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STATE EMPLOYMENT
RELATIONS BOARD

IN THE MATTER OF FACT-FINDING

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BEFORE

RICHARD D. SAMBUCCO, FACT-FINDER

THE CITY OF ZANESVILLE, OHIO

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FINDINGS OF FACT

and

and

THE FRATERNAL ORDER OF POLICE
OHIO LABOR COUNCIL, INC.
(CORRECTIONS OFFICERS)

RECOMMENDATIONS

SERB CASE NO. 00-MED-09-0868

REPRESENTING THE EMPLOYER:

Mr. Dale Raines
Budget & Finance Director
City of Zanesville, Ohio
401 Market Street
Zanesville, Ohio 43701

REPRESENTING THE UNION:

Mr. Frank Arnold
Staff Representative
Fraternal Order of Police
Ohio Labor Council, Inc.
222 East Town Street
Columbus, Ohio 43215

DATE OF FACT-FINDING:

December 15, 2000

DATE OF REPORT:

January 3, 2001

INTRODUCTION

On December 15, 2000, a fact-finding hearing was held in Zanesville, Ohio by and between the City of Zanesville, Ohio, hereinafter referred to as the "City" or "Employer" and the Fraternal Order of Police, Ohio Labor Council, Inc., hereinafter referred to as the "Labor Council" or "Union".

Richard D. Sambuco was appointed by the Ohio State Employment Relations Board (SERB) to serve as Impartial Fact-Finder, in compliance with Ohio Revised Code Section 4117.14(C)(3).

The Employer's position was presented by Mr. Dale Raines, Director of Budget and Finance. Also present for the Employer was Eric Landers, Chief of Police.

The Labor Council's position was presented by Mr. Frank Arnold, Staff Representative. Also present for the Union was Thomas W. Brown, Corrections Officer; Michelle Duke, Corrections Officer; and Tom Tysinger, II, Corrections Officer.

FACTUAL BACKGROUND

The Employer is the City of Zanesville, Ohio, which provides local government to its residents under the direction of an elected Mayor and members of City Council. There are twenty (20) full-time corrections officers in the bargaining unit. These members are employed in the Police Department of the City of Zanesville and carry out the duties necessary to operate a "full-service" jail for the City of Zanesville.

A "full-service" jail operates on a twenty-four (24) hour, seven (7) day week continuous schedule housing prisoners. The duties of the Corrections Officers essentially include the booking in and out of prisoners as necessary; monitoring, feeding, providing

care, searching inmates housed in the City Jail, and keeping the necessary required records.

The Corrections Officers are also responsible for maintaining minimum jail standards, as established by the Ohio Bureau of Adult Detention. The City of Zanesville Jail houses both male and female inmates.

There is only one other city in the State of Ohio (Euclid) that has a "full-service" jail similar to Zanesville. Excluding federal and state prisons, all other "full-service" housing facilities for prisoners are operated by the various counties in the State of Ohio.

The City of Zanesville is located in Muskingum County. Muskingum County also has a "full-service" housing facility for prisoners similar to Zanesville.

The Collective Bargaining Agreement between the corrections officers and the City of Zanesville currently in effect became effective on January 1, 1998 and remains in effect through December 15, 2000.

The parties have met for the purpose of collective bargaining on the following dates:

September 28, 2000
October 26, 2000

October 19, 2000
November 3, 2000

Having exhausted their attempts at negotiation, the parties contacted the SERB to arrange for a fact-finding hearing, which was held on Friday, December 15, 2000. Both parties submitted their position statements regarding the unresolved issues in a timely manner.

The fact-finding hearing began promptly at 10:00 a.m. in the Conference Room of the City Building in the City of Zanesville, Ohio.

Through negotiation and mediation prior to the fact-finding hearing, the parties tentatively agreed on language for all thirty-two (32) articles in the contract.

The one remaining issue at impasse is that of "wages" which are to be included in the collective bargaining agreement as Appendix 1.

