may be disqualified from representing a rival union due to conflicting interests
RC 4117.08		
1190 SERB 4-35 (8th Dist Ct App Cuyahoga, 6-21-90)	Lakewood v. SERB	Where a bargaining contract specifically states that the city has the right to determine scheduling, the the city has no right to unilaterally change the scheduling system
1190 SERB 4-60 (10th Dist Ct App Franklin, 7-4-90)	Columbus v. SERB	Civil service rules enacted under a city charter cannot interfere with the bargaining units right to negotiate criteria necessary for promotions
48 APP (3d) 7, 548 NE (2d) 254 (Lawrence, 1988)	Deeds v. Irontown	Management rights do not include the right to impose conditions on a contract beyond what is expressed in the contract
SERB 89-007 (3-15-89)	In re St. Bernard	Under RC 4117.08, residency requirements as a condition of employment is an appropriate bargaining issue
RC 4117.09		
24 APP (3d) 16, 24 OBR 38 1984-86 SERB 393, 492 NE (2d) 861 (Cuyahoga, 1985)	Cleveland Police Patrolman's Ass. v. Cleveland	A municipality does not legally delegate its powers by agreeing to enter into arbitration should a negotiating impasse occur unless some prior policy has been established
1984-86 SERB 455 (Ct Claims, 2-7-86)	Stark County Sheriff v. Personnel Board of Review	Where binding grievance arbitration is provided in an agreement, the regulation of the state board concerning disputes will not be applied
633 FSupp 1074 1984-86 SERB 359 (ND, Ohio, 4-16-86)	McGlumphy v. Akron FOP	Union procedure for rebating fees to the extent that the money is used for purposes other than bargaining, grievances, etc. violates 1 Am rights

633 FSupp 1074 1984-86 SERB 359 (ND, Ohio, 4-16-86)	McGlumphy v. Akron FOP	If agency fees are to be used for purposes other than bargaining, the purposes must be disclosed, verify expense by auditor, notify dissenter on rebate procedure, address dissenter objections fairly
633 FSupp 1074 1984-86 SERB 359 (ND, Ohio, 4-16-86)	McGlumphy v. Akron FOP	Deposit of dissenter fee in interest account will eliminate improper use of money
58 OS (2d) 235, 389 NE 92d) 851 (1979)	State ex rel Cleveland FOP #8 v. Tegreene	Mandamus will not order resuming of dues checkoff once city labor union lost election in another action

RC 4117.09

1990 SERB 4-35 (8th Dist Ct App Cuyahoga, 6-21-90)	Lakewood V. SERB	Provisions in an agreement may be enforced through common pleas court and remedies can be sought under RC 4117.09
24 App (3d) 16 24 OBR 38, 1984-86 SERB 393 492 NE (2d) 861 (Cuyahoga, 1985)	Police Patrolmen's Assn. v. Cleveland	A city does not unlawfully entrust its legislative powers once agreeming to submit to arbitration should an impasse occur unless a prior policy exists stating such
1984-86 SERB 455 (Ct Claims, 2-7-86)	Stark County Sheriff v. Personnel Board of Review	The control of the state personnel board of review concerning dispute resolution, is not valid where binding grievance arbitration is necessary
633 FSupp 1074, 1984-86 SERB 359 (ND, Ohio, 4-16-86)	McGlumphy v. Akron FOP	Union proceudre for rebating agency fees where the money would be used for other purposes than "bargaining, grievances, and contract administration" is a violation of the dissenter's 1st amendment rights
633 FSupp 1074, 1984-86 SERB 359 (ND, Ohio, 4-16-86)	McGlumphy v. Akron FOP	In order for a union to use a portion of dissenter fees for purposes other than collective bargaining grievances, contract administration, union expenditures must be disclosed; an auditor must rectify expsense; dissenter must be notified of steps necessary to obtain rebate; dissenter objections must be fairly and objectively addressed
633 FSupp 1074 1984-86 SERB 359 (ND, Ohio, 4-16-86)	McGlumphy v. Akron FOP	The depositing of dissenter fees into interest bearing accounts while determining amount of rebate, deters money from being used for other purposes
58 OS (2d) 235, 389 NE (2d) 851 (1979)	State ex rel Cleveland FOP #9 v. Tegreene	A city finance director cannot be made to resume dues-checkoff for a new labor union where it was decided that the city would not legally do so with the previous union
633 FSupp 1074 1984-86 SERB 359 (ND, Ohio, 4-16-86)	McGlumphy v. Akron FOP	The prompt decision that dissenters are entitled to regarding the returning of agnecy fees is not of SERB review

40 OS (3d) 606, 1989 SERB 4-1, 533 NE (2d) 270 (1988) vacated by 43 OS (3d) 1 1989 SERB 4-41, NE (2d) 103 (1989)	Rocky River v. SERB	The last sentence of RC 4117.09(B)(1) is not invalid as it relates to the grievance procedure referred to in sentence one of RC 4117.09(B)(1) but to the extent RC 4117.09(B)(1) permits the enforcement of awards in RC 4117.09(I), 4117.09(B)(1) is of no effect
39 OS (3d) 196, 1988 SERB 4-87, 530 NE (2d) 1 (1988), vacated by 43 OS (3d) 1, 1989 SERB, 4-41 539 NE (2d) 103 (1989)	Rocky River v. SERB	RC 4117.09 is invalid as it provides for the enforcement of an arbitrator's award

RC 4117.10

1984-86 SERB 455 (Ct Claims, 2-7-86)	Stark County Sheriff v. Personnel Board of Review	The control of the state personnel board of review concerning the dispute resolution is not valid where binding grievance arbitration is necessary
SERB 86-007 (2-26-86)	In re Franklin County Sheriff	An elected county official is the sole employer of those working in his office and does not need to enter into an agreement with the county commissioners unless a law specifies in doing so
SERB 86-007 (2-26-86)	In re Franklin County Sheriff	The sentence in RC 4117.10(C) concerning collective negotiation does not mean that negotiations are to be conducted jointly by the officer holder and the commissioners
SERB 86-007 (2-26-86)	In re Franklin County Sheriff	County commissioners are "employers" of those they hire directly but do not hold duties "directly related to legislative functions" under RC 4117
SERB 86-007 (2-26-86)	In re Franklin County Sheriff	The county commissioners and sheriff are not joint employees wof workers in the sheriff's department under RC 4117. The sheriff is the sole employer
SERB 89-024 (10-5-89)	In re Clermont County Sheriff	In collective bargaining agreements where employers are required to deduct union dues from paychecks, they must accept the appropriate signed form from the union (even if employer suspects not given voluntarily and did not see them signed) or be guilty of unfair labor practice under RC 4117.11(A)(1) abd 4117.11 (A)(5)
1989 SERB 4-66 (CP, Franklin, 2-10-89)	Franklin County Sheriff v. FOP Lodge #9	A public employer's rights to a hearing concerning grievance arbitration proceedings before SERB is considered to be an adequate remedy for legeal recourse
1989 SERB 4-66 (CP, Franklin, 2-10-89)	Franklin County Sheriff v. FOP Lodge #9	If grievance arbitration proceedings go slowly and a party is intending on an appeal, that party cannot by pass the administrative process and proceed directly to court
SERB 89-003 (10-16-89)	In re Nicolaci	Salary differences between patrol officers and court service officers within a sheriff's department are matters of negotiation between employer and employee and can simply not be determined by a mathematical formula

