

**STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD  
FACT FINDING PROCEEDINGS**

**REPORT & RECOMMENDATIONS  
OF THE FACT FINDER**

**IN THE MATTER OF:**

City of Warren  
(Employer)  
-and-  
Ohio Patrolmen's Benevolent Association  
(Union)

Case No. 96-MED-01-0088

**HEARING:**

As the Result of an Evidential Hearing held on July 24, 1997  
at the City of Warren facility in Warren, Ohio.

Aug 0 9 47 AM 1997  
STATE EMPLOYMENT  
RELATIONS BOARD

**APPEARANCES:**

*On Behalf of the OPBA:*

|                       |                            |
|-----------------------|----------------------------|
| Michael W. Piotrowski | OPBA Attorney              |
| S. Randall Weltman    | OPBA Attorney              |
| Emanuel Nites         | OPBA Negotiating Committee |
| Michael Stabile       | OPBA Negotiating Committee |
| Robert Massucci       | OPBA Negotiating Committee |
| Jeffrey R. Hoolihan   | OPBA Negotiating Committee |

*On Behalf of the City of Warren:*

|                      |                             |
|----------------------|-----------------------------|
| Gary C. Cicero       | Director of Human Resources |
| Albert J. Timko, Jr. | Police Chief                |

**George W. Van Pelt**  
Fact Finder  
1691 Lyndhurst Road  
Lyndhurst Ohio 44124

## **BACKGROUND AND SUBMISSION**

In compliance with Ohio Revised Code Section 4117.14 (C) (3), The State Employment Relations Board appointed George W. Van Pelt as fact finder in this matter effective April 1, 1997.

In a good faith attempt to settle the issues unresolved between them, the Parties meet on numerous occasions. The fruit of those sessions was tentative agreement to a number of issues. At the conclusion of those sessions, the Parties indicated failure to reach agreement on certain issues:

### **Part I - Basic Contract Provisions**

#### *Employee Rights*

Article 9 - Adjustment of Grievances

Article 10 - Disciplinary Procedures

Article 11 - Seniority

### **Part II - Work Week and Pay Provisions**

Article 1 - Hours of Work

*Section 3: Time Clock Policy*

Article 2 - Pay Provisions

Section 1: Wages

Section 2: Overtime

Section 4: Court Appearance Time

Section 5: Longevity

Section 6: Shift Differentials

Section 7: Vacancies

### **Part III - Other Pay Benefits**

Article 1 - Miscellaneous Allowances

Section 3: Educational Courses

Section 4: Education Allowance

*Section 5: Field Training Officer Pay*

Article 4 - Service Connected Disability

Section 1: Payment of Worker's Compensation Wage Benefit

Section 2: Reporting Procedure

Section 3: Bureau Determination Procedure

Section 4: City's Share of Pension

Section 5: Light Duty

Section 6: Physical Examinations

Agreement to Reimburse

**Article 7 - Holidays**

Section 2: Pay for Holidays Worked

Section 4: Pay for Holidays Not Worked

Section 5: Personal Days

**Article 8 - Vacation**

*Section 5: Vacation Cash-Out*

**Article 9 - Exemplary Attendance Award Day**

**Article 10 - Health Care Benefits**

**Article 11 - Life Insurance**

*Article 12 - Bereavement Leave*

*Article 13 - Benefit Time Usage*

**Part V - Miscellaneous Provisions**

**Article 1 - OPBA Office**

**Article 4 - Chemical and Mechanical Testing**

Section 4: Procedure

**Article 6 - Take-home Cars**

**Article 7 - Firearm Disability**

*\*Indicate new contract provision*

**FINDINGS OF FACT AND RECOMMENDATIONS**

**Part I - Basic Contract Provisions**

***Employee Rights***

The Union proposes language it contends is standard in Police Collective Bargaining Agreements and is incorporated in those of surrounding communities.

