

STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD

STATE EMPLOYMENT
RELATIONS BOARD
MAR 5 12 49 PM '99

In the Matter of)	
Fact-Finding Between:)	
)	
FRATERNAL ORDER OF POLICE,)	
OHIO LABOR COUNCIL, INC.)	Case Nos. 98-MED-09-0863
(POLICE OFFICERS; COMMUNICATIONS)	98-MED-09-0864
TECHNICIANS; PARKING ENFORCEMENT)	98-MED-09-0865
OFFICERS))	
)	
-and-)	Jonathan I. Klein,
)	Fact-Finder
)	
CITY OF LANCASTER)	
)	
)	

FACT-FINDING REPORT
and
RECOMMENDATION

Appearances

For Union:

Melvin C. Walcott, Staff Rep.
Jim Schorr, Ptl.
Will Tolley, Ptl.
Randy Bartow, Ptl.
Pat Lavender, Ptl.
Dawn Dillinger, Dispatcher
B. J. Chilcote, Dispatcher
Debbie Ballein, Parking Enforcement Officer

For Employer:

Thomas J. Wiencek, Esq., Atty. for City
Art Wallace, Mayor
R. C. Schwader, Chief of Police
Gloria Oesterling, Personnel Manager
Earl H. Strawn, Service-Safety Director

Date of Issuance: March 4, 1999

I. PROCEDURAL BACKGROUND

This matter first came on for hearing on February 10, 1999, 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 December 1, 1998. The hearing was conducted between the City of Lancaster ("City" or "Employer"), and the Fraternal Order of Police, Ohio Labor Council, Inc. ("Union"), at the Olivedale Senior Citizen Center located at 253 Boving Road, Lancaster, Ohio. The bargaining units involved in the fact-finding process consist of the full-time police officers; communications technicians ("dispatchers"); and parking enforcement officers employed in the City's police department. There are currently fifty-one patrol officers and detectives; twelve dispatchers; and one parking enforcement officer who are members of the respective units.

The following issues were submitted by each party based on the proposals as contained in each of their pre-hearing briefs dated on or about January 28, 1999.

Police Officers:

1. Hours of Work
2. Paid Leaves
3. Payment of Accumulated Leave
4. Insurance
5. Compensation
6. Retirement Pick-Up
7. Uniform Allowance

Dispatchers:

1. Funeral Leave
2. Holidays and Personal Days
3. Sick Leave and Vacation Days
4. Insurance
5. Salary Schedules and Other Compensation
6. Retirement Pick-Up

Parking Enforcement Officers:

1. Funeral Leave
2. Insurance
3. Salary Schedule
4. Retirement Pick-Up

The fact-finder incorporates by reference into this Report and Recommendation all tentative agreements between the parties relative to the current negotiations. In making the recommendations which follow, the fact-finder has reviewed the arguments and evidence presented by the parties at hearing, and in their respective position statements.

II. FACT-FINDING CRITERIA

In the determination of the facts and recommendation 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;
- (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

Introduction

The City is a statutory city located in central Ohio approximately thirty-five miles southeast of Columbus, Ohio. The City is the county seat of Fairfield County, Ohio with a population of approximately 35,000. The four major occupational groups in Fairfield County are as follows: wholesale and retail trade (27.1%); services (21.7%); government (19.3%); and manufacturing (19.1%). The median family income for residents of the City is \$27,456.00 and the per capita income is \$11,307.00. (City's Fact-finding Brief at 3).

Generally, the positions of the parties can be described in the following manner. The Union contends that the City has a \$2 million budget surplus and its members deserve increases in their wages and benefits. Additionally, there have been no claims asserted by the City of an inability to meet the Union's demands based upon financial reasons. The Union has selected as comparable jurisdictions the cities of Beaver Creek, East Cleveland, Fairfield, Huber Heights, Mentor, Newark, North Olmstead, Shaker Heights, Pickerington, Upper Arlington, Garfield Heights, Middletown and Athens. The comparables selected by the Union were chosen based upon populations similar to that of the City. According to the Union, the comparables selected by the City are not really comparable. For example, the Union specifically argues that New Lexington is not a comparable city.

