

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

STATE EMPLOYMENT
RELATIONS BOARD

2004 APR -8 A 11: 04

April 6, 2004

In the Matter of Fact-Finding Between

THE CITY OF SOLON

and

OHIO PATROLMEN'S BENEVOLENT
ASSOCIATION

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Case Nos. 03-MED-10-1168
03-MED-10-1169

APPEARANCES

For the City:

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For the Union:

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Attorney
Patrolman/Director
Patrolman/Director
Lieutenant/Ranking Officer Representative

Fact-Finder:

Virginia Wallace-Curry

INTRODUCTION

This matter concerns the fact-finding proceeding between the City of Solon (the "City") and the Ohio Patrolmen's Benevolent Association (the "Union" or "OPBA"). There are two bargaining units involved in this matter. One unit consists of thirty-five (35) regular, full-time Patrol Officers working for the City's Police Department. The other unit consists of approximately eight (8) regular, full-time Sergeants and Lieutenants of the City's Police Department. The terms of the parties' expired collective bargaining agreement covered the period from January 1, 2001 through December 31, 2003.

The parties agreed to commence negotiations early in June 2003, well before the expiration of the collective bargaining agreement. The parties met on several occasions and engaged in productive discussions. The parties reached agreement in regard to several non-economic issues. The issues that remain are primarily related to economics and health care.

Virginia Wallace-Curry was appointed fact-finder in this matter by the State Employment Relations Board. The parties declined the fact-finder's offer to mediate the issues, and a hearing was held on February 24, 2004, at which time the parties were given full opportunity to present their respective positions on the issues. The fact-finding proceeding was conducted pursuant to Ohio Collective Bargaining Law and the rules and regulations of the State Employment Relations Board, as amended.

In making the recommendations in this report, consideration was given to criteria listed in Rule 4117-9-05 (K) of the State Employment Relations Board.

The following issues were submitted by the parties as being at impasse for both bargaining units.

1. Article VII- Employee Rights
2. Article XVIII - Holidays
3. Article XX - Longevity
4. Article XXIV - Compensation
5. Article XXVII - Uniform Allowance and Detective Pay
6. Article XXVIII - Firearms Proficiency Allowance
7. Article XXIX - Insurance
8. New Article - Post Retirement Plan
9. New Article - Workers' Compensation Coverage

The following two issues apply to Ranking Officers only:

1. Article XXIV - Compensation
 - a. Rank Differential
 - b. Jail Supervisory Pay
2. Article XXVII - Uniform Allowance

All Tentative Agreements reached by the parties during negotiations are incorporated into this report and are recommended by the Fact-Finder.

BACKGROUND

The City of Solon is located in the southeastern portion of Cuyahoga County and has a population of approximately 22,000. It is comprised substantially of residential homes but also maintains a large industrial base. With its industrial base, the City has generated favorable revenue streams and has invested much of that money back into the community. In 2003, the City opened a new community center. In addition, the City completed construction of a new fire station in October 2003 and hired additional firefighters to staff the facility. The City is

financially sound and appears to be well managed.

In November 2003, the City and the firefighters accepted the recommendations of Fact-Finder Jonathan Klein in regards to the outstanding issues at impasse in their negotiations. Fact-Finder Klein used the following jurisdictions for comparability purposed in his report: Cleveland Heights, Shaker Heights, Beachwood, Lyndhurst, Highland Heights, South Euclid, Euclid, Westlake, Strongsville, Brookpark, North Olmsted, Twinsburg, Rocky River, Richmond Heights, University Heights, Bedford Heights, Fairview Park, Bay Village, Maple Heights, Bedford, Lakewood, and Berea. This Fact-Finder will, likewise, use these same jurisdictions in drawing comparisons for the Police Department units at issue here. As required by law, this Fact-Finder will also look to other bargaining units within the City in evaluating the positions of the parties.

1. Article VII - Employee Rights

City's Proposal

Provide that the City can utilize prior verbal and written reprimands that are two years old if they involve prior similar conduct.

Provide that the City can introduce prior discipline regardless of the date of issuance for purposes of rebuttal at arbitration.

The current agreement prohibits the use of written reprimands that are more than two years old. For suspensions, the "shelf-life" of the offense is three years unless it involves conduct similar to the current offense, in which case it can be used even if it is more than three years old. The City seeks the same exception to allow the use of written reprimands, including written records of verbal reprimands, that are more than two years old, if they involve prior

similar conduct.

In addition, the City seeks to confirm its right to use older discipline as rebuttal in an arbitration to counter any potential assertions that a grievant has had a satisfactory, long-term work record. The proposals impose little burden on the employees, but are reasonable and necessary for the proper operation of the Police Department.

Union's Proposal

The Union agrees with the City's proposal to allow it to introduce prior discipline regardless of the date of issuance for purposes of rebuttal at arbitration. The Union opposes any other City concession here as none is warranted.

Recommendation

The Fact-Finder recommends that the City be permitted to introduce prior discipline, regardless of the date of issuance, for the purpose of rebuttal at arbitration. The Union even agrees that this is a reasonable proposal.