It is the recommendation of the Factfinder that the following language be accepted by the Parties:

*Section 1: An employee has the right to the presence and all advice of an OPBA representative at all non-command disciplinary interrogations.*

- Section 2: An employee who is to be questioned as a suspect in any investigation of any criminal charge against him shall be advised of his Miranda rights before any interrogation.*
- Section 3: Before an employee may be charged with any violation of the Rules and Regulations for a refusal to answer questions or participate in an investigation, he shall be advised that such refusal to answer questions or participate in such investigation will be the basis of such a charge.*
- Section 4: Questioning or interviewing of an employee in the course of an internal investigation will be conducted at hours reasonably related to the employee's shift, unless operational standards require otherwise. Interrogation sessions shall be for reasonable periods of time and time shall be provided for rest periods and attendance to physical necessities. No procedures may be taped unless both parties are informed of such audio tape recording. If the Employer requires that an interrogation be recorded, the employee being interrogated may simultaneously record his own tape of the interrogation.*
- Section 5: An employee will be informed of the nature of any investigation prior to any questioning. If the employee being questioned is a witness and not under investigation at that time, he shall be so advised of this fact. Even when not the subject of an investigation an employee shall be entitled to Union Representation.*
- Section 6: An employee may request an opportunity to review his personnel file, add memoranda to the file clarifying any documents contained in the personnel file and may have a representative of the OPBA present. A request for one copy of the items included in the personnel file shall be honored at no cost, if the employee had not been supplied with at least one copy. Additional copies shall be provided at the same cost as the public pays for such copies of public records. All items in an employee's personnel file with regard to complaints and investigations will be clearly marked with respect to the final disposition.*
- Section 7: In the course of an internal affairs investigation, a polygraph examination may be administered only with the consent of the employee under investigation. If, in the course of an internal investigation, an employee has been given a polygraph examination, such examination shall not be used in any subsequent court action.*

*Section 8: All complaints by civilians which may involve suspension or discharge of an employee shall be in writing and signed by the complainant. The Employer will furnish a copy of the complaint to the employee whom the complaint has been filed against when such employee is notified of the investigation. Any complaint not filed by a civilian within 30 days of the occurrence of the facts underlying the complaint shall not be the basis for discipline.*

## **Article 9 - Adjustment of Grievances**

The Union proposes changes to the grievance procedure to require the processing of grievances within a seven, rather than ten day period. Additional changes requested by the Union would permit the hearing of grievances without requiring the presence of the Grievant. As both changes are proposed in the interest of expediting the grievance procedure, the Factfinder recommends the following contract language:

*Section 1: There shall be an earnest, honest effort to settle disputes and controversies promptly through oral discussions between the employee and his immediate supervisor. Any matter which cannot be resolved through these discussions and which meets the definition of a grievance as herein defined, may be submitted through the formal grievance procedure.*

*Section 2: The term "grievance" shall mean an allegation by the bargaining unit employee, or group of employees, that there has been a breach, misinterpretation, or improper application of this Agreement. It is not intended that the grievance procedure be used to effect changes in the Articles of this Agreement, or those matters which are controlled by the provisions of Federal and/or State laws, and/or by the United States or Ohio State Constitutions.*

*Section 3: A grievance must be submitted to the formal grievance procedure within ten (10) calendar days after the grievant knows or should have known the facts giving rise to the grievance.*

*Section 4: If specific administrative agency relief of judicial or quasi-judicial nature is provided for by the Ordinances of the City of Warren, by the statutes of the State of Ohio, or the United States, for review or redress of a specific matter (such as Worker's Compensation, Unemployment Compensation, EEOC, Civil Rights Commission, Civil Service Commission) such matters may not be made the subject of a grievance and may not be processed as such. The employee and*

*his representative may meet with the Director of Public Service and Safety or his designated representative in an effort to resolve the matter prior to such appeal.*

*Section 5: All grievances must be presented at the proper step and time in progression in order to be considered at the next step.*

