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REPORT OF FACT FINDER

LOUISE HODGSON

on

SERB Case No. 96-MED-09-0808
96-MED-09-0809
96-MED-09-0810

Issued March 14, 1997

DEFIANCE POLICE OFFICERS ASSOCIATION, IUPA,
LOCAL 166 (The Union)

and

CITY OF DEFIANCE (The Employer)

I. HEARING

A Mediation Hearing was held on January 9, 1997, in the Conference Room of the City of Defiance Municipal Building, 324 Perry Street, Defiance, Ohio, and a Fact Finding Hearing was held at the same location on February 20, 1997. The following were in attendance at both Hearings:

For the Union

William A. Dunn, IUPA Business Agent
Lyle Sonnenberg, President, DPOA
Lee Martinez, Vice President
Thomas Babcock, Secretary
Douglas Harrow, Treasurer
Larry Hall, Trustee

For the Employer

Tom Grabarczyk, LRM, Inc.
Kenneth Filipiak, City Administrator
Judy Machunas, Executive Secretary
Norm Walker, Chief of Police

II. MEDIATION

Mediation was requested by the parties. A full day of Mediation was held on January 9, 1997, and much progress was made. Seven issues were settled either during Mediation or prior to Fact Finding as a result of understandings reached during Mediation.

Issues settled at or resulting from Mediation:

1. Article 14, Seniority.
2. Article 17, Leaves of Absence.
3. Article 21, Labor Management Conference.
4. Article 33, Vacations.
5. Article 36, Injury Leave.
6. Article 46, Association Officers.
7. New Article: Field Training Officer.

Issues remaining at impasse:

1. Article 32, Holidays. (Union proposal)
2. Article 34, Sick Leave. (Employer proposal)
3. Article 35, Bereavement Leave. (Union proposal)
4. Article 38, Uniform Allowance. (Union proposal)
5. Article 39, Educational Benefits. (Employer proposal)
6. Article 42, Longevity Pay Plan. (Union proposal)
7. Article 43, Wages. (Union proposal; Employer counter-proposal)
8. New Article: Drug/Alcohol Testing. (Employer proposal)
9. New Article: Shift Differential. (Union proposal)
10. New Article: On-Call Pay. (Union proposal)

III. CRITERIA

Consideration was given to all reliable information relevant to the issues, including:

1. The Collective Bargaining Agreement between the parties, effective January 1, 1994 through December 31, 1996.
2. Comparisons of unresolved issues relative to employees in the Police Officers Bargaining Unit with those issues relative to public employers doing comparable work, with consideration to factors peculiar to communities of comparable size in the Northwest region of Ohio.
3. The interest and welfare of the public and the ability of the City of Defiance to finance and administer the issues proposed.
4. SERB reports to the extent available on those issues at impasse.
5. Other material relative to the issues in dispute made through manual searches of collective bargaining agreements and from newspaper reports.
6. The lawful authority of the City of Defiance and the lawful rights of the International Union of Police Associations, AFL-CIO.
7. The stipulations of the parties.
8. Other factors normally considered in collective bargaining.

IV. ISSUES AND RECOMMENDATIONSARTICLE 32, HOLIDAYSFindings of Fact

The Union proposed that employees be paid at time-and-a-half for hours worked on Easter Sunday. This is a unique provision. It is not currently found in contracts, and there are no statistics, no comparables, no criteria in the Statute, no bargaining history, and no precedents.

The Union position is that Easter Sunday is a family day and that employees who work on Easter Sunday should be compensated for time away from their families. This is an area that has long been neglected and is unfair to employees on 7-day operations.

The Employer position is that the City has 7-day operations in Police, Fire, Water Treatment and Wastewater Pollution Control Units, none of which are paid a premium for work on Easter Sunday. This proposal would cost \$1600 over the life of the contract.

Recommendation

Some employees may prefer to be at home with their families on Easter Sunday while others may not care, considering Easter no different from any other Sunday. For those who feel strongly about sharing Easter with their families, paying them to forego this pleasure would not make up for the deprivation they feel. The \$1600 might be better spent on something that would benefit all employees.

ARTICLE 34. SICK LEAVE

Findings of Fact

Unused sick leave is portable. For example, an employee who had formerly worked in Cleveland and comes to Defiance may bring with him unused sick leave he had earned in Cleveland. In the event of illness or a catastrophic situation, he can add the time carried over from Cleveland to the time earned in Defiance. Upon retirement, he can now cash in unused sick leave earned in both Cleveland and Defiance.

