

STATE OF OHIO STATE EMPLOYMENT
STATE EMPLOYMENT RELATIONS BOARD RELATIONS BOARD

2007 MAY -3 P 12: 17

In the Matter of the Fact-Finding Between:

FOP/OLC Promoted Corrections)

and)

City of Elyria)

Case No. 06-MED-⁰²~~06~~-0134

APPEARANCES:

For the Union:

Lucy DiNardo, Union Representative
Kimberly Marcum, Corrections Supervisor

For the City of Elyria

Robin Bell, City Representative
Howard Heffelfinger, City Representative
Thomas J. Smith, City Representative

Before Sarah Rudolph Cole, Fact-finder

Ohio State University, Moritz College of Law
55 West 12th Avenue
Columbus, OH 43221
Tele: (614) 688-4918
Fax: (614) 292-2035
E-mail: cole.228@osu.edu

Introduction

The City of Elyria (“City” or “Elyria”) and the FOP/OLC (“Union”) operated under a collective bargaining agreement that expired on July 1, 2006. The Union represents the bargaining unit in this case, which is comprised of three members. These three employees are corrections supervisors. After several negotiations, the parties reached impasse and requested mediation followed by a fact finding. After mediation, three issues remained: wage differential, duration and bill of rights. The parties agreed to submit briefs on these issues instead of convening an additional fact-finding hearing. In the Union’s brief, the Union withdrew its objection to the bill of rights provision. Thus, the remaining issues are: duration and wage differential.

Criteria

Fact-finders must consider the criteria articulated in Ohio Revised Code § 4117.14(C)(4)(e) and Ohio Administrative Code § 4117-9-05(K) when making a decision.

Criteria to be considered are:

- (a) past collectively bargained agreements, if any, between the parties;
- (b) comparison of the issues submitted to final offer settlement relative to the employees in the bargaining unit involved with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved;
- (c) the interest and welfare of the public, the ability of the public City to finance and administer the issues proposed, and the effect of the adjustments on the normal standard of public service;
- (d) the lawful authority of the public City;
- (e) the stipulation of the parties;
- (f) such other facts, not confined to those listed in this section, which are normally or traditionally taken into consideration in the determination of the issues submitted to final offer settlement through voluntary collective bargaining, mediation, fact-

finding, or other impasse resolution proceedings in the public service or private employment.

Duration

Misunderstanding regarding the tentative agreement on duration led the parties to submit this issue to the fact finder. The City contends that the agreement should be effective as of the date of execution because it is very difficult to make sure benefits and other non-economic changes to the agreement are properly implemented if they are made retroactive. The Union argues that the agreement should be retroactive in its entirety to July 6, 2006.

The fact finder recommends that the agreement be retroactive to July 6, 2006 for wages only. As the City emphasizes, attempting to ensure retroactivity of benefits and other non-economic changes to the agreement, made since July 6, 2006, is an administrative nightmare. It is easy to imagine, for example, the difficulty of attempting to retroactively apply changes to the discipline and grievance procedures for those participating in grievances in the last several months. By contrast, ensuring that wages are retroactively implemented should be simple, particularly because the affected unit has only three members and wages are commonly implemented retroactive to the date of the previous agreement's expiration. Thus, I recommend retroactivity for wages, but not for other benefits and non-economic changes.

Wages

Union Position

The Union requests an increase in rank differential for the corrections supervisors. The supervisors currently maintain a 9% wage differential over the corrections officers. The Union would like to increase that to a 14% differential. In support of this proposal, the Union notes that other supervisors in the city have a 14% differential over those whom they supervise. The corrections supervisors, states the Union, are "just as responsible for maintaining and supervising

their subordinates, as any other ranking supervisor within the City.” (Union Brief at 4). Moreover, the Union contends, the supervisors are entitled to a fair and equitable increase because they frequently supervise up to fifty, and sometimes more, prisoners. Finally, the Union contends that the City has the money to support this increase. The Union identifies Bedford Heights and Euclid as appropriate comparable jurisdictions.

City of Elyria Position

The City offers information from comparable jail systems to support maintaining a 9% differential. Noting that few jails are comparable to Elyria’s, the City nevertheless acknowledges that Euclid, Solon, and Zanesville are relatively comparable jail systems (the City also lists Middletown, North Royalton, Maple Heights and Cleveland). The City rejects Bedford Heights as a comparable jail system because of its extremely high prison population and Cleveland because of its large citizen population. The City also rejects Middletown and North Royalton because they utilize sworn peace officers to supervise their jails, rather than corrections officers. The City emphasizes that Elyria has a larger population than any of the comparable cities, other than Cleveland. Yet, the City notes, it ranks 4th in Per Capita Income, 4th in Median Family Income, and 5th in Per Capita tax. With regard to wages, the City states that Elyria ranks 4th at 5 years of service, 3rd at seven years of service, 2nd at ten years of service and 1st at 20 years of service. These wage numbers appear to relate to corrections officers generally, not just corrections supervisors (since no Elyria corrections supervisors have ten or more years of service). The City believes that Elyria’s corrections supervisors are appropriately paid, particularly in light of their “extraordinary longevity” payment. (City Brief at 3). The City is also concerned about the financial repercussions of an increased shift differential because it has not finalized the collective bargaining agreement with the corrections officers (and what they

receive will affect what the corrections supervisors receive). Finally, the City seems to concede that Euclid is a comparable jurisdiction to Elyria. (City Brief at 3-4).