*The aggrieved may withdraw a grievance at any point by submitting in writing a statement to that effect, or by permitting the time requirement at any step to lapse without further appeal. Any grievance not answered by the City's representatives within the stipulated time limits may be advanced by the employee, associate member or staff representative to the next step in the grievance procedure. The grievant need not be present at any grievance hearing, as long as a representative from the Union appears. Said representative may be either an employee representative or a non-employee representative.*

*Copies of responses to written grievances will be given to both the grievant and the appropriate Union representative(s).*

*Time limits set forth herein may be extended by mutual agreement between the proper parties.*

*All written grievances must contain the following information to be considered:*

- A. Aggrieved employee's name and signature; and*
- B. Date grievance was filed in writing; and*
- C. Date and time grievance occurred; and*
- D. Where grievance occurred; and*
- E. Description of incident giving rise to the grievance; and*
- F. Articles and sections of the Agreement violated; and*
- G. Desired remedy to resolve grievance.*

*The OPBA shall use a grievance form which shall provide the information outlined in this section.*

*Section 6: The following steps shall be followed in the process of a formal grievance:*

*Step 1. The grievance must be submitted in writing to the Police Chief, or his designee within the time limits set forth in Section 3*

*herein. The Police Chief, or his designee will arrange for a meeting with the grievant, with or without a representative of the local union. This grievance meeting is to take place within seven (7) calendar days following the receipt of the grievance. The Police Chief, or his designee shall provide a written response to the grievance within seven (7) calendar days after the grievance meeting has been held.*

*In the extended absence of the Police Chief, the grievance will be submitted at Step 2 of the grievance procedure if properly submitted.*

*Step 2. If the grievance is not resolved in Step 1, it may then be appealed by the grievant to a meeting between the Director of Public Safety and Service or his designated representative and the aggrieved, with or without a representative of the local union and/or legal representative as optioned by the grievant. The appeal in Step 2 must take place within seven (7) calendar days of the appeal. The Director or his/her designee shall render a decision to the aggrieved within seven (7) calendar days after a grievance meeting has been held.*

*Step 3 - Arbitration: If the grievance is not satisfactorily settled at Step 2, the Union may, within thirty (30) calendar days after receipt of the Step 2 answer, submit the grievance to final and binding arbitration. The OPBA shall notify by mail the Federal Mediation and Conciliation Service (FMCS), and the City orally at the time its intent to appeal the grievance. A copy of the letter to FMCS shall also be sent to the City. The parties shall choose an arbitrator by alternately striking a name from the list until one (1) name remains as the arbitrator chosen by the parties. A coin toss shall be used to determine which party strikes first.*

- A. The arbitrator shall limit his decision to the interpretation, application or enforcement of specific Articles of this Agreement. The arbitrator shall act in a judicial not legislative capacity, and shall have no right to recommend to amend, modify, nullify, ignore, add to, or subtract from the provisions of this Agreement. He shall only consider and make a decision with respect to the specific issues submitted, and shall have no authority to make a decision on any other issue not submitted to him.*
- B. The question of arbitrability of a grievance may be raised by either party before the arbitration hearing of the grievance, on grounds that the matter is non-arbitrable, or beyond the arbitrator's jurisdiction. The first question to be placed before the arbitrator will be whether or*

*not the alleged grievance is arbitrable. If the arbitrator determines the grievance is within the purview of arbitrability, the alleged grievance shall be heard on its merits before the same arbitrator.*

- C. The decision of the arbitrator shall be final and binding upon the parties, and the arbitrator shall be requested to issue his decision within thirty (30) days after the conclusion of testimony and argument.*
- D. The costs of the services of the arbitrator, the costs of any proofs produced at the direction of the arbitrator, the fee of the arbitrator, if any, or the hearing room, shall be borne equally by the City and the Union. The expenses of any non-employee witness shall be borne, if any, by the party calling them. The fees of the court reporter shall be paid by the party asking for one; such fees shall be split equally if both parties desire a reporter or request a copy of any transcripts. Any bargaining unit member whose attendance is required for such hearing shall not lose pay or benefits to the extent such hearing hours are during normally scheduled working hours on the day of the hearing.*

