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STATE EMPLOYMENT
RELATIONS BOARD

REPORT OF THE FACTFINDER

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:
IN THE MATTER OF

:
TEAMSTERS IBT, LOCAL 413

&

THE CITY OF POWELL

:
SERB CASE 01-MED-10-1064

FACTFINDER

JOSEPH P. SANTA-EMMA

DATE OF MEDIATION

MAY 20 & 22, 2002

DATE OF HEARING

JUNE 7, 2002

DATE OF REPORT

JUNE 21, 2002

I. APPEARANCES

On behalf of the Employer:

Jonathan Downes

Benjamin S. Albrecht, Esq.

On behalf of the Union

Susan D. Jansen, Esq.

II. INTRODUCTION AND BACKGROUND

The parties to the Fact-finding are The City of Powell, Division of Police, hereinafter referred to as the Employer, and IBT Local 413, hereinafter referred to as the Union.

There are eleven (11) police officers in the unit. This is an initial contract following certification in SERB Case 01-REP-05-0113.

The parties met for negotiations on December 14, 2001, January 16, 2002, January 22, 2002, January 24, 2002, February 1, 2002, February 13, 2002, February 27, 2002, March 15, 2002, and March 20, 2002. The parties then met with Fact-finder in mediation on May 20, 2002, and May 22, 2002. The hearing was on June 7, 2002.

III. ISSUES

The following issues were presented to the Fact-finder.

1. Article 28. Wages
2. Article 26. Insurance
3. Article 7a. Fair Share Fee (Union Proposal)
4. Article 16. Hours of Work and Overtime
5. Article 27. Sick Leave
6. Article 29. Duration
7. Article 32. Miscellaneous Economics

After further mediation, the following recommendation was stipulated into the record.

1. Article 28, Wages

Numerous issues within Article 28, Wages, were placed before the Fact-finder.

The issues included the following:

1. The percentage of any annual wage increase;
2. The effective dates of the percentage wage increases;
3. The number of steps in the wage scale;
4. The amount of a shift differential supplement, if any;
5. The amount of an officer-in-charge supplement; and
6. The amount of a longevity payment, if at all.

As for the percentage wage increase, the Union proposed a three-year wage increase of approximately 20%/4%/4% effective January 1, 2002, January 1, 2003, and January 1, 2004, respectively. The Employer proposed a 9%/3%/4%/3% wage increase effective July 1, 2002, January 1, 2003, July 1, 2003, and July 1, 2004, respectively.

The Union proposed a four (4) step wage scale, whereas, the Employer proposed a six (6) step wage scale.

The Union proposed a shift differential of \$0.75/hr for all officers assigned to work one-half or more of their shift between 2:00 p.m. and 6:00 a.m. for all hours worked between those hours. Additionally, the Union proposed a \$0.50/hr weekend shift differential. The Employer did not propose a shift differential.

The Union proposed an officer-in-charge pay supplement at the wage rate of the next higher rank for all hours during which the employee performs such officer-in-charge duties. The Employer proposed an officer-in-charge supplement to be implemented during the three (3) year life of the Agreement. Pursuant to the Employer's proposal, effective July 1, 2003, employees assigned by the Chief to serve as an officer-in-charge for an entire shift would receive a \$0.25/hr supplement and effective July 1, 2004, employees assigned by the Chief for an entire shift to serve as an officer-in-charge would receive a \$0.50/hr supplement.

The Union proposed including a longevity payment schedule based upon the completed years of service as a state certified police officer. The Employer proposed no longevity.

Recommendation – Article 28, Wages

Section 28.1 Pay Rates Effective the first full pay period including July 1, 2002, the following pay rates will be paid to employees:

	<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>
Police Officer (Hourly)	\$16.21	\$18.21	\$20.21	\$22.21
Police Officer (Annually)	\$33,716.80	\$37,876.80	\$42,036.80	\$46,196.80

Signing Bonus: Employees shall receive a signing bonus in the amount of 2.5% of their annual wage effective on July 1, 2002.

