

STATE OF OHIO

STATE EMPLOYMENT
RELATIONS BOARD

STATE EMPLOYMENT RELATIONS BOARD

2005 APR -4 A 10: 18

Fact Finding Report

In the matter of impasse)	Fact Finder: Janet C. Goulet, Ph.D.
)	
between)	
)	
Perrysburg Township)	Hearing Date: March 30, 2005
Trustees)	
)	
and)	Report Date: April 1, 2005
)	
The Ohio Patrolmen's)	SERB Case No.: 04 MED 10 1074
Benevolent Association)	

APPEARANCES

For the Employer

B. Gary McBride, Esq.
Edward J. Stribrny, Chief
Becky S. Johnson, Secretary
Shirley A. Haar, Clerk

For the Association

Marilyn L. Widman, Esq.
Matt Weaver, Director
Guy Pinson, Asst. Director
Jeremy Green, Secretary

PROCEEDINGS

The Fact Finding hearing was held in the Perrysburg Township Offices Conference Room. The pre-hearing statements of the parties revealed that they were very close to settlement on many of the outstanding issues. Mediation commenced at 10:00 am and was fruitful in informing the Fact Finder about positions of the parties on these issues. Those listed above were present for at least a part of the hearing.

In offering resolution of the following issues, the Fact Finder shall take into consideration all reliable information relevant to the issues and the decision criteria in R.C. 1417.14. All contractual issues, other than those set forth below, are considered settled and the entire contract will be completed with the acceptance of this report. The previous Collective Bargaining Agreement expired in December 31, 2004. The economic recommendations of this report are agreed to be retroactive to January 1, 2005. The issues considered in this report are listed below and are those submitted in the pre-hearing statements.

ARTICLES AT IMPASSE

Article 11: Hours of Work and Overtime

Article 12: Vacancies, Promotions & Transfers

Article 25: Vacations

Article 27: Wages

Article 28:

Training and Education

BACKGROUND

The Employer, the Perrysburg Township Trustees, and the Union, the Ohio Patrolmen's Benevolent Association, have a mature and realistic collective bargaining relationship. The parties are cordial in their interactions, each respecting the other.

The Township has bargaining relationships with other units and wants the wage increases to be essentially the same for all units which have wages comparable to similar outside units. The Police Officers do have the right to negotiate their own contract. However, the labor contract does not exist in a vacuum and comparability represents a very real consideration. The parties began negotiating in October, 2004.

RECOMMENDATIONS

Article 11, Hours of Work and Overtime.

Section 11.1. Current language

Section 11.2. Current language

Section 11.3. Current language

Section 11.4: The Employer wants to clarify this section and incorporate the subject matter of 11.9. It further seeks to be protected against challenges to this section with respect to compensatory time. The Union disagreed with the cap on the use of compensatory time and suggested additional language which meets the employer's needs without imposing a cap on the use of compensatory time. That language is incorporated below.

Section 11.4: When an employee is required to work in excess of forty (40) hours in a week, the employee shall

be paid overtime for such time over forty (40) hours at the rate of one and one-half (1 1/2) times the employees hourly rate of pay. When the overtime pay is because of hours worked on marine patrol duty the hours shall be paid to the employee. For overtime other than marine patrol, in lieu of overtime pay, the employee may elect to accrue compensatory time to be granted at the rate of one and one-half (1 1/2) hours of compensatory time off for each hour of overtime actually worked. Compensation shall not be paid more than once for the same hours under any provision of this Agreement.

The maximum amount of compensatory time an employee may accrue is sixty (60) hours. Any overtime worked that would increase the employee's accrued compensatory time above this maximum shall be paid at the appropriate overtime rate. Employees shall have the option to re-accumulate the compensatory time hours each time an employee's hours fall below the maximum sixty (60) hours accrued.

Compensatory time shall be granted at a time convenient to the employee and the Employer, which does not create additional overtime unless otherwise approved by the Employer. The employee must submit a written request for compensatory time off and receive approval from the Employer prior to taking compensatory time off. Such request shall not be unreasonably denied. In the event the prohibition of allowing compensatory time to be used if overtime would have to be paid to an employee is determined to be unenforceable by a court of competent jurisdiction the parties will re-open this Agreement with respect to compensatory time only.

