

I. PROCEDURAL BACKGROUND

This matter came on for hearing on January 6, 1997, before Jonathan I. Klein, appointed as fact-finder pursuant to Ohio Rev. Code Section 4117.14, and Ohio Admin. Code Section 4117-9-05, on November 29, 1996. The parties mutually agreed to extend the statutory deadline for issuance of the fact-finder's report and recommendations to and including March 5, 1997.

The hearing was scheduled between the City of Huron ("Employer" or "City"), and the Fraternal Order of Police, Ohio Labor Council, Inc. (hereinafter "Union" or "FOP"), in the Huron City Hall, Huron, Ohio. The parties met several times prior to the fact-finding hearing in an effort to resolve their differences. Despite such negotiation efforts, the parties remained unable to resolve five issues at impasse prior to the date of the fact-finding hearing.

The parties engaged in multi-unit bargaining culminating in the fact-finding hearing, including one bargaining unit consisting of two sergeants, a second unit of four dispatchers and a third bargaining unit consisting of eight police officers. On the date of the fact-finding hearing, the parties, with the assistance of the fact-finder, commenced earnest negotiations directed toward possible settlement of the unresolved issues.

Upon further efforts at negotiation and mediation, the parties reached a mediated settlement agreement on the outstanding issues concerning the bargaining units of

police officers and sergeants.¹ A copy of the mediated settlement is appended hereto as Attachment "A." The fact-finder incorporates by reference into this Report and Recommendations all tentative agreements between the parties relative to the current negotiations for a successor collective bargaining agreement, whether such tentative agreements were reached prior or subsequent to January 6, 1997.

II. FACT-FINDING CRITERIA

In the determination of the facts and recommendations contained herein, the fact-finder considered the applicable criteria required by Ohio Rev. Code Section 4117.14(C)(4)(e), as listed in 4117.14(G)(7)(a)-(f), and Ohio Admin. Code Section 4117-9-05(K)(1)-(6). These fact-finding criteria are enumerated in Ohio Admin. Code Section 4117-9-05(K), as follows:

- (1) Past collectively bargained agreements, if any, 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;

1. The sergeants accepted the Employer's proposal of a three (3) percent annual increase with no changes in the wage scale prior to fact-finding.

- (5) Any 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.

III. FINDINGS OF FACT AND FINAL RECOMMENDATION **POLICE OFFICERS & SERGEANTS**

The fact-finder, after consideration of the parties' respective positions, finds the mediated settlement agreement to be fair, reasonable and in accordance with the applicable statutory criteria required by Ohio Rev. Code Section 4117.14(C)(4)(e), as listed in 4117.14(G)(7)(a)-(f), and Ohio Admin. Code Section 4117-9-05(K)(1)-(6). It is the fact-finder's final recommendation that the mediated settlement agreement by and between the Employer and Union, appended hereto as Attachment "A," shall be implemented as a full and final settlement of all disputed issues pertaining to the bargaining units of sergeants and police officers.

IV. FINDINGS OF FACT AND FINAL RECOMMENDATIONS **DISPATCHERS**

The two issues that remain at impasse with the dispatchers unit concern wages and call back pay.²

2. The Union withdrew its proposals on court time, shift differential and workout pay. (Union's Post-hearing Statement at 3).

A. Wages

Two of the current dispatchers with the least seniority are being paid \$18,720, and the remaining two dispatchers with greater seniority receive \$26,026 and \$27,652, respectively. Under the present collective bargaining agreement for the period 1994-1996, the base salary of each of the bargaining unit members was increased 3 percent annually.

The Union's final wage proposal, after mediation proved unsuccessful, consists of percentage increases in the base rate of the bargaining unit members' salaries, as follows:

NAME	1996	1997	1998	1999	Total % Increase
Fielitz	\$27,652	\$30,000	\$30,900	\$31,827	14.49 %
Chubak	\$26,026	\$30,000	\$30,900	\$31,827	21.27 %
Gorman	\$18,720	\$21,540	\$24,360	\$27,180	39.73 %
Michel	\$18,720	\$21,540	\$24,360	\$27,180	39.73 %

In support of its proposal, the Union emphasizes the fact that in 1996 a supervisory position entitled, Communications Supervisor, became vacant. The occupant of the supervisory position quit, the position was eliminated and the duties performed by the supervisor were redistributed to the dispatchers, in particular Fielitz and Chubak. However, there was no increase in compensation for the dispatchers who picked up the extra work. The Employer has never performed a job task analysis of the position of dispatcher to determine the knowledge, skills and abilities required to perform the position in light of the

reassignment of duties, and the two senior bargaining unit members have assumed the duties that were once performed by the occupant of the Communications Supervisor position.