The City contends that there is a fundamental flaw in the Union's logic regarding its selection of comparables because many of the comparables selected by the Union are located in northeast Ohio. For example, the City specifically argues that Shaker Heights is not a comparable city. The Union's process of selecting comparables is further flawed because it went strictly by population when selecting its comparable cities. The City argues that the accurate comparable jurisdictions are other cities which are county seats and cities in SERB's Central Ohio Region. It submits as comparables the following: Newark, Circleville, New Lexington, Mount Vernon, Chillicothe, London, Shelby, Bucyrus, Portsmouth, Washington Court House, Galion and Upper Sandusky.

Upon review of the comparable jurisdictions offered by both parties, the fact-finder determined that the following cities will not be considered in this decision. The cities of East Cleveland, Garfield Heights, Shelby, Bucyrus, Portsmouth, Galion, Upper Sandusky, North Olmstead, Huber Heights, Beavercreek and Middletown are excluded due to the fact that they are located in regions of the state which are both geographically remote to the City, and/or situated in regions which are not economically similar to the region in which the City is located. Furthermore, there is a lack of probative evidence which would establish the comparability of these cities. The cities of Shaker Heights, Mentor, Upper Arlington and Fairfield are also excluded due to the fact that these cities have total tax revenues which are much higher than the City's total tax revenue. The fact-finder further discounts Pickerington due to its greater proximity to Columbus, Ohio, a major urban city, together with the fact that it also appears to have been cited by the Union solely as a result of its favorable compensation package, rather than based upon any objective criteria of comparability. Lastly, New Lexington will not be considered by the fact-finder due to a lack of probative evidence which would establish its comparability.

This leaves the following municipalities which will be referenced for comparability purposes throughout this fact-finding report: Newark, Chillicothe, London, Circleville, Washington Court House and Mount Vernon. The fact-finder also considers other bargaining units within the City when evaluating the statutory criteria. The fact-finder notes that a three

percent pattern has been established in negotiations this year between the City and other, internal bargaining units. The City's firefighters and teachers have settled for three percent wage increases in each year of their respective three year collective bargaining agreements. Additionally, the Lancaster Police Supervisor's Association (LPSA) has entered into a tentative agreement with the City which contemplates three percent wage increases.

Issue 1: Wages

The following articles of the respective collective bargaining agreements between the parties are involved in the recommendations on the issue of wages: Article 28 (police officers); Article 25 (dispatchers); and Article 27 (parking enforcement officers).

The Union proposes that the police officers receive a five percent per year across-the-board salary increase. The Union reasons that the City's police officers are compensated at a rate which is twenty percent less than the rate at which police officers are compensated by comparable cities across the state. The Union further argues that the City has the resources to fund the proposed salary increase and furthermore, there is a voter-approved 0.6 percent income tax for safety forces that has not yet been imposed by the City.

The City proposes a wage increase for the police officers of two percent in each of the first two years of the contract and three percent in the final contract year. However, the City will consider a wage increase of three percent in each year of the contract if the fact-finder

sustains the remainder of the other items proposed in the City's economic package. Since 1986, the police officers have received an average annual wage increase of 4.16 percent, while the average rate of inflation during this same time period has been 3.25 percent. Thus, the police officers have received fair wage increases over the past years which have traditionally been above the rate of inflation, according to the City.

The following data provides salary information for police officers employed by the City with police officers employed by comparable cities ranked by top salary:

<u>City</u>	<u>Entry Level Salary</u>	<u>Top Level Salary</u>
Newark	\$23,587.00	\$36,961.60
Lancaster	\$27,664.40	\$34,257.60
Mount Vernon	\$26,561.60	\$33,072.00
Chillicothe	\$25,064.00	\$32,240.00
London	\$24,689.60	\$31,200.00
Circleville	\$22,995.73	\$30,595.58
Washington Ct. House	\$24,419.20	\$30,243.20

As the above salary information demonstrates, the City police officers are compensated most favorably when compared to their counterparts in surrounding comparable cities.

