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STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

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RELATIONS BOARD
DEC 16 10 06 AM '96

In the matter of	*	Case Nos. 96-MED-10-0924
	*	96-MED-10-0925
Fact-finding between:	*	96-MED-10-0926
	*	
Fraternal Order of Police	*	Fact-finder:
Ohio Labor Council, Inc.	*	
	*	Martin R. Fitts
and	*	
	*	
City of Willard	*	December 12, 1996
	*	
	*	

REPORT AND RECOMMENDATIONS OF THE FACT-FINDER

Appearances

For the Fraternal Order of Police, Ohio Labor Council:

- Phil Hatch, Staff Representative
- Joe Daniel, Union President
- Joe Rohrbach, Patrol Officers Representative
- Shelly Daniel, Dispatcher Representative
- Charlton Summers, Sergeant Representative

For the Allen County Sheriff's Office:

- Chris Morris, City Manager
- Anne Fritz, Finance Director
- Dave Harwood, Law Director
- Dave Sattig, Chief of Police
- Tom King, Lieutenant

PRELIMINARY COMMENTS

The bargaining unit consists of all Patrol Officers, Dispatchers, and Sergeants. There are approximately 3 Sergeants, 10 Patrol Officers, and 4 Dispatchers, for a total of 17 employees in the bargaining unit.

The State Employment Relations Board appointed the undersigned as Fact-finder in this dispute on November 14, 1996. The parties met on the following dates for the purpose of collective bargaining: October 24, 1996; November 4, 1996; November 7, 1996; and November 12, 1996.

The fact-finding hearing was held on December 5, 1996 in the offices of the City of Willard. Both parties attended the hearing, presented written positions, and elaborated upon their respective positions. There were 6 issues at impasse: Wages; Shift Preference; Personal Leave; Court Duty; Officer in Charge Pay; and College Reimbursement/Education Incentive Program. During the hearing, the Fact-finder performed mediation, and the issue of Officer in Charge Pay was resolved with a tentative agreement, which is attached as part of this report. A clarification regarding Insurance/Pension also was made and affirmed with a tentative agreement which is also attached as part of this report. Thus five issues were submitted for Fact-finding.

In rendering the recommendations in this Fact-finding Report, the Fact-finder has given full consideration to all testimony and exhibits presented by the parties. In compliance with Ohio Revised Code, Section 4117.14 (G) (7) and Ohio Administrative Code Rule 4117-9-05 (J), the Fact-Finder considered the following criteria in making the findings and recommendations contained in this Report:

1. Past collectively bargained agreements, if any, between the parties;
2. Comparison of 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, and 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. Any stipulations of the parties; and
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.

Since considerable mediation occurred during the hearing all references by the Fact-finder in this report to the Employer's proposal and the Union's proposal are references to their respective final proposals as presented orally at the December 5th, 1996 hearing.

ISSUES AND RECOMMENDATIONS

Issue: Wages

Positions of the Parties

The Union's final proposal was for a wage increases of 7% effective January 1, 1997, 5% effective January 1, 1998, and 4% effective January 1, 1998. It also proposed increasing the shift differential to \$0.50 for second shift and to \$0.75 for third shift. Regarding the shift differential, the Union argument is that it costs the employees more money to be on second or third shift due the necessity of eating out rather than at home during those hours. Also, it is inconvenient for the employees who

work this shift. The Union stated that its reason for proposing the large increase is to make up for not increasing this for a while.

The City's final proposal was for a 3% increase each January 1st, stating that it could go as high as 4% each year if there is no increase in the other economic issues.

The City also proposed an increase in the shift differential to \$0.40 for second shift and \$0.50 for third shift. The current contract sets the shift differential at \$0.35 for second shift and \$0.45 for third shift. The City noted that if the employees are not "off the clock" when they eat, thus even without the shift differential the employees are in essence compensated for meal costs.

Findings and Recommendation

While the Union contended that it wanted such a large increase in the shift differential to make up for not having the shift differential increased for a while, it did not present the Fact-finder with any information as to when the shift differential had been increased. The City's proposed increases are a reasonable increase over the existing contract, and are recommended by the Fact-finder.

Regarding wages, the City argued that wages paid by comparable cities that are used for comparables need to be adjusted since the City picks up the retirement cost for the employees in the bargaining unit. The Union argued that a larger increase in the front end of the three years was necessary to keep the employees in the bargaining unit "in the ball park" and that the subsequent increases would simply keep them there. The Fact-finder believes that an increase of 4.5% the first year is sufficient to maintain the position of the City's employees relative to comparable communities, with a 4% increase in year two and 4% in year three.

The Fact-finder recommends that Article XVIII Wages be amended as follows:

ARTICLE XVIII WAGES

SECTION 1. Effective January 1, 1997 the following hourly employees shall receive a 4.5% increase in wages: Sergeants, Police Officers, and Dispatchers.