Following brief introductory remarks by the Fact-Finder with regard to the importance of the parties' reaching agreement on the unresolved issue on their own initiative and through mediation rather than leave this issue to the recommendation of the Fact-Finder and quite possibly a conciliator's mandate, the parties advised this Fact-Finder that they were ready to proceed directly to fact-finding.

Article 23 of the Collective Bargaining Agreement currently in effect reads in pertinent part as follows:

**"ARTICLE 23
WAGES**

Section 23.1 Salaries, Wages, and Salary Ranges

- A. The salaries, and salary ranges for the position classifications of Corrections Officers shall be in accordance with those set forth in Appendix I.

Section 23.2 Automatic Pay Increments

- A. Increments shall be in accordance with the following schedule for employees occupying the position classification of Correction Officer:

<u>PAY RANGE STEP</u>	<u>LENGTH OF SERVICE</u>
1	Start of Employment
2	first January in service
3	second January in service
4	third January in service
5	fourth January in service

- B. Pay increases shall be effective on the first day of the first full pay period in January.
- C. Length of service as used in this Article shall mean length of service as a Correction Officer.
- D. Employees hired in January will be assigned to the starting Step. The following January will be considered their first January of service for purposes of determining length of service in par (A) of this section."

Appendix I of the Collective Bargaining Agreement currently in effect reads in pertinent part as follows:

**"APPENDIX I
PAY RATES FOR CORRECTIONS OFFICERS**

JANUARY 1998					
STEPS	1	2	3	4	5
	8.38	8.64	9.42	9.85	10.20
JANUARY 1999					
STEPS	1	2	3	4	5
	8.78	9.04	9.82	10.25	10.60
JANUARY 2000					
STEPS	1	2	3	4	5
	9.18	9.44	10.22	10.65	11.00"

With regard to the one issue (PAY RATES FOR CORRECTIONS OFFICERS) at impasse, the following pages include the positions of the Union and the Employer and the recommendations of the Fact-Finder.

In arriving at my recommendations, consideration was given to criteria listed in Rule 4117-9-05(J) of the Ohio State Employment Relations Board.

**ISSUE AT IMPASSE: FINDINGS OF FACT
ISSUE #1 ARTICLE 23 - WAGES
APPENDIX I**

UNION POSITION

The Union proposes an eight percent (8%) increase on each of the "pay range steps" in the first year of the contract (effective January, 2001), a six percent (6%) increase on each of the "pay range steps" in the second year of the contract (effective January, 2002) and a six percent (6%) increase on each of the "pay range steps" in the third year of the contract (effective January, 2003).

The Union argues that the standards for running a full-service jail (24 hours, 7 days a week) are different and encompass more than that of a city running a five-day, eight-hour per day facility.

According to the Union, full-service jails keep inmates up to one year and are required to run visitation, commissary for the inmates, and provide recreation facilities for inmates, where the other types of jails (8 hours, 5 days a week) do not provide such services.

Correction officers in a full-service jail are required to receive more training than those correction officers working in a five-day or eight-hour facility.

The Union also contends that the housing of inmates for longer periods of time in full-service jails create more problems than in jails that only keep inmates for five days or less.

Since there is only one other city in the State of Ohio (Euclid) that operates a full-service jail and since, according to the Union, Euclid, Ohio has a much larger population

than Zanesville, the Union submits counties and cities with populations of similar size to Zanesville as wage rate comparables. These Union-compiled comparables are as follows:

	<u>Population</u>	<u>Starting Wage</u>	<u>Maximum Wage</u>	<u>Type of Operation</u>
Adams County Annual Wage *1-1-2001	25,371	11.27 \$23,441.60	12.86 \$26,748.80	Full-Service
Garfield Hgts. Annual Wage *6-1-2001	31,739	15.00 \$31,200.00	16.01 \$33,300.80	8 hrs.-5 days
Madison County Annual Wage *1-1-2001	31,739	12.16 \$25,292.80	14.08 \$29,286.40	Full-Service
Mayfield Hgts. Annual Wage *1-1-1999	19,847	9.91 \$20,618.00	15.03 \$31,258.00	8 hrs.-5 days
Washington C.H. Annual Wage *1-1-2000	12,983	10.69 \$22,235.20	13.18 \$27,414.40	8 hrs.-5 days
Zanesville Annual Wage *1-1-2000	26,778	9.18 \$19,094.40	11.00 \$22,880.00	Full-Service

*The asterisk indicates the date of either the last wage adjustment or an upcoming wage adjustment for each comparable entity.

