

MAR 18 10 35 AM '97

STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD

In Regard to the Matter of the Fact-Finding Between:

OLMSTED TOWNSHIP )  
 ) 95-MED-12-1113  
-AND- )  
 )  
FRATERNAL ORDER OF POLICE )  
OHIO LABOR COUNCIL, INC. )  
(POLICE OFFICERS) )

APPEARANCES

For The Township

Jon Dileno, Esq., Attorney  
Honorable Karen Straka Trustee

For The Association

Jon Heineman O.P.B.A. Representative  
Nick Codreg O.P.B.A. Representative  
Ted Makninos Patrolman (School)  
Matt Vanjo Sergeant (Court)

-----  
BEFORE ALAN MILES RUBEN, FACT-FINDER  
-----

Cleveland-Marshall College of Law  
Cleveland State University  
1801 Euclid Avenue  
Cleveland, OH 44115  
Tele: (216) 687-2310  
Fax: (216) 687-6881

## BACKGROUND

The Township of Olmsted is a residential and quasi-rural community located within Cuyahoga County. It is responsible for the provision of police and fire protection, road maintenance and other services to its some 8,400 residents.

The Township's Police Department provides around-the-clock crime prevention and detection services through its Patrol Officers and its Detective and K-9 Divisions.

The seven full-time Patrol Officers in the Police Department are exclusively represented by the Ohio Patrolman's Benevolent Association pursuant to certification by the State Employment Relations Board on December 20, 1995. The Association also represents the Department's separate unit of two full-time Sergeants following S.E.R.B. certification on March 11, 1996.

The Association succeeded the Fraternal Order of Police, Ohio Labor Council, Inc., which had previously represented both units, and had negotiated Collective Bargaining Agreements which had expired on October 31, 1995.

The parties engaged in multi-unit bargaining, but negotiations for an initial Contract were unsuccessful in resolving all issues. On February 28, 1996, at the direction of the parties, the undersigned was appointed Fact-Finder by the Board. However, the parties continued their efforts to reach agreement, and appropriately filed for extensions of time within which to conduct the fact-finding.

A tentative Agreement reached with the assistance of a Federal Mediator was rejected by unanimous vote of the membership of the two units.

Finally, the parties acknowledged impasse and on January 23, 1997, the undersigned convened a fact-finding hearing.

The parties agreed that issues common to both units were to be consolidated and considered at a single hearing.

Timely in advance of the hearing, the parties provided the Fact-Finder with the statements required by Ohio Administrative Code 4117-9-05(F) and Ohio Revised Code, Section 4117.14(C)(3)(a).

By the date of the fact-finding proceedings the parties had tentatively agreed that any wage increases allocated to the first year of the Contract were to be made retroactive to January 1, 1996, and that Sergeants were to continue to receive a premium differential of 10% over the highest rate for Police Officers.

In addition, the parties had tentatively agreed to make the Contractual changes set forth in Appendix "A" hereto.

The parties further agreed that except for the Articles dealing with the disputed issues set forth below, all other terms of the expired Contract were to be carried forward and incorporated into the new Agreement, mutatis mutandis for a three year term expiring on December 31, 1998.

On March 7, 1997 the Fact-Finder received the parties' post-hearing submissions.

In making his recommendations on all the unresolved issues the Fact-Finder has been guided by the factors set forth in O.R.C. Section 4117.14(C)(4)(e), and Ohio Administrative Code, Section 4117-9-05(K) namely:

"(a) Past collectively bargained agreements, if any, between the parties;

"(b) Comparison of the unresolved issues 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 employer 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 employer;

"(e) The stipulations of the parties; and

"(f) Such other factors, 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 procedures in the public service or in private employment."

#### UNRESOLVED ISSUES

##### 1. Wages

Article 32, of the Patrol Officers Agreement provides in pertinent part as follows:

"32.02 Effective January 1, 1995, all employees shall be paid in accordance with the following schedule:

Police Officer (0-1yr. )	\$24,255.00
Police Officer (1-2 yrs)	\$26,460.00
Police Officer (2 + yrs)	\$32,750.00

The corresponding provision in the Sergeants' Agreement - Article 31 - provides that:

"31.01 Sergeants shall be paid ten percent (10%) above the highest Police Officer rate."