However, the City's proposal to extend the "shelf-life" of verbal reprimands and written warnings beyond two years for prior similar conduct is not recommended. Presumably, these types of discipline are used in cases involving more minor offenses, such as tardiness, absenteeism, etc. The City did not demonstrate any need to keep these infractions alive longer than two years. For infractions of a serious nature, which warrant a suspension, the City already has the ability to use the discipline when issuing new discipline or in the grievance/arbitration procedures, if it involves similar conduct more than three years old.

Secondly, the City's proposal does not place any time limit on the use of such disciplinary actions. Under the City's proposal, a written warning for absenteeism could follow an employee

indefinitely and provide the basis for a suspension many years after the initial infraction. This is not reasonable or fair to the employee.

Recommended Contract Language

Add to Article VII (7):

Prior disciplinary action, regardless of the date of issuance, may be introduced at arbitration for the purposes of rebuttal.

2. Article XVIII - Holidays

City's Proposal

Provide 1½ times pay, but not an additional day off for working the following days:

Employee's Birthday, Columbus Day, Good Friday, President's Day and Martin Luther King Day. Employees working all remaining identified holidays shall be compensated per current contract language.

The City proposes a modification to the holiday pay in order to bring Solon back in line with what other jurisdictions pay and in line with what Solon's firefighters get for working on a holiday. Currently, the patrol officers and sergeants receive eleven paid holidays. If they have to work on one of these eleven holidays, they receive not only 1½ times their hourly rate for all hours worked, but also receive another day off. The City proposes to limit the holidays for which the employee receives an additional day off to family-type holidays such as Christmas, Thanksgiving, New Years, Memorial Day, Independence Day and Labor Day. For the remaining holidays – President's Day, Martin Luther King Day, Good Friday, Columbus Day and the Employee's Birthday – the City proposes the employee receive overtime pay, but not an additional day off.

Providing overtime and an additional day off on non-family holidays is excessive on its

face and by comparison. The City's firefighters receive an overtime rate only for working on Thanksgiving, Christmas and New Years. Externally, a vast majority of cities in the county provide holiday compensation commensurate or at levels less than what the City is proposing.

Union's Proposal

The Union opposes the City's proposal to take away from the current benefit. The City's attempt must fail on the basis of bad faith alone.

The City's firefighters enjoy a lucrative holiday pay benefit in comparison to other fire jurisdictions, yet the City made no effort to reduce their benefits. Holiday benefits was not even an issue considered by their Fact-Finder.

Furthermore, recommendation of the City's proposal would further exacerbate the bargaining units' current predicament, i.e., the disparity between their pay and that of Solon's firefighters and that of police officers working in other like cities.

Recommendation

Maintaining current contract language is recommended. Proposals which require employees to give back all or a portion of a benefit once gained should be prompted by a dire financial situation or requested as a *quid pro quo* for something other benefit or gain. This Fact-Finder does not know the bargaining history of the parties and, therefore, does not know what the trade offs were that gained the Union the current holiday package. But the City has shown no compelling reason for employees to forego any portion of this bargained for benefit. Certainly, the City is not facing dire financial constraints, and the Police Department's total compensation package is about average for comparable jurisdictions.

3. Article XX - Longevity

City's Proposal

Modify longevity benefits for employees hired after December 31, 2003, to the following schedule

after 5 full years of service	\$250.00/year
after 10 full years of service	\$500.00/year
after 15 full years of service	\$750.00/year
after 20 full years of service	\$1,000.00/year

The concept of longevity pay was conceived back in the 1960's and 1970's when working for a governmental entity was not a financially rewarding undertaking. Things have changed and public sector jobs, especially in the outer-ring suburbs, have become extremely desirable. Thus, the need to attract or retain employees with archaic benefits like longevity has long-since passed.

The City's proposal does not impact any current employees, but simply seeks to reduce this rich benefit for future hires. Because the purpose of longevity payments has disappeared, and this benefit has become an unnecessary, yet costly, expense, the City's proposal should be recommended.

Union's Proposal

The Union proposes to maintain the current contract language and benefit levels. The current language regarding longevity already contains a two tier system, with employees hired after 1989 receiving less benefits than earlier hires. The Union is not interested in starting another tier.

Longevity payments are part of the total compensation package. In comparing the City to other like jurisdictions, its police officers are at or below average in total compensation. A reduction in this benefit would further erode their position. Firefighters also receive a longevity

payment, and it was not an benefit the City sought to reduce during their negotiations. Such a reduction, even for future employees, should not be recommended here.

Recommendation

It is recommended that the parties maintain the current contract language and benefit levels for longevity. As the Union pointed out, longevity payments are part of the total compensation package and a reduction, even for future employees, would place the City's total compensation package below average for employees in comparable jurisdictions. There is already a two-tier system in place, and the City received a reduction in longevity payments. Another is not warranted at this time. A reduction in longevity payments was not an issue the City sought in negotiations with the firefighters and is not recommended here.