The Union points out that of the comparable units listed above, the City of Zanesville has the lowest starting wage and is well below the others at the maximum wage rate. Excluding Zanesville, the average starting wage for those listed is \$11.80 per hour, and the average maximum wage rate is \$14.23 per hour. The City of Zanesville's starting wage is 22% below the average starting wage and Zanesville's top wage rate is 22.7% below the average of those listed.

The Union also points out that the average wage increase across the State of Ohio for law enforcement-related fields last year, according to SERB, was 4.25%.

The Union argues that even with its most recent wage proposal, at the end of three years, the Corrections Officers wage rate in the City of Zanesville would be a \$11.13 starting wage and a \$13.35 maximum wage, which would still be below the current wage average of the listed comparable agencies as follows: starting wage 5.7% below the comparable starting wage and 7.9% below the average maximum wage.

Finally, the Union points out what they consider to be a concession in the parties' tentative agreement consisting of newly negotiated insurance language, which reads in relevant part as follows:

"ARTICLE 25

Section 25.1 Insurance

Bargaining unit employees choosing family coverage shall pay, by payroll deduction, \$7.00 per pay period in 2001, \$10.00 per pay period in 2002 and \$15.00 per period in 2003."

The Union argues that this is new language that is not in the current agreement, and they have not been asked to pay those amounts per pay period in past years.

EMPLOYER (MANAGEMENT) POSITION

The City of Zanesville proposes the following wage rates for the three (3) years of the contract renewal:

**"APPENDIX I
PAY RATES FOR CORRECTIONS OFFICERS**

JANUARY 2001					
STEPS	1	2	3	4	5
	9.55	9.82	10.63	11.08	11.44

JANUARY 2002					
STEPS	1	2	3	4	5
	9.93	10.21	11.06	11.52	11.90

JANUARY 2003					
STEPS	1	2	3	4	5
	10.33	10.62	11.50	11.98	12.38

The proposed wages represent increases of 4% each year of the contract.

The wage rates proposed are justified for several reasons. First, the rate of inflation as measured by the Consumer Price Index has, for the past several years, been comparatively low; employees of this bargaining unit have outpaced it. Despite continued low inflation, the City's offer exceeds the average rate of inflation during the current contract by nearly 1½ percent per year.

Second, the City's proposal equals or exceeds the percentage increases negotiated with its four other unions at the end of 1999. The FOP/OLC represents two of those unions, whose contracts are the basis for much of what appears in the Corrections Officers' contract. The City's proposal matches the annual increases contained in those contracts.

Finally, the annual percentage increase the City offers is supported by evidence of comparability with similar bargaining units around the state. The average percentage increase of those units is below the City's proposal."

The Employer points out that the rate of inflation over the past three (3) years of the current contract has been relatively low, while the wage increases granted to Corrections Officers were above average. They support their position with the submission of City Exhibit "A", which reads as follows:

"Cost of Living During Current Contract

	<u>1998</u>	<u>1999</u>	<u>2000</u>
Rate of Inflation*	1.60%	2.70%	3.40%
Wage Increases in Current Contract	10.60%	4.60%	4.20%

*as measured by the Department of Labor's Consumer Price Index"

The Employer also points out that its proposed wage increase of four percent (4%) during each year of the contract is in line with increases granted to other bargaining units within the City. They support their position with submission of City Exhibit "A", which reveals in pertinent part as follows:

"City Unions - Negotiated Increases

	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>
FOP/OLC Police Officers	4.00%	4.00%	4.00%	----
FOP/OLC Supervisors	4.00%	4.00%	4.00%	----
IAFF Fire Fighters	4.00%	4.00%	4.00%	----
A.F.S.C.M.E.	3.50%	3.50%	3.50%	----
City proposal (Corrections Officers)	----	4.00%	4.00%	4.00%"

The Employer points out that the four percent (4%) three-year agreement for the IAFF was the result of a conciliator's award.