The City has no objection to letting an employee bring in his unused sick time earned with another employer to use here when needed but feels it is not fair for Defiance to pay out cash for unused sick time earned with any other employer. The City is proposing that upon retirement only the sick leave earned in the City of Defiance can be cashed out.

As this information is not reported by SERB, the City manually searched through 15 contracts for guidance as to what others are doing in this area. Although provisions varied considerably, it is becoming common for cities, townships and counties to address the issue of sick leave and to begin to limit cash-out at retirement to the entity from which the employee is being retired.

The City included this provision in the just-completed contract with the Firefighters.

The Union objects to the City's taking away a provision that employees have enjoyed in the past without offering some form of compensation.

Recommendation

A cash payment for unused sick leave at retirement is a sharing by employer and employee of money the employer has saved because the employee did not use up all of his accumulated sick time. It is right and proper for Defiance to pay an employee at retirement a portion of the sick time money he saved the City, but it is not right or fair for the City of Defiance to have to pay out cash to a retiring employee for money he saved a former employer in a different city by not using up all the sick time he had accumulated while employed there.

Contract Language, Article 34, Sick Leave

Sections 1 through 10 No change.

Section 11: Retirement Sick Leave Conversion: Any bargaining unit employee who retires after ten (10) years of continuous service will be compensated for accumulated but unused sick leave earned while employed with the City of Defiance at the time of retirement in the following manner: *

One (1) day's pay for every two (2) days of accumulated but unused sick leave, not to exceed one hundred twenty (120) days.

An employee's "daily base rate" shall be figured by dividing the employee's annual base rate at the time of retirement by 2,080 hours and multiplying that base hourly rate figure by eight (8) hours.

ARTICLE 35. BEREAVEMENT LEAVE

Findings of Fact

Three days are granted off with pay for death in the immediate family. The Union proposes expanding the definition of "immediate family" to include aunts, uncles, and any other relative residing in the employee's home.

Aunts and uncles had been included in the definition of immediate family in the parties' 1987 contract but in subsequent negotiations had been removed in exchange for other benefits.

The City of Defiance Service Agreement with AFSCME includes aunts and uncles in the definition of immediate family but does not provide additional language for any other relative. In their former contract Defiance Firefighters did not include aunts and uncles in the definition of immediate family nor did they have language granting funeral leave for the death of any other relative. This was not changed in their recently bargained 1997 Agreement. Comparisons of other entities were not available, as SERB documents do not list specific relatives.

Although the issue of time off for the death of a relative residing in the employee's home is extremely rare, the Union feels it is necessary to expand the definition of immediate family to allow employees to care for the needs of their own households. An employee's grief and his responsibilities upon the death of a relative who was living in his home and who may have been elderly, infirm or ill can be as great as in the case of death of a closer relative. Since the employee will take whatever time off is necessary for the funeral and other arrangements, the Union feels that the definition of immediate family should be expanded to cover such a circumstance.

The Employer's position is that, considering all of the provisions in the Bereavement Article, employees in this Unit already fare better than Firefighters and AFSCME-represented employees.

Recommendation

Do not restore aunts and uncles to the definition of immediate family. Of the only comparables available, Police have more in common with Firefighters than with Service Workers. Aunts and uncles are not listed as immediate family in present or past Firefighters contracts. The Union has not offered evidence that employees have suffered because of the removal of aunts and uncles from the definition of immediate family.

On the other hand, the Union presented convincing testimony that for purposes of bereavement leave a relative living in an employee's home should be considered a member of the immediate family. The Union's statement in the Fact Finding hearing that this has probably never happened was un rebutted. Since the likelihood of it happening in the future is just as small, this may well be a no-cost item. Also, if the relative living with the employee happens to be a grandparent, father, mother or other relative already included in the definition of immediate family, there would be no added cost. If it should ever happen that a relative not presently listed as immediate family dies while living in an employee's home, giving the bereaved employee immediate-family benefits would be a humane, much appreciated act. It is recommended that this be added to the contract.

Contract Language, Article 35, Bereavement Leave

Sections 1 and 2 No change.

Section 3 Immediate family shall be defined as the employee's grandparents, brother, sister, brother-in-law, sister-in-law, daughter-in-law, son-in-law, father, father-in-law, mother, mother-in-law, spouse, child, stepchild, grandchild, *relative living in the employee's home*, or legal * guardian or other person who stands in place of a parent (loco parentis).