4. Article XXIV - Compensation

Union's Proposal

The Union proposes to increase the current wage scale as follows:

Effective January 1, 2004 - 4.75%
Effective January 1, 2005 - 4.50%
Effective January 1, 2006 - 4.50%

The Union asserts that its conciliatory posture in recent past negotiations has left it in an inferior position in comparison to the City's firefighters and other police jurisdictions in Cuyahoga County in total compensation. In a study of 16 comparable jurisdictions, the City has the sixth highest per capita revenue but ranks below average in total compensation for patrol officers. Seven of the cities cited are less wealthy than the City, yet they have better total compensation packages than the City's Police Department.

The City enjoys a very healthy financial situation. At the end of the year 2003, the City had a \$18.3 million surplus. The Union asserts that the City can well afford to meet the Union's proposed increases in wages, which are designed to help its members make up for ground which has been lost in recent negotiations.

City's Proposal

The City proposes the following wage increases, retroactive to January 1, 2004:

January 1, 2004 - 4.0%
January 1, 2005 - 3.75%
January 2, 2006 - 3.75%

Although the City maintains a favorable fiscal condition, revenues declined by over \$400,000 in 2003, which is indicative of the erosion of annual surpluses for years to come. In 2003, the City's revenues were flat. Because the City has grown to near maximum industrial capacity, its expenditures are expected to outpace revenues over the ensuing three years, according to the analysis performed by the Finance Director. This demonstrates that the City's finances, though not in peril, are finite and unwarranted expenditures must be avoided.

The City's patrol officers rank favorably among similar employees in Cuyahoga County. In 2003, the average patrol officer in Cuyahoga County earned \$51,360. Solon's patrol officers earned \$52,707 – \$1,342 above the average. Similarly, the salaries for the City's sergeants and lieutenants ranked above the average for those in Cuyahoga County. Ranking officers also receive an additional form of compensation in the form of a bonus of up to \$1,000 (sergeants) to \$1,500 (lieutenants) every year. Hence, their true compensation is well above the county-wide average.

The City's proposal is based on the very wage increases recommended by Fact-Finder

Klein for the City's firefighters in their 2004-2006 contract with the City, which were accepted by both parties. The salaries for the City's patrol officers and the its firefighters are and have been the same. Absent a basis for differential treatment, safety forces within a particular jurisdiction should receive the same base salary, particularly where a history of such compensation exists.

Recommendation

The wage proposal of the City is recommended. As noted by the City, the base salaries of the City's police officers and firefighters traditionally have been the same. The Union did not demonstrate any compelling reason to deviate from this tradition. The police officers total compensation package is not significantly below average compared to officers in similar jurisdictions. The City's police officer rank about average.

Although the City is fiscally sound, the wage rate requested by the Union appears excessive. The average rate increase for comparable cities in Cuyahoga County is 3.75%. The City's proposal of 4.0% in the first year exceeds the average. For the remaining years, its proposal of 3.75% meets the average. The City's proposal should at the very least maintain the Union's position relative to other jurisdictions and possibly strengthen it.

Therefore, it is recommended that the following wage increases be added to the parties new collective bargaining agreement, retroactive to January 1, 2004:

January 1, 2004 - 4.0%
January 1, 2005 - 3.75%
January 2, 2006 - 3.75%

5. Article XXVI - Uniform Allowance and Detective Pay

Union's Proposal

Increase annual uniform allowance to \$1,000 for patrol officers and to \$1, 225.00 for sergeants and above.

Increase Detective pay as follows:

2004 - \$75.00/month

2005 - \$100.00/month

2006 - \$125.00/month

The Union asserts that the current allowance is below the comparables' average, which contributes to the current substandard pay package. The average uniform allowance of 20 eastside suburbs in Cuyahoga County is \$1007 compared to the City's uniform allowance of \$875. Furthermore, increases to the allowance are necessary to cover increases to already expensive articles of clothing.

The current Detective Pay of \$20.00 per month does not amount to enough to buy a decent suit. Nor does it amount to sufficient recognition for the special demands and needs of the job. Detectives go off the road and lose the opportunity to work overtime and side jobs. Detective Pay is minuscule in comparison to the analogous bonuses paid to the City's Fire Prevention Officers. Moreover, the \$20.00 stipend is not comparable to that paid in other similar jurisdictions.

City's Proposal

The City proposes to keep the current contract benefits level for Uniform Allowance and Detective Pay. The Union cannot support its demand for a 14.3% increase in the patrol officers' uniform allowance and the 18.6% increase for ranking officers. Moreover, the Union cannot support its excessive 635% increase in the detectives' uniform allowance.

The City asserts that the patrol and ranking officers do not need an increase to cover their

uniform needs. The City spends \$1,650 per officer to provide complete uniforms. Therefore, the \$875.00 and \$1,000.00 for the two groups are used exclusively for replacement and cleaning. A reasonable estimate of replacement clothing needed on an annual basis amounts to \$630.00. No increase is needed

Although the firefighters and lieutenants (not the Battalion Chiefs) just recently received an increase of \$75.00 to their uniform allowance, their uniform allowances still remain much lower than the Police Department's. Firefighters earn \$725.00 per year compared to the patrol officer's \$875.00 and lieutenants earn \$750.00 versus \$1,000 earned by ranking officers in the Police Department. Internal comparisons do not support an increase.