Effective the first full pay period including July 1, 2003, the following pay rates will be paid to employees:

	<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>
Police Officer (Hourly)	\$17.02	\$19.12	\$21.22	\$23.32
Police Officer (Annually)	\$35,401.60	\$39,769.60	\$44,137.60	\$48,505.60

Effective the first full pay period including July 1, 2004, the following pay rates will be paid to employees:

	<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>
Police Officer (Hourly)	\$17.88	\$20.08	\$22.92	\$24.49
Police Officer (Annually)	\$37,190.40	\$41,766.40	\$47,673.60	\$50,939.20

Section 28.2 Step Advancement Step advancement to Step 2 shall occur after one year of continuous service with the Employer on the employee's anniversary date of employment. Step advancement to Step 3 shall occur after one (1) year of continuous service in Step 2 on the employee's anniversary date of employment. Step advancement to Step 4 shall occur after one (1) year of continuous service in Step 3 on the employee's anniversary date of employment.

Section 28.3 Shift Differential All officers assigned to a shift in which at least one-half (1/2) or more of their regularly scheduled working hours occur between the hours of 2:00 p.m. and 6:00 a.m. shall receive a shift differential. Effective the first full pay period including July 1, 2002, employees shall receive a shift differential of \$0.25/hr. Effective the first full pay period including July 1, 2003, employees shall receive a shift differential of \$0.35/hr. Effective the first full pay period including July 1, 2004, employees shall receive a shift differential of \$0.50/hr.

Section 28.4 Officer-in-Charge Officers assigned by the Chief, or designee, to serve as an officer-in-charge for at least four (4) hours of a shift when no lieutenant is on duty shall be entitled to receive an officer-in-charge supplement. If assigned to work at least four (4) hours on a shift as an officer-in-charge, the employee shall receive the supplement for all hours worked as an officer-in-charge during the shift. Effective the first full pay period including July 1, 2002, employees serving as an officer-in-charge shall be entitled to a supplement of \$1.00/hr. Effective the first full pay period including July 1, 2003, employees serving as an officer-in-charge shall be entitled to a supplement of \$1.50/hr. Effective the first full pay period including July 1, 2004, employees serving as an officer-in-charge shall be entitled to a supplement of \$2.00/hr.

2. Article 26, Insurance

The issue between the parties in Article 26, Insurance, was language regarding the Employer's ability to modify the coverage of the City's Health Insurance Plan. The Union proposed retaining the same level of benefits during the life of the Agreement; whereas, the Employer proposed language permitting the modification of the Plan.

Recommendation—Article 26, Insurance

Section 26.1 The Employer shall make available to bargaining unit employees group medical and dental insurance coverage for each employee. The level of insurance benefits provided to employees shall remain the same or substantially similar to the level of benefits in effect as of the effective date of this Agreement. Employees shall be responsible for paying ten percent (10%) of their monthly insurance premiums or thirty dollars (\$30) per month for Single coverage, whichever is the lesser amount. Employees shall be responsible for paying ten percent (10%) of their monthly insurance premiums or seventy dollars (\$70) per month for non-Single coverage, whichever is the lesser amount.

It is further agreed and understood that the City will permit two (2) members to serve on a City Employee Insurance Committee to review and advise the City as to its choice in Health Care Plans.

3. Article 7a, Dues Deduction

The Union proposed the inclusion of a Fair Share Fee provision in Article 7, Dues Deduction. The Employer opposed the inclusion of the Union's Fair Share Fee proposal.

Recommendation—Article 7, Fair Share Fee

Section 7.3 Fair Share Fee Any employee who is not a member of Local 413 shall pay Local 413, through payroll deduction, a contract service fee or fair share for the duration of this Agreement. This provision shall not require any employee to become or remain a member of Local 413, nor shall the fee exceed the dues paid by the members of Local 413 in the same bargaining unit. Local 413 is responsible for notifying the Employer of the proportionate amount, if any, of its total dues and fees that was spent on activities that cannot be charged to the service fees of non-members during the preceding year. The amount of service fees required to be paid by each non-member employee in the unit (during the year) shall be the amount of the regular dues paid by employees in the unit who are members of Local 413 less each non-member's proportionate share of the amount of Local 413's dues and service fees spent on activities not chargeable to such service fees during the prior year. If an employee

challenges the propriety of Local 413's use of such fee, deductions shall continue, but Local 413 shall place the funds in an interest bearing escrow account until a resolution of the challenge is reached pursuant to the provisions of ORC 4117.09© and other appropriate provisions of federal and state law and rules of the State Employment Relations Board. The Union agrees to provide, annually to the Employer, a copy of the fair share fee rebate procedure.