At the end of each calendar year, employees shall be paid for their accrued but unused compensatory time at their current straight-time hourly rate, or have the option of carrying all unused compensatory time over to the next calendar year. Upon separation from employment, employees shall be paid for their accrued but unused compensatory time at their straight-time hourly rate which they are earning at the time of the separation of employment.

Section 11.5: For purposes of determining an employee's eligibility for overtime, all hours in active pay status by the employee will be included. "Active pay status" includes actual hours worked, paid sick leave, paid injury leave, bereavement leave, vacation, and holidays. Other absences from work, paid or unpaid, shall not be considered "active pay status". There shall be no pyramiding of overtime compensation and/or premium pay.

Section 11.6 This section incorporates a memorandum of understanding and the practice into the Agreement. The language suggested allows for the Employer to use part time officers for some planned overtime while protecting the job rights of the members of the Bargaining Unit. The Union expressed the need for the members of the bargaining unit to have the first choice of working overtime hours since the wage increases recommended in this report are less than those sought by the Union. The following language meets the needs of the Employer while giving the Officers first choice of working overtime in all situations except for coverage of compensatory time off.

Section 11.6 Whenever the Employer determines overtime is necessary to meet the operational needs of the department, any or all employees may be required to work overtime. When the Employer determines overtime is necessary, such hours of work will be offered on a voluntary basis to employees pursuant to the following provisions:

Whenever overtime is available eight (8) calendar days or more in advance, that availability shall be posted. Each posting shall include the date, time and Command Officer who posted it. Whenever possible, each posting shall be fourteen (14) calendar days in advance of the overtime. The posting shall remain up for five (5) calendar days for employees to sign, and the overtime shall be awarded within twenty-four (24) hours after the posting is taken down.

The overtime shall be awarded to the bargaining unit member with the lowest number of hours on the Overtime Hours list who has signed up for all eight (8) hours of available overtime. If no bargaining unit member has signed up for all eight (8) hours, the overtime shall be awarded to the two (2) bargaining unit members who have signed up for four (4) hours of overtime and who have the lowest number of hours on the Overtime Hours list; which employee works the first four (4) hours of the overtime shall be determined by the preference of the more senior of the two (2) bargaining unit members as indicated on the posting at the time the employees sign it. If only

one (1) bargaining unit member signs for the overtime, the overtime shall be awarded to that bargaining unit member even if s/he only signed up for 4 hours.

If two (2) or more employees with the same amount of accumulated overtime indicate their desire to work the same posted overtime, the employee with the most seniority shall be awarded the overtime. "Seniority," for purposes of assigning overtime, shall be continuous length of service as a full-time Patrol Officer.

Whenever overtime is available seven (7) calendar days or less in advance, the overtime will be offered to all full-time bargaining unit members on a rotating, seniority basis, starting with the most senior full-time employee and the next most senior full-time employee, and so on until the time slot is filled. Only eight (8) hours or four (4) hours shall be offered at any one time. Subsequent overtime shall be offered starting with the next lowest in seniority and continuing until the shift is full. Except as needed to cover compensatory time off, overtime may be offered to part-time employees and then to Sergeants only after all full-time bargaining unit members have been offered and refused the available overtime, with only eight (8) or four (4) hours to be offered at any onetime.

The foregoing provisions of this Article notwithstanding, in the event the work involved requires special skills, only employees possessing such skills shall be assigned the overtime. Except to the extent provided above, the necessity of overtime shall not be used as a reason to deny coverage of a shift by bargaining unit employees. In emergency situations, this Section will not apply. Marine patrol duty shall be scheduled as it has been in the past.

Section 11.7. Current language

Section 11.8. Current language

Section 11.9. A shift differential of 2.0 percent (2%) shall be paid to an employee when working for the Employer after 2 PM and before 6 AM.

Section 11.10. Current language of 11.11

Article 12, Vacancies, Promotions, and Transfers.