Finally, the Union cannot support the whopping 625% increase to the additional uniform allowance for the City's detectives. Currently, Detectives receive \$875.00 in uniform allowance plus an additional \$20.00/month or \$240.00 per year to assist them in their purchase of civilian clothes. The Union seeks to increase that additional money to \$1,500 per year. The purpose of the additional pay is to allow detectives to be able to purchase their "plain" clothes, nothing more. This is not an undesirable assignment that is in need of an incentive in order to attract applicants. It is an eagerly sought assignment.

Recommendation

Clearly, when comparing the range of uniform allowances for the various police jurisdictions in Cuyahoga County (\$500 in Rocky River to \$1,750 in Euclid), it is evident that uniform allowance is a benefit that reflects more than just the replacement and cleaning of uniforms. Basing an increase in uniform allowance solely on actual costs is naive. Uniform allowance has become another form of compensation which the parties can use without adding to

the base pay.

At \$875.00, the uniform allowance for the City's patrol officers is low. Patrol officers in 16 of the 23 comparable jurisdictions cited in the introduction to this report earn more uniform allowance than the City's patrol officers. In fact, just under half of the jurisdictions (10) have a uniform allowance of \$1,000 or more. The City has the resources to compensate the patrol officers at a similar level and keep the Police Department's total compensation package competitive. Therefore, the increase to \$1000.00 for patrol officers and \$1,225 for ranking officers is recommended. (Ranking officers' clothing allowance traditionally has been set at \$225 above that of patrol officers.)

With regard to the additional uniform allowance for detectives, the parties did not provide data for detectives in comparable jurisdictions. The Union's proposal of a 625% increase is excessive. However, even the City admitted that the detective pay should probably be raised, although they declined to commit to a figure. An increase from \$20.00 per month to \$50.00 per month seems reasonable and is recommended.

6. Article XXVIII - Firearms Proficiency Allowance

Union's Proposal

The Union proposes that the City pay the following amounts in twenty-six (26) equal amounts as part of the bi-weekly payroll:

2004 - \$1,500.00
2005 - \$1,600.00
2006 - \$1,700.00

The Union argues that Firearms Proficiency is an economic component that the parties

have treated as analogous to firefighters' Paramedic Pay. At present, the current Police Proficiency Allowance stands at \$400.00 below the current firefighters' Paramedic Pay. Moreover, the current Paramedic Pay represents a far more valuable benefit than the Firearms Proficiency Allowance. Paramedic Pay is made on a bi-weekly payroll basis versus the bonus nature of the Proficiency Allowance. Consequently, the firefighters' benefit is "pensionable" while the police officers' benefit is not. Thus, the firefighters retirement pension is enhanced proportionately.

The City's Negotiating Committee, during negotiations for the prior contract, agreed to make it a City goal to eliminate the disparity between the two allowances. However, the current City Committee is totally wed to incrementalism in regard to the amount and it totally opposed to making the benefit pensionable. There is no reason for the bargaining units to wait any longer for the catch up that even the City believes is warranted. The City has the money and the grounds necessary to sell the idea to any scrutinizing citizen or city council person.

The City's position on this issue as it relates to the City's position on the insurance issue cannot be rectified. The City's unyielding quest for police consent on the City-wide insurance concessions is undermined by the City's unwillingness to offer parity on the police wage components.

City's Position

The City proposes maintaining the current contract language on this issue. It argues that the Union's demand is exorbitant and comes without justification and should not be recommended.

The difference between the benefit levels of the Paramedic Pay and Firearms Proficiency

find their basis in the history of the two bargaining units and the fact that the “premium” applies to two wholly distinct functions. First, firefighters have been earning paramedic pay for many years. It was intended to encourage firefighters to become paramedics. It has gradually grown over the years from \$600 in 1989 to its current level. In the most recent round of negotiations, the fact-finder recommended a \$100.00 per year increase, raising the premium from \$1,400 to \$1,700 during the life of the contract.

The patrol officers’ firearm pay was provided for the first time in the recently expired contract between the City and the OPBA. The introduction of the firearm pay was negotiated in 2001 as a *quid pro quo* for having to pay a \$10.00-\$20.00 premium payment on insurance. The Union freely negotiated firearm pay at its current “unpensionable” \$1,100 level, with full knowledge that the firefighters’ contract provided paramedic pay at a \$1,400 pensionable rate. The Union now seeks a \$600.00 bump and to make the payment pensionable.

However, the firearm pay does not share the same history as paramedic pay, and there is absolutely no comparison between the demands of earning and maintaining paramedic certification versus qualifying with a firearm. By State law, police officers have to pass a shooting test once a year. Specifically, they have to successfully pass a test comprised of shooting at targets. The test last approximately 10 minutes per weapon. In the City, the test is conducted locally by fellow members of the City’s Police Department. Officers must pass a test for their pistol, shotgun and any spare weapon they may carry. Officers are provided 30 minutes of paid time during their shift each month to practice at the local shooting range. Officers pass the test routinely. Nobody in recent memory has failed the test.

In contrast, the responsibilities attached to becoming paramedic are far more onerous.