The Township, citing new data which revealed a precarious financial situation, offered a 2% increase in each of the three years of the Contract applicable to all those on the "third step" of the salary schedule. Employees on the first two steps were to receive an equivalent amount which was not to be incorporated into their base salary.

The Association sought a 4% "across-the-board" increase in each of the three years of the Contract.

Further, the Association proposed that all employees in the classification of Detective receive an additional 5% above their base salary rate for all hours worked in that capacity, and an additional \$20.00 per month for clothing maintenance.

Finally, the Association wanted all Patrolmen who had completed five or more years of service to receive yearly longevity increases, payable on each December 1st. It suggested the following longevity pay schedule:

<u>On The Completion Of:</u>	<u>Annual Amount</u>
5 thru 9 years of service	1% of base rate
10 thru 14 years of service	2% of base rate
15 thru 19 years of service	3% of base rate
20 thru 24 years of service	4% of base rate
25 years and up	5% of base rate

#### A. Ability To Pay

The principal source of Township revenues is its property taxes. The Township placed on the ballot, and succeeded in having adopted, a special levy the revenues from which were dedicated to funding the Police and Fire Departments.

In 1996 the Police Department's share of the earmarked revenues amounted to some \$590,000.00. However, the expenditures for the Police Department amounted to about \$731,664.00. The deficiency was made up from the general fund.

However, other Township expenditures were also outpacing revenue growth. The Township's expenditures for 1996 amounted to approximately \$2,595,000.00, but its total receipts were only \$2,416,527.00. The result was that, as of January, 1997, its unencumbered general fund balance of \$383,329.00 had shrunk to \$155,206.00. Even this amount, the Township now contends, is overstated by some \$45,000.00 as the result of an error by the Township Clerk who overlooked some additional obligations in his calculations.

The certificate of estimated resources for 1997 shows anticipated receipts of \$2,671,000.00. However, expenditures for 1997 are projected to exceed that amount so that the general fund surplus will be further be reduced in 1997, and, if the present trend continues unchecked, may be wiped out entirely in 1998.

Experts in municipal finance involved in rating the credit of local government units in connection with the

issuance of bonds and other financial instruments, recommend maintenance of a general fund balance of not less than five percent of expenditures, and preferably, ten percent, in order to provide for contingencies.

But, this margin is unlikely to be achieved particularly in light of the Township's belief that additional expenditures beyond the 1996 levels will be required in order to undertake high priority projects including road repair, replacement of some of the Township's eight cruisers (which have run-up high mileages), and upgrading of its "antiquated '911' system." These prospective, needed undertakings make the Township reluctant to grant any significant wage increases to its personnel.

The Township further notes that if all twenty-two employees whose pay rates are subject to Union Contracts (nine Firefighters, twelve Patrol Officers and one Service Employee) were to receive the four percent increase that the Association now requests, the compounded increase in wage costs, even without inclusion of the mandated associated "roll-up" contributions, would amount to \$160,000.00 over the three years thereby exacerbating its financial plight beyond its ability to cope.

The Fact-Finder is, of course, obliged to consider the Township's "ability-to-pay" as an important limiting factor in making recommendations as to salary increases for the three years of the two successor Contracts.

Nonetheless, the Fact-Finder does not believe that the Township's financial straights can be, or ought to be, solved entirely at the expense of its employees. Obviously, if the current levels of services provided by the Township are to be maintained, and the Township itself is to survive as an independent entity, additional revenues must be obtained.

#### B. Bargaining History and Internal Comparisons

The Township suggests that both Patrol Officers and Sergeants have been well compensated during the period 1990-1995. Thus, while Patrol Officers with ten years service earned \$28,901.00 in 1990, by January 1, 1994, an Officer with only five years seniority received \$31,796.00, equivalent to a 4% annual increase. Further, the salary schedule which in 1990 had twenty-five steps was reduced to four steps in 1994 and to two steps in 1995. This compression of the salary schedule and the concomitant acceleration from the entry rate to the highest rate resulted in a further increase of up to 10% for the more junior Officers.