Section 4 No change.

ARTICLE 38, UNIFORM ALLOWANCE

Findings of Fact

The City has an account with Superior Uniform in Toledo which an employee may draw upon to order standard uniform items up to a total of \$435 a year. Superior supplies uniforms for most police organizations in the state. The Union claims that the uniform allowance is not adequate, not even for replacing worn out items. Since the required initial uniform adds up to \$984.84, a new employee is permitted to use his first two years' allowance (\$870) at the time of hire. He gets nothing the second year and has to wait two years to replace worn out items and supplement inadequate supplies. (For example, the schedule allows only two shirts a year.) A new hire must either pay the difference out of his own pocket or look through the City's supply of turned-in clothing for something in his size in not too bad condition.

The Union is proposing a Uniform Allowance of \$450 the first year (1997), \$475 the second year (1998), and \$500 the third year (1999). Also, contract language that a new employee will receive the first two years' allowance (\$925) at the time of hire and in the second year one-half of the second year's allowance (\$237.50).

The current contract requires that a new employee who leaves the department in less than two years must repay part of his Uniform Allowance with a pro-rated amount for each month short of two years withheld from his final pay. The Union proposes that this be changed to apply only to a new employee who *voluntarily* leaves the department in less than *one* year and that the employee be given a *choice* of either having a pro-rated amount for months less than one year withheld from his last pay *or returning all items purchased from the uniform allowance.*

The contract presently covers dry cleaning but not repair. The Union proposes that repair be added. The City had agreed only to this part of the Union's proposal.

Defiance policemen want to be able to take pride in their appearance. They do not like having to wear patched clothes or shirts that need laundering. They want to present a professional appearance that will make a good impression on citizens and visitors and be a credit to the City.

Comparables were not helpful. Considering dollars alone, Defiance stands about midway among cities in the northwestern part of the State. These range from a low of \$225 to a high of \$940, but that is not the whole story, as many different conditions apply. SERB does not reflect whether the money is paid in cash or not. Some cities pay for cleaning. One city will replace worn out shirts with new ones. Defiance pays for dry cleaning only under extenuating circumstances, not for normal wear and tear, and it never pays for repairs.

As there is no way of telling how many new employees will be hired in the next three years, the City could not cost out the Union's proposal. The City offered a counter-proposal that it would accept the Union's Uniform Allowance proposals providing the Union withdrew its proposal for a new Article "Shift Differential."

Recommendation

Testimony of all the Union Representatives at the hearing, based on actual experience, was convincing that the Uniform Allowance was inadequate, particularly for new hires. Under the Union's proposal they would receive \$925 for their uniform upon hire instead of the present \$870, more closely approaching the required \$984.84 outlay. In their second year they would receive \$237.50 instead of nothing at all. Current employees would have money to purchase additional items such as shirts and to replace worn out items more frequently. Both dry cleaning and repair would be available under the same circumstances.

Since a new hire is given two years' Uniform Allowance up front, if he leaves in less than two years it is understandable that the City would want to recoup the portion of the advance for which services were not rendered. Once an employee has completed the one-year probationary period, separation would be either voluntary or for cause. A seniority employee terminated for cause has the protection of the grievance procedure, but a seniority employee with one year but less than two years of service who leaves voluntarily has no protection against having this money deducted from his final paycheck. The proposed revision of Section 3, preserves the City's right to recoup its costs both in cash and in the accumulation of complete uniforms worn less than two years, increasing the opportunity for re-use.

Adding uniform repair would tend to give police a neater, more professional look, resulting in greater pride in their work, increased respect by citizens, and favorable impressions on visitors.

Contract Language, Article 38, Uniform Allowance

Section 1. A uniform allowance of \$450.00 during the first year of the contract (1997), \$475 during the second year of the contract (1998), and \$500 during the third year of the contract (1999), shall be allowed all Bargaining Unit employees of the Defiance Police Department. *

Section 2. Whenever a new full-time employee is hired in the Police Department, he shall receive an allotment for the first year equal to two (2) years' uniform allowance. *At the beginning of the employee's second year of employment he shall receive one-half (1/2) of the normal uniform allowance.* *

Whenever a new employee *voluntarily* leaves the department with less than *one (1) year* of service, a prorated amount for each month of service short of *one (1) year* the employee fails to complete shall be withheld from the last pay due to said employee *or the employee shall turn in all items purchased from the uniform allowance.* *

Sections 3, 4 and 5. No change.

