

STATE EMPLOYMENT  
RELATIONS BOARD

MAY 1 10 48 AM '97

S A M J A N I S  
3311 WARRENSVILLE ROAD  
SHAKER HEIGHTS, OHIO 44122  
Tel. 216-561-0341

BEFORE THE  
STATE EMPLOYMENT RELATIONS BOARD

In the matter of

City of Mayfield Heights, Ohio  
and  
Fraternal Order of Police  
Ohio Labor Council

Case No, 96-Med-10-0914  
Case No, 96-Med-10-0915  
Case No. 96-Med-10-0916  
Case No. 96-Med-10-0917      Of the

Of the four cases listed above three were settled between the parties prior to the intervention of the factfinder. When the parties were confronted with the rejection of the proposed agreement by the Police Officer's Unit, (Case No, 96-Med-10-0916), they called upon the factfinder for help and assistance. On Friday April 11, 1997, at 11. a.m. a Hearing was convened in the Mayfield Heights City Hall to try and resolve the disputed agreement. Those in attendance were:

Employer's Counsel:            William F. Schultz  
    1100 Illuminating Building  
    55 Public Square  
    Cleveland, Ohio 44113

Employee Representative      Richard Grochowski  
    Staff Representative  
    Fraternal Order of Police-O.L.C.

Committee Members          Michael Lanzola  
    Chris Sonhalter

The bargaining unit consists of about 20 full time Police Officers. The Officers are charged with providing total law enforcement duties to the City of Mayfield Heights. The services rendered include but are not limited to crime prevention, criminal investigation and general law enforcement duties, as well as the custody and transportation of prisoners and process services.

While the total package of the proposed agreement was voted down on an all or nothing basis only the following issues were submitted for resolution.

**Article 17 - Hours of Work**

Section 17.3 Reads as follows:

6-2 work schedule will commence on Wednesday at 0000 and will terminate 28 days later on Tuesday at 2400 hours.

The employer has proposed that the following sentence be added to this section.:

The Chief of Police will have the discretion to schedule employees to begin the cycle one hour earlier than the above time and terminate the cycle one hour earlier.

This proposal was rejected by the union.

The main desire of the Chief of Police is the safety of the citizens within the City of Mayfield Heights and he wants to be sure that all parts of the city are secure at all times; therefore a possible fourth shift may be created.

### Recommendation

Section 17.3 shall read as follows:

A 6-2 work schedule will commence on Wednesday at 0000 and will terminate 28 days later at 2400 hours. The Chief of Police will have the discretion to schedule employees to begin the cycle one hour earlier than the above time and terminate the cycle one hour earlier, providing that in so doing, no employee suffers any loss of earnings or job security as a result.

### Article 18 Overtime

Section 18.3 reads as follows:

Time paid but not worked will not count as actual time worked for overtime purposes with the exception of holidays or personal days. Any employee called on regular scheduled vacation day will be paid time and one-half for that day.

### Union Proposal

The union proposed that the above include vacation, compensatory time and sick time.

The employer responding by saying that the city cannot include compensatory time in this figure because it is actually compensation received by the employee as time and one half. Under the same article of the existing contract the employee is permitted to bank overtime, that is, for every hour of overtime worked, the employee will essentially be permitted to pyramid time and one-half. Further the employee will be able to take comp time after he has arrived at the 160 hour figure and then claim that it should be paid at time and one-half. Comp time was never intended to be used for creating additional overtime.

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Further, the United States Congress, through the Fair Labor Standards Act, has remained steadfast in refusing to include time paid but not worked into the traditional 40 hour work week. Anything provided by the City is a bonus, above and beyond that mandated by Congress.

While the above was a rejection of the proposal put forth by the union further negotiations between the parties resulted in a settlement of the issue, which reads as follows

#### Overtime 18.3

Time paid but not worked will not count as actual time worked for overtime purposes with the exception of holidays, personal days and vacation days.

This clause as with the rest of the contract was voted down by the membership although it was accepted by the other bargaining groups whose contracts came up for renewal at the same time..

#### Recommendation.

The factfinder recognizes the employer's position as being valid in rejecting comp time in the union proposal therefore, the following clause , which is in conformity with the other bargaining units who accepted the negotiated settlement is proposed for inclusion in the new agreement for the Police Officers; the clause to read as follows:

Overtime 18.3 Time paid but not worked will not count as actual time worked for overtime purposes with the exception of holidays, personal days and vacation days.

#### Article 19 Wages

##### Unions Initial wage proposal:

1997	six per cent wage increase
1998	six per cent wage increase
1999	six per cent wage increase

##### Employers Initial Response

1997	Two per cent wage increase
1998	Two and one-half per cent wage increase
1999	Three per cent wage increase

A negotiated wage settlement was reached providing for a wage increase of three and one half per cent each year of the agreement. The union membership voted

down this offer and the Employer responded by reverting back to the original offer.