SERB 88-014 (9-28-88)	In re Warren County Sheriff	An employee who remarks that he will undertake legal action should he be subjected to discipline is not said to be insubordinate
RC 4117.11		
SERB 88-003 (4-5-88)	In re SERB v. Licking County Sheriff	An employer's refusal to execute an agreement based upon a conciliator's award "is interference coersion, and referral to bargain" forbidden by RC 4117.11(A)(1) and 4117.14(A)(5)
SERB 86-010 (3-14-86)	In re University of Akron	The charge that university police picketed without giving notice is in violation of RC 4117.11(B)(1) and 4117.11(B)(8) is invalid because of limited on site picketing and that it could not be shown to related to job action or labor dispute. Informational picketing is protected under US Const Am I and Am 14
SERB 88-014 (9-28-88)	In re Warren County Sheriff	SERB cannot term a public employee's voting in a precint where he no longer lived as "illegal" under RC 3599.12 where the employee has not been convicted
1989 SERB 4-7 (CP, Warren, 1-13-89)	SERB v. Warren County Sheriff	A decision by the personnel board of review on the question of an employee's disability when he resigned does not merit later a decision by SERB of whether or not the employee was forced to resign by his employer
SERB 88-014 (9-28-88)	In re Warren County Sheriff	Discrimination against any employee because of union activity may be proven by a preponderance of evidence
SERB 87-015 (7-21-87)	In re Clermont County Sheriff	Once a conciliator issues a final offer settlement under Rc 4117.14, all parties are to immediately put the award into effect (except for those uncontested parts)
1990 SERB 4-51 (10th Dist Ct App, Franklin, 8-28-90)	Franklin County v. SERB	Where an employer's reasons for unfair labor practices are found not to be mere pretexts nor mixed motives, there is no reason to consider whether or not the "in-part" test is valid
SERB 88-014 (9-28-88)	In re Warren County Sheriff	Employees faced with discrimination by employers (motivated by exercise of protected rights) should pursue legal remedies under RC 4117.11 and Rc 4117.12 as opposed to resigning
1990 SERB 4-51 (10th Dist Ct App, Franklin, 8-28-90)	Franklin County Sheriff v. SERB	Any discipline must be given within close proximity to action requring it so that it cannot be said that that the discipline was improperly motivated
SERB 88-014 (9-28-88)	In re Warren County Sheriff	The fact that an employer discriminated against an employee on the basis of union activity can be justified if it can be shown that this activity was "any part" of the reason that the employee was disciplined

SERB 88-014 (9-28-88)	In re Warren County Sheriff	The fact that an employer discriminated against an employee on the basis of union activity can be justified if it shows that the employee was indeed a public employee at the time; the employee engaged in concerted union activity protected under RC 4117; and the employer took action against the employee without rebuttal, it could therefore be inferred that this was related to employee political activity
SERB 88-014 (9-28-88)	In re Warren County Sheriff	Discrimination based upon employee union activity may be wasily proven if the employee had been evaluated as a good worker during the past several years; the employee had no serious disciplinary problems prior to a representation election petition was filed; the employee was repeatedly disciplined for minor infractions by superiors who oppose unions; employee was dismissed before election was held
SERB 88-014 (9-28-88)	In re Warren County Sheriff	A vacationing deputy who bills his employer for two hours overtime for two official telephone calls within a 30 minute time period is simply applying an old departmental policy to a new situation
SERB 88-014 (9-28-88)	In re Warren County Sheriff	An employee who resigns myst prove that he was "constructively discharged" because of union activity by showing that the employer imposed of knowingly allowed working conditions to be intolerable; employermust be motivated in part by employee exercising rights guaranteed by RC 4117; and any reasonable person subjected to the same results would resign
SERB 88-014 (9-28-88)	In re Warren County Sheriff	An employer can be shown to be in violation of RC 4117.11 by proving that the employer antagonizes one union in particular not necessarily unionism in general
SERB -014 (9-28-88)	In re Warren County Sheriff	Employer discriminated against deputy because of union activity where back up assistance failed to show
SERB 88-014 (9-28-88)	In re Warren County Sheriff	For working conditions to be intolerable, and for employee to claim he was discharged in violation of RC 4117.11, it must be shown that conditions were worse than "unpleasant" or a cuase of "uneasiness"
SERB 88-014 (9-28-88)	In re Warren County Sheriff	The working conditions of a deputy engaging in union activity protected under RC 4117 can claim to have been "constructively discharged" under RC 4117 by evidence that serious descipline was administered for minor rule infractions; sheriff stated that pressure would ease if deputy abandoned support for union; threatened unavailability of back up was stated; sheriff publicly stated dislike of deputy; watch commander went out to get doughnuts instead of answering call for assistance

1990 SERB 4-51 (Dist Ct App, Franklin, 8-28-90)	Franklin County Sheriff v. SERB	Indirect proof necessary for determining employer's motives include delay in administering discipline furing which time employee engages in protected activity; employer's departure from routine disciplinary procedures; failure to suppply employee with written warning prior to discipline; discipline is given after employee exercise of rights; employer's changing explanations for discipline; employer conduct shows antiunion feelings
RC 4117.12		
1989 SERB 4-76 (CP, Franklin, 6-13-89)	Highway Safety Department, State Highway Patrol v. SERB	A May 5, 1987 patrol policy revision concerning travel time in a marked car be compensated for unless pay is waived can be filed within 90 days of May 5, 1987 as an unfair labor practice by application of RC 4117.12 because revised policy is different from previous one
1989 SERB 4-7 (CP, Warren, 1-13-89)	SERB v. Warren County Sheriff	It is unfair for SERB to expect the public to pay four years of backwages to an employee where 21 months of time has passed during SERB delay in finding probable cause and where 6 months passed before compaint was failed
SERB 88-014 (9-28-88)	In re Warren County Sheriff	SERB will not rearrange chronological order of events filed in a hearing officer report to suit parties
1990 SERB 4-51 (10th Dist Ct App, Franklin, 8-28-90)	Franklin County Sheriff v. SERB	The determination of whether or not something constituted as an unfair labor practice is a matter reserved for SERB under RC 4117.11
1990 SERB 4-41 (12th Dist Ct App, Warren, 7-79-90)	SERB v. Warren County Sheriff	Charges must be filed with SERB under OAC 4117-7-01(A) within 90 days after action was committed
1989 SERB 4-76 (CP, Franklin, 6-13-89)	Highway Safety Department State Highway Patrol v. SERB	SERB cannot issue a notice of hearing for any unfair labor practice that occured more than 90 days before the cahrge was filed
SERB 88-014 (9-28-88)	In re Warren County Sheriff	SERB will not change the tone of findings of fact in a hearing officer's support where they are recorded and presented in a neutral way
SERB 88-014 (9-28-88)	In re Warren County Sheriff	SERB will not add any information to a hearing officer's findings of fact were the proposed additions are not obvious from the record
SERB 88-014 (9-28-88)	In re Warren County Sheriff	SERB will not interfere with the credibility of as determined by the hearing officer
SERB 88-014 (9-28-88)	In re Warren County Sheriff	Employees faced with discrimination are encouraged to seek legal remedy under RC 4117.11 and Rc 4117.12 as ooposed to resigning