The Paramedic Program is based on the 1998 U.S. Department of Transportation guidelines and includes approximately 380 hours of classroom lecture and 352 hours of clinical time. In addition, students are instructed in Advanced Cardiac Life Support, Basic Trauma Life Support, and Pediatric Education for Prehospital Professionals which account for approximately 72 hours of additional training. Recertification requirements are set by state standards and include 80 hours of continuing education over a three year period with 12 of those hours specifically dedicated to pediatric training and 4 hours in geriatric training. Paramedics must also recertify for in Advanced Cardiac Life Support every two years.

This certification goes well beyond what is necessary to work as a basic firefighter in the State of Ohio, and requires class instruction, training and testing which dwarfs that which is required of patrol officers to qualify with their guns. The difference between the two clearly warrants different levels of compensation. The Union cannot justify anything more than an incremental increase.

Recommendation

It is recommended that the Firearms Proficiency Allowance be increased to \$1,300 per year, to be paid on a bonus basis.

The proposals of the Union cannot be recommended. Although internal comparables are one of the criteria that a fact-finder must examine in making recommendations, firearms proficiency and paramedic training are not comparable skills or certifications. The levels of difficulty, effort and time expended by employees to achieve and keep certification are vastly different. Therefore, they cannot be compensated at the same level. The amount of time and effort needed to earn paramedic pay must be recognized and justly rewarded.

As to the external comparables, not all jurisdictions compensate police officers for firearm proficiency. Some have other methods of adding to the total compensation package such as payments for shift differential, fitness or physical proficiency, and range time. These payments are lumped together in a category called "Other" in analyzing the total compensation packages. For comparable jurisdictions, the average payment in the "Other" category is \$1,024. Currently, police officers receive \$1,100 in firearm proficiency allowance. In total compensation, according to the Union's exhibit of comparable jurisdictions, the City's police officers are 2.31% below average. Therefore, an increase in the firearm proficiency pay to \$1,300 per year, along with the proposed wage increases and the increases in the uniform allowance, should bring the City's police officers above average.

7. Article XXIX - Insurance

Union's Proposal

The Union proposes the following in regards to insurance:

- a. Opt-Out - add "opt-out" provision at monthly amount equivalent to thirty percent (30%) of COBRA rate.
- b. Prescriptions - upon execution and life of contract, increase current prescription card to five dollars (\$5.00) generic and twelve dollars (\$12) name brand.

c. Monthly Premium Contributions

For PPO:

2004 - \$10/\$20

2005 - \$10/\$20

2006 - \$15/\$25

For Non-PPO

2004 - \$20/40

2005 - \$25/45

2006 - \$30/50

- Deductibles - Upon execution and for life of contract, raise current deductible to \$200/\$400 for PPO, and \$400/\$800 for non-PPO.

- Plans:
 2004 - retain current four (4) plans
 2005 - delete Kaiser and Super Med HMO

Despite the parties' impasse on this issue, they have actually be quite cooperative over the years in regard to insurance. Without use f the fact-finding process, the parties shifted coverage from the traditional first dollar coverage to that of managed care, deductibles and employee premium contributions.

The parties' cooperative effort was a product of a the city-wide Joint Medical/Hospitalization Insurance Committee. The parties' efforts have save the City several thousands of dollars. However, the City's costs could have been reduced even more had it heeded the Insurance Committee's recommendation for an opt-out program, which the Union now recommends.

The Union also proposes to raise deductibles and increase contributions for HMO participants, which will shift both coverage and burdens, thus limiting and restricting overall usage. The Union's formula to deter usage will result in more far extending cost savings than the City's proposal to raise the monthly premium contribution. The City's proposal results in nothing more than the City, which already has a lot of case, merely raising more cash.

City's Proposal

<u>Coverage</u>	<u>Proposed Current Plan -Effective 4/4/04</u>		<u>Proposed Plan Alternative Effective 2/1/05</u>	
	In - Network	Out - of Network	In - Network	Out - of Network
Deductible				
Individual	\$ 100.00	\$ 200.00	\$ 200.00	\$ 400.00
Family	\$ 200.00	\$ 400.00	\$ 400.00	\$ 800.00
Co-Insurance	N/A	80%	90%	70%

Coverage	Proposed Current Plan -Effective 4/4/04		Proposed Plan Alternative Effective 2/1/05	
	In - Network	Out - of Network	In - Network	Out - of Network
Co-Insurance Limit				
Individual	N/A	\$1,000.00	\$ 750.00	\$1,500.00
Family	N/A	\$2,000.00	\$1,500.00	\$3,000.00
Office Visit Co-pay	100% After Ded.	80% After Ded.	\$ 20.00	70%
Preventative Care Co-pay	100% (No Ded.)	80% (No Ded.)	100%	70%
Urgent Care Co-pay	100% After Ded.	80% After Ded.	\$ 35.00	70%
Emergency Room Co-Pay	100%	80%	\$ 50.00	\$ 50.00
Maximum Benefit	N/A	N/A	Unlimited	\$1 Million
Prescription Drug Co-pay				
Generic	\$ 10.00	80% After Ded.	\$ 10.00	70%
Brand	\$ 20.00	80% After Ded.	\$ 20.00	70%
Non-formulary	\$ 30.00	80% After Ded.	\$ 30.00	70%
Mail Order	2 times RX Co-pay	2 times RX- Co-pay	2 times RX Co-pay	2 times RX Co-Pay
	Monthly Premium Contribution		Monthly Premium Contribution	
	\$20.00 - Single \$40.00 - Family		\$-0- -- Single \$-0- -- Family	

Eliminate All HMO Options
Except HMO Health Ohio.