Section 6. Dry cleaning *and repair* of uniforms will be paid by the City from the individual clothing allowance providing that such uniforms become soiled *and/or damaged* as a result of a job-related occurrence beyond normal duties, such as a scuffle, fight, etc. *

Upon approval, the City will replace at its expense uniform items and reasonable effects destroyed in the line of duty. Any monies received by the City as restitution for the loss shall be deposited into the City General Fund.

ARTICLE 39, EDUCATIONAL BENEFITS

Findings of Fact

In addition to the three types of educational programs listed in Sections 3 and 4 (where expenses are either paid by the City or may be reimbursed), Sections 1 and 2 provide for an annual supplement to base pay for employees with three years service who complete college courses in Police Science or other job-related courses on their own time and at their own expense, the amount of annual compensation being based on the number of college credit hours earned.

In the past, policemen rarely had more than a high school education. A number of years ago the parties negotiated this provision in order to upgrade the educational level of the police force. A number of things have happened since then. As the City is now getting better educated applicants, it believes that this provision has out-served its usefulness.

The City is proposing that the annual payment based on college credit hours be eliminated and that employees currently receiving this payment be grandfathered.

Since 1985, 65% of all new officers hired in this unit began employment with some college education.

A change in the Ohio Revised Code, Section 124.27, increases from 3 to 10 the number of names on an eligibility list the Civil Service Commission certifies to an appointing authority. This increases the likelihood of hiring college-educated employees.

This provision, once common in some form in other police contracts, is less frequent now. It was found in only 5 of 11 comparables. Three of these five had a lower maximum annual payment than Defiance.

The Union prefers to retain the present language. The City admits that it places value on hiring college-educated employees. Since the City prefers college-educated employees, it should compensate employees who take college courses while on the job. Among other benefits, college improves communication skills, and it is beneficial to the City to have well-spoken police officers.

Grandfathering employees who are presently receiving an addition to their base pay for college courses they had taken on the job and denying the same additional compensation to new employees with comparable college education creates a 2-tier system. It is unfair, disruptive, and can cause problems.

Recommendation

This proposal should be granted. With new hires drawn from a larger pool in an increasingly educated work force, it is no longer necessary to pay extra for college credits. Since it would be unfair to take this extra compensation away from employees currently receiving it, the only alternative is to grandfather them. This can and does cause problems, but with retirement, resignations and other separations from the payroll, there will be fewer and fewer problems, and in time they will all be phased out.

Contract Language, Article 39, Educational Assistance

Section 1 Employees employed prior to December 31, 1996 who received annual compensation under the former Educational Benefits Program shall continue to receive such payment for the duration of their employment in this Bargaining Unit.

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Section 2:

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- A. Each new employee shall attend an accredited basic Police School Program in accordance with State law. The City shall pay necessary expenses including tuition and text books. Lodging, meals, and mileage shall be paid for out-of-town schooling with approval of the Chief of Police.
- B. These courses (in accordance with A above) shall be completed within the employee's first (1st) year. A reimbursement contract shall be signed by the new employee.
- C. Each employee shall be provided with opportunity, as approved by the Chief of Police, to attend schooling, certification, or re-certification programs required to maintain the present level of services provided by the Police Department. The City shall pay necessary expenses including tuition and text books. Lodging, meals, and mileage shall be paid for out-of-town schooling with approval of the Chief of Police.
- D. Additional Education. Employees shall be eligible to receive an amount not to exceed \$175.00 as reimbursement for cost of college, correspondence or other job-related courses approved by the Board of Control and taken on other than City time and at City expense. This shall be based upon the course taken and successfully passed.

Application for such reimbursement shall be submitted, by the employee, to the City Administrator who shall forward the request to the Board of Control for approval or disapproval prior to the beginning of the schooling. The request shall include all relevant data showing the content of the

schooling to be taken and its relationship to the employee's job. If approved by the Board of Control, the reimbursement will be made following the employee's submission of documentation to the City Administrator showing that he/she has successfully passed the course taken.

- E. Reimbursement: Reimbursement shall be made to the employee by the City after completion of approved courses or the cost of said training program can be paid directly to the person or firm conducting the program. The employee must pass the course and receipts have to be furnished upon completion in order to be reimbursed. The employee shall have the right to keep the text books. Advance payment shall be reimbursed to the City in the case where an employee fails to obtain a passing grade.