RC 4117.13

22 OS (3d) 1, 22 OBR 1 1984-86 SERB 373, 488 NE (2d) 181, (1986)	State ex rel Dayton FOP Lodge #44 v. SERB	The declaratory judgement action to a party challenging the "Dayton Amendment" in RC 4117.01 does not merit that SERB consider hearing a request for a statutory unit made up of police sergeants, lieutenants, and captains
1988 SERB 4-33 (CP, Franklin, 2-25-88)	Franklin County Law Enforcement Association v. FOP Lodge #9	A rival union cannot obtain a declaratory judgement under RC 2721 stating that the sheriff negotiation was illegal under RC 325.7 when both the union and the sheriff reject a fact finder's recommendations
1988 SERB 4-37 (CP, Franklin, 3-24-88)	Gahanna v. FOP Lodge #9	Courts should not interfere with SERB unless a "clear violations of the law are obvious"
1989 SERB 4-66 (CP, Franklin 2-20-89)	Franklin County Sheriff v. FOP Lodge #9	While a rival union's challenge to representation of an incumbent union pending before SERB, the incumbent union still remains the representative union
1989 SERB 4-66 (CP, Franklin, 2-20-89)	Franklin County Sheriff v. FOP Lodge #9	Under RC 4117, a common pleas court has no jurisdiction to hear an employer's challenges to grievances that were filed under the terms of the collective bargaining agent
1990 SERB 4-41 (12th Dist Ct App Warren, 7-9-90)	SERB v. Warren County Sheriff	In appeals to the common pleas court unfair labor practices, RC 4117.13 applies and not the standard of RC 119.12 made applicable by RC 4117.02(M)
1989 SERB 4-7 (CP, Warren, 1-13-89)	SERB v. Warren County Sheriff	When a court of common pleas hears an appeal taken from a SERB order, it must accept the conclusions drawn by SERB where "the mass of evidence: supports either two different conclusions
1988 SERB 4-138 (CP, Licking, 11-14-88)	Licking County Sheriff v. SERB	A finding by SERB of an unfair labor practice cannot be upheld without substantial evidence
1990 SERB 4-51 (10th Dist Ct App, Franklin, 8-28-90)	Franklin County Sheriff v. SERB	A common please court can remand a matter to SERB under RC 4117.13(B) in order to gather additional evidence
1990 SERB 4-4 (10th Dist Ct App Frannklin, 11-16-89)	Franklin County Law Enforcement V. FOP Lodge #9	The application of RC 325.17 in regard to the legal rights of employees concerning who is the employer and the required involvement of the employer in collective bargaining agreements cannot be determined by SERB but is considered appropriate for the common pleas court. The argument of the court lacking jurisdiction under under RC 4117 is rejected
24 App (3d) 16, 24 OBR 38 1984-86 SERB 393, 492 NE (2d) 861 (Cuyahoga, 1985)	Cleveland Patrolmen's Assn. v. Cleveland	Employees are not entitled to interest on overdue raises they received when no specified time limit was set for city to enact new increase

No. CA 87-04-031 (12th Dist Ct App, Clermont, 10-26-87)	FOP Lodge #112 v. Clermont County Sheriff	A conciliator's award pertaining to outside secondary employment of sheriff deputies is a mandatory subject of bargaining under RC 4117.08, pursuant to RC 2711.10(D) as exceeding the jurisdiction conferred by RC 4117.14(G)
RC 4117.14		
1984-86 SERB 408 (8th Dist Ct App, Cuyahoga, 11-2-86)	Rocky River v. SERB	The requirement of safety forces to submit to binding arbitration under RC 4117.14(I) is not unconstitutional nor does it violate a city's right to home rule
1984-86 SERB 408 (8th Dist Ct App, Cuyahoga, 11-20-86)	Rocky River v. SERB	A legislative body can direct other government selected individuals to enforce specified policies such as conciliator under RC 4117.14 to determine the final offer award and the standards from which to guide the conciliator are found in RC 4117.22 that RC 4117 uses to "promote orderly and constructive relationships between all public and their employers"
1984-86 SERB 408 (8th Dist Ct App, Cuyahoga, 11-10-86)	Rocky River v. SERB	The right of a conciliator under RC 4117.14 to settle disputes of safety forces to select final offer is not said to "contravene municipal powers of self-government" guaranteed by O Const Art XVIII, section 3
SERB 88-003 (4-5-88)	In re SERB v. Licking County Sheriff	The conciliator's award is the ultimate act of dispute settlement under RC 4117.14
SERB 88-003 (4-5-88)	In re SERB v. Licking County Sheriff	The testimony of a union representative that an employer refused to execute conciliator agreement will be excepted where employer's representative acknowledged refusal but does not testify in defense but where the county commissioners and sheriff deputy who were not present at meeting testify in defense, does not refute union claim
SERB 88-003 (4-5-88)	In re SERB v. Licking County Sheriff	An employer who refuses to execute a conciliator's award unless the union agrees to supplemental "memorandum of understanding" is considered to be coersion, interference and refusal to bargain under RC 4117.22(A)(1) and 4117.14(A)(5)
SERB 87-015 (7-21-87)	In re Clermont County Sheriff	An employer who refuses to put contested conciliator awards into action is not guilty of committing an unfair labor practice under RC 4117.11(A)(1) providing that the uncontested parts of the award are put into effect
SERB 85-016 (5-1-85)	In re Warren County Sheriff	Corrections officers who are not deputies or dispatchers may be included in one bargaining unit under RC 4117.14(D)
SERB 87-002 (1-30-87)	In re Youngstown	When 28 of 30 police officers fail to report for work one day and 5 the next, it is hard to believe that they were ill and thus, the board finds that an illegal strike took place
SERB 87-002 (1-10-87)	In re Youngstown	The union's claim that it did not investigate nor sanction a strike by 28 of 30 police officers is credited as no evidence deciding otherwise is present

43 OS (3d) 1 1989 SERB 4-41 539 NE (2d) 103 (1989)	Rocky River v. SERB	The binding decree in RC 4117.14(I) is not an unlawful delegation of authority because it promotes orderly public-sector labor relations, provides for judicial review, and contains procedural standards to be met
43 OS (3d) 1 1989 SERB 4-41 539 NE (2d) 103 (1989)	Rocky River v. SERB	The Ohio Public Employee's Collective Bargaining Act, RC chapter 4117, especially 4117.14(I) are constitutional under O Const Art II, section 34 and O Const Art XVIII, section 3 cannot negate the Act
39 OS (3d) 196 1988 SERB 4-87 530 NE (2d) (1988) vacated by 430 OS (3d) 1 1989 SERB 4-41 539 NE (2d) 103 (1989)	Rocky River v. SERB	RC 4117.14(I) is unconstitutional because it violates a city's right to home rule under O Const Art XViii, sections 3 and 7
39 OS (3d) 196 1988 SERB 4-87 530 NE (2d) 1 (1988) vacated by 43 OS (3d) 1 1989 SERB 4-41 539 NE (2d) 103 (1989)	Rocky River v. SERB	RC 4117.14(I) is unconstitutional because it unlawfully delegates a city's power over benefits and wages to binding arbitration
39 OS (3d) 196 1988 SERB 4-87 530 NE (2d) 1 (1988) vacated by 43 OS (3d) 1 1989 SERB 4-41 539 NE 92d) 103 (1989)	Rocky River v. SERB	The procedures defined in RC 4117.14 (D) through 4117.14(G) remain in effect although RC 4117.14(I) is held to be unconstitutional
39 OS (3d) 196 1988 SERB 4-87 530 NE (2d) 1 (1988) vacated by 43 OS (3d) 1 1989 SERB 4-41 539 NE (2d) 103 (1989)	Rocky River v. SERB	RC 4117.14(H) is invalid as is the word "award" when appearing in RC 4117.14 where referring to a binding award by a third party
1989 SERB 4-24 (CP, Cuyahoga, 2-8-89)	Rocky River v. SERB	RC 4117.14(I) is unconstitutional as is a conciliator's award under it
No. CA 87-04-031 (12th Dist Ct App, Clermont, 1-26-87)	FOP Ohio Vally Lodge #112 v. SERB	An award can be taken away under RC 2711.10(D) where the arbitrator exceeds his powers granted under RC 4117.14
1988 SERB 4-138 (CP, Licking, 11-14-88)	Licking County Sheriff v. SERB	An award made by a conciliator can be amended or modified by either party at any time under RC 4117.14(G)(11)
1984-86 SERB 420 (CP, Franklin, 3-24-88)	Columbus v. SERB	"Public safety officers" employed by a city to enforce state and local laws at an airport, zoor park water, who carry weapons, wear uniforms and are certified by the Ohio police officers training council, appointed from a civil service list are "members of a police department" under RC 4117.14
1988 SERB 4-37 (CP, Franklin, 3-24-88)	Gahanna v. FOP Lodge #9	RC 4117.14(C)(3) allows fact finders 14 days to report findings but this is not an "absolute and mandatory" restraint upon the fact finders and SERB