4. Article 16—Hours of Work and Overtime

Various disputes existed between the parties pertaining to Article 16, Hours of Work and Overtime. The issues between the parties were as follows:

1. The definition of the employees' workweek;
2. The Employer's ability to alter or modify work schedules;
3. The hours of work threshold for overtime;
4. The types of hours to be considered hours worked for purposes of overtime;
5. Guaranteed hours for call-in and/or court pay; and
6. The amount of compensatory time off hours available to employees, if at all.

The Union proposed a forty (40) hour workweek with five (5) consecutive eight (8) hour workdays and two (2) consecutive days off. The Employer proposed a forty (40) hour workweek with no designation of days off and workdays.

The Employer proposed retaining the authority and ability to modify the work schedules of the Department and its employees.

The Union proposed an overtime threshold of forty (40) hours in a workweek or eight (8) hours in any workday. The Union proposed including an employee's vacation leave hours, sick leave hours, compensatory time hours, injury leave hours and bereavement leave hours in the definition of active pay status. The Employer proposed an overtime threshold of eighty (80) hours in a two (2) week period. The Employer

proposed that overtime be calculated based upon the hours actually worked by an employee.

For court pay, the Union proposed a minimum of three (3) hours at one and one-half (1 ½) time the employee's regular rate of pay. For court pay, the Employer proposed three (3) hours at the appropriate rate of pay. For call-in pay, the Union proposed a minimum of three (3) hours pay at one and one-half (1 ½) times the employee's regular rate of pay. The Employer proposed call-in pay at a minimum of two (2) hours at the appropriate rate of pay.

The Union proposed including compensatory time off up to a maximum accumulation of two hundred and forty (240) hours. The Employer proposed not including compensatory time off in the collective bargaining agreement.

Recommendation: Article 16, Hours of Work and Overtime

Section 16.1. Definition: The workweek shall typically consist of forty (40) hours. The salary and wage ranges prescribed in the pay plan for the respective positions are based upon a workweek of forty (40) hours and a work year of 2080 hours.

Section 16.2. Work Schedule: The City recognizes the benefit to be achieved from advanced notice of scheduling and, accordingly, agrees that, unless unusual circumstances prohibit, the work schedule for the employees will be determined by the Employer and posted at least four (4) weeks prior to the implementation of the work schedule. If a change in the posted work schedule becomes necessary, the effected Employee will be notified of such change as soon as possible through a written memorandum, telephone, call, or personally speaking to the effected employee.

The Employer shall retain the discretion to alter the Department's shift schedules. In the event the Employer alters the Department's shift schedules, the Chief shall meet with the Union for the purpose of discussing such alteration. After discussing the altered shift schedules with the Union, the Employer shall be permitted to implement the change to the shift schedules. The Employer shall provide four (4) weeks advance notice of any change to the Department's shift schedules. The Chief shall be permitted to modify the Department shift schedules one (1) time per calendar year.

Section 16.3. Overtime: Employees shall be compensated at straight-time hourly rates for all hours in paid status, except that employees shall be compensated at a rate of one and one-half (1 ½) times their regular hourly rate for all hours in paid status in excess of forty (40) hours in a seven (7) day period. For purposes of calculating an employee's

overtime, paid status shall include hours actually worked by the employee and time spent while on vacation leave and bereavement leave.

Section 16.4, Pyramiding: There shall be no pyramiding of pay for the same hours worked or paid.

Section 16.5, Call-in Pay/Court Pay: Any employee who must appear in court as an arresting officer or witness in a criminal or civil case related to his employment with the Employer after leaving work or in a day when he is not scheduled to work shall receive a minimum of three (3) hours pay at the appropriate rate of pay for the minimum or actual hours his attendance is required, whichever is greater. Appearances which abut an employee's work hours shall be compensated, but shall not be subject to the minimum hours set forth above. All court fees received by the employee shall be remitted to the City.