Additionally, the testimony at the fact-finding hearing established that the City has not encountered any difficulties in attracting and retaining police officers at the present wage rates.

In 1996, the City lowered its minimum manpower requirement by one officer per shift. The City is currently operating at a total manpower level which is five officers below the optimal level. Chief R. C. Schwader testified that it is highly probable that the City will be able to hire an additional five officers if there is a three percent wage increase per year provided in the new collective bargaining agreement.

The fact-finding hearing established that the income tax is indeed being imposed by the City, contrary to the Union's contention. Additionally, a pattern of three percent salary increases has been established in negotiations between the City and other internal bargaining units, and the current annual inflation rate is less than 50 percent of the average inflation rate since 1986. Lastly, the Union has presented no probative evidence from comparable jurisdictions which would indicate that a five percent per year salary increase is warranted. This evidence, along with the fact that the average annual police salary is currently about \$6,800 higher than the median family income in the area, persuades the fact-finder that a salary increase of three percent per year is warranted for the police officer unit.

The parties resolved the issue regarding the education incentive premium prior to the date of the fact-finding hearing. The remaining issue regarding compensation of the police officers concerns field training officer (FTO) pay. The Union proposed at hearing an additional one-half hour of compensation for each eight hours that a police officer functions as

an FTO.¹ This compensation is warranted by the additional work added to a police officer's schedule as a result of working as an FTO. Additionally, the position of an FTO is supervisory in nature position.

The City opposes additional compensation for FTOs. The City reasons that the senior police officers have a responsibility and duty to train younger police officers that is similar to the duty which senior partners in a law firm have regarding the training of young associates. The City argues that no comparables currently provide additional compensation for FTOs. However, Newark, which is a comparable city, currently compensates its field training officers at a rate of .50 cents per hour. Based upon this evidence, and the fact that partners in law firms generally receive far greater compensation than young associates, the fact-finder concludes that the additional workload and supervisory responsibility that accompanies the position of a field training officer warrants an additional one-quarter hour of compensation for each eight hours that a police officer functions in the capacity of a field training officer.

Turning to the wages for dispatchers, the entry level salary for a dispatcher employed by the City is \$21,507.00 and the top level salary is \$26,291.20. The Union proposes a significant wage increase for the dispatchers of nine percent in the first year of the contract and six percent in each of the following two years of the contract. The Union contends that

1. The Union altered, without City opposition, its proposal contained in its position statement which sought $\frac{1}{4}$ hour of overtime for each 8 hours of service as a FTO.

this wage increase is justified because the dispatchers are compensated at a rate far below comparable cities. The City counters this proposal with the position that the dispatchers should receive the same salary increase as the police officers of three percent per year. The City points out that the dispatchers have received an average annual wage increase of 4.99 percent since 1986. During this time period, the average rate of inflation has been 3.39 percent. Lastly, the City argues that the Union is demanding a salary premium based upon inappropriate comparisons.

The salary levels for dispatchers employed by comparable cities is as follows:

<u>City</u>	<u>Entry Level Salary</u>	<u>Top Level Salary</u>
London	not available	\$27,230.00
Washington Court House	\$21,590.40	\$26,624.00
Lancaster	\$21,507.00	\$26,291.00
Chillicothe	\$22,068.80	\$24,835.20
Circleville	\$19,982.11	\$25,167.73

Based upon the above data, the fact-finder concludes that the top level salary paid by the City to its dispatchers is slightly above the average top level salary of \$25,964.23 paid by the comparable cities to dispatchers. Chief Schwader testified at the fact-finding hearing that the average turnover rate for dispatchers employed by the City is less than one per year. Chief Schwader further testified that the City usually has sufficient numbers of applicants for the position of dispatcher to fill any vacancies. The fact-finder also finds that at the current salary levels, the City does not encounter any difficulties in either attracting applicants for the

position of dispatcher or retaining current dispatchers. The arbitrator also concludes that the three percent wage pattern established in negotiations between the City and other internal bargaining units is probative evidence of appropriate wage increases for the bargaining unit of dispatchers. Based upon these facts, the fact-finder concludes that the Union's salary increase proposal is clearly excessive. Accordingly, Article 25 shall be modified as set forth in the final recommendation to provide for salary increases of three percent to the dispatcher unit in each year of the contract.