**Recommendation**

The negotiated wage increase is reasonable and fair in light of the Consumer Price Index for the last three years. The settlement is also reasonable in relation to other wage increases negotiated by the Union in other communities for Police Officers. No argument was put forth for a higher increase except an off comment that the Police Officers really wanted a four per cent increase.

The following wage schedule is recommended which is in keeping with the wage settlement reached with the other three units in the negotiated settlement.

Section 19.1 Effective January 1, 1997, employees covered by this agreement shall be entitled to wages as follows:

Rank	1-1-97	1-1-98	1-1-99
Patrolman Class A	\$ 45,187	\$46,769	\$ 48,406
Patrolman Class B	\$ 39,082	\$ 40,450	\$ 41,866
Patrolman Class C	\$ 33,358	\$ 34,526	\$ 35,731

**Article 21 Longevity**

The Union proposed to convert the present longevity system from a flat dollar system to a percentage system. No argument was put forth to substantiate the reason for the change.

The Employer's response was to reject this proposal outright. However, the Employer agreed to include the following sentence into the agreement so that it conforms with the agreements of other bargaining units.]

5. After the completion of twenty-five (25) Years of service, \$100.00 per month;(\$1200,0) yearly,

**Recommendation**

While the inclusion of this sentence does not immediately affect the income of those presently employed, none have sufficient service, in this unit it will provide for uniformity in so far as the other units are concerned and should become part of this agreement, as well as the agreed upon change in language as follows:

Effective January 1, 1997, all full-time employees shall receive longevity pay as a result of continuous full-time employment.....

**Article 23 Sick Leave**

**Union Proposal** The Union seeks equity with the other bargaining units and in addition, seeks a change when an officer is promoted to sergeant, so that he can make a one-time decision to remain under the police officers' sick time plan or to join the supervisors' plan which entails paying back sick time at the rate of 1 for 2 for every hour paid as a bonus since 1994

**Employer's Response:** While the Employer rejected the Union's proposals, he offered other language to clear this article up which is reflected in the following recommendation:

### **Recommendation**

#### **Article 23 - Sick Leave**

**Section -23,1** All regular, full-time employees of the City shall be entitled to sick leave at 4.615 hours for each eighty (80) hours of service. Employees may use such sick leave on approval of the responsible administrative officer, for absence due to illness, injury, exposure to contagious diseases which could be communicated to other employees, and to illness in the employee's immediate family, defined as spouse or children. Sick leave of more than five (5) separate occurrences in any calendar year shall be cause for review. The Mayor, or other responsible administrative officer, may require the employee to furnish satisfactory affidavit that his absence was caused by illness due to any of the causes mentioned in this article.

Upon retirement, death, resignation or disability, each full-time bargaining unit member shall be entitled to receive payment of one-half (1/2) of the first 1,000 hours and one-third (1/3) of all accumulated unused sick leave over 1,000 hours, provided that the member has been employed on a full-time basis for a minimum of ten (10) years.

Employees shall not be eligible for sick leave conversion unless they have completed one full year of full-time service by the end of the calendar year.

#### **Section 23.3**

Those employees who have been paid under the sick leave conversion provisions of the contract which existed from January 1, 1994 through December 31, 1996, will have sick time deducted from their accumulated unused sick leave by the following formula: 0 per-cent of the time paid in 1994, 1995, and 1996 x 2 to be deducted at time of retirement as per Section 23.2

#### **Section 23.4 Sick Leave Conversion.**

Each regular full-time employee shall receive, at the end of each calendar year, at the regular hourly rate of pay, a payment not to exceed sixteen (16) hours, provided that no sick leave has been used during the calendar year. Every hour of sick taken during the year will be deducted from the sixteen hour figure and no payment will be made if the member takes more than 16 hours sick leave. In addition, the amount of the unused sick leave, not exceeding (16) hours for which the foregoing payment is made shall not be reduced from the employees unused, accumulated sick leave as set forth in Section 23.1

#### **Section 23.5**

For purposes of this Article only, a calendar year shall be defined as December 1 through November 30.

#### Article 25 Holidays

Union Proposal: Section 25.4 amend Letter of understanding from 12/20/93 to continue past 12/31/96.

Section 25.5 - Time and one-half to be paid for work performed on all holidays listed in Section 25.1.

#### Employer's Initial Response

Section 25.4 Newly hired employees will receive personal days on a pro-rata basis. The Letter of Understanding is not part of the last contract; it is certainly not part of Article 25; it proved unworkable; and it is not negotiable.