Section 3: Appropriate paid leave for time off, not to exceed the following: *

1997-nine (9) days aggregate; *
 1998-nine (9) days aggregate; *
 1999-nine (9) days aggregate; *

shall be granted for employees to use anytime for the purpose of attending educational programs related to Labor/Management; however, it shall require approval by the Chief of Police. *

ARTICLE 42, LONGEVITY PAY PLAN

Findings of Fact

The provision for paying long-term employees an annual sum of money over and above basic wages has been in the contract for a number of years. In 1985 bargaining, in exchange for substantial wage increases, the Union "bought out" this provision in respect to new hires. Employees on the payroll on June 1, 1985 were grandfathered.

In 1991 bargaining the Union wanted to abrogate the 1985 provision, making all employees again eligible for longevity pay. This went to fact-finding and conciliation, and the conciliator ruled to retain the 1985 language.

In 1994 a ruling was handed down that longevity payments had to be included in the overtime rate. This resulted in what amounted to a 5-step wage scale.

The Union is proposing that longevity pay language be modified so as to apply to all employees. The rationale being (1) that experience makes better, more productive employees and that loyalty, expertise and knowledge should be rewarded; (2) that the wage gains in 1985 have long since been eroded; and (3) that grandfathering creates a 2-tier system, which causes problems.

The Union presented 15 comparables which showed other cities have worked out a number of different ways of rewarding long-term employees.

The City is opposed to changing the present language, as it would be very costly. The cost is estimated at \$16,450 over the life of the Agreement. Defiance's AFSCME-represented employees have eliminated their longevity clause.

Recommendation

Present language should be retained. The Union knew what it was doing in 1985. In subsequent bargainings employees have benefitted and are still benefitting from the higher wage base, which has been augmented each year by a percentage increase. The logic in Conciliator Thomson's February 22, 1991 decision may be upheld should the the present impasse have to go to conciliation. While it is true that any 2-tier wage system can cause employee dissatisfaction, a grandfathering provision is not permanent. With retirements of long-term employees and other separations from the payroll it will phase out.

ARTICLE 43. WAGES

Findings of Fact

The Union has proposed:

1. Increase of 4.5% - 4.5% - 4.5%.
2. Sergeant 8% - 9% - 10% over Police Officer.
3. Lieutenant 8% - 9% - 10% over Sergeant.

The City has proposed an increase of 3.25% - 3.25% - 3.25% , contingent upon:

1. Acceptance of the City's proposal on Educational Assistnce.
2. Retaining current language on Longevity.
3. Withdrawal of the Union's On-Call proposal.

Present top wages for Defiance Police Officers rank as follows among comparables:

<u>Union Comparables</u>		<u>City Comparables</u>	
Toledo	\$42,614	Fostoria	\$36,899
Perrysburg	38,667	Findlay	35,464
Oregon	37,336	Bowling Green	34,278
Sylvania	36,577	Defiance	32,946
Bowling Green	36,004	Lima	32,885
Maumee	35,729	Fremont	32,282
Rossford	33,945	Tiffin	31,346
Findlay	33,426 *	<i>Average</i>	<i>30,886</i>
Defiance	32,946	Napoleon	29,203
Lima	32,884	Wapakoneta	28,766
Northwood	32,472	Bryan	28,080
Napoleon	31,137	Wauseon	27,373
Bryan	28,080	Upper Sandusky	23,175
Wauseon	27,372		
Kenton	26,624		

* Does not include recently negotiated 4% increase.

The City recently bargained increases of 3.75% - 3.75% - 3.75% for its Firefighters. Deputies in Defiance County were granted increases of 4% - 4% - 4%. Lucas County Deputies were awarded 4% - 4% - 4%. Toledo Police Officers were granted wage increases of 3% - 3% - 3%. (However, a 1% increase in pension payments amounted to an effective wage increase of 4%.) The Findlay wage increase for police was 4% - 4% in a 2-year Agreement.

SERB's 1996 summary of public sector wage settlements (received shortly after the fact-finding hearing) reported the state-wide average increase in police units as 3.59%.