*Section 7: Within the time limits set forth in the grievance procedure and disciplinary action procedure, meetings shall be held at mutually convenient and acceptable time to the City and the OPBA and may be extended by mutual agreement between the City and the OPBA.*

*Section 8: When an employee covered by this Agreement represents himself in a grievance, no settlement shall be in conflict with this Agreement.*

## **Article 10 - Disciplinary Procedures**

The Union seeks language in the agreement defining the term "vindicated" as used in the present Agreement, if the original discipline exceeds a five day suspension, or a result of "no discipline" if the original penalty was less than a five day suspension. The intent and result of this modification to the present contract language is recommended:

- M. If the original discipline issued to an OPBA member exceeds a five (5) day suspension and that discipline is decreased in any fashion, all Union witnesses and representatives who are also members of the bargaining unit shall be paid for hours spent at hearings or arbitrations regarding the matter. If the original discipline was less than a five (5) day suspension, witnesses and representatives shall not*

*be compensated for off-duty hours spent at hearings or arbitrations unless the result is "no discipline".*

## **Part II - Work Week and Pay Provisions**

### **Article 1 - Hours of Work**

The Union proposes the commencement of shifts one hour earlier than presently scheduled. The following language is recommended:

*Normal shifts shall be 7:00 AM - 3:00 PM, 3:00 PM - 11:00 PM, 11:00 PM - 7:00 AM.*

It is also recommended that court security details be biddable, based on seniority provisions in the Agreement and subject to the approval of the Court:

*Court security positions will be bid on in the same fashion as TMHA and COPS positions, subject to approval of the Court.*

### **Section 3: Time Clock Policy**

The Parties have had past disputes regarding negotiation of a time clock policy in accord with the City's attendance policies. In resolution of that dispute, the following contract language is recommended:

- I. *Employee Punch Card*
  - A. *Each employee shall be issued two (2) employee punch cards by the Department's payroll clerk, at no cost to the employee. Employees shall be issued new cards as needed.*
  - B. *Time cards will not be the subject of discipline. The City shall provide a space in the immediate proximity to the time clock to house punch cards.*
- II. *Clocking In*
  - A. *Employees shall clock in at the beginning of work.*
  - B. *Employees who clock in late for work shall have a five (5) minute grace period per day.*
  - C. *Employees who are unable to clock in shall have such inability verified by their Turn Commander.*

*III. Clocking Out*

- A. Employees shall clock out at the end of work.*
- B. All overtime requests shall be approved by the employees' respective Division Commanders.*
- C. Overtime shall be paid in accordance with provisions as set forth in the prevailing contract.*

*IV. Recording for Payment*

- A. Employees shall be paid pursuant to the prevailing contract.*
- B. The "time sheet" completed by the Turn Commander shall be the official record for payroll purposes.*

**Article 2 - Pay Provisions**

Evidence indicates the wages and certain benefits provided police officers in the City of Warren to be substantially below that of comparable communities. Neither is there evidence to support financial inability on the part of the City to provide more competitive wages and benefits. Accordingly, the following recommendations are an attempt to begin equalizing these inequities, in order that Warren be able to attract and retain qualified, competent police officers. All benefits should be retroactive to January 1, 1997.

**Section 1: Wages**

Based on the evidence, it is recommended that Warren patrol officers receive wage increases of 5% in each of the three years covered by the instant Agreement.

**Section 2: Overtime**

In order to equalize distribution of overtime among all patrol officers, the OPBA requests an equalization system. The intent of such a system being meritorious and equitable in the opinion of the Factfinder, the following language is recommended:

*Overtime Equalization. Overtime shall be offered based on seniority. A rotation shall be used. Officers shall be passed over only if they refuse or accept an overtime position.*

1. *When overtime becomes available, it shall first be offered by seniority to Officers from the shift upon which the overtime is available.*
2. *If no Officers from the same shift accept the overtime, it will then be offered to the Officers from the prior shift by seniority.*
3. *If still not accepted, it will be offered to the Officers from the next shift, by seniority.*