Further, unlike many other cities cited by the Employer for comparison purposes, the Employer's dispatchers work alone rather than two dispatchers on duty per shift. Although the two least senior members of the bargaining unit have approximately one year of seniority, the two senior dispatchers, Fielitz and Chubak, have nineteen and ten years of full-time service for the Employer. In particular, Chubak's seniority should entitle her to receive the highest wage rate paid in the classification. Dispatcher Chubak and the two least senior dispatchers also have many years of part-time and full-time service with the Employer.

The Union urges that the Employer's proposal would ensure that the least senior dispatchers will never achieve parity with the other dispatchers through a career of service, and this requires initiation of a pay step classification for the dispatchers. The Employer has seen fit to offer 3 percent wage increases at a minimum to other city employees and large increases to two police officers, yet the top dispatcher will receive increases of only 1.26 percent in 1997, 1.79 percent in 1998 and 1.75 percent in 1999 under the Employer's proposal.

The Employer submits that placing the four person bargaining unit on a scale is difficult, particularly where the pay ranges from approximately \$18,000 for two employees with little seniority, to \$27,000 for the remaining long-service employees. In the current and prior contracts, each dispatcher received a negotiated wage increase in his or her individual

salary set within a wage range established by ordinance. Although the salaries for the dispatchers are not representative of a typical pay system, data for neighboring communities reveals that the salaries paid to the bargaining unit members are comparable.

The average effective raise contained in the Employer's proposal is competitive to neighboring communities and the referenced comparables. Cities pay the following entry level wages in nearby jurisdictions: \$20,696 in Norwalk; \$21,060 in Port Clinton; \$18,501 in Vermilion; and \$21,528 in Willard. The average top level wage for these same cities is \$25,862. Even police dispatchers in Cuyahoga County average \$20,240 at the entry level, and \$26,204 at the top level. (SERB Benchmark Report, 6/28/96). Accordingly, the Employer proposed the following salaries for dispatchers:³

NAME	1996	1997	1998	1999	Total % Increase
Fielitz	\$27,652	\$28,000	\$28,500	\$29,000	4.81%
Chubak	\$26,026	\$27,000	\$28,000	\$29,000	11.04%
Gorman	\$18,720	\$19,720	\$20,720	\$22,220	17.66%
Michel	\$18,720	\$19,720	\$20,720	\$22,220	17.66%

3. The columns labeled "1996" and "Total % Increase" were inserted by the fact-finder for comparison purposes.

The fact-finder has considered each proposal in light of the statutory criteria.

First, the percentage increases in the last collective bargaining agreement represented annual raises of three (3) percent. Second, and a most important factor in the fact-finder's opinion, are the comparable jurisdictions. On this ground, the Union's position has little support. Whether reference is made to the SERB Benchmark Report presented by the Union dated December 5, 1996, for Erie, Huron and Sandusky counties, or the comparability data for the five neighboring communities noted in Appendix "A" to the Employer's post-mediation position statement, the results are the same. The starting salary for dispatchers is \$1,726 below the average entry level salary using the Employer's comparables (excluding Huron), and slightly above the average on the SERB benchmark report. The top salary for 1996 is \$1,790 above the average of the Employer's stated comparables, and \$2,080 above the average top level on the SERB Benchmark Report. On a statewide comparison of dispatchers in jurisdictions with a population range of 6,000 to 10,000, the entry level dispatcher is \$444 below the average, and the top salary is \$3,470 above the state average.

The effect the abolishment of the communications supervisor position had on the duties of the bargaining unit members remains unclear. There was insufficient evidence of the nature and quantity of work performed by the supervisor, and proof of the impact her departure and the subsequent job abolishment had on the members of the bargaining unit. Without the benefit of a job description and evidence of the supervisor's duties the bargaining unit members would not otherwise have performed, the fact-finder cannot draw

any reasonable conclusions as to the impact on the bargaining unit. Moreover, it is unclear whether the duties formerly assigned to the communications supervisor were divided equally among the bargaining unit employees, or transferred primarily to one or both of the senior employees. This evidence falls far short of proof that would justify a wage proposal of the dimension submitted by the Union.