In relation to the Township's other major bargaining unit, the Firefighters, the Township points out that whereas Patrol Officers had traditionally received less than Firefighters, in 1994 the wages of the two Units were equilibrated. The Patrol Officer top pay rate was then \$32,750.00 while the counterpart Firefighter compensation was \$32,626.00.

However, Firefighters have already negotiated increases of 2.5% for 1996 and 2.5% effective in 1997. The Township downplays the effect of the potential disparity which would be caused by implementation of its 2% proposal by calculating that, by the end of 1997, Firefighters will on average, receive only \$200.00 more than Patrol Officers.

C. External Comparables

With respect to the fairness of the compensation offered its Police Officers in relation to that paid by other, comparable Township Police Departments, the Township relies upon a S.E.R.B. Benchmark Report issued on December 13, 1996, which disclosed that if the Township's proposed 2% increase were adopted, the Patrolman's 1996 maximum salary of \$33,405.00 would rank fifteenth among the forty-four Township Police Department salary schedules surveyed for that year.

Sergeants, whose compensation is linked to that of the Patrol officers, would have earned \$36,745.00 in 1996, ranking ninth among the thirty-two Departments which maintain that rank.

The Benchmark Report also revealed that of the forty-four reporting Townships, Delhi's most senior Officers received the highest salary, \$42,260.00. At the other end of the scale Brookfield Township's Police Officers earned a top salary of only \$21,840.00. The average entry level salary of a Township Police Officer for 1996 was \$25,827.00 and, the top level average was \$31,507.00.

The Fact-Finder observes that while Olmsted's entry level pay is presently some \$1,600.00 below the state-wide average, the top rate of \$32,750.00, reachable within three years, is some \$1,250.00 more than the corresponding 1996 state-wide average.

However, the Fact-Finder also observes that the S.E.R.B. Clearing House Wage Increase Report of December 13, 1996, stated that twenty-five Townships had provided salary increases in 1996 of 4% or more to at least one of their Police Department bargaining units. An additional six Townships provided one or more Police Department units in 1996 with a wage increase of 3.5%. And, three Townships gave one or more units a 3% increase in 1996.

Of the 1997 compensation rates determined as of December 13, 1996, the S.E.R.B. Report reflects that a majority are providing increases of 3% or more.

These data evidence that the position of Olmsted Township Patrol Officers will decline relative to their peers if they obtain only a 2% annual increase.

#### D. Cost Of Living

The Fact-Finder takes notice that the inflation rate for Northeast Ohio, as measured by the Consumer Price Index for Wage Earners for Northeast Ohio, is presently estimated to run at 3.3%. The up-shot of this is that Patrol Officers are likely to experience a decline in "real wages" under the Township's proposal.

## FINDINGS AND RECOMMENDATIONS

In making recommendations for salary adjustments the Fact-Finder takes into account recommendations to follow respecting the Township's Sick Leave and Insurance proposals which should have the effect of reducing the Township's labor costs. The Fact-Finder rejects the Township's proposal to incorporate the wage increases in the base wage rates of only third step officers as both unsupported and potentially divisive. Based upon the evidence before him with respect to past wage increases, the increases granted to Firefighters, the present and future compensation of Officers in comparable Police Departments, the expected rate of inflation and the Township's financial resources, the Fact-Finder finds appropriate and recommends that the Patrol Officers receive across-the-board wage increases of 2.5% in 1996, retroactive to January 1, 1996, an additional increase of 3.0% effective January 1, 1997, and an additional increase of 3.5% effective January 1, 1998. The text of Article 32 of the Patrol Officers Contract should be amended accordingly, subject to necessary adjustment for employees who have joined, or who will join, the Department after the Agreement's retroactively effective date of January 1, 1996:

"32.01 Effective January 1, 1996, all employees shall be paid in accordance with the following schedule:

Police Officer (0-1 yr )	\$24,861.00
Police Officer (1-2 yrs)	\$26,122.00
Police Officer (2 + yrs)	\$33,569.00

"32.02 Effective January 1, 1997, all employees shall be paid in accordance with the following schedule:

Police Officer (0-1 yr ) \$25,607.00  
Police Officer (1-2 yrs) \$27,935.00  
Police Officer (2 + yrs) \$34,576.00

"Effective January 1, 1998, all employees shall be paid in accordance with the following schedule:

Police Officer (0-1 yr ) \$26,503.00  
Police Officer (1-2 yrs) \$28,913.00  
Police Officer (2 + yrs) \$35,786.00

"Employees hired as full-time officers after ratification of this Agreement shall be paid in accordance with the following schedule:

Police Officer (0-1 yr ) \$25,607.00  
Police Officer (1-2 yrs) \$27,935.00  
Police Officer (2 + yrs) Top Rate In Effect"

The Sergeants Agreement, being expressed as a percentage differential of the top Police Officer salary, needs no change.

If these recommendations are adopted, Patrol Officers will immediately receive substantial lump sum payments, representing the unpaid increases for 1996 and the first two and a half months of 1997, and an effective 5.5% increase in their present wage levels for the rest of this year.

In light of the Township's financial condition the Fact-Finder rejects the Association's proposal for longevity pay. There is no evidence of a pressing need to provide longevity pay in order to retain senior Police Officers, nor of any change in circumstances which would otherwise make it appropriate to provide additional compensation to the more senior Officers.

The evidence also fails to support the Association's proposal for a adjustment in the compensation of Officers assigned as Detectives, and therefore the Fact-Finder does not find appropriate nor recommend the differential sought by the Association.

## 2. Insurance

The Contracts for both Units contain the identical provision for health insurance coverages:

"18.03 The Township shall obtain and maintain in full force and effect, and pay one hundred percent (100%) of the cost thereof, a policy of hospitalization and medical cost insurance for each employee and his family, this policy shall also include dental, vision and a prescription program. The Township shall maintain the Aetna Plan or its equivalent."

Citing the significant escalation in the cost of health care insurance since this provision was first negotiated, the Township seeks the assistance of Patrol Officers and Sergeants in paying any further insurance premium increases.

In 1995, the Township paid \$158.37 a month for single coverage and \$540.48 a month for family coverage, for each employee under the existing "Aetna Preferred Providers" Plan.

For 1996, the Township negotiated comparable coverages from the Metropolitan Life Insurance Company at the significantly lower rate of \$116.84 per month for single coverage and \$336.19 per month for family coverage.

The dental and vision care coverages in 1996 cost the Township an additional \$80.00 a month for each employee.

The Township's insurance agent has estimated that commencing in April, 1997, the health insurance rates will increase to \$150.00 per month for single coverage and \$400.00 per month for family coverage. If this holds true, the premiums required to be paid by the Township will increase by approximately \$33.00 per month for single coverage and \$64.00 per month for family coverage.

Citing to a Fact-Finder Report in the prior Firefighter's Contract negotiations which called for the members of that bargaining unit to pay one-half of all future premium increases, the Township asks that Patrolmen and Sergeants pay one-half of all increases up to a maximum of \$50.00 per month for single coverage and \$100.00 per month for family coverage, beginning in April, 1997.

The Association insists that the Township continue to pay for the entire cost of the health insurance.

If the Township's requests were granted, Police Officers would likely be called upon to contribute \$16.50 per month for single coverage and \$37.00 per month for family coverage for the twelve month period ending March, 1998. But, the contribution rate after that date is uncertain, and may well be substantially higher. Increases in dental or vision care insurance are expected to be negligible.

A 1996 survey conducted by S.E.R.B. of health insurance provided by public sector employers revealed that the overwhelming majority - 59% - required employees to contribute

to the premiums for family coverage and 47% required employees to contribute for single coverage.

An employee contribution requirement would tend to discourage over-utilization of benefits, and is desirable as an effective means of cost control. However, the maximums proposed by the Township significantly exceed the contributions required, on average, by other governmental units in Ohio - \$20.09 for single coverage and \$56.17 for family coverage.