SECTION 1.A. Effective January 1, 1998 the following hourly employees shall receive a 4% increase in wages: Sergeants, Police Officers, and Dispatchers.

SECTION 1.B. Effective January 1, 1999 the following hourly employees shall receive a 4% increase in wages: Sergeants, Police Officers, and Dispatchers.

SECTION 3. Full time employees who are scheduled to work on the second or third shifts shall be paid shift differential premium as follows:

second shift - \$0.40/hour

third shift - \$0.50/hour

Issue: Shift Preference

Positions of the Parties

The present agreement calls for shift preference bidding to occur four times a year, with the employees required to bid on a different shift than they are presently assigned. After considerable discussion at the hearing, the Union proposed a shift rotation of four times per year (every three months), with the employees required to bid on a different shift once per year. The Union believes that a shift bid every three months gives the bargaining unit members the flexibility they need to pursue higher education. The City believes that shift rotation is a necessary police practice

and agreed with requiring that bidding on another shift be required once per year, but its final proposal called for the bidding to occur three times per year (every four months.)

Findings and Recommendation

The City's major goal of having shift rotation once per year is satisfied by both the Union and the City's final proposals. The City argued that going to bidding three times per year rather than four would save it some administrative work, but gave no compelling reason why the current practice of bidding every three months (four times per year) should be abandoned. The Fact-finder recommends that the bidding for shifts should occur four times per year (every three months) on the same schedule as it occurs in the present agreement. Also recommended is that the employees be required to bid on different shifts only once per year. Thus the Fact-finder recommends that Article XXV Shift Preference Section 6 should read as follows:

ARTICLE XXV SHIFT PREFERENCE

SECTION 6. During the period of time December 1 through December 7, March 1 through March 7, June 1 through June 7, and September 1 through September 7, Sergeants, Police Officers and Dispatchers may bid for shift preference which will be awarded by seniority. Sergeants, Police Officers and Dispatchers must bid a different shift once per year.

Issue: Personal Leave

Positions of the Parties

The union proposed two changes to this section of the current agreement. First, it wants to reduce to eight (8) hours the notice that must be given with the request, versus the present five (5) days. Secondly, the Union wishes to eliminate language that states "Personal leave will be granted provided adequate staffing on the day in question is available" and replace it with "Personal leave will not be unreasonably denied." The Union acknowledged that the notification time has not been a problem in the past. But it contends that some members have had requests for personal leave unreasonably denied due to the City not wishing to pay overtime to cover the loss of manpower. It notes that the contract calls for each of the bargaining unit members to receive such leave, and while it doesn't expect the City to cover all the days with overtime, it is not unreasonable that some of it would be covered in that manner.

The City also acknowledged that the notification time was not a problem, and that many times leave has been routinely requested and granted in much shorter time frames. But it contends that ultimately the granting of personal leave must be at the discretion of the Chief and not the employee. The City contends that the Union proposal of "leave will not be unreasonably denied" opens the City up to grievances on a matter that has not previously been grieved by the employees.

Findings and Recommendation

In regard to the notification period, the City stated that notification has not been a problem, and that it could live with the Union's proposal for eight hours notice, and this change is recommended. Regarding the remainder of the section, the Union presented two memo's showing instances where personal leave had been

denied due to staffing issues. There are 17 people in the bargaining unit, and thus 51 personal days to be scheduled. By submitting only two instances of denied personal leave, the Union simply did not provide enough evidence to justify altering the provision calling for the granting of leave to be subject to available staffing. It is the Fact-finder's opinion that the current language grants the employees enough protection that if the City were to make a practice of regularly not granting personal leave the Union would have grounds to grieve the interpretation of the present language based on the definition of "adequate staffing" being "available."

Therefore, the Fact-finder recommends that Article XXVII Leaves of Absence, Section 4, Personal Leave, A read as follows:

ARTICLE XXVII LEAVES OF ABSENCE

SECTION 4. PERSONAL LEAVE

A. Effective January 1, 1997, each full time regular employee shall be granted three (3) days of personal leave each year without loss of pay. Employees must submit a written request for personal leave eight (8) hours in advance of the proposed leave to the Chief of Police. Personal leave will be granted provided adequate staffing on the day in question is available.

Issue: Court Duty

Positions of the Parties

The Union is proposing to change the court duty pay from the current two (2) hours minimum specified in the present collective bargaining agreement to a

minimum of three (3) hours. It noted that call-in pay requires a three hour minimum, and they believe that this section should be consistent with that section. They also noted that this section calls for the court duty pay to be paid in straight time, not overtime.

The City stated that court duty pay is paid to those who are required to be present in court outside of their normal shift. The employee would be working their regular shift, and would normally already be working forty hours. Thus the Court duty pay ends up being overtime anyway. It was noted that sick leave, holidays, vacations and work related injuries are included in the calculation of overtime. The Union noted that personal leave days were not counted.