1988 SERB 4-37 (CP, Franklin, 3-24-88)	Gahanna v. FOP Lodge #9	After 14 days under RC 4117.14, that the fact -finder has 30 days to file a report is merely a "technical deficiency"
1989 SERB 4-76 (CP, Franklin, 6-13-89)	Highway Safety Department State Highway Patrol v. SERB	The matter that a union did not formally demand negotiate an employers policy revision before or after it took effect does not waive its union rights under RC 4117.14. RC 4117 does not demand negotiations
SERB 90-012 (7-18-90)	In re Franklin County Sheriff	The procedures of RC 4117.14 guarantee that neither party will be able to implement their own proposals and provide at the same time, should neither side reach an agreement, binding arbitration
SERB 90-012 (7-18-90)	In re Franklin County Sheriff	The dispute resolution procedure provided for in RC 4117.14 does not apply to the resolution of bargaining disputes but to a modification requested at the end of a contract term
SERB 90-012 (7-18-90)	In re Franklin County Sheriff	Mid-term bargaining disputes will be heard by the SERB on a case-by-case basis. No abusive or manipulative tactics will be tolerated; unions cannot block changes nor can an employer implement any
RC 4117.15		
RC 4117.16		
RC 4117.17		
1990 SERB 4-15 (10th Dist Ct App, Franklin, 8-28-90)	Franklin County Sheriff v. SERB	The files of SERB prepared in the course of an unfair labor practice under Ohio's public record law are not considered confidential
1990 SERB 4-51 (10th Dist Ct App, Franklin, 8-28-90)	Franklin County Sheriff v. SERB	The word "only" will not be read into RC 4117.17 before the list of records maintained by SERB that are deemed public records
1990 SERB 4-51 (10th Dist Ct App, Franklin, 8-28-90)	Franklin County Sheriff v. SERB	The reference of "other proceedings instituted" by SERB in RC 4117.17 considered to be public record include fact finding concerning unfair labor practices. RC 149.43(A) gives SERB authority to withhold information from the public that is considered to be an exception
1990 SERB 4-51 (10th Dist Ct App, Franklin, 8-28-90)	Franklin County Sheriff v. SERB	Material gathered during an unfair labor practice investigation will be considered "law enforcement investigatory records" for purposes of RC 149.43. Because RC 4117.12 calls for SERB to investigate violations, the burden of proof to exempt law enforcement investigatory records from disclosure under RC 149.43(A)(2) is on the agency refusing to disclose
1989 SERB 4-72 (CP, Franklin, 6-7-89)	Franklin County Sheriff v. SERB	Under RC 149.43 or 4117.17, a public employer does not have the right to receive investigation files from either SERB or the Attorney General
RC 4117.18		
RC 4117.19		

RC 4117.20

RC 4117.21

RC 4117.22

1984-86 SERB 408 (8th Dist Ct App, Cuyahoga, 11-20-86)	Rocky River v. SERB	**A legislative body can direct other governments selected individuals to enforce specified policies such as a conciliator under RC 4117.14 to determine the final offer award and the standards from which to guide the conciliator are found in RC 4117.22 that RC 4117 uses to "promote orderly and constructive relationships between all public employees and their employers**

APPENDIX B

Survey Questionnaire--Chief of Police

Survey Questionnaire
Collective Bargaining in Ohio Law Enforcement

Name_____

Department_____

Age_____Level of Formal Education_____

Number of Officers in Department_____

Number of Bargaining Units Representing Sworn Police Personnel in Your Agency_____

BASED UPON YOUR EXPERIENCE IN YOUR PRESENT AGENCY SINCE THE PASSAGE OF THE 1983 OHIO COLLECTIVE BARGAINING LAW, HOW WOULD YOU RESPOND TO THE FOLLOWING QUESTIONS? PLEASE ATTEMPT TO IDENTIFY ANY OBSERVABLE OR PERCEIVED TRENDS THAT HAVE DEVELOPED SINCE 1983. PLACE AN "X" NEXT TO THE APPROPRIATE SELECTION.

1. Prior to the Act, did a formally recognized police union exist in your department? Yes_____ No_____

2. If a recognized union did exist prior to this act, have the conditions and terms of employment changed much? Yes_____ No_____

   If yes, in what way?

3. The internal morale of the officers has: Increased_____ Decreased_____ Remained the Same_____

4. Has the relationship between administration and officers' union: Improved_____ Deteriorated_____ Remained the Same_____

5. For how many years is the current contract binding?_____

6. Since 1983, has the term of the negotiated contracts (in years): Increased_____ Decreased_____ Remained the Same_____

7. Approximately how much time and energy (percentage of average work week) is spent to absolving grievances?

8. The number of internal grievances has: Increased_____ Decreased_____ Remained the Same_____

9. The overall "negotiating environment" between administration and its police officers has: Improved_____ Deteriorated_____ Remained the Same_____

10. From your perspective of a professional administrator, has collective bargaining "reduced" or "improved" your ability to manage the following factors in your agency:

Scheduling officers:	Reduced_____	Improved_____	Not applicable_____
Scheduling of shifts:	Reduced_____	Improved_____	Not applicable_____
Disciplining of officers:	Reduced_____	Improved_____	Not applicable_____
Training (in-service)	Reduced_____	Improved_____	Not applicable_____
Discretion in fiscal allocations:	Reduced_____	Improved_____	Not applicable_____
Responding to citizen demands:	Reduced_____	Improved_____	Not applicable_____
Control of overtime:	Reduced_____	Improved_____	Not applicable_____
Setting goals and objectives:	Reduced_____	Improved_____	Not applicable_____

THE FOLLOWING QUESTIONS REQUIRE A NARRATIVE RESPONSE. IF YOU NEED TO USE ADDITIONAL SPACE, YOU MAY USE THE REVERSE SIDE OF THE QUESTIONNAIRE OR ATTACH EXTRA PAPER.

11. In your professional opinion, have you lost any "management rights" because of this act? If so, please explain as specifically as possible.

12. Since 1983, the most "radical changes" in your agency's collective bargaining agreements has occurred in what areas?

13. Are there any unusual changes in your agency's collective bargaining contract that have changed the overall "negotiating environment" within your department?

14. Since 1983, how has the grievance procedure changed, if any?

15. How would you describe the management-union negotiating atmosphere in your department PRIOR to the Act?

16. What are your professional concerns for the future of collective bargaining in your agency?

17. In your opinion, what sections, if any, of the Ohio collective bargaining law should be modified to promote professional police management in Ohio?

18. Please include any additional comments regarding your experience or concerns with collective bargaining as you believe it affects the police administrator's job.

APPENDIX C

Survey Questionnaire--Union Representative

Survey Questionnaire
Collective Bargaining in Ohio Law Enforcement Agencies

Name_____

Department_____

Age_____Level of Formal Education_____

Number of Officers in Department_____

Number of Bargaining Units Representing Sworn Police Personnel in Your Agency_____

BASED UPON YOUR EXPERIENCE IN YOUR PRESENT AGENCY SINCE THE PASSAGE OF THE 1983 OHIO COLLECTIVE BARGAINING LAW, HOW WOULD YOU RESPOND TO THE FOLLOWING QUESTIONS. PLEASE ATTEMPT TO IDENTIFY ANY OBSERVABLE OR PERCEIVED TRENDS THAT HAVE DEVELOPED SINCE 1983. PLACE AN "X" NEXT TO THE APPROPRIATE SELECTION.