Employer Exhibit "F", a report compiled by the SERB Clearinghouse and dated November 27, 2000, reveals the following information with regard to Corrections Officers/Jailers:

<u>"County</u>	<u>Population</u>	<u>Entry Level</u>	<u>Top Level</u>
Coshocton Hourly Rate	35,427	\$24,690.00 \$11.87/hr	\$26,250.00 \$12.62/hr
Guernsey Hourly Rate	39,024	\$19,307.00 \$9.28/hr	\$26,250.00 \$12.62/hr
Muskingum Hourly Rate	82,068	\$21,736.00 \$10.45/hr	\$31,346.00 \$15.07/hr
Zanesville City Hourly Rate	26,778	\$19,094.00 \$9.18/hr	\$22,880.00 \$11.00/hr

The average annual salary is as follows:

	<u>Entry Level</u>	<u>Top Level</u>
Hourly Rate	\$21,206.75 \$10.19/hr	\$26,681.50 \$12.83/hr

The Employer argues that the above rates between the Muskingum County Sheriff and the City of Zanesville are not a good comparison because of a letter dated December 14, 2000 (City Exhibit "G") from Muskingum County Sheriff Robert J. Stephenson to City of Zanesville Police Chief Eric Lambes, which reads in pertinent part as follows:

"Dear Chief Lambes:

The Muskingum County Jail employs 25 sworn officers and 6 civilian officers. For the current year, starting pay is \$10.45; after the first year \$11.40; after the second year \$12.41; after the third year \$13.18. Currently jail staff tops out at \$15.07.

To clarify, the 6 civilian officers noted above have been grandfathered and receive the same rate of pay as the commissioned officers. My present policy is to hire only deputies who have OPOTA certification and who already have the jail academy or intend to have instruction within 1 year from hire date."

Finally, in an effort to illustrate an annual salary comparison between Corrections Officers and Police Officers, the Employer submits City Exhibit "E", which reveals the following information:

"Corrections Officer vs. Police Officer Differential"

<u>City</u>	<u>Top Corr. Officer</u>	<u>Top Police Officer</u>	<u>Dollar Difference</u>	<u>C.O.% of Police</u>
E. Cleveland	\$27,955	\$34,289	\$ 6,334	81.53%
Mayfield Hgts.	\$34,233	\$50,340	\$16,107	68.00%
Zanesville	\$22,880	\$34,465	\$11,585	66.39%
Maple Hgts.	\$29,393	\$45,166	\$15,773	65.08%
N. Royalton	\$27,248	\$42,578	\$15,330	64.00%
N. Olmstead	\$29,527	\$47,623	\$18,096	62.00%

*Information from SERB for cities with populations from 10,000 below to 10,000 above Zanesville

In this City Exhibit "E", the Employer is pointing out that out of six cities, the Corrections Officers in Zanesville rank third from the top in Corrections Officer wages as a percent of Police Officers wages.

Conversely, there are three cities that rank below Zanesville when comparing Corrections Officers wages as a percentage of Police Officers wages.

The Union counters the Employer's argument by stating that these cities in Exhibit "E" are all 5-day, 8-hour service jails and not full-service 7-day, 24-hour jails.

FACT-FINDER'S DISCUSSION

On the five (5) wage rate comparables with populations similar to Zanesville submitted by the Union, only Adams County and Madison County are full-service facilities. The average starting wage rate between the two counties (Adams and Madison) is \$11.72 (annualized to \$24,377.60). The average maximum wage rate between Adams and Madison Counties is \$13.47 (annualized to \$28,017.60).