The Union proposes a \$1.50 per hour raise for the City's parking enforcement officer. This represents a 14.5 percent wage increase for this position. There are a limited number of cities that utilize parking enforcement officers and SERB does not maintain benchmark reports for this classification. However, two cities, Newark and Athens, furnished their pay scales for parking enforcement officers to the Union. These two cities compensate their parking enforcement officers at a rate which is sixteen percent (16%) higher than the rate at which the City compensates its parking enforcement officer.

The City counters that the Union's proposal is totally unacceptable and its offer of a three percent wage increase in each year of the contract is fair and reasonable. It argues that the parking enforcement officer has been treated fairly by the City since the position was created in 1993. Since 1994, the parking enforcement officer has received an average wage increase of 9.5 percent each year, while the average rate of inflation during this time period

was 2.5 to 3 percent. The position is a dinosaur, according to the City, and it costs the City more money to maintain the position than the income generated by parking violation citations. However, the Union points out that the parking enforcement officer relieves the police force of some of its workload, which in turn enables the patrol officers to attend to more urgent matters. The fact-finder concludes that it is inappropriate to single out for comparison the amount of revenue generated by the parking enforcement position to the costs associated with maintaining that position when evaluating the position's worth to the City's safety and welfare. The fact-finder points out that a patrol officer's salary is not determined by the amount of revenue generated by traffic violation citations that he or she issues, or fines collected as a result of the police officer work duties.

The top level salary for a parking enforcement officer employed by the City is \$21,440 per year. This compares to a top level salary of \$24,107 per year for parking enforcement officers employed by Athens and a top level salary of \$25,795 per year for parking enforcement officers employed by Newark. Thus, the evidence reveals that the City's parking enforcement officer is compensated considerably less than the comparables. Furthermore, the City's parking enforcement officer is compensated \$4,355 less per year than parking enforcement officers in Newark. In comparison, the top level salary for a police officer employed by the City is only \$2,704 less than the top level salary for a police officer in

Newark. Based upon this evidence, the fact-finder concludes that the parking enforcement officer shall receive annual salary increases of six percent .

Final Recommendations

Article 28- Compensation, of the collective bargaining agreement between the City and the police officers shall provide for the following three percent per year across-the-board wage increases.

	Year	Starting	After 1 Year	After 2 Years	After 3 Years	After 4 Years
Hourly	1999	13.70	14.52	15.34	16.16	16.96
	2000	14.11	14.96	15.80	16.64	17.47
	2001	14.53	15.41	16.27	17.14	17.99
Biweekly	1999	1,095.92	1,161.84	1,226.94	1,292.86	1,357.13
	2000	1,128.80	1,196.70	1,263.75	1,331.65	1,397.84
	2001	1,162.66	1,232.60	1,301.66	1,371.60	1,439.78
Annually	1999	28,493.92	30,207.84	31,900.34	33,614.26	35,285.33
	2000	29,348.74	31,114.08	32,857.35	34,622.69	36,343.89
	2001	30,229.20	32,047.50	33,842.71	35,661.37	37,434.21

Additionally, a new section shall be added to Article 28 which provides, as follows:

- E. Police Officers shall receive additional compensation in the amount of one-quarter hour pay for each eight hours that the police officer functions in the capacity of a field training officer.

Article 25- Salary Schedules, of the collective bargaining agreement between the City and the dispatchers shall provide, in pertinent part, as follows:

Salary Schedule-

<u>Year</u>	<u>Starting</u>	<u>After 1 Yr.</u>	<u>After 2 Years</u>	<u>After 3 Years</u>	<u>After 4 years</u>
Hourly- 1999	\$10.65	\$11.24	\$11.82	\$12.42	\$13.02
2000	\$10.97	\$11.58	\$12.17	\$12.79	\$13.41
2001	\$11.30	\$11.93	\$12.54	\$13.17	\$13.81
Biweekly- 1999	\$852.02	\$898.98	\$918.40	\$993.74	\$1,041.54
2000	\$877.58	\$925.95	\$945.95	\$1,023.55	\$1,072.79
2001	\$903.91	\$953.73	\$974.33	\$1,054.26	\$1,104.97
Annually- 1999	\$22,152.42	\$23,373.58	\$24,594.75	\$25,837.34	\$27,079.94
2000	\$22,816.99	\$24,074.79	\$25,332.59	\$26,612.46	\$27,892.39
2000	\$23,501.50	\$24,797.03	\$26,092.57	\$27,410.83	\$28,729.16

Article 27-Salary Schedules, of the collective bargaining agreement between the City and the parking enforcement officers shall provide, in pertinent part, as follows:

Salary Schedules-

	<u>Year</u>	<u>Starting</u>	<u>After 1 Year</u>	<u>After 2 Years</u>
Hourly-	1999	\$8.35	\$9.65	\$10.93
	2000	\$8.85	\$10.23	\$11.86
	2001	\$9.38	\$10.84	\$12.57
Biweekly-	1999	\$668.67	\$771.69	\$874.29
	2000	\$708.79	\$817.99	\$926.75
	2001	\$751.32	\$867.07	\$982.36
Annually-	1999	\$17,385.49	\$20,064.00	\$22,731.49
	2000	\$18,428.62	\$21,267.84	\$24,095.38
	2001	\$19,534.34	\$22,543.91	\$25,541.10

Issue 2: Pensions

The following articles on retirement pick-up from the respective collective bargaining agreements between the parties are involved in this issue: Article 29 (police officers); Article 28 (dispatchers); and Article 30 (parking enforcement officers).

Article 29 of the collective bargaining agreement between the City and the police officers bargaining unit requires the City to pick up 2.5 percent of an employee's 8.5 percent pension contribution. On July 1, 1998, the City implemented changes in its payroll software and discovered that it was making the required pension deductions in an improper manner for the past thirteen years. As a result of this misapplication, the City had effectively overpaid its employees during this period of time.

The City is currently making the required pension deductions in the proper manner prospectively, which deduction has resulted in less take home pay for the police officers. The fact-finder concludes that the correction regarding the method of determining pension deductions should not be classified as a wage loss for the police officers, but represents a correction of a mathematical computation based upon an agreed pension contribution. At the fact-finding hearing, the parties agreed to maintain the current contract language of Article 29 and to accept the present calculation for computing pension contributions. The parties also agreed to add similar pension pick-up language to the collective bargaining agreements for the dispatchers and parking enforcement officers bargaining units.

Issue 3: Insurance

The following articles on insurance from the respective collective bargaining agreements between the parties are affected by this issue: Article 27 (police officers); Article 24 (dispatchers); and Article 26 (parking enforcement officers).

Currently, the maximum amount of life insurance coverage provided by the City to active police officers is \$15,000.00. In its position statement, the Union requests that the City increase the amount of life insurance coverage to \$50,000.00. The City holds to the position that the current contract language regarding life insurance coverage should be maintained. At

the fact-finding hearing the parties agreed to maintain the current contract language set forth in the collective bargaining agreement between the City and the police officers.

The Union proposed, in its position statements for the dispatchers and parking enforcement officers bargaining units, that Articles 24 and 26, respectively, should be amended to include language which sets forth vision insurance coverage for employees. Additionally, the Union requested that life insurance coverage for retired employees should be increased to \$5,000.00. In its position statement, the City objected to the addition of a vision insurance plan and proposed a \$10.00 per month increase in the family medical contribution and a \$5.00 per month increase for single coverage. The City also set forth in its position statement that it would agree to maintain current contract language regarding life insurance. At the fact-finding hearing the parties agreed to maintain the current contract language in the collective bargaining agreement with the dispatchers and parking enforcement officers, with the exception that City provided life insurance be increased from \$1,000.00 to \$2,500.00 at age 70.

Issue 4: Uniform Allowance

The following articles dealing with uniform allowance in the respective collective bargaining agreements between the parties pertain to this issue: Article 30 (police officers); Article 25 (dispatchers); and Article 27 (parking enforcement officers).