1. Prior to the Act, did a formally recognized police union exist in your department? Yes_____ No_____

2. If a recognized union did exist prior to this Act, have the conditions and terms of employment changed much? Yes_____ No_____

   If yes, in what way?

3. The internal morale of the officers has: Increased_____ Decreased_____ Remained the Same_____

4. Has the relationship between the officer's union and administration: Improved_____ Deteriorated_____ Remained the Same_____

5. For how many years is the current contract binding?_____

6. Since 1983, has the term of the negotiated contracts (in years): Increased_____ Decreased_____ Remained the Same_____

7. Approximately how much time and energy (percentage of average work week) is spent to absolving grievances?

8. The number of internal grievances has: Increased_____ Decreased_____ Remained the Same_____

9. The overall "negotiating environment" between the police union and administration has: Improved_____ Deteriorated_____ Remained the Same_____

10. From your perspective as a union official, has collective bargaining improved or reduced your ability to negotiate the following factors in your agency:

Scheduling officers:	Reduced_____	Improved_____	Not applicable_____
Scheduling of shifts:	Reduced_____	Improved _____	Not applicable_____
Disciplining of officers:	Reduced_____	Improved_____	Not applicable_____
Training (in-service):	Reduced_____	Improved_____	Not applicable_____
Discretion in fiscal allocations:	Reduced_____	Improved_____	Not applicable_____
Responding to citizen demands:	Reduced_____	Improved_____	Not applicable_____
Control of overtime:	Reduced_____	Improved_____	Not applicable_____
Setting of goals and objectives:	Reduced_____	Improved_____	Not applicable_____

THE FOLLOWING QUESTIONS REQUIRE A NARRATIVE RESPONSE. IF YOU NEED TO USE ADDITIONAL SPACE, YOU MAY USE THE REVERSE SIDE OF THE QUESTIONNAIRE OR ATTACH EXTRA PAPER

11. In your professional opinion, have you gained any "management rights" because of this act? If so, please explain as specifically as possible.

12. Since 1983, the most "radical changes" in your agency's collective bargaining agreement has occurred in what areas?

13. Are there any unusual changes in your agency's collective bargaining contract that have changed the overall "negotiating environment" within your department?

14. Since 1983, how has the grievance procedure changed in any?

15. How would you describe the union-management negotiating atmosphere in your department PRIOR to the Act?

16. What are your professional concerns for the future of collective bargaining in your agency?

17. In your opinion, what sections, if any, of the Ohio collective bargaining law should be modified to promote professional policing in Ohio?

18. Please include any additional comments regarding your experience or concerns with collective bargaining as yo believe it affects the police union official's job.

APPENDIX D

Survey Questionnaire--Legal Expert

Survey Questionnaire
Opinions of Legal Experts

Name_____

Title_____

BASED UPON YOUR EXPERIENCE IN YOUR PROFESSIONAL CAPACITY SINCE THE PASSAGE OF THE 1983 OHIO COLLECTIVE BARGAINING LAW, HOW WOULD YOUR RESPOND TO THE FOLLOWING QUESTIONS. PLEASE ATTEMPT TO IDENTIFY ANY OBSERVABLE OR PERCEIVED TRENDS THAT HAVE DEVELOPED SINCE 1983. PLACE AN "X" NEXT TO THE APPROPRIATE SELECTION.

1. Since 1983, has the relationship between police administration and officer's union (generally):

   Improved_____ Deteriorated_____ Remained the Same_____

2. Since 1983, has the term, with which you are familiar, of negotiated contracts (in years):

   Increased_____ Decreased_____ Remained the Same_____

3. The overall "negotiating environment" between administration and its police officers has:

   Improved_____ Deteriorated_____ Remained the Same_____

THE FOLLOWING QUESTIONS REQUIRED A NARRATIVE RESPONSE. IF YOU NEED TO USE ADDITIONAL SPACE, YOU MAY USE THE REVERSE SIDE OF THE QUESTIONNAIRE OR ATTACH EXTRA PAPER.

4. In your professional opinion, have police agencies lost any "management rights" because of this act? Please elaborate on your response.

5. Since 1983, the most "radical" changes in police collective bargaining agreements, have occurred in what areas?

6. Are there any unusual changes in collective bargaining contracts that have changes the overall "negotiating environment" in police departments?

7. Since 1983, has the approach to negotiating grievance procedure changed if any?

8. What effect, if any, has the Act had on the general management-union negotiating atmosphere for the clients you have represented?

9. What are your professional concerns for the future of collective bargaining in police departments in Ohio?

10. In your opinion, what sections, if any, of the Ohio collective bargaining law should be modified to promote professional policing management in Ohio?

11. Please include any additional comments regarding your experience or concerns with collective bargaining as you believe it affects the police administrator or employee representative?

12. Since 1983, the most "radical changes" in your agency's collective bargaining agreement has occurred in what areas?

13. Are there any unusual changes in your agency's collective bargaining contract that have changed the overall "negotiating environment" within your department?

14. Since 1983, how has the grievance procedure changed if any?

15. How would you describe the management-union negotiating atmosphere in your department PRIOR to the Act?

APPENDIX E

Summary Outline of 1983 Senate Bill 133

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SUMMARY OUTLINE OF 1983 SENATE BILL 133

RC 4117.01 Definitions

A. Public employer

1. The State of Ohio or any political subdivision including any municipal corporation or unincorporated area of a township with at least 5000 people.

B. Public employee

1. Any persons employed by a public employer.
2. Includes individual working under a contract between a public employer and private employer over whom NLRB has not taken jurisdiction.
3. Excludes confidential employees, management level employees and supervisors.

C. Collective bargaining

1. Mutual good faith obligation.
2. Wages, hours, terms and other conditions of employment
3. Intention of reaching agreement but no compulsion to agree or make a concession

D. Strike

1. Concerted action.
2. For purpose of changing wages, hours, terms and conditions of employment.
3. Good faith stoppage for abnormal health or safety reasons excluded.

RC 4117.02 State Employment Relations Board

A. Three member Board appointed by the Governor.

1. Knowledge about labor relations or personnel practices.
2. After initial appointments, staggered 6-year terms.
3. Opposite political parties.

B. The Board shall:

1. Prepare an annual report.
2. Appoint and employ executive director, examiners, attorneys, mediators, arbitrators, fact-finders, local directors and others, as needed.
3. Create a Bureau of Mediation.
4. Conduct studies and make recommendations for legislation.
5. Hold hearings pursuant to RC Chapter 4117.
6. Train employers and employee organizations in the rules and techniques of collective bargaining.

7. Act as a clearinghouse of information, including statistical data.
8. Develop rules to implement Act.

C. The Board may bring an issue of substantial controversy regarding a Board issued final order directly to a Court of Appeals.

RC 4117.03 Rights of public employees

Public employees have the right to:

A. Join or refrain from joining any employee organization of their own choosing.
B. Engage in concerted activities for the purpose of collective bargaining, or for other mutual aid or protection.
C. Representation by an employee organization.
D. Engage in collective bargaining.
E. Present grievances and have the grievances resolved with or without the aid of an employee organization (except organization has right to be present).

RC 4117.04 Exclusive representation; duty of employer to bargain collectively; designation of representatives

A. The public employer shall extend exclusive representation to the employee organization for a period of at least twelve (12) months following certification.
B. Exclusive representation may extend for up to three (3) years if the parties enter into a collective bargaining agreement.
C. The public employer and employee organization shall designate an employer (union) representative who has the authority to represent the employer (employees) in negotiations.