The current starting wage for the City of Zanesville is \$9.18 (annualized to \$19,094.40) and the maximum wage rate is \$11.00 (annualized to \$22,880.00)

These comparisons of the average of the two full-service counties (Adams and Madison) vis-a-vis the City of Zanesville reveal the starting wage at Zanesville to be 27.7% below the average starting wage in Adams and Madison Counties; and the maximum wage rate for the City of Zanesville to be 22.45% below the average maximum wage rate of the two full-service facilities in Adams and Madison Counties.

While this analysis reveals a rather large differential between the starting wage rate and maximum wage rate of the two full-service facilities (average of Adams and Madison Counties) and the City of Zanesville, we must not lose sight of the fact that a third entity (Muskingum County Sheriff's Office) also provides full-service housing facilities. This additional facility for housing prisoners is not available in Adams or Madison County.

The Union acknowledges the existence of the Muskingum County Jail as a full-service jail that pays its corrections officers a starting wage of \$10.45 and a maximum wage of \$15.07 as of January 1, 2000. The Muskingum County Jail is also located in the City of Zanesville and provides the same or similar full-services that the City of Zanesville provides.

But the very existence of the Muskingum County Jail that provides the same or similar services as the City of Zanesville Jail has to be a contributing factor toward holding down the wage rates of the Corrections Officers for the City of Zanesville.

When you consider the fact that the City of Euclid, Ohio, with a much larger population than Zanesville, according to the Union, is the only other city in Ohio that deems it necessary to have a city jail in addition to a county jail.

There are much larger cities in Ohio (Akron, Columbus, Cincinnati, Dayton and Toledo) that do not deem it necessary to have a city jail.

While we cannot ignore the fact that there does exist a rather substantial wage disparity between the Corrections Officers in the City of Zanesville and those other entities as previously discussed, we also cannot ignore the realities of the situation, and the fact that it is the taxpayers of Muskingum County (including the City of Zanesville) that are called upon to support two (2) facilities that provide duplicating services.¹

Turning to the Employer's arguments:

With regard to their proposed 4% wage increase exceeding the average rate of inflation during the current contract; that proposal does not take into consideration the rather large wage disparity between and among the various agencies.

Admittedly, the 10.60% wage adjustment in the first year (1998) and the 4.60% and 4.20% increases in the second (1999) and third (2000) years of the current contract is an excellent attempt at providing some measure of closing the gap, the wage disparity is still very apparent.

The Employer's position with regard to a 4% wage increase as being in line with the other bargaining units within the City ordinarily would be a convincing argument in most fact-finding situations, but we don't know how these other bargaining units compare with their peers in other cities similar to Zanesville. What we do know is that there is a disparity in wages between the City of Zanesville Corrections Officers and corrections officers in similar organizations.

¹See ORC-OAC 4117-9-06 (H)(2) and 4117-9-06(H)(3) "giving consideration to factors peculiar to the area" and "the interest and welfare of the public"

The Employer's position with regard to the conciliator's award in the IAFF negotiations is well taken, and should not be ignored by the voting rank-and-file of the City of Zanesville Corrections Officers.

The Employer's position with regard to Employer Exhibit "F" and a letter from Muskingum County Sheriff Stephanson is not totally convincing because it points out the unique idiosyncracies of each agency; and we all know that every agency has its own particular set of circumstances that can justify why their situation is different from others. Case in point is two (2) similar facilities in Muskingum County.

Absent the letter (City Exhibit "G") from Muskingum County Sheriff Stephanson, Employer Exhibit "F" still illustrates a wage disparity between the average entry level wage and the top level wage and the Zanesville Corrections Officers' starting wage and maximum wage.

The Employer argues that the annual percentage increase the City offers is greater than the percentage increase to similar bargaining units around the state. (See City Exhibit "C", a report compiled by SERB dated November 28, 2000.)