- Employees electing HMO-Health Ohio to pay \$30/month for single coverage and \$60/month for family coverage.

- For all plans: Permit opt-out
 - employees to receive 30% of COBRA Premium Rate (Medical, Drug & Vision).
 - employee must show proof of alternative insurance (does not apply where husband and wife are both employed by the City or where employee is not currently enrolled in a City-provided plan).

Health care costs have been rising at an alarming rate and will continue to do so into 2004. Although the City has faced the same inflationary trends as other employers, it has maintained a top-level insurance plan for its employees, covering virtually all treatment at 100% levels and required employees to pay only a small amount as premium contribution (\$10/mo. - single and \$20/mo. - family).

The City is not looking to gut the existing plan, or impose unrealistic premium contributions. Instead, it has provided an alternative in its proposal - (1) maintain nearly the same coverage, but at a moderately increased premium cost – **OR**, (2) elect an insurance plan that is more in line with the majority of employer and pay no premium contributions. The Union, on the other hand, offers only minor changes involving little in any “gives” on the part of its employees.

The City presented a similar, but more aggressive proposal before the fact-finder in the firefighters’ fact-finding. The City’s proposal was adopted in significant part. Specifically, the fact-finder recommended an increase in premium contribution to \$20/month for single coverage and \$40.00/month for family coverage, the elimination of two HMO plans and an increase in prescription drug co-payments to \$10.00 for brand name and \$20.00 for generic coverages.

What the fact-finder in the firefighter proceedings did not recommend was an increase in the out-of-network penalty of Column 1 and the non-formulary component of the prescription

drug line of Column 1. The fact-finder also rejected the City's concept of an alternative plan - Column 2.

The City has made significant modifications to those components of its insurance proposal which were not recommended in the prior fact-finding and made them more palatable to for its employees. In the Column 1 plan, it has modified the "out-of-network" co-insurance proposal from 70% to 80%, and has modified its premium contribution proposal from "7% of the premium" to the "\$20.00-\$40.00" recommended by the prior fact-finder. Likewise, the City's Column 2 proposal has undergone a substantial modification, with the City significantly reducing the co-insurance, out-of-pocket maximums, and out-of-network co-insurance numbers.

The City's proposal is the more reasonable. In the Column 1 proposal, the City seeks increases that will continue to keep the premium contributions of its employees below those, on average, found around the State of Ohio. In the State of Ohio, 72% of public employees contributed to their health care in 2002. Statewide, employees were contributing at an average of \$20.50/month for single coverage and \$72.57/month for family coverage, figures which have undoubtedly gone up since 2002. In the City's Column 1 proposal, the contribution would be increased to \$20.00/month for single coverage and \$40.00/month for family coverage. These premiums are well under the 2002 state-wide averages, with top-level coverage.

As an alternative, the City's Column 2 proposal would give employees better than average coverage with no premium contribution. This plan is offered as a voluntary option for employees. They can opt for these plan design changes and pay no premium cost, or they can opt for Column 1 plan and pay a small monthly premium contribution.

In response, the Union can offer no legitimate arguments against a recommendation in

favor of the City's proposal. The Union's proposal does little to combat the sky-rocketing insurance costs. It would maintain coverage at the very highest level while also maintaining premium contributions at will below state-wide averages. This is unrealistic. The City's proposal should be recommended.

Recommendation

The City's proposal as stated above, which includes the choice of Column 1 or Column 2, is recommended. Given the significant rise in health care costs each year, the Union's proposal, which keeps the employee's premium costs extremely low and only marginally raises the costs for prescription drugs, is unrealistic. The City's plan provides excellent coverage for reasonable contribution costs to the employee. Even though the City's proposal doubles the cost of the current premium contributions, the proposed plan is still significantly lower than the state-wide average for public sector employees who are required to contribute to their health care coverage. In addition, the City's proposal gives the employee the option to pay no premium costs in exchange for lower benefit levels, which may appeal to some who anticipate little use of the plan. Finally, the City's proposal also includes the opt-out program in the identical form proposed by the Union.

8. New Article - Post-Retirement Plan

The Union proposes that the City implement a Post-Retirement Plan, the purpose of which would be to establish a fund that would assist current employees in providing health care upon their retirement. However, the Union did not have sufficient information to flesh out a full fledged scheme for such a retirement plan. Based on the cursory information available at the

time, the City argued that the matter was not ripe for consideration of inclusion in the contract. After some discussion, both parties agreed that the matter should be brought before the parties' Health Care Committee for consideration, which will in turn present a proposal to the Finance Committee of City Council, if an acceptable plan is devised. The Fact-finder concurs in this and so recommends.

9. New Article - Workers' Compensation Coverage

Union's Proposal

The Union proposes the following language to be added to the contract:

The City shall be responsible for providing workers' compensation benefits to any employee injured while performing police duties on behalf of a third party employer.