Wages of Sergeants over Police, as expressed in terms of percent:

<u>Union's Comparables</u>		<u>City's Comparables</u>	
Lima	15.8%	Fremont	14.0%
Bowling Green	15.4%	Lima	13.4%
Fremont	14.0%	<i>Average</i>	<i>10.5%</i>
<i>Average</i>	<i>11.6%</i>	Bowling Green	10.3%
Bryan	10.4%	Fostoria	10.0%
Tiffin	10.0%	Tiffin	9.7%
Findlay	10.0%	Findlay	9.4%
Fostoria	10.0%	Defiance	6.7%
Defiance	7.3%		

Although Defiance's capital improvement renewal was defeated in the last election, the City has not pleaded inability to pay. The City's objection to the Union's costly wage proposal is based primarily on prudent management of present resources. Should the May 1997 levy again fail to pass, money to finance improvements in the new contract would have to come from someplace. This could mean reductions in service.

Recommendation

It is recommended that Police Officers receive a 4% increase each year of the 3-year contract, as that seems to be the prevailing wage increase among comparables. Although higher than SERB's 3.59% state-wide average wage increase for police, a great many of the police units throughout the state are in small communities. Also, since the SERB report includes all increases bargained in 1996, those bargained in the early part of 1996 would have been based on 1995 data.

Defiance Police Officers, Sergeants and Lieutenants are in separate bargaining units. Although bargaining is done jointly, it could be done separately. The FLSA status, working conditions, responsibilities, problems and needs of Sergeants and Lieutenants are not the same as those of Police Officers. Their wages should be determined independently, not necessarily linked to those of the Police Officers. Whatever increases may be granted, it is more appropriate to express them in dollars rather than in percents.

Sergeants and Lieutenants in Defiance rank poorly when it comes to comparables, with Lieutenants being comparatively worse off than Sergeants. The following wages give Sergeants a greater dollar difference over Police Officers and give Lieutenants a greater dollar difference over Sergeants. Dollar increases for Sergeants equate to 8.0% - 8.5% - 9.0% and for Lieutenants 8.5% - 9.0% - 9.5%.

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ARTICLE 43

WAGES

Section 1: Employees in the three Bargaining Units shall be paid according to the following pay *
schedules beginning January 1, 1997: *

CLASSIFICATION	EFFECTIVE	EFFECTIVE	EFFECTIVE
	January 1, 1997	January 1, 1998	January 1, 1999
POLICE OFFICER:			
0-1 Year of Service	\$25,010	\$26,010	\$27,050
1-2 Years of Service	27,187	28,274	29,405
2-3 Years of Service	29,547	30,729	31,958
3-4 Years of Service	31,903	33,179	34,506
4-5+ Years of Service	34,264	35,634	37,060
SERGEANT:	\$37,005	\$38,488	\$40,024
LIEUTENANT:	\$40,151	\$41,757	\$43,427

DRUG/ALCOHOL TESTING (NEW ARTICLE)

Findings of Fact

It is in the public interest that members of the police force be free of drugs and do not abuse alcohol. Drug-free employees and those who do not over-indulge in alcohol are better workers, have less sick time, and are trusted and respected by the citizens.

Federal funding for a drivers unit requires a drug/alcohol policy, but it does not require testing. The City already has a city-wide drug/alcohol policy which does not include testing and is not incorporated in the contract. A few of the City's employees (not in this Unit) are required to possess a Commercial Drivers License and these employees, by law, are required to submit to drug/alcohol testing.

The Union objects to adding a drug/alcohol testing policy to the contract. There is no need for such a policy. We have had a few alcohol problems, but to everyone's knowledge we have never had a drug problem.

The proposed policy presents an invasion of employee privacy. It contains no protection for employees nor any provision to hold the Union harmless. Employees are subject to testing on nothing more than a reasonable suspicion.

The City submitted three comparables: Wapakoneta and the FOP (1993), Lima and the FOP (1994), and Fremont and the FOP (1995). All contain the "reasonable suspicion" standard.

In recently completed negotiations with the City, the Firefighters agreed to a Drug/Alcohol Testing Article. Unlike the detailed Article that the City has proposed for this Unit, the Firefighters contract simply states:

"The City and the Union agree to meet and discuss the implementation of a drug/alcohol testing program."

The Police Unit is willing to accept this same language, but the City does not agree.

Recommendation

Adopt the Firefighters language. This is a highly complex issue which should not be rushed into. The City's proposal contains professional practices and medical precautions such as assuring purity of sample, chain of custody, types of tests, double testing, etc., that a competent, certified testing laboratory would be expected to handle.