The fact-finder finds no rationale basis for the massive percentage increases proposed by the Union based on the comparable data and statutory criteria. Significant adjustments were made to the wages of police officers at the lower end of the pay scale through the process of mediation. The terms of the mediated agreement recommended by the fact-finder for the police officers calls for creation of a negotiated rate schedule which compressed the top wage level. It also addresses an existing problem with officers who are currently out of the proper step on the schedule. The agreement further provides lump sum payments to the top paid officers in the unit who were subject to wage compression with a cash equivalent to the dollar value of the wage increases received by those officers who fall at the median point in the scale. Viewed in its entirety, the wage increases impacting the police officers' unit were designed to correct very specific concerns of the parties that are not transferable on a wholesale basis to the dispatcher unit.

It is clear to the fact-finder that there exists a specific need to address the entry level salary and to narrow the difference in salaries between bargaining unit members by some compression at the top level. The Employer's proposal speaks to this demand with a

substantial boost to entry level dispatchers consistent with the evidence of comparable jurisdictions. The same proposal provides the second most senior dispatcher, Chubak, with base wage increases in the amount of 11.04 percent over the term of the collective bargaining agreement.

However, the notion of a lump sum bonus payment to help offset the lesser percentage increase received by the top paid dispatcher(s) without unduly extending the pay spread, should be implemented. This idea, used in the settlement agreement with the police officers, represents an approach which is equally appropriate with the dispatchers. The calculation of the recommended lump sum payments for the dispatchers is made by determining the effective overall wage increase for each year of the agreement using the Employer's proposal. These percentages reflect a total increase of 3.65 percent for 1997, 3.71 percent for 1998, and 4.6 percent for 1999. The fact-finder recommends that the extent to which these averages exceed the actual percentage increases for each corresponding year of the agreement for dispatchers Chubak and Fielitz, their prior year's wages starting with 1996 shall be multiplied by the percentage difference, and paid to Chubak and Fielitz, respectively, as lump sum bonuses. Since Chubak is to receive a 3.75 percent increase in 1997 and a 3.71 percent increase in 1998, no lump sum payment shall be made to her in those years. Chubak shall receive a lump sum payment of \$286 on July 1, 1999. Dispatcher Fielitz shall receive lump sum payments on July 1, 1997; July 1, 1998; and July 1, 1999, in the amounts of \$661, \$538 and \$809, respectively.

The fact-finder must reject the Union's proposal and the premise upon which it is partially based: a bootstrapping of the percentage of wage increase for the dispatchers simply by comparison to the percentage increases for the least senior police officers. While internal bargaining unit wage increases are a factor to be considered, the wage rates of comparable bargaining units may have added significance depending on the facts of a particular case. The percentage increases proposed by the Union are excessive and unwarranted based upon a review of the entire record. The fact-finder recommends the Employer's proposal with the addition of the lump sum payments, as both more reasonable and consistent with persuasive evidence of the statutory criteria. With a narrowing of the wages between bargaining unit members as a result of this recommendation, the fact-finder urges future consideration on the inclusion of a wage scale in the next collective bargaining agreement.

Final Recommendation

It is the fact-finder's final recommendation that Article 13, Section 1 contain the Employer's proposal on wages for dispatchers, with a modification providing for a lump sum bonus payment, as follows:

- A. On January 1, 1997, January 1, 1998 and January 1, 1999, the individual dispatchers shall be paid a salary for each year at the following levels.

NAME	1997	1998	1999
Fielitz	\$28,000	\$28,500	\$29,000
Chubak	\$27,000	\$28,000	\$29,000
Gorman	\$19,720	\$20,720	\$22,220
Michel	\$19,720	\$20,720	\$22,220

B. Lump-sum bonus payments shall be paid, as follows:

Chubak:

July 1, 1999 - \$286

Fielitz:

July 1, 1997 - \$661

July 1, 1998 - \$538

July 1, 1999 - \$809

B. Call Back Pay

The Union urges increasing the call back pay from two to three hours for purposes of internal bargaining unit parity since the parties agreed upon the increase for the police officers and sergeants. The Employer urges the Union has made no showing that the current call back pay guarantee of two hours has proven inadequate. While call backs are rare for dispatchers, there has been no example where the Employer has called back a dispatcher for less than three hours.

The fact-finder finds that this provision should be increased to three hours from the present two for several reasons. First, there seems scant grounds to distinguish the police officers and sergeants from the dispatchers on this issue. Second, since the Employer

reasons that in the past call backs for less than three hours are virtually nonexistent, those instances when the three-hour call back will be invoked seem nil with no apparent cost considerations. Third, if in fact the duties of the communications supervisor were parsed and distributed among the bargaining unit members, this increase in call back time may serve as a disincentive to increase call backs from the ranks of the bargaining unit in order to perform those tasks.