Accordingly, the Fact-Finder finds appropriate and recommends adoption of the Township's proposal to require Officers to contribute to payment of future increases in health insurance premiums, but subject to reduced monthly maximums of \$25.00 for single coverage and \$50.00 for family coverage.

He also believes that since the insurance program is provided on a Township-wide basis, the premiums paid by all employees ought to be the same. To assure that the contribution of Police Officers will not be greater than that paid by the Firefighter's under their Contract to be negotiated and take effect in 1998, he will recommend an appropriate "me too" clause.

Article 18, Section 18.03 of both Agreements should be amended to read as follows:

"18.03 The Township shall obtain and maintain in full force and effect, and pay one hundred percent (100%) of the cost thereof, a policy of hospitalization and

medical cost insurance for each employee and his family, this policy shall also include dental, vision and a prescription program. The Township shall maintain the current insurance plan or its equivalent.

"Effective January 1, 1998 employees will pay one-half of any increases in premiums above the rates that will go into effect in April 1997, or the rates set forth below, whichever rates are less. The maximum that an employee will be required to contribute is \$25.00 per month for single coverage and \$50.00 per month for family coverage.

"The premium rates above which employees will be responsible for contributions: (unless the actual rates which go into effect in April 1997, are less than these, in which case contributions will be required for increases above the actual rates) are as follows:

	<u>Single</u>	<u>Family</u>
Medical	\$150/month	\$400/month
Dental	\$ 23/month	\$ 65/month
Vision	\$ 8/month	\$ 21/month

"In the event that the successor Agreement (1998 Agreement) between the Township and the Firefighters Union contains premium contribution terms that are more favorable than those contained herein, those more favorable terms will apply to the employees covered under this Agreement."

### 3. Sick Leave

Article 12 in the Contracts for both Units governs "Sick Leave" and provides in pertinent part as follows:

"12.01 Members of the bargaining unit shall be entitled to sick leave of five (5) hours for each eighty (80) hours or service or fraction thereof including vacation, holidays, and sick days, but not to include any overtime hours.

....

"12.04 The accrual of unused sick leave shall not exceed a maximum accrual of nine

hundred sixty hours (960) hours. The first pay period in December of each year, for any employee who has accumulated more than 960 hours of sick leave, the Township will buy back all unused sick days, at the employee's current rate of pay.

"12.05 Upon death or retirement, all accumulated sick leave shall be paid to the member or his or her personal representative, designated by the employee, at the employee's current rate of pay."<sup>1</sup>

The Township seeks to reduce the number of sick leave days an employee may accumulate annually and carry over from year-to-year, from the present 16.25 days to 15 days a year, as a means of controlling overtime costs. The Township further proposes to reduce the rate of "cash-out" of unused sick leave to one hour's pay for every three hours of accrued time, instead of the present "dollar for dollar" exchange.

The Association opposes any change in the present sick leave practice.

A survey of the sick leave allowances in other Townships conducted by S.E.R.B. showed that only one reporting unit, Jackson Township, provided sixteen (16) days of annual sick leave. The other forty-three (43) reporting Townships provided a maximum of fifteen (15) days and two offered only fourteen (14) days.

By way of further comparison, of the thirty-one (31) municipalities in Cuyahoga County, only one, Lakewood, offers more sick leave days per year for Officers with three or more

---

1. Section 12.05 of the Sergeants Contract authorizes payment of accumulated sick leave upon "resignation" as well as "death or retirement."

years of service. All other reporting municipalities provide fifteen (15) days of sick leave.

In view of the almost universal acceptance of a fifteen (15) day annual accrual of sick leave, the Fact-Finder finds the Township's presentation of this cost control measure to be persuasive.

Turning to the question of the appropriate level for converting unused sick leave to cash, the Township points out that its Firefighters and Dispatchers Units are permitted to cash-out their accumulated and unused sick leave upon death or retirement at a rate of three (3) hours of sick leave for one (1) hour of pay at the employee's last effective salary rate.