The Union and the City sitting down together and discussing implementation of a drug/alcohol testing program should result in a better program and one more likely to succeed because of joint input and support. There would also be advantages to the City by having a City-wide program.

Contract Language, Article, Drug/Alcohol Testing

Section 1: *The City and the Union agree to meet and discuss the implementation of a drug/alcohol testing program.* *
*

SHIFT DIFFERENTIAL (NEW ARTICLE)Findings of Fact

The Union has proposed a shift differential of \$.35 per hour for employees working the afternoon shift and \$.25 per hour for employees working the night shift, to be rolled into the employee's hourly base rate for all applications.

Persons who work afternoons or nights are deprived of time with their families and participation in many social, recreational, community and cultural activities. It is common practice to give such employees extra money in exchange for working undesirable hours.

Union Comparables : (11-County Area)City Comparables (Medium-size Populations)

	<u>Afternoons</u>	<u>Nights</u>		<u>Afternoons</u>	<u>Nights</u>
Bowling Green	\$.25	\$.30	Defiance	No	No
Kenton	\$.30	\$.40	Wauseon	No	No
Maumee	\$.55	\$.55	Napoleon	2.5%	2.0%
Napoleon	2.5%	2.0%	Bryan	No	No
Oregon	\$.30	\$.20	Bowling Green	\$.25	\$.30
Perrysburg	\$.20	\$.40	Findlay	No	No
Sylvania	\$.55	\$.55	Fostoria	\$.20	\$.30
Toledo	\$.20	\$.25	Freemont	No	No
Defiance (AFSCME Unit)	\$.30	\$.30	Tiffin	No	No
			Wapakoneta	\$.25	\$.35
			Lima	No	No
			Upper Sandusky	No	No

Unlike many industries where shifts are rotated, shift assignments here are permanent. They are also selected by seniority.

Twelve employees would be involved: 6 on afternoons and 6 on nights.

This proposal, considering roll-up involved, would cost \$22,464 for the life of the contract.

Recommendation

This is not recommended. For many employees, working afternoons or nights fits their personal needs better than working days. Since shift assignments are by choice by seniority, afternoon and night shifts are not necessarily undesirable, requiring additional compensation. They may be the preferred shifts for some, in which case there is no deprivation to be compensated for.

Although shift differentials are frequently found in the private sector, the comparables submitted by the parties were not conclusive as to whether they represent a common practice in the public sector.

\$22,464 could be better spent in an area where there is a greater need and where it would benefit more employees.

ON-CALL PAY (NEW ARTICLE)Findings of Fact

The Union has proposed that every officer who is required to carry a pager be compensated \$1.00 per hour on each day he is required to carry a pager. Three employees are currently required to carry pagers. These are detectives subject to call-out. There are no rules restricting their mobility.

The City has never had an on-call provision. With the advent of pagers (commonly referred to as beepers) detectives were required to carry beepers so that they could be reached at any time for a call-out. The Union considers the beeper requirement a tether for which employees should receive additional compensation.

The City insists that carrying a pager is not the same thing as being "on call", nor is it anything like a tether. Many consider it a privilege to have a pager. Moreover, the detective job is generally thought to be more interesting than a patrol officer's job. There is no need for the detectives to receive additional compensation.

Defiance County social workers who work on child care and child custody receive \$125 a month for carrying a beeper when they are on call. The Union had no comparables to offer, and of the 12 comparables submitted by the City none had on-call pay.

This proposal would cost \$3,285 over the life of the contract.

Recommendation

This provision is not needed. Detectives are not unhappy about having to carry beepers. In fact, they rather like it. There was testimony that "some of the guys consider it a thrill to carry a pager." Although they carry pagers, they are not "on call" and are not restricted from going anywhere. Except for certain Defiance County social workers, neither the Union nor the City could cite any comparables with this provision. \$3,285 could be spent on more needed items than on benefitting three employees who apparently are not complaining.

EFFECTIVE DATE

All provisions of the new contract will be effective January 1, 1997. The parties waived the requirement not to order retroactivity in prior years, as they wished the Fact Finder to have authority to order appropriate retroactivity.

PROOF OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing was served on the following by sending U. S. Express Mail on this 14th day of March, 1997, for overnight delivery on March 15, 1997.

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March 14, 1997
Date

Louise Hodgson
Louise Hodgson, SERB Fact Finder