

STATE EMPLOYMENT RELATIONS BOARD

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STATE OF OHIO

Dec 16 10 07 AM '96

In the Matter of Fact-Finding	*	
Between	*	<u>FINDINGS</u>
	*	<u>AND</u>
FRATERNAL ORDER OF POLICE	*	<u>RECOMMENDATIONS</u>
LODGE 67	*	
	*	Case No. 96-MED-09-0834
and	*	December 11, 1996
	*	
CITY OF INDEPENDENCE	*	Anna DuVal Smith
OHIO	*	Fact-Finder

Appearances

For the Fraternal Order of Police:

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For the City of Independence:

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I. BACKGROUND AND SUBMISSION

The Fraternal Order of Police represents all promoted officers of the Independence Police Department except the Chief, presently numbering six. Its contract with the City expires on December 31, 1996. Negotiations for a successor agreement occurred during November and December, but failed to produce an agreement on all issues, so the parties proceeded to fact-finding under §4117.14(C) O.R.C. The undersigned was appointed Fact-Finder pursuant to 4119-9-05(E) of the Ohio Administrative Code on November 29, 1996. Pre-hearing discussions with the advocates indicated mediation would prove fruitless so pre-hearing position statements were timely filed, and an oral hearing convened at 10:00 a.m. on December 11, 1996, at the City Hall, Independence, Ohio. Present for the Union in addition to Counsel were Bargaining Committee members Sgt. James P. Polak and Lt. Dale R. Christ. Present for the City was Acting Chief of Police Lt. John Nicastro. The parties presented two issues: Rank Differential and Educational Tuition Reimbursement, the latter of which was presented by mutual agreement during the course of the hearing. The parties were afforded a complete opportunity to present oral and written evidence and to argue their respective positions. The F.O.P. objected to the failure of the City to provide requested financial data. The City said it had forwarded the requested information to the Finance Department and would now expedite the matter. Inasmuch as no ability-to-pay argument was raised by either party, the hearing proceeded, concluding at 10:45 a.m., whereupon the record was closed. In rendering this Report and Recommendation, the Fact-Finder has given full consideration to all reliable information relevant to the issues and to all criteria specified in §4117.14(C)(4)(e) and Rule 4117-9-05 (J) and (K) O.A.C., to wit:

- (1) Past collectively bargained agreements between the parties;
- (2) Comparison of the unresolved issues relative to the employees in the bargaining unit with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved;
- (3) 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;
- (4) The lawful authority of the public employer;
- (5) Stipulations of the parties;
- (6) Such other factors, not confined to those listed above, which are normally or traditionally taken into consideration in the determination of issues submitted to mutually agreed-upon dispute settlement procedures in the public service or in private employment.

II. ISSUES IN DISPUTE

ARTICLE XXXVII. COMPENSATION SCHEDULE

Contending the City is one of the elite, the F.O.P. seeks an improvement in the rank differential of 0.5 percent in each year of the Contract, from 11 percent in 1996 to 11½ percent in 1997 and 12 percent in 1998. It argues that inasmuch as many cities of comparable population and department size have differentials of as much as 16 percent, 11½-12 percent would not make the City stand out in any way.

The City's offer is 11-11½ percent contingent on what the Patrolmen settle for:

In the event the Patrolmen receive 3 1/2% percent increases, the Sergeants and Lieutenants shall receive an 11 1/2% rank differential. In the event the Patrolmen receive 4% increases, the Sergeants and Lieutenants shall maintain their current rank differential of 11%. In the even the Patrolmen receive a 4% increase in one year and a 3/12% [sic] increase in one year, Sergeants and Lieutenants shall recognize an 11% rank differential in the year that the Patrolmen receive a 4% increase and an 11 1/2% rank differential in the year that the Patrolmen receive a 3 1/2 % increase.

The City argues that rank differential needs to be considered in relation to base wages. It submits data to show that the 1996 annual wage rate paid by the City is already well above the annual wage rates of employees doing comparable work, and that its existing rank differential of 11 percent is comparable to those in other departments. The City anticipates the patrolmen's fact-finder will award 3½-4 percent annual wage increases, which it claims

are similar to improvements elsewhere, and in light of this, its offer is fair, reasonable and comparable, particularly because the cost impact to the City will be substantially more than 3½-4 percent due to the roll-up effect.

Unrebutted data submitted by the City show the Independence command unit to be well paid relative to officers in other communities, sergeants ranking second of the eight cities used and lieutenants heading the list. Average rank differential in the same cities is 11.2 percent (excluding Independence), with the higher-paid cities having a higher average differential than lower-paid ones.¹ An increase of one-half percent to 11½ percent is therefore warranted but 12 percent is not. The recommendation is for 11½ percent rank differential in each year of the Agreement to maintain the City's relative position.

ARTICLE XXXIX EDUCATIONAL TUITION REIMBURSEMENT

The expiring Agreement provides for reimbursement of one-half the cost of tuition in one approved course of study per quarter or semester. The F.O.P. sought comparability with the dispatchers, whose contract provides for full reimbursement of tuition and books for courses in criminal justice with no cap on hours per term. However, it submitted language for tuition and books, any approved course, and no cap. The City would accept the dispatchers' provision, but prefers the patrolmen's as this would help the Department develop managerial talent, yet place some financial responsibility on the student.

The City and the Union have a mutual interest in developing managerial talent. Therefore, reimbursement for courses outside the area of criminal justice is warranted.

¹11.3% in the top three exclusive of Independence, 10.5% in the bottom three.

However, no justification was offered to support that the command unit be treated differently than the patrol officers so far as books and cap are concerned. The patrolmen's language is therefore recommended as it amounts to an economic improvement to the unit and addresses the parties' mutual interest.

IV. SUMMARY

Rank Differential

1997--11.5% 1998--11.5%

Educational Tuition Reimbursement

Section 1. The City shall provide funds to reimburse an employee for the cost of tuition directly related to one approved course of study per school quarter or semester. Course shall be defined as three (3) semester hours (or the quarterly hour equivalent) of a specific subject. To be eligible for such reimbursement, an employee shall apply to the Chief for approval before the employee enrolls in the course. Such reimbursement must be approved by the Mayor, who may approve same only if the completion of such course can be reasonably expected to improve and upgrade the employee's job-related skills and abilities and assist the employee and the City in the employee's performance of his job, and the course is offered by an accredited institution of higher learning.

Section 2. Should an employee successfully complete an approved course by earning a grade "B" or better, the City shall reimburse the employee for the cost of tuition upon presentation to the City of the original invoice from the institution.

Respectfully submitted,



Anna DuVal Smith, Ph.D.
Fact-Finder

Cuyahoga County, Ohio
December 11, 1996