Moreover, the existing Civil Service Regulations permit only one-quarter of accumulated unused sick leave to be cashed-out upon a non-bargaining unit employee's death or retirement.

Since S.E.R.B.'s Township surveys did not include data on sick leave "buy-backs," the Township again looked to the practice obtaining in Cuyahoga County municipalities.

The majority of the cities in Cuyahoga County permit only one-third of accumulated and unused sick leave hours to be converted into cash. Only two (2) of the thirty-three (33) cities have a "one-for-one" cash-out rate, but in each case the amount which can be converted into cash is "capped."

Here again, considering the Township's adverse financial situation, as previously discussed, the Fact-Finder finds the Township's proposal to be worthy of adoption as one of the

ways in which its costs can be reduced without imposing an inequitable burden upon the members of the bargaining units.

Nonetheless, it would be patently unfair to make any such change retroactive. Unused sick leave totals, as of the date of the ratification of the 1996-1998 Agreements, should be paid at the existing rate of one-for-one upon an Officer's retirement or death, (or in the case of a Sergeant, upon retirement, resignation or death). Amounts accumulated beyond that level may be cashed-out at a rate of three (3) hours of sick leave for one (1) hour of pay at the salary rate then in existence.

Accordingly, the Fact-Finder finds appropriate and recommends that Article 12 of the Patrol Officers Agreement be amended by omitting Section 12.04 and revising Sections 12.01 and 12.05 as follows:

"12.01 Members of the bargaining unit shall be entitled to sick leave of 15 days per year or 4.6 hours for each eighty hours of service or fraction thereof including vacation, holidays, and sick days but not to include any overtime hours."

....

"12.05 Upon death or retirement, all sick leave accumulated up to the point of ratification of the 1996-1999 Agreement shall be paid to the member or his or her personal representative designated by the employee at the employee's current rate of pay. For all sick leave accumulated after ratification of the 1996-99 Agreement, the pay out shall be at the rate of one-third of all accumulated sick leave at the employee's current rate of pay."

Correspondingly, the Fact-Finder finds appropriate and recommends the amendment of the Sergeants Agreement by the omission of Section 12.04 and the revision of Sections 12.01 and 12.05 to read as follows:

"12.01 Members of the bargaining unit shall be entitled to sick leave of 15 days per year or 4.6 hours for each eighty hours of service or fraction thereof including vacation, holidays, and sick days but not to include any overtime hours.

....

"12.05 Upon death, retirement or resignation, all sick leave accumulated up to the point of ratification of the 1996-1999 Agreement shall be paid to the member or his or her personal representative designated by the employee at the employee's then current rate of pay. For all sick leave accumulated after ratification of the 1996-99 Agreement, the pay out shall be at the rate of one-third of all accumulated sick leave at the employee's then current rate of pay."

However, the Fact-Finder is concerned that reduction of the cash-out value of accumulated sick leave might have the unintended and perverse consequence of encouraging employees to utilize unnecessarily their sick leave allowances thereby creating additional overtime costs for the Township. To avoid this result the Fact-Finder recommends the creation of an attendance incentive by the addition of a new Section 12.06 to read as follows:

"12.06 Employees shall be provided a cash incentive payment for non-use of sick days in each year at the following rates:

0 days taken during year \$300.00

1 day taken during year \$200.00  
2 days taken during year \$150.00  
3 days taken during year \$100.00

"The term "year" shall mean the calendar year from January 1 to December 31 - beginning on January 1, 1997. For new hires, the year will begin to run on the January 1st immediately following their date of hire.

"Payment of such cash incentive shall be made in the month of January next following the year in which the incentive has been earned."

#### 4. Injury Leave

Article 13 relating to "Injury Leave" provides in both Agreements:

"13.01 When an employee becomes injured, ill, or disabled as a result of an event arising out of and in the course of his employment, the employee shall be granted injury leave with pay by the Township beginning with the first working day of such disability, not to exceed ninety (90) consecutive calendar days. After 90 calendar days the Township Trustees may extend the injury leave on a case by case basis.