Any employee called-in to work after leaving work or in a day when he is not scheduled to work shall receive a minimum of three (3) hours pay at the appropriate rate of pay for the minimum or actual hours his attendance is required, whichever is greater. Call-in time which abut an employee's work hours shall be compensated, but not be subject to the minimum hours set forth above.

Section 16.6, Compensatory Time: At the election of the employee, overtime may be compensated with compensatory time off. Such compensatory time off shall be earned in a manner consistent with the overtime provisions outlined above. Employees shall not be permitted to accumulate and use more than fifty (50) hours of compensatory time in any calendar year. At the end of each calendar year, an employee shall be permitted to convert their accrued, but unused compensatory time to cash at the employee's appropriate rate of pay.

Section 16.7, Payment of Accrued Compensatory Time at Separation: Upon separation from employment, employees shall be paid for their accrued, but unused compensatory time. In the event of any employee's death, such accrued, but unused, compensatory time shall be paid to the employee's surviving spouse or estate.

5. Article 27, Sick Leave

For the most part, the parties relied largely on the City's current Sick Leave Policy. The Employer proposed reducing Sick Leave accrual from fifteen (15) days to ten (10) days. The Union proposed including a sick leave incentive program and modified conversion at retirement provision. The Fact-finder recommends utilizing the City's current sick leave policy.

Recommendation: Article 27, Sick Leave

Section 27.1, Paid Sick Leave Days: Employees are eligible for paid sick leave days. Sick leave days will accrue at the following rate:

<u>Full-Time Employee Designation</u>	<u>Sick Leave Accrual Rate</u>	<u>Maximum Annual Sick Leave Accrual</u>
Hourly/Salary Paid Hour pay period	4.6 hrs/per 80	119 hours = 15 days

Section 27.2, Active Pay Status: For purposes of accumulating sick leave hours, “active pay status” is defined as hours worked and any paid time off hours (vacation, sick leave, bereavement leave and holidays). It shall not include non-paid time off.

Section 27.3, Compensation: Approved paid sick leave will be paid at the employee’s regular rate of compensation for eight (8) hours per sick leave day. Paid sick leave hours are not considered as “hours worked” for purposes of computing overtime.

Section 27.4, Accumulation: Eligible full-time employees may accumulate unused sick leave days up to a maximum of 1040 hours (130 days). Employees who have reached the maximum “cap” amount will receive a cash benefit, at the end of the year, for any accrued paid sick leave hours over the maximum amount as follows: the cash benefit shall equal one (1) hour of the employee’s regular rate of pay for every two (2) hours of unused sick leave credit.

Unused, accumulated sick leave cannot be converted to personal holidays, vacation, or transferred to other staff. Unused, accumulated sick leave days shall be forfeited upon separation of employment with two (2) narrow exceptions: (1) upon the voluntary retirement of any full-time employee with ten (10) years of public service under the State Retirement System, he or she will be entitled to a pay out for twenty-five percent (25%) of the value of the full-time employee’s unused and accumulated sick leave credit up to the maximum 130 day limit; or (2) the same pay out arrangement shall be made to the full-time employee’s spouse or estate upon the death of an employee who was actively employed by the City. An employee may use sick leave only up to the amount that has been accumulated at the time of need. If sick leave is exhausted, an employee may opt to use any accrued vacation that may be necessary, upon the approval of the City Manager, or may apply for any applicable leave of absence. Otherwise, any medically-related absence in excess of the number of paid sick leave days accumulated to his or her credit will be without pay.

Section 27.5, Use of Sick Leave Days: Sick leave may be utilized for a maximum of up to three (3) consecutive working days off with the approval from the eligible employee’s immediate supervisor. After the third day, sick leave may be utilized only upon the approval of the City Manager or designee. In any event, sick leave may be utilized for the following reasons:

- a. employee is unable to work due to a medically diagnosable condition or disability;

- b. unexpected medical immediate family emergency where the employee's presence is unavoidably necessary;
- c. medical, dental or optical examinations or treatments for the employee or a member of his immediate family upon prior approval of his or her immediate supervisor; or
- d. bereavement leave due to the death of the employee's spouse, children, mother (in-law), father (in-law), sister (in-law), brother (in-law), grandparent, grandchild, legal guardian.