#### **Section 4: Court Appearance Time**

City of Warren Patrol Officers are frequently required to make court appearances under subpoena. As these appearances are subject to last minute cancellation, the OPBA requests one hour cancellation pay to compensate officers for family and other personal activities which were canceled due to the scheduled appearance. Accordingly, the Factfinder recommends the following addition to this provision:

*If a hearing or appearance is not canceled prior to sixteen (16) hours in advance of the scheduled time, the Officer scheduled to appear shall be paid for one (1) hour at the applicable rate.*

#### **Section 5: Longevity**

The Union requests an increase in longevity payments. In light of the disparity in benefits between City of Warren and comparable surrounding communities, the OPBA's request is not unreasonable. Accordingly, it is recommended longevity payments be increased to *six dollars (\$6.00) per month for each full year of service for 1997; six dollars and fifty cents (\$6.50) for 1998; and seven dollars (\$7.00) for 1999.*

#### **Section 6: Shift Differentials**

The Union proposes increases in shift differentials to forty cents (\$.40) for bargaining unit members working afternoon shift, and to fifty-five cents (\$.55) for bargaining unit members assigned to evening shift. In the interest of attracting experienced officers to these shifts, and in consideration of the disparities existing between Warren patrol officers and those of surrounding communities, the shift differentials proposed by the Union are recommended.

## **Section 7: Vacancies**

The OPBA asks that Patrolmen performing Sergeant's duties be compensated for the increased responsibility and that it be contractually mandated in the City of Warren.. The practice of compensating patrol officers for the increased responsibilities of command is accepted in other municipalities. Accordingly, the following contract language is recommended:

*Section 7: Vacancies - Temporary - A Patrolman who replaces a Sergeant or Lieutenant shall be paid the hourly rate of the rank filled for such periods as he/she performs the duties of the higher rank. If the shift Sergeant is the Acting Lieutenant then the Senior Patrolman shall be designated the Acting Sergeant. If no Sergeant is present the Senior Patrolman will be the Acting Sergeant.*

## **Part III - Other Pay Benefits**

### **Article 1 - Miscellaneous Allowances**

#### **Section 3: Educational Courses**

The OPBA seeks language in the Agreement clarifying and defining the term "law enforcement related degree" as used in the provision for compensation for professionally-related education. In that regard, the following language is recommended:

*The City shall make full payment of fees and tuition for any accredited university courses completed toward a law enforcement, criminal justice, social science or related degree program up to six (6) credit hours per semester or nine (9) credit hours per quarter.*

#### **Section 4: Education Allowance**

The Union asks that the education allowance currently provided bargaining unit members be increased. Based on the existing inequities between City of Warren patrol officers and their colleagues in comparable departments, the following increase and contract language is recommended:

*Education Allowance Bargaining unit members who obtain a law enforcement or related Associate, Bachelor's or Master's Degree shall be paid for the highest degree obtained, as follows:*

|                                      |                          |
|--------------------------------------|--------------------------|
| <i>Associate Degree</i>              | <i>\$35.00 per month</i> |
| <i>Bachelor's or Master's Degree</i> | <i>\$85.00 per month</i> |

*Related degrees shall be decided by an agreement between the Police Chief and the Director of Public Service/Safety, but shall include any criminal justice or social science degree that is law enforcement related.*

**Section 5: Field Training Officer Pay**

The Union proposed that patrol officers required to train probationary employees be compensated for such duty. Such compensation is regularly provided for in patrol officer's contracts. Accordingly, the following contract language is recommended:

*Any officer acting as a Field Training Officer (i.e. training a probationary employee) shall be paid one-half (1/2) the difference between the top Patrolman's rate and the regular Sergeant rate, in addition to his regular rate of pay.*

**Article 4 - Service Connected Disability**

The following contract language is recommended:

**Section 1. Payment of Worker's Compensation Wage Benefit:** *In the event of an injury while in the active discharge of duty, the employee shall be paid Worker's Compensation Wage Benefits from the City instead of Temporary Total Benefits from the Bureau of Worker's Compensation as follows, provided the employee obtains medical treatment from the City's Health Partnership Managed Care Organization:*