While the percentage increases (City Exhibit "C") provide support for the Employer's position, it doesn't reveal wage rate comparisons among the similar bargaining units. We don't know whether there is or is not a wage discrepancy among these similar bargaining units. The majority of percentage increases range from 3.00% to 4.00%. There is one as low as 0.75% and one as high as 13.00%.

One could conclude, however erroneously, that the low percentage increase (0.75%) represents a wage rate well above the average and the high percentage increase

(13.00%) represents a wage disparity in that particular unit. (See Bedford Heights City on City Exhibit "C".)

The other conclusion with regard to City Exhibit "C" is that the majority of bargaining units receiving from 3% to 4% are pretty much in line with regard to wage rate equity.

FACT-FINDER'S RECOMMENDATION

The Union came into the fact-finding hearing stating that the Employer's final offer was a 6.7% increase in the first year (2001), a 4% increase for the second year (2002) and a 4% increase for the third year (2003). The Union feels that if it could get 1% more in the second and third year, it could get a favorable vote by the rank-and-file.

Unfortunately, the Employer's final offer of 6.7%, 4% and 4% was presented to the rank-and-file and was voted down.

What needs to be understood by the voting members of the bargaining unit is that when you vote down a contract proposal, you are negating the entire contract, not just the wages. You don't vote down a contract and then expect to come back and begin negotiating from the point of the Employer's final offer.

The Employer has returned to the bargaining table (fact-finding hearing) with all tentative agreements intact but with a slightly lower wage offer of 4% in each year of the new contract.

However, in the interest of bringing the parties to agreement, and due to the fact that the Employer knows what it can afford and recognizes the wage disparity between the City of Zanesville Corrections Officers, I am recommending the Employer's wage offer of 6.7% in the first year (2001), 4% in the second year and 4% in the third year of a new three (3)

year contract. This averages out to 4.9% over three (3) years, which is more than a 4.25% increase over three (3) years.

In essence, I am giving the rank-and-file the opportunity to vote one more time on what the Union characterizes as the Employer's final offer.

I feel that the Employer was trying to address some of the wage disparity by proposing 6.7% in the first year of a new contract.

The Employer made this proposal based on what it knew it could afford.

Since the Employer, at the fact-finding hearing, has modified its wage proposal to 4%, 4% and 4% increases over a three year contract, any recommendation I would make that exceeds the Employer's offer of 6.7%, 4.0% and 4.0% over a three year contract would not be conducive to getting a favorable vote from the Employer.

Based on the foregoing analysis, my recommendation is as follows:

APPENDIX I
PAY RATES FOR CORRECTION OFFICERS

JANUARY 2001					
STEPS	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>
	9.80	10.08	10.91	11.37	11.74
JANUARY 2002					
STEPS	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>
	10.19	10.48	11.35	11.82	12.21
JANUARY 2003					
STEPS	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>
	10.60	10.90	11.80	12.29	12.70

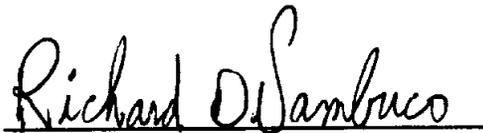
As the parties well know, not everyone gets what they want in negotiations. That is what collective bargaining is all about.

In making my recommendation, given the comparative analysis, the federal and state laws and the mandates (from SERB) that I must operate under, I have attempted to make my recommendation with the ultimate objective of bringing the parties together and moving them toward approval of a new three (3) year agreement.

My recommendation is predicated on the fact that all previously resolved issues (tentative agreements) are to be incorporated into the final agreement.

I wish both parties success in their deliberations.

Report compiled and submitted in Belmont County, Ohio, effective January 3, 2001.

A handwritten signature in cursive script that reads "Richard D. Sambuco". The signature is written in black ink and is positioned above a horizontal line.

Richard D. Sambuco
Fact-Finder

RDS:go