Final Recommendation

It is the fact-finder's final recommendation that Article 13, Section 5 of the collective bargaining agreement contain the Union's proposal on the issue of call back for the dispatchers, as follows:

Section 5. Call Back

A member directed to report for duty at a time not in conjunction with the member's scheduled duty time, by the Department Head, Division Head or their designee shall be compensated for a minimum of three (3) hours or the amount of time actually worked, whichever is greater, at the overtime rate.


JONATHAN I. KLEIN, FACT-FINDER

Dated: March 5, 1997

MEDIATED SETTLEMENT - PATROL OFFICERS & SERGEANTS

All of the following provisions shall apply to both the patrol officer and sergeant units, except that wages and education incentive apply to patrol officers only because the sergeants agreed with the city on these issues prior to impasse.

1. Call-Back Pay - Article 15(4)

Increase the guarantee to three (3) hours from two (2) hours.

2. Court Time - Article 15(3)

Retain the current contract provision, which provides for a guarantee of two (2) hours.

3. Shift Differential

No change from the current contract, which does not provide for a shift differential.

4. Workout Pay

The FOP proposal to add a provision for "workout pay" to the contract is withdrawn.

5. Wages, Wage Schedule - Article 15(1)

(A) Adoption of the wage scale attached as Appendix A, with individual officers being paid the salaries specified in Appendix B during the term of this contract.

(B) Continuation of longevity and separate education payments, which, as is currently the case, will be in addition to the salaries stated on the wage scale. The annual continuing education bonus and longevity payments will continue to be made in the manner provided by the current contract.

(C) Payment of lump-sum bonuses, as specified in Appendix C.

ATTACHMENT "A"

ALTERNATIVE WAGE SCALE

<u>Step</u>	<u>Current</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>
1	20,000	22,000	22,000	22,000
2	22,000	25,000	25,000	25,000
3	25,000	28,000	28,000	28,000
4	28,000	33,192	33,192	33,192
5	33,192	34,520	34,520	34,520
6	----	----	35,900	35,900
7	----	----	----	37,000

- Step 1 = starting rate
- Step 2 = more than 1 full year of service
- Step 3 = more than 2 full years of service
- Step 4 = more than 3 full years of service
- Step 5 = more than 4 full years of service
- Step 6 = more than 5 full years of service
- Step 7 = more than 6 full years of service

SALARIES OF OFFICERS

<u>Name</u>	<u>1997</u>	<u>1998</u>	<u>1999</u>
Durbin	35,247	35,900	37,000
Bodkin	35,247	35,900	37,000
Majoy	34,250	35,900	37,000
Graham	34,520	35,900	37,000
Zappa	34,520	35,900	37,000
Fleming	34,520	35,900	37,000
Lobsinger	22,000 25,000	25,000 28,000	28,000 33,192
Ryan	22,000 25,000	25,000 28,000	28,000 33,192

Notes:

Ryan and Lobsinger will receive raises by advancing on the existing step system. Thus, each will begin 1997 at \$22,000, and advance to \$25,000 on their respective anniversary dates. Their salaries will increase to \$28,000 on their anniversary dates in 1998, and to \$33,192 on their anniversary dates in 1999.

LUMP-SUM BONUS PAYMENTS

Durbin:

July 1, 1997 - \$1328

July 1, 1998 - \$727

Bodkin:

July 1, 1997 - \$1328

July 1, 1998 - \$727

Majoy:

July 1, 1997 - \$995

CERTIFICATE OF SERVICE

Originals of this Fact-Finding Report and Recommendations were served upon John T. Meredith, Esq., Squire, Sanders & Dempsey, L.L.P., 4900 Key Tower, 127 Public Square, Cleveland, Ohio 44114-1304, and upon Hugh C. Bennett, Staff Representative, Fraternal Order of Police, Ohio Labor Council, Inc., 3076 Hillside Trail, Stow, Ohio 44224-4791, and upon G. Thomas Worley, Administrator, Bureau of Mediation, Ohio State Employment Relations Board, 65 East State Street, 12th Floor, Columbus, Ohio 43215-4213, each by express mail, sufficient postage prepaid, this 5th day of March 1997.


JONATHAN I. KLEIN, FACT-FINDER