RC 4117.05 Methods for exclusive representation; contract bar rule

A. An employee organization becomes the exclusive representative of an appropriate unit of employees by either:

1. SERB certification after majority of employees vote for employee organization in a Board-conducted election.
2. SERB certification after voluntary recognition by public employer following a request for recognition demonstrating substantial evidence of majority representation.
3. Two alternatives for public employer:

a. Request election.
b. Post notice describing proposed bargaining unit and advise employees of right to file objections.

i) Objections must be filed within twenty-one (21) days of initial recognition request.
ii) Employer must notify SERB of recognition request.

B. SERB will certify employee organization on the twenty-second (22nd) day following initial recognition request, unless any of the following occurs:

1. SERB receives an employer petition for election.
2. SERB receives substantial evidence that a majority of the employees do not wish representation by the employee organization.
3. SERB receives substantial evidence that at least ten per cent (10%) of the employees wish to be represented by a different employee organization.
4. SERB receives substantial evidence that the proposed bargaining unit is inappropriate.

C. SERB will not certify a new employee organization as the exclusive organization if a written contract has been entered into with the employee organization which either:

1. Expressly grants exclusive recognition or;
2. In addition to a written contract which does not express exclusive recognition has, by tradition, custom, practice, election or negotiation, dealt with the employer organization as though it were exclusive.

RC 4117.06 Appropriate bargaining unit; board's powers and duties in regard to determination

A. SERB shall decide bargaining unit questions. Its unit determination is final, not appealable to the courts.

B. SERB shall consider the following factors:

1. Desires of employees.
2. Community of interest.
3. Wages, hours and other working conditions of the employees.
4. Effect of over-fragmentation.
5. Efficiency of employer operations.
6. Employer administrative structure.
7. Collective bargaining history.

C. SERB shall not establish a bargaining unit that:

1. Includes professional and nonprofessional employees unless both groups, by majority, vote for inclusion.
2. Incudes guards or correction officers in unit with other employees.
3. Includes members of police, fire, or state highway patrol in a unit with other employees.
4. Includes psychiatric attendants at mental health facilities, or youth leaders at juvenile facilities with other employees.
5. Includes more than one institution of higher education.
6. Includes employees of more than one elected county official unless county official sand county commissioners agree to such a unit.
7. Incudes rank and file police in same unit with sergeants and above.

RC 4117.07 Representation election procedures

A. SERB shall investigate any petition alleging that thirty per cent (30%) of the appropriate bargaining unit wish representation, or alleging that the exclusive representative no longer represents a majority of the employees.
B. SERB shall investigate any petition by the employer alleging that one or more employee organizations wish to represent the employees.
C. SERB determines if a question of representation exists.

1. SERB can order an election.
2. SERB can certify an employee organization as exclusive representative if a "free and untrammelled" election cannot occur due to employer unfair labor practices, if employee organization had majority support at some point.

D. Rival employee organization must demonstrate at least ten per cent (10%) employee support for inclusion in the representation election.
E. Twelve (12) month election bar limits elections to once every twelve (12) months.
F. If a collective bargaining agreement is in effect, election petitions must be filed between one hundred-twenty (120) days and ninety (90) days before the expiration of the agreement.

RC 4117.08 Scope of bargaining; management rights; mandatory, permissive, and prohibited subjects

A. Collective bargaining pertains to all matters regarding "wages, hours, or terms and other conditions of employment and the continuation, modification or deletion o fan existing provision of a collective bargaining agreement." (Certain limited exceptions)
B. Certain management rights are excluded unless public employer agrees otherwise:

1. Matters of inherent managerial policy.
2. Direct, supervise, evaluate, or hire.
3. Efficiency and effectiveness of operations.
4. Determine overall methods or personnel needed.
5. Suspend, discipline, demote, or discharge for just cause or layoff, transfer, assign, schedule, promote, or retain employees.
6. Determine adequacy of workforce.
7. Determine overall mission.
8. Effectively manage workforce.
9. Take necessary action to carry out mission.

RC 4117.09 Collective bargaining agreement; required provisions

A. Collective bargaining agreements must be reduced to writing.
B. Collective bargaining agreements:

1. **Must** have a grievance procedure provision. The step **may** be binding arbitration.
2. **Must** have a dues deduction provision, with written authorization from employee, unless have agency shop - in which case automatic.
3. **Can** have a fair share fee provision which may be negotiated as a condition of employment. This fee is analogous to an agency shop provision. Nonunion members pay fee to union for negotiation and contract administration services.

There is a bona fide religious exemption.

4. Collective bargaining agreement **cannot** require union membership.

RC 4117.10 Scope of agreement; request for funds; responsible parties to negotiations; office of collective bargaining; duties

A. Collective bargaining agreements govern over conflicting law on matters of wages, hours, and terms and conditions of employment.

1. Agreement must conform to RC Chapter 4117.
2. If a collective bargaining agreement contains a binding grievance arbitration procedure, the grievance procedure controls over SPBR or Civil Service Commission regulation.
3. Limited specific legislative exemptions prevail over collective bargaining agreements. Agreements can exceed these legislative minimums.

B. Funding requests and required approval related to a collective bargaining agreement shall be submitted to the appropriate legislative body.

1. Within fourteen (14) days after the parties have finalized the agreement.
2. Approval assumed within thirty (30) days, if legislative body fails to act.
3. Either party can re-open negotiations if legislative body rejects the agreement.
4. Once proposed agreement is approved by legislative body, the public employer, employee organization, and legislative body are all bound by agreement.

C. The Office of Collective Bargaining is established.

1. Covers state employees.
2. Variety of labor relations functions.

RC 4117.11 Unfair labor practices; employers and employee organizations

A. It is unfair labor practice for public employers to:

1. Interfere with, restrain, or coerce employees in the exercise of their rights guaranteed in this chapter or any employee organization in the selection of its representative for the purposes of collective bargaining or adjustment of grievance.
2. Interfere with the formation or administration of any employee organization. The employer **may** permit meetings with employees during working hours without loss of pay, **may** permit the employee representative to use the facilities of the employer for meetings, or **may** permit the employee representative to use the internal mail or other internal communications systems.
3. Discriminate in terms or conditions of employment on the basis of rights guaranteed in this chapter.
4. Take reprisals against employees who file charges or give testimony under this chapter.
5. Refuse to bargain collectively with the recognized exclusive representative of the employees organization.
6. Fail to process grievances and requests for arbitration in a timely fashion.
7. Lock out or otherwise prevent employees from performing their regularly assigned duties where the objective is to bring pressure on the employees to

compromise or capitulate to the employer's terms.

8. Cause or attempt to cause an employee organization or its representative to fail to discharge its responsibilities under this chapter.

B. It is unfair labor practice for public employees or their representatives to:

1. Restrain or coerce employees in the exercise of their rights guaranteed under this chapter.
2. Cause or attempt to cause an employer to fail to discharge its responsibilities under this chapter.
3. Refuse to bargain collectively with the recognized exclusive representative of the employer.
4. Call, institute, maintain, or conduct a boycott against the employer or picket any place of business of the employer on account of any jurisdictional work dispute.
5. Induce or encourage any individual to engage in a strike **in violation of this chapter** or refuse to perform services or threaten, coerce, or restrain any person where an object is to force the employee to cease doing business with any other person or for an employer to recognize for representation purposes an employee organization not certified by the State Employment Relations Board.
6. Fail to fairly represent all employees in the bargaining unit.
7. Induce or encourage any individual to picket the residence or place of private employment of any public official or representative of the public employer.
8. Engage in picketing, striking, or other concerted refusal to work at any public hospital, health maintenance organization or clinic, nursing home, etc.