- A. *For the lost time in which medical certification has been submitted stating the need for the employee to be off work and the period of time the employee shall remain off work. The medical certificate must be filed within fourteen (14) calendar days. An "Agreement to Reimburse" must accompany medical certification.*
- B. *For the lost time up to fifty-two (52) weeks, the total wages the employee will receive shall be their gross pay less their normal federal, state and city income taxes. This pay shall be non-taxable. If the Internal Revenue Service in the future deems these wages to be taxable, the City shall pay the employee his/her gross pay.*

- C. *For the lost time exceeding fifty-two (52) weeks, the employee shall have the option to use his sick leave, vacation or other compensatory time or be placed on unpaid Worker's Compensation leave of absence.*
- D. *During the lost time due to injury for which the employee is receiving pay from the City, the employee shall not suffer any loss of guaranteed roll call, longevity, hazardous duty pay, uniform allowance, uniform maintenance allowance, education allowance, sick leave, holidays, personal days, vacation, health benefits or life insurance.*
- E. *Any employee receiving Worker's Compensation Wage Benefits shall be entitled to pay for court appearances at straight time with a one (1) hour minimum.*

**Section 2:** **Reporting Procedure:** *In the event of an injury while in the active discharge of duty, the employee shall be required to complete the following:*

- A. *An "Injury Report" within fourteen (14) calendar days of the time of injury.*
- B. *If time is lost, a "Workers' Compensation Claim Form" must be filed within fourteen (14) calendar days of the date and time of the inception of the lost time. When filing a claim, it shall be stated that the employee has received their wages for the lost time period for the maximum of fifty-two (52) weeks.*

*To be entitled to any Workers' Compensation Wage Benefits from the City as in Section 2, the employee must have the forms completed and submitted to the Department Head within the outlined time limits. If extenuating circumstances arise because of an incapacitating injury, the injured employee's Department Head shall have the forms submitted timely and if unable to do so the time limits shall be extended. If the injured employee fails to submit the forms timely, the amount of time he lost due to injury shall be charged as sick leave. The employee shall then be entitled to any benefits the Bureau of Worker's Compensations allows.*

**Section 3:** **Bureau Determination Procedure:** *Any employee who is paid as specified in Section 2 shall abide by the following procedure:*

- A. *If the Bureau of Worker's Compensation allows the claim, the wages paid for such claim shall be approved.*

B. *If the Bureau of Worker's Compensation disallows the claim, the wages paid for the lost time shall be recovered from the employee in such order as follows:*

1. *Reduction of sick leave balance, vacation balance, or any other compensable time at the election of the employee;*
2. *Payroll deduction.*

C. *After B above has been followed and the Bureau of Workers' Compensation later allows the claim through appeal, the employee shall be entitled to receive Workers' Compensation Wage Benefits from the City for such lost time period. All processes will then be handled retroactively as if the employee had a claim that was initially allowed.*

**Section 4:** **City's Share of Pension:** *The City shall pay the employer's share of pension payments for the time lost while the employee is receiving pay from the City to assure that time is credited as service time.*

**Section 5:** **Light Duty:** *The City shall make every possible attempt to find alternate work assignments for employees on injury leave who may be able to perform lighter duties, limited to work normally defined as a police function. Whenever possible, light duty assignments shall be on the Officer's regular shift. To be eligible for light duty an employee must be progressing towards regular duty.*

**Section 6:** **Physical Examinations:** *The City, at its discretion, may require an employee who is receiving service connected injury benefits to submit to a physical examination conducted by a facility within a one hundred (100) mile radius of Warren City Hall and approved to make a functional capacity evaluation.*

*This examination will be arranged and paid for by the City of Warren and notification by the City shall be not less than three (3) working days before the scheduled examination.*

*The employee shall sign a release of medical information as provided by the Ohio Revised Code Section 4123.651(B)*