Article 30, Section A, of the collective bargaining agreement between the City and the police officers currently provides, as follows: "The initial uniform allowance for police officers shall be seven hundred dollars (\$700) per officer. At the beginning of each year of service after the initial probationary period, each officer will receive seven hundred dollars (\$700) uniform allowance." The City proposes to increase the current uniform allowance to \$750.00 per year. In its position statement, the Union requests an increase in the uniform allowance for police officers to \$850.00 per year. The Union has presented no probative evidence from comparable cities which would lead the fact-finder to conclude that a uniform allowance of \$850.00 per year is warranted. The Union has presented no evidence whatsoever which indicates that the City's proposal represents an inadequate sum for police officers to purchase the necessary uniform items. Therefore, the fact-finder concludes that the uniform allowance for police officers shall be increased to \$750.00 per year, as proposed by the City.

The City further proposes that it will provide the initial uniform allotment for all uniform changes initiated and required by the City. Additionally, the City will provide the initial uniform allotment in the event that a uniform change initiated by the Union is mutually beneficial to the City. All other uniform changes will be paid for by the employees. At the fact-finding hearing the Union countered the City's proposal regarding initial uniform change allotments by asserting the position that it cannot initiate changes in the uniform. As the result of discussion between the parties at hearing, it became readily apparent to the fact-finder that

the parties have a sufficiently sound working relationship to determine between themselves who will bear the costs for an initial uniform allotment in the event that there are changes made to the police officer uniform, whether initiated by the City or the Union. Therefore, the fact-finder rejects any proposals which would restrict or inhibit the established working relationship between the parties in this area.

Lastly, the City proposes that it will provide patrol officers who are involuntarily transferred to the detective unit with an additional one-half of a patrol officers uniform allowance in order to purchase plain clothes. The Union proposes that employees transferred from a uniform assignment to a plain clothes assignment for any reason shall receive one-half of the annual uniform allowance in order to purchase additional clothing. The fact-finder concludes that a police officer will rarely, if ever, be involuntarily transferred to the detective unit because the detective unit positions are considered more desirable than the position of patrol officer. Therefore, the City's proposal regarding involuntarily transfers is virtually meaningless. In conclusion, the fact-finder recommends that patrol officers who transfer to the detective unit for any reason shall be entitled to an additional one-half of a patrol officers uniform allowance. This provision will enable police officers to furnish an adequate plain clothes wardrobe for their future work assignments.

The Union seeks to maintain the current uniform allowance for dispatchers of \$675.00 per year for the next three years. The uniform allowance for dispatchers is a non-issue

according to the City if the three percent wage pattern is implemented. Otherwise, a uniform allowance is unnecessary because dispatchers could wear civilian clothes while on duty. The Union contends in its position statement that uniforms are necessary because dispatchers are required to perform searches of female prisoners, and therefore, dispatchers are entitled to receive a uniform allowance. Based upon the evidence, and the fact that a three percent wage pattern is recommended for the dispatchers bargaining unit, the fact-finder concludes that the current contract language regarding uniform allowances for dispatchers should be maintained.

The current collective bargaining agreement pertaining to the parking enforcement officers provides that bargaining unit members shall receive a yearly uniform allowance of \$675.00. The Union proposes an increase in this uniform allowance to \$750.00 in 1999, \$775.00 in 2000 and \$800.00 in 2001. According to the Union, these increases are warranted because the parking enforcement officer constantly works outside, and her uniform is exposed to the weather more so than the uniforms of other police officers. Additionally, proper footwear is very important to the parking enforcement officer and must be replaced often.

The City counters in its position statement that an increase in the uniform allowance from \$675.00 per year to \$700 per year is appropriate and more than adequate to compensate the parking enforcement officer. The City disputes whether the parking enforcement officer's uniform wears out faster than the uniforms of patrol officers. However, the City admits that the parking enforcement officer can wear through a couple of pairs of shoes each year. The

fact-finder concludes that there should be an increase in the yearly uniform allowance for the parking enforcement officer. This uniform allowance increase, as set forth in the final recommendation, reflects the outdoor nature of the parking enforcement officer's position, and importance of sound footwear which must be replaced with greater frequency than is the case with other employees.