The Union proposes adding the above language to the contract wherein the City would acknowledge its responsibility to provide Workers' Compensation coverage to police officers working part-time work. The language is narrowly defined to a situation wherein the City should have a legal and moral duty to provide coverage.

City's Proposal

The City proposes to maintain current contract language. The Union proposes that the City provide Worker's Compensation coverage for patrol officers experiencing workplace injuries while working side jobs for other employers. In essence, the Union is suggesting that the City take over from other employers the responsibility of providing Workers' Compensation coverage. Not only does this proposal seek that which is not required by law, it also carries with it a large potential liability price tag for the City.

Moreover, the law currently provides for coverage for a police officer who is hurt in trying to prevent the commission of a crime or in trying to apprehend a criminal – even if working a side job. Specifically, ORC §4123.01(a) identifies an “employee” for coverage purposes as a police officer who is “responding to an inherently dangerous situation that calls for an immediate response on the part of the person, regardless of whether the person is within the limits of the jurisdiction of the person’s regular employment. . . when responding. . . .”

Moreover, the Cuyahoga County Court of Appeals has rendered a decision on the matter, wherein the Court found coverage for an officer working outside of his employment, who was hurt trying to thwart a felony bank robbery. Luketic v. Univ. Circle, Inc., 134 Ohio App.3d 717, 730 N.E.2d 1006 (Cuy. App. 1999). See also, Cooper v. City of Dayton, 120 Ohio App.3d 34, 695 N.E.2d 640 (Mont. Cty. App. 1997)(officer acting within scope of employment where hurt trying to apprehend a shoplifter while working secondary employment). In addition, the City has just recently passed a requirement that any outside construction contractor be required to provide Workers’ Compensation coverage for police officer hired by the contractor.

The Union seeks to have the City provide coverage for any injury in the course and scope of secondary employment, such as a hurt back for slipping on a wet spot on the floor of a store. It is excessive and not provided in other jurisdictions.

Recommendation

The Union’s proposal is not recommended. Such a provision would place the City in the position of being liable for conditions at the secondary employer over which the City has no control. It is not fair to put the City in the position of being liable for such uncontrollable circumstances. Such liability could have serious implications for the City’s Workers’

Compensation costs. Furthermore, Ohio statute and case law cover situations in which a police officer is injured in the line of duty while responding to the commission of crime. A secondary employer must also carry liability insurance to cover slip and fall types of situations. Therefore, the extra coverage sought by the Union places an unnecessary burden on the City and is not recommended.

Ranking Officer Issues

1. Article XXIV Compensation

Union's Proposal

Rank Differential and Jail Supervisory Pay

The Union proposes an increase in rank differential to 12.5%. In the City, the Police Department utilizes two levels of supervisors, while in the Fire Department uses three. That notwithstanding, the City's new contract with the firefighters will raise the firefighters' rank differential for all three to that of the Police Department.

The Police Department's 10.75% rank differential is well below average. More than the 1% increase granted to the firefighters will be need for the police ranking officers to catch up to the average of the various area police jurisdictions. That average, conservatively figured, stands at 12.5%. The proposed nudge above the average certainly takes into account the City's elite status, but, more importantly, it also recognizes the additional duties and responsibilities now assumed by members of the Ranking Officer's unit.

Many of the demands recently imposed upon the Ranking Officers' bargaining unit involve the City's municipal jail. Both the sergeants and the lieutenants became responsible for

the operation of the Detention Facility and all of its prisoners. The Ranking Officers are required to be familiar with the extensive policies regarding prisoners and their detention and often are consulted by other personnel regarding those policies. The bargaining unit's newly-assumed responsibilities, together with its standing amongst the comparables, justify both an increase in rank differential to 12.5% and a 6% increase in pay for employees assigned to supervise the Corrections Facility.

City's Proposal

The City proposes to maintain current contract language and benefit levels. Even though patrol officers and firefighters have historically earned the same salary, the City's police sergeants and lieutenants have received a higher salary than their counterparts in the Fire Department, for no justifiable reason. This inequity is the result of the rank differential disparity -- 10.75% for police and 9.75% for fire. This anomaly was addressed by the firefighter fact-finder, and he corrected the inequity and brought the ranking officers of the Fire Department in line with the Police Department by the end of 2006. Now the Police Department is seeking an increase because the Fire Department got an increase. Where does the escalating spiral end? The solution is simple. When speaking of base salary, the patrol officers and firefighters should earn the same - as they historically have- and the ranking officers should in turn enjoy parity. The Union proposal is excessive and should be rejected.

In regard to jail supervisory pay, the Union's proposal should also be rejected. The City's jail, until late 2003, was run by a civilian administrator. Prior to late 2003, if no supervisor was available, a ranking officer would fill in for the absent supervisor. Periodically, sergeants or above would also be called with questions from jail personnel. Since January 2004, a sergeant

has been serving as the jail administrator. This is a day-shift, 40-hour per week job. It does not require weekend or off-hour work. The employee retains eligibility for overtime compensation, if working beyond the shift hours.. The position was put out for bid and three ranking officers applied for the assignment, without any suggestion that it would entail a pay increase.