Recommendation

The City does not contend that it has an inability to pay increases in compensation. Of course, financial considerations are still very important to the City. Thus, the fact finder will consider the City's financial resources in evaluating the evidence both the City and the Union provided. Both the Union and the City provided comparable information. The City contended that Bedford Heights, Cleveland, Middletown and North Royalton¹ were not adequate as comparables for a variety of reasons (identified above). Thus, I remove those jurisdictions from the comparables I consider in evaluating the Union's proposal. After removing Bedford Heights, Cleveland, Middletown and North Royalton from the list of comparable jurisdictions as the City suggests, the fact finder will consider the remaining cities: Euclid, Zanesville and Solon. Of the three remaining cities, Euclid is most comparable in size to Elyria (52,717 to 55,953). Euclid and Elyria also maintain similar inmate populations (70 in Euclid, 55 in Elyria), although Euclid has a much larger number of corrections officers overall as well as on any given shift (8 per shift with 31 Corrections Officers in Euclid compared to 3 per shift and 13 Corrections Officers in Elyria). Zanesville and Solon both hover near the 25,000 mark for population. Zanesville, like Euclid, has a larger number of Corrections Officers than Elyria (21) and a larger number on any given shift (4 to Elyria's 3). Zanesville has an inmate population similar to Elyria, with 56 inmates. Solon has considerably fewer corrections officers (8) for their smaller inmate

¹ In its evidentiary submission, the City also identifies Maple Heights as a comparable jurisdiction. Yet, in its brief, it does not discuss why Maple Heights is comparable. Examining the evidence, I find that Maple Heights is more like Zanesville, because it has a smaller city population. It also has a smaller inmate population than Elyria. Despite those facts, if anything, the Maple Heights comparable is helpful to the Union's argument in this case. Maple Heights has 3 corrections officers on each shift, supervising 36 inmates. That is a 1 to 12 ratio (compared to Elyria's 1 to 18). In addition, officers in Maple Heights currently make more than officers in Elyria. Thus, the Maple Heights numbers support increasing Elyria's wage differential.

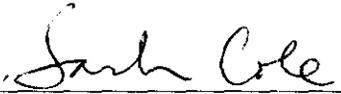
population (26).

Considering the majority of relevant measures, and in light of the City's apparent concession in its brief that Euclid provides the closest comparison, I conclude that Euclid offers the closest comparison to Elyria. Zanesville falls close behind as a comparable jurisdiction (as does Maple Heights). Elyria and Euclid have similar populations and per capita income. Zanesville is smaller with a lower per capita income. The median family incomes in Elyria and Euclid are also close, with Zanesville about \$15,000 lower per family. Taxes are lower in Elyria than they are in Euclid or Zanesville. The top pay for corrections officers in Elyria is higher than in Euclid and much higher than in Zanesville. The wage differential in Euclid is 12% and in Zanesville, 9%. Euclid gives only continuous service payments to employees hired after 1995; Elyria provides a higher longevity payment. Zanesville's longevity payment is also considerably lower than Elyria's.

Based on the comparable information provided, I conclude that Elyria Corrections Supervisors have greater responsibility for supervision than those who work in Euclid or Zanesville. Elyria has considerably fewer corrections officers and supervisors working per shift than does Euclid or Zanesville for similarly sized inmate populations. In fact, Elyria's corrections officers and supervisors supervise almost twice as many inmates as do the officers and supervisors in Euclid (Elyria: approximately 1 officer for every 18 inmates; Euclid: 1 officer for every 9 inmates). Zanesville corrections officers also supervise fewer inmates (1 to 14). Although Zanesville is closer in comparison on this factor (although Elyria officers still supervise more inmates), it is otherwise not as good a comparable jurisdiction as is Euclid because of its much smaller overall population, lower per capita income and lower family income. Thus, I base my conclusions primarily on the comparison with Euclid. Based on the

differences the comparable information from Euclid provides, I recommend that the wage differential in Elyria be increased to 10.5%. While this is not as high as Euclid's 12% differential, it takes into account the benefit the longevity payment provides to Elyria corrections supervisors while, at the same time, acknowledging that Elyria corrections supervisors have considerably more inmates and corrections officers to supervise.

This fact-finding report is submitted by:

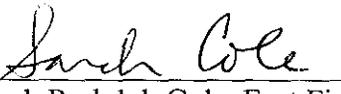


Sarah Rudolph Cole, Fact Finder

Columbus, Ohio
May 1, 2007

Certificate of Service

This is to certify that a true copy of the Fact-Finding Award for the City of Elyria and FOP/OLC Promoted Corrections was sent to the parties by overnight mail and to the State Employment Relations Board by regular U.S. mail on this day, May 1, 2007. The Fact-Finding Award was served upon: Howard D. Heffelfinger and Robin Bell, Clemans, Nelson & Associates, Inc., 2351 South Arlington Road, Suite A, Akron OH 44319 and Lucy DiNardo, 2721 Manchester Road, Akron, Ohio 44319-1020 and Administrator, Bureau of Mediation, 65 East State Street, 12th Floor, Columbus, Ohio 43215-4213.



Sarah Rudolph Cole, Fact Finder