Findings and Recommendation

The Union argument that the court duty pay should mirror the call-in pay is not justified. Call-in pay exists to give the employee some protection and reward for being asked to work at unexpected times, whereas court duty time would be known in advance. They exist for two different reasons: call-in pay to serve as a penalty of sorts for the employer if it were to habitually have scheduling problems; and court duty pay to compensate officers for a regular part of their job that may require them to work outside of their normal forty-hour shift. There was no dispute that court duty pay varies from department to department, with two or three hours both pretty standard. As the hours are on top of the regular forty hours worked, the net result is that court duty pay would almost always be paid at the overtime rate anyway. No compelling reason was brought forth by the Union to change the language in this section, thus the Fact-finder recommends the language stay the same as the current agreement.

Issue: College Reimbursement / Education Incentive Program

Positions of the Parties

The current collective bargaining agreement does not provide for any reimbursement or incentive for higher education. Both parties had proposed adding some language into this agreement providing some sort of incentive for the employees to pursue higher education. After considerable discussion, the Union's final proposal was for a reimbursement of up to \$750 annually per employee for expenses (tuition and books) of attending college toward an associate or bachelor's degree in police science/criminal justice or related field, with the stipulation that the employee receive a passing grade of "C" or better (or simply "pass" if the course is graded "Pass" or "Fail" only). The City countered with its final proposal that the reimbursement be for up to \$500 per employee and require a "B" or better for reimbursement. Both sides agreed that the decision on whether or not the course work qualified for the reimbursement was the determination of the City.

Findings and Recommendation

This is a great step forward for the employees in the bargaining unit, as the current agreement does not provide this benefit. The City's concern that it will simply subsidize its employees ability to seek higher paid positions in other communities once they receive advanced degrees holds some merit, yet to its credit the City has agreed to the education reimbursement rather than its original proposal of extra pay for those who have acquired an advance degree. Neither the City nor the Union can accurately predict how many in the bargaining unit will take advantage of this, so it is difficult to cost out anything except the maximum dollar amount that the City could be liable for if all the employees pursued degrees. This is a starting point, and when there is a track record to review the parties will be better able to determine what is a fair amount. As an initial starting point, however, an

annual cap of \$500 is reasonable. Further, it seems fair that employees working full time jobs and with other family considerations be granted the reimbursement upon obtaining a "C" or better or equivalent passing grade.

The Fact-finder recommends that a new section of the agreement be added to the agreement in an appropriate place, and that section should be titled and read as follows:

COLLEGE EDUCATION REIMBURSEMENT PROGRAM

The City of Willard agrees to reimburse the members of the bargaining unit for up to \$500 annually each for the expenses (tuition and books) of attending a state accredited institution for classes toward an associate degree or bachelor degree in police science/criminal justice or related field as approved by the City. Reimbursement shall be subject to the employee receiving a passing grade of "C" or better or the equivalent.

Other Tentative Agreements reached by the Parties

As noted above, the parties reached tentative agreement on two issues during the hearing, and these are attached to this report and are recommended by the Fact-finder. The Fact-finder also recommends the tentative agreements as agreed upon by the Parties during the course of their negotiations.



Martin R. Fitts 12/12/96
Fact-finder

CITY OF WILLARD
FOP/OLC, INC
AGREEMENT

**ARTICLE XVIII Section 5 (NEW SECTION);
OFFICER IN CHARGE PAY**

Section 5 will be added to read as follows:

OFFICER-IN-CHARGE PAY

Police officers who are officer in charge of a shift shall receive an additional \$.50 per hour for any eight or more consecutive hours of work.

FOR THE CITY OF WILLARD



Christian P. Morris
City Manager

DATE: 12-5-96

FOR THE UNION



Phil Hatch
Representative FOP/OLC Inc

DATE: 12-5-96

CITY OF WILLARD
FOP/OLC, INC
AGREEMENT

ARTICLE XVII
INSURANCE/PENSION
SECTION 1, SUBSECTION E

Shall be changed to read as follows:

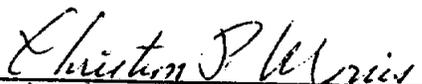
E. \$20,000 A.D. & D. Life Insurance

Each employee will contribute the following premium as a payroll deduction on a bi-weekly basis beginning the first payroll of each year for the life of this Agreement. However, if the co-pay listed below is more than five percent (5%) of the annual premium, the bi-weekly deduction will be adjusted to the lesser amount.

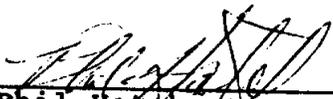
Family policy - \$15.00
Single Policy - \$ 5.00

FOR THE CITY OF WILLARD

FOR THE UNION



Christian P. Morris
City Manager



Phil Hatch
Representative FOP/OLC Inc

DATE: 12-5-96

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