*The purpose of the examination is to determine if the employee should remain on injury leave or return to work in either his/her regular job or light duty status.*

*If it is determined by the facility and verified by the prescribing physician that an employee is capable of returning to his/her regular or special assigned duties and the employee fails to report to work as scheduled, the employee will no longer be eligible to receive pay benefits under the service connected injury leave contractual provisions.*

*The employee who has not returned to work and is not eligible to receive continued service connected injury benefits may elect to try to receive total temporary benefits from the State of Ohio. However, the City may elect to appeal such action using the documentation received from the facility.*

*If it is determined that an employee can return to work, the employee will be scheduled by the City to return to work four (4) work days from the posting date of the certified written notice. Failure to report to work as scheduled will result in loss of service connected injury benefits as set forth in this agreement.*

**Agreement to Reimburse** *The purpose of this agreement is to insure that any Workers' Compensation Wage Benefits paid by the City in advance of a claim determination by the Ohio Bureau of Worker's Compensation are automatically repayable to the City if the claim is disallowed by the Bureau.*

*I, \_\_\_\_\_, hereby agree to reimburse the City of Warren for any amounts which I may receive per the provisions of the Workers' Compensation Wage Benefits as set forth in the labor contract and which commenced on \_\_\_\_\_ and to which I would not be entitled in the event that the Ohio Bureau of Workers' Compensation disallows the claim.*

*Under such circumstances, repayment of the monies will be made in the following manner:*

- 1. Reduction of sick leave credit hours.*
- 2. Reduction of vacation credit hours.*

*If sufficient sick leave and vacation or other compensatory credit hours do not exist to fully recover the paid Workers' Compensation*

*Wage Benefits, I hereby authorize the City of Warren to deduct a reasonable amount not to exceed fifty dollars (\$50.00) per pay from my earnings until the required amount is fully reimbursed.*

## **Article 7 - Holidays**

### **Section 2: Pay for Holidays Worked**

The Union requests an additional holiday, which, it contends, would bring it to parity with the city's service department. In consideration of parity for the somewhat under compensated patrol officers, the following addition to the list of holidays in Section 2 is recommended:

*Police Memorial Day, the 15<sup>th</sup> of May*

### **Section 4: Pay for Holidays Not Worked**

The OPBA also requests that the parties past practice of allowing officers to take time off on holidays and use vacation or comp time be memorialized in the Agreement. In that regard, the addition of the following language is recommended:

*An eligible Officer who is normally scheduled to work on the holiday but is off shall receive eight (8) hours pay and have eight (8) hours deducted from his holiday time or other benefit time account at the employee's discretion.*

The Union also proposes the memorialization of another past practice in the following language, the acceptance of which is recommended by the Factfinder:

*All employees, whether deemed essential or non-essential, shall be permitted to work holidays at their discretion and subject to the needs of the department.*

### **Section 5: Personal Days**

An OPBA proposal for the addition of two (2) personal days is not recommended.

## **Article 8 - Vacation**

### **Section 5: Vacation Cash-Out**

Warren patrol officers are sometimes denied vacation time due to the operational needs of the City, according to the Union. However, the City argues that no officer has lost vacation time due to the present system. In consideration of the occupational stresses involved in police work, the Factfinder believes the use of vacation time by bargaining unit members is advisable, and accordingly recommends retention of present contract language.

#### ***Article 9 - Exemplary Attendance Award Day***

The OPBA proposes language which it contends would make exemplary attendance hours more accessible to officers by awarding such hours on a quarterly, rather than annual basis. However, the Factfinder believes such quarterly awards would diminish the overall effectiveness of the attendance program. Present contract provisions are recommended.