"13.02 Any employee who obtains injury leave under this Article shall file for Workers Compensation and sign a waiver assigning to the Employer those sums of money (temporary total disability benefits) he would ordinarily receive as his weekly compensation as determined by law for those number of weeks he receives benefits under this Article."

The Township proposes both procedural and substantive restrictions on eligibility for compensable injury leave. In order to become eligible for such leave employees would have to file for Workers' Compensation benefits within one week after the triggering injury unless physically unable to do so,

and would have to fill out all the necessary forms for processing the applications for injury leave and Workers' Compensation benefits. Injury leave pay would commence on the date of the injury and end when Workers' Compensation benefits were awarded, and be treated as a cash advance of the employees' regular salary. Importantly, the period during which injury leave pay would continue, would be reduced from ninety days to thirty days.

The Association declared itself in favor of the maintenance of the present Contract provisions and practices thereunder.

In support of its position the Township alleges that there had been cases of "abuse" where employees, with the collusion of their physician, take-off the full ninety (90) days permitted under the present Contract even though they are capable of returning to work earlier, at least in a "light duty" capacity. The Township relates that one Officer underwent surgery to repair ligaments in her leg which were torn while performing her duties. During her convalescence the Officer was requested to work as a Dispatcher. Instead, she submitted a physician's statement certifying that her condition prohibited her from sitting and performing dispatch functions. The Township opines that "if she were living without a pay-check, she eagerly would have performed the services of a Dispatcher."

The Township also referred to another situation where a Firefighter sustained an on-the-job back injury, and, even

though his back had healed, he continued on compensated leave for six months because his doctor had verified that he continued to suffer "psychological damage."

Still another injured Firefighter, although unable to work, was seen playing golf during his ninety (90) days leave.

Limiting disability payments to thirty (30) days, the Township asserts, would not result in any interruption of an employee's income, because Workers' Compensation benefits would become payable at that point.

The Association does not object to requirement that employees promptly file for Workers' Compensation benefits nor to clarification of the existing Contract language to confirm that payments by the Township are to be considered as a "cash advance" since the Bureau does not award benefits while employees are in normal pay status. However, it does vociferously object to limiting such advances to thirty (30) days.

The Fact-Finder agrees with the Association that the restriction which the Township seeks to impose could well result in a period of time when the injured employee would be without any income because of the Bureau's delay in processing his claim. In any event, the Workers' Compensation benefits are likely to be significantly less than the employee's regular earnings, and the leave compensation acts, in effect, as a supplement to permit maintenance of existing income levels.

Instead of attempting to deal indirectly with the problem of injury leave abuse, the Township would be better served by tackling the issue head-on and challenging what it believes to be spurious and unsupportable medical excuses allowing employees to prolong their periods of absence.

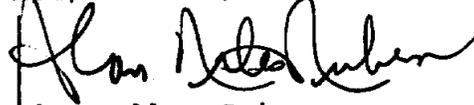
Accordingly, the Fact-Finder finds appropriate and recommends that the text of Article 13, Sections 13.01 and 13.02 as set forth in both Contracts, be revised to read as follows:

"13.01 When an employee becomes injured, ill, or disabled as a result of an event arising out of and in the course of his employment, the employee shall be granted injury leave with a cash advance payment (equal to the employee's regular salary and benefits) by the Township beginning with the first working day of such disability, not to exceed ninety (90) consecutive calendar days. After 90 calendar days, the Township Trustees may extend the injury leave on a case by case basis.

"13.02 In order to be eligible for injury leave under this Article the employee must file for Workers' Compensation within one week of the time of injury, unless the employee is unable to do so because the extent of the injury, and sign a waiver assigning to the Employer those sums of money (temporary total disability benefits) he receives as his weekly compensation as determined by law for those number of weeks he receives benefits under this Article. The employee shall fill out all necessary forms to process his/her injury leave or workers compensation benefits."

The Fact-Finder's Report issued at Cleveland, Ohio this  
14th day of March, 1997.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Alan Miles Ruben".

Alan Miles Ruben  
Fact-Finder

AMR:ljb