For purposes of this article, immediate family shall be defined to include an employee's spouse, children or other resident dependents.

Section 27.6, Notification: Employees must notify the Employer within two (2) hours prior to his or her scheduled starting time. He or she also must notify the immediate supervisor on each succeeding day of the absence, unless it previously has been reported to his or her immediate supervisor and the employee has been authorized to report less frequently than daily. The mere fact that an employee has reported an absence does not excuse an absence.

When requesting and/or taking less than one full sick leave day (in minimal increments of two (2) hours), the employee must notify his or her immediate supervisor of his arrival and/or departure times so that this time off accurately can be deducted from the employee's remaining sick leave time.

Section 27.7, Documentation: Medical documentation, including a medical examination required by the City, may be required for any amount of sick leave time off taken.

Section 27.8, Sick Leave While on Vacation: If an employee becomes injured or ill while on scheduled vacation, that injury or illness confines him or her to a hospital or a residence, the employee may opt to charge his or her time away to any unused, accumulated sick leave days. Proper documentation confirming the injury or illness must be submitted to his or her immediate supervisor before such a change can be made.

6. Article 29, Duration

Both parties were in agreement on a three-year duration of the collective bargaining agreement. The only dispute between the parties on the duration of the agreement was the effective dates.

Recommendation: Article 29, Duration

Section 29.1, Duration: The provisions of this Agreement unless otherwise provided for herein, shall be come effective upon July 1, 2002, and shall remain in full force and effect until 11:59 p.m., on June 30, 2005.

Section 29.2, Subsequent Negotiations: If either party desires to modify or amend this Agreement, it shall give written notice of such intent no earlier than one hundred twenty (120) calendar days prior to the expiration date, and no later than ninety (90) calendar days prior to the expiration date of this Agreement. Such notice shall be by certified mail with return receipt requested.

Section 29.3, Entire Agreement: The parties acknowledge that during the negotiations which resulted in this Agreement, each had the right and opportunity to make demands and proposals with respect to any subject matter not removed by law from the area of collective bargaining and that the understandings and Agreements arrived at by the parties hereto after the exercise of those rights and opportunities set forth in this Agreement. The provisions of this Agreement constitute the entire Agreement between the Employer and the Union, and all prior Agreements, practices, and policies concerning the subject matter provided for herein, either oral or written, are hereby canceled.

Section 29.4, Waiver: Both parties, for the life of this Agreement, voluntarily and unequivocally waive the right, and each agrees that the other shall not be obligated, to bargain collectively or individually with respect to any subject or matter referred to or covered in this Agreement or with respect to any subject or matter not specifically referred to or covered in this Agreement even though such subjects or matters may not have been within the knowledge of either or both parties at the time they negotiated or signed this Agreement.

7. Miscellaneous Economic

The parties dispute pertained to the types of payments to be included in Article 32, Miscellaneous Economic. The Union proposed including the following additional forms of compensation: Field Training Officer supplement; Departmental Instructor supplement, Reimbursement for Expenses and Travel; and an Educational Incentive. The Employer proposed only an Educational Incentive.

Recommendation: Article 32, Miscellaneous Economic

Section 32.1, Educational Incentive: After three (3) years of employment with the City of Powell Police Department, an employee who has an Associate's, bachelor's or Master's degree from an accredited college/university, shall be entitled to a yearly educational incentive as follows:

Associate's Degree	\$125
Bachelor's Degree	\$350
Master's Degree	\$500

Payment of the educational incentive shall be during the pay period immediately following the employee's anniversary date of employment. Payment for the highest degree earned shall be considered compensation for all preceding degrees.

This concludes the Fact-finder's Report.



Joseph P. Santa-Emma

Date of Report June 21, 2002

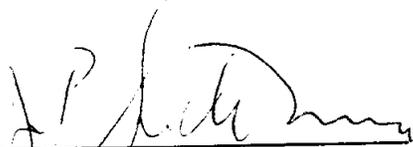
CERTIFICATE OF SERVICE

The undersigned certifies that a true copy of this Fact-finder's Report was sent by first class U. S. Postal Service Mail on June 21, 2002, to:

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