RC 4117.12 Unfair labor practices; procedures; remedies

A. SERB has remedial unfair labor practice authority.
B. SERB shall investigate, hold hearings, and issue orders related to unfair labor practice charges.

1. Unfair labor practice occurring more than ninety (90) days prior to filing of charge shall not be heard by SERB.
2. A SERB unfair labor practice order shall be effective if no exceptions filed within twenty (20) days after proposed order issued.

   a. If exceptions filed and substantial issues raised, SERB can modify or rescind proposed order.
   b. Order can include cease and desist requirement as well as affirmative duties, including reinstatement (unless discharge was for "just cause.") and back pay.

3. If unfair labor practice complaint alleges substantial and irreparable injury if no temporary relief, SERB can petition Court of Common Pleas for temporary injunctive relief.

RC 4117.13 Unfair labor practices; enforcement; findings of board; judicial review

A. SERB or complaining party can petition Court of Common Pleas for enforcement of unfair labor practice order.
B. Individual aggrieved by final unfair labor practice order can appeal findings of SERB.
C. SERB findings are conclusive if supported by the record as a whole.

RC 4117.14 Agreement negotiation procedures; dispute settlement procedures

A. Either party desiring to terminate, modify, or negotiate a successor collective bargaining agreement shall:

1. Give notice sixty (60) days prior to agreement expiration.
2. Absent expiration date, notice shall be sixty (60) days prior to proposed change.
3. Agree to bargain with other party.
4. Notify SERB, include collective bargaining agreement.

B. Initial negotiations:

1. Notice to other party and SERB.
2. Willing to bargain for ninety (90) days.

C. Existing collective bargaining agreement remains in effect during sixty (60) day negotiation period or until expiration of agreement whichever is later.

D. If parties do not reach agreement prior to forty-five (45) days before expiration date, may submit disputed issues to any mutually agreed upon dispute settlement method:

1. Selected method may be procedure agreed to by parties.
2. One of five legislative methods: all five methods are forms of arbitration.

E. If no agreement fifty (50) days before expiration date, either party may request SERB intervention.

F. If impasse exists forty-five (45) days before expiration date, SERB shall appoint a mediator.

G. If impasse exists thirty-one (31) days before expiration date, SERB shall appoint, within one (1) day, a fact-finding panel which shall make final recommendations on all unresolved issues within fourteen (14) days.

H. Not later than seven (7) days after recommendations submitted to parties, the legislative body and/or the employee organization membership may reject the recommendations:

1. Three-fifths (3/5ths) vote required.
2. If either rejects, SERB shall publicize fact-finding recommendations.
3. If neither rejects, recommendations shall be considered final resolution of issues and agreement shall be executed between parties.

I. If rejection of fact-finding recommendations:

1. Safety forces (and other limited groups) shall submit issues to final offer settlement procedure:

   a. Conciliator selected by parties within five (5) days of SERB order to utilize conciliator.
   b. If parties cannot settle, SERB shall select on sixth (6th) day.

2. All other public employees have the right to strike - if ten (10) day strike notice given.
3. Parties can agree, at any time, to submit unresolved issues to any alternative dispute settlement method.

J. Detailed final offer settlement procedure guidelines are contained in RC 4117.14(G):

1. conciliator shall hold hearing within thirty (30) days of SERB order to submit to final offer settlement method.

2. Conciliator using legislative criteria shall resolve dispute on an issue-by-issue basis.
3. Conciliator awards with cost implications will ordinarily take effect at the start of the fiscal year.
4. Final offer conciliator awards and orders are subject to judicial review.

RC 4117.15 Illegal strikes; injunctive relief

A. An employer may seek an injunction in Common Pleas Court against the following strike actions:

1. A strike by safety forces and any other category of public employees prohibited by RC Chapter 4117 from striking.
2. A strike by any public employees during settlement procedure timeliness contained in RC 4117.14.
3. A strike during the term or extended term of a collective bargaining agreement.

B. Unfair labor practice charges are not a defense to injunction proceedings under this section of the Act.

C. No public employee will be paid for any strike time.

RC 4117.16 Strikes creating clear and present danger to public; injunctive relief

A. Public employer can petition Common Pleas Court fora temporary restraining order (not to exceed seventy-two (72) hours) in order to enjoin a lawful strike that creates a "clear and present danger to the health or safety of the public."

B. SERB shall determine, within seventh-two (72) hours, whether strike creates a "clear and present danger."

1. If SERB concurs, court has jurisdiction to further enjoin strike for a maximum of sixty (60) days:

a. Parties must bargain with assistance of SERB-appointed mediator who may require public bargaining.
b. If no agreement after forty-five (45) days, mediator can make position s of parties public.

RC 4117.17 Public records; open hearings

A. All SERB proceedings are public records and available for inspection.

B. All hearings on complaints or petitions are open to the public.

RC 4117.18 Prohibited conduct

A. No one shall refuse to obey an order of the SERB or of a court of competent jurisdiction under this chapter.
B. No public employee may strike during:

1. Term of collective bargaining agreement.
2. Pendency of settlement procedures.

RC 4117.19 Employee organizations; registration; reports; bylaws; audit

A. Employee organizations certified or recognized as exclusive representatives must register and file their constitutions and by-laws with SERB.
B. All employee organizations must file annual report, submitting information required by SERB.
C. The constitution and by-laws of every employee organization shall:

1. Require that the organization keep accurate financial accounts.
2. Prohibit business or financial interests of its officers or agents to conflict with the fiduciary obligation of such persons to the organization.
3. Require that its fiscal officers be bonded when required by SERB.
4. Require periodic elections of officers.

D. The SERB shall prescribe rules necessary to govern the establishment and reporting of trusteeships over employee organizations.
E. The SERB may withhold certification of an employee organization that refuses to comply with the provisions of this section (e.g., filing annual reports).

RC 4117.20 Bargaining conflicts of interest prohibited

Anyone belonging to the employee organization bargaining with the employer **cannot** participate, other than by approval of contract, in the collective bargaining process.

RC 4117.21 Collective bargaining meetings private

Only exception is mediator discretion to make parties bargain in public under RC 4117.16.

RC 4117.22 Liberal construction

RC Chapter 4117 shall be liberally construed in order to accomplish orderly labor-management relationships.

RC 4117.23 Illegal strike procedures; penalties; "grandfather clause"

A. SERB shall decide if a strike is unauthorized within seventy-two (72) hours of receiving such a request from a public employer.

B. If SERB determines the strike is unauthorized, the public employer:

1. May remove or suspend those employees who continue to engage in the strike one (1) day after being notified that the strike is illegal.
2. If these employees are re-employed, their compensation shall not exceed that received prior to the strike violation and their compensation shall not increase for one (1) year.
3. Two (2) days wage shall be deducted for each day of illegal strike activity beginning one (1) day after notice that strike is illegal if employer did not provoke strike.

C. In addition S.B. 133 contains additional Sections 2 through 7 which provide specifics on time-line implementation of each section of RC Chapter 4117:

1. RC 124.02 to 124.05 and 124.08 repealed sixty (60) days after effective date of Act, being December 5.
2. RC 9.41 (voluntary dues check-off) and RC 4117.01 to 4117.05 (Ferguson Act) are repealed on April 1, 1984.
3. Section 6 (general no strike provision) repealed on April 1, 1984.
4. RC 4117.10(A), (B), and (C) shall not be applied to any facts occurring before April 1, 1984.
5. All other Sections of the Act are effective as of effective date of this Act (October 6, 1983).

D. An employee organization recognized in written contract by the public employer shall be certified until challenged by another employee organization.