The parties reached a negotiated settlement. The employer's proposal was accepted. The reason for the acceptance is that it simply reflects the original intent. The prior language could have been construed as allowing a newly hired employee to take all personal days regardless of when the employee was hired, Section 18.6 included, to pay time and one-half for work performed on Christmas and Thanksgiving.

Recommendation: Newly hired employees will receive personal days on a pro-rated basis

#### Article 27 Clothing Allowance

The present agreement provides for the payment of \$600. per year as a clothing allowance.

Union Initial Proposal -In addition to the present allowance of \$600.annually, each member of the bargaining unit is to receive an additional \$400 for clothing through a purchase order system for a total of \$1000 per year. In addition, newly hired employees will be issued an entire uniform as required by department regulations on initial tour of duty.

#### Employer's Initial Proposal

To increase the uniform allowance as follows:

1997	from \$600 to \$650
1998	from \$650 to \$675
1999	from \$675 to \$700

The Union rejected this proposal, however a new proposal was offered by the Employer which was resolved by the negotiators as a settlement. That settlement is as follows:

The clothing allowance will be increased from \$600 per year to \$700 per year effective January 1,1997.

**Recommendation**

That the negotiated settlement of \$700 per year for clothing allowance be incorporated into ten new agreement.

**Article 31- Hospitalization**

**Union Proposal (New)**

31.5 Members of the bargaining unit shall receive full vision care.

31.6 Members of the bargaining unit shall receive life insurance with A.D. & D.at

(1) 1997 -\$20,000

(2) 1998 -\$25,000

(3) 1999 -\$30,000

**Employer Initial Response**

Amend Section 31.1 to correctly identify insurance policy.

**Negotiated Settlement**

Adopt Employer's proposal and to include a \$10,000 term insurance policy.

This proposal was rejected by the membership. The Employer offered a counter proposal to amend Section 31.1 to reflect the current policy held by the City and to allow negotiations to be reopened if equal benefits at a lower premium become available.

**Recommendation**

That the plan of the City be accepted with the following proviso: if a lower rate becomes available, the City provide some form of co-pay dental plan plus the purchase of a term life insurance policy of at least \$10,000 to each member of the bargaining unit.

**Bargaining Unit Work (New)**

The Union proposes the following addition to the agreement:

Bargaining unit work shall consist of any type of work normally performed by bargaining unit members. Bargaining unit work shall be performed by bargaining unit members; non bargaining unit employees shall not displace bargaining unit members..

A negotiated settlement was reached which provides for the development of a program whereby unit bargaining members will be given a choice of vacancies created by vacation or holiday time. This proposal was rejected by the membership and the Employer responded with "no change".

**Recommendation**

Bargaining unit work shall consist of any type of work normally performed by bargaining unit members. Bargaining unit work shall be performed by bargaining unit members; non-bargaining employees shall not displace bargaining unit members.

**Residence Union Proposal (New)**

Bargaining unit members shall not be restricted as to their residence.

**Employer Response** Here is a residency Ordinance which has been in place for many years and which, pursuant to ORC 4117,10(A), supersedes any contractual provision to the contrary, therefore the subject is non-negotiable.

The Factfinder believes this is a legal matter best left to the Legislature or an appropriate court of law; therefore no recommendation is offered.

**Educational Bonus Union Proposal (New)**

Bargaining unit members who earn the following degrees shall be entitled to the following bonuses added to their base pay:

Associate Degree	2%
Bachelors Degree	4%

The Employer responded with a rejection of this proposal.

**Recommendation**

Material showing which communities in this area provide opportunities for police officers to secure Associate and Bachelor Degrees was submitted. There seems to be a growing trend to have better educated public servants, particularly police officers as police work becomes more complex. Police officers who now spend the own time and money to be better informed and serve better surely deserve consideration for their endeavor

What is here recommended is that the City pursue the possibility to provide paid educational college level courses leading to degrees to the Police Department with the proviso that the courses meet with the approval of the Chief of Police who is best able to determine what is best for the Police Department to better serve the community.

**Field Training Officer Union Proposal (New)**

All members assigned as a FTO shall be given one (1) hour additional pay per shift as compensation for performing the duties of a Field Training Officer.

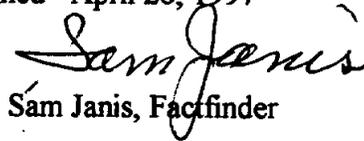
A negotiated settlement was reached providing that \$15.00 will be paid for each day an officer serves as a FTO.

**Recommendation**

The negotiated settlement seems reasonable and fair and should be incorporated into the new agreement.

This completes the Factfinding Report and Recommendations.

Signed April 28, 1997

A handwritten signature in cursive script that reads "Sam Janis". The signature is written in black ink and is positioned above the printed name.

Sam Janis, Factfinder