It is believed that the Union's proposal was intended to address the temporary filling of the position which occurred in the past. However, regardless of the intent, additional compensation is not warranted. First, the functions are consistent with those expected duties of ranking officers in the City. Their job descriptions specifically identify the supervision of jails as part of their duties. Moreover, the full-time jail assignment was filled through an application process, and ranking officers voluntarily applied for the position, which is a desirable one.

Recommendation

It is recommended that the rank differential be increased to 11.0% in 2004, 11.5% in 2005 and 12% in 2006. Although this Fact-finder appreciates the argument that the City makes about escalating spirals of increases, internal comparables between police and fire are not the sole factors to be considered. In this regard, the Police and Fire Departments may not be comparable.

There are three levels of ranking officers in the Fire Department compared with two in the Police Department. Fact-finder Klein noted that the City's firefighters overall gross wages place them near the top in regards to compensation, compared to similarly situated firefighters, while the total compensation package for police officers places them about average compared to similarly situated police officers. Fact-finder Klein noted that the average rank differential of 40 area fire departments is 10.69% and the average of the comparables selected by the fact-finder is

11.2%. Looking that the data submitted at this hearing, the average rank differential for 30 area police departments is 12.5% and the average rank differential for those comparables selected by this Fact-finder for which the data was available is 12.29%. Fact-finder Klein's recommendation of an increase to 10.75% for firefighters made sense given the average rank differential for comparable jurisdictions. Likewise, an increase to 12% by 2006 also makes sense for City's Police Department given the average rank differentials for comparable jurisdictions, especially when the Police Department's total compensation package is moderate compared to other jurisdictions.

This increase in rank differential is also warranted by the increased duties regarding the jail supervision. However, a separate increase for the ranking officer who assumed jail administrative duties is not recommended. This position has perks of its own. It is a 40 hour a week, day shift job with no weekend hours and overtime paid if the employee works beyond his shift hours. No added incentive is needed to keep an employee in that position.

2. Article XXVI - Uniform Allowance

Recommendation

An increase to \$1,225 for sergeants and above is recommended. See earlier discussion of Uniform Allowance.

Summary of Recommendations

1. **Article VII- Employee Rights**

Add to Article VII (7):

Prior disciplinary action, regardless of the date of issuance, may be introduced at arbitration for the purpose of rebuttal.

2. **Article XVIII - Holidays**

Maintain current language.

3. **Article XX - Longevity**

Maintain current language.

4. **Article XXIV - Compensation**

Wage increases, retroactive to January 1, 2004:

January 1, 2004 - 4.0%

January 1, 2005 - 3.75%

January 2, 2006 - 3.75%

5. **Article XXVII - Uniform Allowance and Detective Pay**

Increase Uniform Allowance to \$1,000 for patrol officers

Increase Detective Pay to \$50/month

6. **Article XXVIII - Firearms Proficiency Allowance**

Increase Firearms Proficiency Allowance to \$1,300 per year, to be paid on a bonus basis.

7. **Article XXIX - Insurance**

City's proposal is recommended.

8. **New Article - Post Retirement Plan**

No new contract language. Parties will present the matter to the Health Care Committee for consideration. If a plan is devised, it will be presented to the Finance Committee of City Council.

9. **New Article - Workers' Compensation Coverage**

No new contract language is recommended.

Issues Relating to Ranking Officers only:

1. **Article XXIV - Compensation**

a. **Rank Differential**

Increase to 11.0% in 2004, 11.5% in 2005 and 12% in 2006.

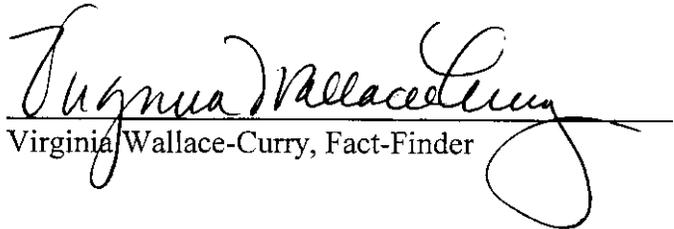
b. **Jail Supervisory Pay**

No additional compensation recommended.

2. **Article XXVII - Uniform Allowance**

Increase Uniform Allowance to \$1,225 for ranking officers.

Submitted by:


Virginia Wallace-Curry, Fact-Finder

April 6, 2004
Cuyahoga County, Ohio

CERTIFICATE OF SERVICE

Oriental of this Fact-finding Report and Recommendations were served upon Jon M. Dileno, Esq., Duvin, Cahn & Hutton, Erieview Tower, 20th Floor, 1301 East Ninth Street, Cleveland, Ohio 44114, by hand delivery, and upon S. Randall Weltman, Esq. OPBA, P.O. Box 338003, North Royalton, Ohio 44133, by express overnight mail, and upon Dale A. Zimmer, Administrator, Bureau of Mediation, State Employment Relations Board, 65 East State Street, 12th Floor, Columbus, Ohio 43215-4213, by priority mail, this 7th day of April, 2004.


Virginia Wallace-Curry, Fact-Finder