E. A PEACE Commission (Public Employment Advisory and Counseling Effort) shall be created.

F. SPBR shall be transferred to the SERB.

APPENDIX F

Listing of Participating Agencies

Questionnaires Sent to Union Representatives

Akron Police Department
Alliance Police Department
*Amherst Police Department
Ashland Police Department
Ashtabula Police Department
Athens Police Department
*Barberton Police Department
Beavercreek Police Department
*Belpre Police Department
*Bowling Green Police Department
Canton Police Department
Cincinnati Police Department
Cleveland Police Department
Cleveland Heights Police Department
*Columbus Police Department
*Dayton Police Department
*Euclid Police Department
*Fairborn Police Department
*Fairlawn Police Department
Galion Police Department
Heath Police Department
*Lima Police Department
Marion Police Department
Newark Police Department
Parma Police Department
Rocky River Police Department
Springdale Police Department
*Toledo Police Department
*Youngstown Police Department
Wapakoneta Police Department

* = returned questionnaire

Questionnaires Sent to Chiefs of Police

*Amherst Police Department
*Ashland Police Department
*Ashtabula County Sheriff's Department
*Athens Police Department
Bedford Heights Police Department
Bexley Police Department
*Blue Ash Police Department
*Bowling Green Police Department
*Brook Park Police Department
*Brunswick Police Department
*Bucyrus Police Department
Cambridge Police Department
Campbell Police Department
Canton Police Department
*Cedarville Police Department
*Chillicothe Police Department
Circleville Police Department
Cleveland Heights Police Department
Coshocton County Sheriff's Department
*Crestline Police Department
*Cuyahoga Falls Police Department
*Dayton Police Department
*Dehli Township Police Department
Deleware Police Department
Eaton Police Department
Elmwood Police Department
*Fairfield Police Department
Findlay Police Department
*Fostoria Police Department
Greene County Sheriff's Department
Greenville Police Department
Harbor View Police Department
Heath Police Department
*Highland Heights Police Department
Kirtland Police Department
Lancaster Police Deparetment
Lorain Policle Department
Louisville Police Department
Mantua Police Department
Marion Police Department
Massillon Police Department
*Mayfield Police Department
Medina Police Department
*Moraine Police Department
*Mount Vernon Police Department
Newark Policle Department
*New Middleton Police Department
North College Hill Police Department
*Oakwood Police Department
*Oberlin Police Department

Painesville Police Department
Parma Police Department
*Pemberville Police Department
*Piqua Police Department
Poland Police Department
Portsmouth Police Department
Ravenna Police Department
*Reynoldsburg Police Department
*Rittman Police Department
Sandusky Police Department
Springboro Police Department
Springfield Police Department
*St. Bernard Police Department
St. Marys Police Department
*Streetsboro Police Department
*Tipp City Police Department
*Trenton Police Department
*Upper Arlington Police Department
*Urbana Police Department
*Valley View Police Department
*Wadsworth Police Department
*Warren Police Department
*West Milton Police Department
*Williard Police Department
*Willoughby Police Department
*Worthington Police Department
Wyoming Police Department
*Xenia Police Department
Yellow Springs Police Department

* = returned questionnaire

Questionnaires Sent to Legal Experts

Dennis Haines, Attorney
Vincent T. Lombardo, Assistant Attorney General, State of Ohio
John P. Luskin, Attorney
Dan McDonnell, Attorney
James McDonnell, Attorney
Susanna Muskovitz, Attorney
Daniel Ryan, Attorney
Tom Shannon, Attorney
Richard Walsh, Attorney

BIBLIOGRAPHY

Baldwin's Ohio Revised Code Annotated, V. (1991). "Title 41, Industry and labor." Columbus, OH: Banks-Baldwin Law Publishing Co.

Billings, Richard N. and John Greenya. (1974). Power to the Public Worker. New York: Robert B. Luce, Inc.

Bumpass, T. Merritt and Keith A. Ashmus. (1985). Public--Sector Bargaining in a Democracy: An Assessment of Ohio Public Employee Collective Bargaining Law. Cleveland State Law Review. 33, 593-651.

Burpo, John H. (1971). The Police Labor Movement: Problems and Perspectives. Springfield, Illinois: Charles C. Thomas.

Garmire, Bernard L. (1977). Local Government Police Management. Washington: Published for the Institute for Training in Municipal Administration by the International City Management Association.

Guy, Rebecca F., Charles Edgley, Ittihaj Arafat, and Donald Allen. (1987). Social Research Methods: Puzzles and Solutions. Massachusetts: Allyn and Bacon, Inc.

Hagan, Frank E. (1982). Research Methods in Criminal Justice and Criminology. New York: Macmillan Publishing Company.

Lewis, John and Steven Spirn. (1983). Ohio Collective Bargaining Law: The Regulation of Public Employer-Employee Labor Relations. Columbus: Banks-Baldwin Publishing Co.

Lieberman, Myron. (1980). Public-Sector Bargaining. Lexington, Massachusetts: D.C. Heath and Co.

National Labor Relations Act (49 Stat 449 (1935); 29 USC $151-168 (1976).

Ohio Collective Bargaining Act (Ohio Revised Code 4117).

Ohio Public-Sector Collective Bargaining Framework. (Summer 1988). University of Dayton Law Review, 9, 583-607.

O'Reilly, James T. and Neil Grath. (1983). Structures and Conflicts: Ohio Collective Bargaining Law for Public Employment. Ohio State Law Review, 44, 891-642.

Public Employee Collective Bargaining Becomes A Matter of Right in Ohio. (Winter 1983). Capital University Law Review, 219-252.

Shafritz, Jay M., Walter L. Balk, Albert C. Hyde, and David H. Rosenbloom. (1978). Personnel Management in Government: Politics and Process. New York: Marcel Dekker, Inc.

State Employment Relations Board. (1987). Ohio Public Employee Collective Bargaining Law and Rules 1988. Columbus: Banks-Baldwin Law Publishing Company.

Stieber, Jack. Collective Bargaining in the Public-Sector. (1967). Challenges to Collective Bargaining. The American Assembly, Columbia University. Englewood Cliffs, New Jersey: Prentice-Hall.

U.S. Department of Labor. (1976). Brief History of the American Labor Movement. Bulletin 1000. Washington, D.C.: U.S. Government Printing Office.

Cases

Cleveland Police Patrolmen's Association v. Cleveland (24 App, 3d, 16, 1985).

Columbus v. SERB (10th Dist Ct. App, Franklin, 7-4-90).

Dayton Classroom Teachers Association v.Dayton Board of Education (4 OS 2d, 127, 1975).

Deeds v. Irontown (48 App, 3d, 7, 1988).

FOP Ohio Valley Lodge #112 v. SERB (12th Dist Ct. App, Clermont, 1-26-87).

Franklin County Sheriff v. SERB (10th Ct. App, Franklin, 8-28-90).

Franklin County Law Enforcement v. FOP Lodge #9 (10th Dist Ct. App, Franklin, 11-16-89).

Hagerman v. Dayton (147 OS 313, 1947).

Kettering v. SERB (26 OS, 3d, 50, 1986).

Lakewood v. SERB (8th Dist Ct. App, Franklin, 7-4-90).

McGlumphy v. Akron FOP (633 F Supp 1074, 1986).

National League of Cities v. Usery (426 US 833, 1976).

Rock River v. SERB (430 OS, 3d, 1, 1989).

Rocky River v. SERB (8th Dist Ct. App, Cuyahoga, 11-2-86).

SERB v. Warren County Sheriff (12th Dist Ct. App. Warren, 7-19-90).

State ex rel Dayton FOP Lodge #44 v. SERB (22 OS, 3d, 1, 1986).