#### ***Article 10 - Health Care Benefits***

The Union requests the inclusion of vision care coverage, which, it says, is now available under the City's contract with its service employees. Given that bargaining unit member's benefits are relatively low comparable to other communities, and in the interest of internal parity, the Factfinder recommends the following contract provision:

*Vision Care. The City shall provide vision care benefits as provided by Union Eye Care identical to those benefits offered under the City of Warren's AFSCME collective bargaining agreement.*

#### ***Article 11 - Life Insurance***

The Union proposes an increase in life insurance to double the present \$20,000 benefit, in order to compensate officer's families for loss of one year's pay and assorted other benefits. However, it is the belief of the Factfinder that the life insurance benefit provided by the City is not intended as a pension, but serves to underwrite burial and other expenses related to an officer's death which might otherwise adversely impact a surviving family's financial circumstances. In this regard the present benefits seem adequate, and the Union's proposal is not recommended.

#### ***Article 12 - Bereavement Leave***

The OPBA requests the same bereavement leave policy provided the City's service workers in their present collective bargaining agreement. In the interest of parity, the Factfinder recommends the following language:

*In the event of a death in the employee's immediate family (spouse, parent, step-parent, child, step-child, brother, sister, grandparent, grandchild, mother-in-law, father-in-law, brother-in-law, sister-in-law), the employee shall be granted no less than three (3) days of bereavement. Such leave shall be paid, but not deducted from the employee's accumulated sick leave. Additional time may be approved by the Director of Public Safety and Service or his designee for special circumstances and emergencies. And additional time shall, with the agreement of the employer and the employee, be charged to the employee's accumulated sick leave or vacation leave.*

### **Article 13 - Benefit Time Usage**

The Union requests that benefit time be allocated in hourly increments. Notwithstanding the administrative requirements, it would seem to be advantageous to the Employer to have patrol officers utilize hourly absences in certain circumstances. Accordingly, the Factfinder will recommend the inclusion of appropriate language. However a related proposal by the Union to allow the cash-out of accrued benefit time is not recommended.

*Notwithstanding any other provisions of this contract, all benefit time may be used in one (1) hour increments. This includes, but is not limited to sick leave, vacation, holiday time, personal days and any other time off.*

### **Part V - Miscellaneous Provisions**

#### **Article 1 - OPBA Office**

The Union seeks delineation of those items of office equipment currently provided for in the Agreement. As such specificity serves both parties, the following language is recommended to replace the current contract provision.

*The City shall allocate a specified office for sole use by the OPBA within the confines of the Municipal Justice Building, to be furnished with the following:*

*Three chairs;*

*One standard desk;*

*One locking file cabinet (three drawer);*

*One unrecorded telephone with 1-800 long distance access.*

#### **Article 4 - Chemical and Mechanical Testing**

The evidence indicates past collective bargaining intended that Union members accepted random drug testing in exchange for the administration's

agreement to prohibit polygraph testing. The Union contends this bargain was not maintained by the City, and accordingly asks that random drug testing be contractually proscribed. In the light of this evidence, and in the absence of any demonstrated evidence of need for random drug tests within this department, the following contract language is recommended:

*Section 4: Procedure: (A) Random Drug Screening. Random drug screening will not be conducted.*

#### ***Article 6 - Take-home Cars***

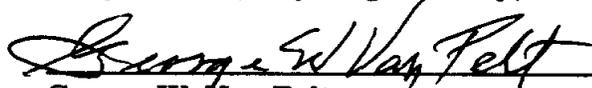
The Union proposes a new contract provision memorializing the practice of allowing officers to take home police cruisers when off duty. As the visible presence of cruisers serves to reinforce police presence in the community, the following contract language is recommended:

*Take Home Cars - Each Officer who has a cruiser will be allowed to take his vehicle home, in accordance with City policy and contingent on the needs of the City.*

#### ***Article 7 - Firearm Disability***

The OPBA proposes that officers convicted of domestic violence or spousal abuse and thereby prohibited from possession of a service revolver under Federal law be permitted to be permitted to maintain employment in an unarmed capacity. While the Factfinder is in sympathy with the potential ramifications for such officers, the proposal cannot be recommended.

Respectfully submitted  
this 5<sup>th</sup> day of August, 1997  
at Lyndhurst, Cuyahoga County, Ohio



George W. Van Pelt  
Factfinder