Section 12.1. Whenever the Employer determines that a permanent vacancy exists, notices of such vacancy will be posted where employee notices are normally posted for

seven (7) calendar days, prior to filling the vacancy. All such notices will contain a description of the position to be filled, including job duties, working hours, special qualifications required or desired, name and classification of the supervisor, and other information regarding the position and the closing date of the posting. Any employee desiring the position must submit a written application to the Employer prior to the close of the posting period.

Section 12.2. The Employer will consider the following criteria in selecting the successful employee applicant: experience, ability to perform the work, physical fitness, records of attendance and discipline, education and training, and any other pertinent qualifications. The Employer will select the most qualified employee applicants. Where two or more applicants are equally qualified considering all other criteria, seniority will be the determining factor.

The members of the bargaining unit want to have input into the process of promotion from Patrolman to Sergeant. **Section 12.3** deals with this issue. The Union proposed to add that the candidate for promotion must have 5 years of continuous service with the Employer. And, that the Employer must use a specific examination which would be administered outside the Department. The Employer objected on the grounds that the five years might inhibit a viable candidate who has experience from another department. It also objected to the outside administration of testing because of the large expense associated with this testing procedure.

A compromise is suggested in the language below. It includes the 5 years of continuous service with the Department but does not recommend the outside testing. However, to meet the needs of the bargaining unit for input into the promotional process, the promotional process is to be reviewed by the Labor Management

Committee.

Section 12.3. All vacancies in the position of Sergeant shall be posted according to procedures set forth in Section 12.1 shall contain the information described in Section 12.1. Any employee desiring to apply for the position must submit a written application to the Employer prior to close of the posting period. An employee must have five (5) continuous, full-time years of service as a Patrol Officer with the Employer in order to be eligible to take the promotional examination for the position of Sergeant. The Employer reserves the right to select the successful applicant from among the pool of qualified applicants pursuant to Section 12.2. The employer reserves the right to withdraw the posting at any time. The promotional process shall be reviewed by the Labor Management Committee established in 4.4.

Article 15, Vacations

The Association sought to add a sixth category to the vacation time schedule of "after 25 years" 240 hours of vacation. This is recommended below.

Section 25.1. Employees are entitled to vacation pay after one (1) year of continuous service with the Employer. The amount of paid vacation leave an employee is entitled to receive is based upon length of service with the Employer as follows:

<u>Length of Service</u>	<u>Vacation</u>
Less than one (1) year	None
After one (1) year through six years	80 hours
After six (6) years through twelve (12) years	120 hours
After twelve years through twenty-one (21) years	160 hours
After twenty-one years through twenty-five years	200 hours
After twenty-five years	240 hours

Such vacation leave shall accrue at the following rates each bi-weekly pay period:

<u>Annual Vacation</u>	<u>Credited per</u>
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80 hours	3.1 hours
120 hours	4.6 hours
160 hours	6.2 hours
200 hours	7.7 hours
240 hours	9.3 hours

Section 25.2 Vacation leave credits are not earned and shall not be credited during any time an employee is not in active pay status. For purposes of earning vacation leave credits, "active pay status" shall include all hours for which an Employee receives pay, up to forty (40) hours per week, including actual hours worked, paid sick leave, paid injury leave, bereavement leave, vacation, holidays, compensatory time and paid administrative leave.

Article 27. Wages.

The Association seeks a wage increase of 3% in each of the three years of the Agreement as well as retroactivity of this increase.

The Employer offers a 2.75% increase for the first year of the agreement and a 2.75% increase for the second year and 3% increase for the third year of this agreement. The Township Trustees only authorized this amount of increase because of budgetary concerns and wanting to maintain internal equity between those units who have a wage level comparable with thier external counterparts.

The Employer's wage offer is recommended in the language below. While this wage increase is not as large as that requested by the Union, the other benefits requested by the Union and recommended in this report will help to maintain the balance between the needs of the bargaining unit and the budgetary concerns of the Trustees. In addition, it helps to preserve internal comparability and should maintain the unit's position within comparable local and state departments.

Article 27, Wages.

Section 27.1. Effective January 1, 2005, the attached salary schedule, marked Appendix A, shall take effect. The Patrol Detective shall earn ten dollars (\$10) per day additional pay for each day that he is subject to standby call-in status.

The salary schedule reflects a general wage increase of 2.75% for the first year of the contract, a 2.75% increase for the second year of the contract, and a 3% increase for the third year of this contract. The wage increase is to be effective as of January 1, of each of the contract years.

Section 27.2. Each newly hired employee shall be assigned to Step 1 of the pay range for the appropriate period. Upon successful completion of the first twenty-six (26) weeks of employment, the employee will be assigned to Step 2 of the pay range for the appropriate period upon the recommendation of the Chief of Police. After successfully completing each subsequent twenty-six (26) weeks, the employee will be assigned to the next subsequent step of the pay range for the appropriate period until the employee reaches Step 7.

Section 27.3. Field Training Officer (FTO) shall be compensated during the training period when the FTO has a new hire trainee in active training status with the FTO. This section shall apply whether the trainee is in the vehicle or "Shadow" training period. Compensation shall equal one (1) hour per each day of training, but such hours of compensation shall not be considered as active pay status hours pursuant to Section 11.5 for the purposes of determining eligibility for overtime.

Section 27.4. When necessary for an employee to act in place of a Sergeant, the employee with the most seniority on the respective shift shall be deemed Officer in Charge. An employee shall be compensated at one-half (1/2) hour of the employee's normal rate for the actual time worked, which one-half (1/2) hour shall not be included in the calculation of hours in determining overtime.

Section 27.5. Direct deposit shall be made available to employees who desire to use this option.

The Association wanted the Employer to correct a payroll error within 48 hours of notification by the employee that an error

existed. The Employer stated that it would mean creating a separate payroll which entails quite a bit of work for an already hard working office staff. The Employer explained that it could be done in the next payroll which is recommended below.

Section 27.6. Where an involuntary deduction in pay occurs for any employee, the Employer shall provide written notice of the deduction to the employee prior to the deposit/issuance of the affected payroll, if possible. Where a deduction in pay or paid leave occurs for any employee due to payroll error, the Employer shall correct the miscalculation in the next pay after receiving notice from the employee of the error.

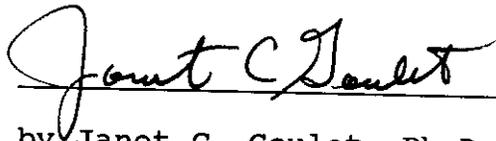
Article 28, Training and Education.

The association members want to participate in training programs in order to increase both their skill and knowledge of the job of police officer. They realize that all requests for training may not be approved but want to be able to appeal denials beyond the Chief of Police who may have originally denied the request. The Employer responds that the Chief of Police is in the best position to judge the efficacy of the proposed training.

The recommendation found in the language below allows the bargaining unit member to grieve the denial up to the third step in the grievance procedure which preserves the due process implicit in the grievance procedure. It specifies that the third step is heard by the Trustees designee, the Township Administrator.

Section 28.6. The Employer recognizes the need to have a well-trained professional work force and will establish a mandatory and non-mandatory training list each year. All training sessions, schools and/or educational programs that are approved by the Employer (hereinafter Training Program) will be posted in the Police Department with adequate opportunity for all employees to indicate they wish to attend. The Employer will make available a written application an employee must complete and turn in

when requesting to attend a Training Program. Upon submission of the Application, the Employer shall within fourteen (14) days after submission, provide the employee a copy of the Application with a written indication of approval or denial. If the employee is denied permission to attend the Training Program, the Employer shall indicate in writing the reason why the request was denied. The denial of the employee's request is subject to Steps 1 and 2 and 3 (Township Administrator as designee) of the grievance procedure set forth in Article 9. Selection of employees to attend Training Programs will be made in a fair and equitable manner among those employees whose attendance at the Training Program would benefit the employer. However, the Employer is not required to allow more than one employee from the same shift to attend the same Training Program at the same time. Canine training is exempt from the foregoing provisions and shall be scheduled in accordance with the Employer's policy regarding training for the canine unit so long as the employer maintains a canine unit.



Submitted on April 1, 2005

by Janet C. Goulet, Ph.D., Arbitrator