Final Recommendation

It is the fact-finder's final recommendation that Article 30 - Uniform Allowance, contained in the collective bargaining agreement between the City and the police officers shall be modified to read, as follows:

- A. The initial uniform allowance for police officers shall be Seven Hundred and Fifty dollars (\$750) per officer. At the beginning of each year of service after the initial probationary period, each officer will receive Seven Hundred and Fifty dollars (\$750) uniform allowance.
- B. Patrol officers who are transferred to the detective unit for any reason shall receive an additional one-half of a patrol officers' uniform allowance.
- C. Officers must submit a receipt of purchase listing the uniform or other duty related items purchased and the amount paid in order to be eligible to receive a uniform allowance for the following calendar year.
- E. Police officers will be permitted to wear a three-quarter (3/4) length zipper style tuffy jacket as an option to the regulation tuffy jacket.

Additionally, it is the fact-finder's final recommendation that there be no modification in the amount of the uniform allowance for dispatchers as contained in Article 25. Lastly, it is the fact-finders's final recommendation that Article 27(D) of the collective bargaining agreement between the City and the parking enforcement officers shall be modified to read, as follows:

- D. Parking enforcement officers will receive a uniform allowance as follows:
- 1999- \$750.00
 - 2000- \$775.00
 - 2001- \$800.00

Issue 5: Funeral Leave

In its position statement for the dispatchers bargaining unit, the Union requested an increase in funeral leave from four to five days. The City held to the position that the current contract language should be maintained. The Union withdrew its proposal at the fact-finding hearing and the parties agreed to maintain the current contract language which provides for four funeral leave days.

In its position statement for the parking enforcement officers bargaining unit, the Union requested that the number of funeral leave days be increased from four to five. The City proposed the current number of four funeral leave days be maintained. At the fact-finding

hearing the Union modified its position statement, and proposed that the current contract language should be maintained. The current contract language on funeral leave shall remain in effect for the duration of the agreement.

Issue 6: Hours of Work (Police Officer)

Article 22(B) of the current collective bargaining agreement between the City and the police officers sets forth that a police officer shall receive a minimum of two hours overtime pay for each off-duty court appearance. In its position statement, the Union proposes that a police officer receive a minimum of four hours overtime pay for each off-duty court appearance. According to the Union, this proposal is in line with the court time pay received by police officers in other jurisdictions.

The City counters that the current contract language which provides for a minimum of two hours overtime pay is adequate compensation for an off-duty court appearance by a police officer. The typical court appearance by a police officer averages less than one hour. However, the Union contends that the current contract language provides insufficient compensation for police officers because of the disruptive nature of a court appearance while off-duty. The City argues that off-duty court appearances are not that disruptive because they are frequently scheduled well in advance, which allows for the police officers to make the necessary arrangements in their off-duty schedules.

The fact-finder examined the data with respect to the minimum hours for court time and determined that the City's two hour minimum for an off-duty court appearance by a police officer is competitive with the minimum hours for off-duty court time set forth in the contracts of the comparable cities. One city (Circleville) provides for a minimum of three hours for court time, three cities (Chillicothe, London and Washington Court House) provide for a minimum of two hours for court time, and one city (Mount Vernon) provides a one hour minimum for court time. The Union presented no probative evidence to persuade the fact-finder that a change in the current contract language is warranted at this time.

Final Recommendation

It is the fact-finder's final recommendation that the Union's proposal to modify the minimum hours of overtime pay for court appearances as set forth in Article 22 should not be incorporated into the collective bargaining agreement. The current contract language shall be maintained.

Issue 7: Paid Leaves (Police Officers)

This issue pertains to the creation of a bank of vacation and compensatory time which can be contributed to employees who need additional time off work in order to recuperate from

catastrophic illness. This issue was resolved by the parties prior to the fact-finding hearing on February 10, 1999, and is deemed withdrawn.

Issue 8: Payment of Accumulated Leave (Police Officers)

Article 25(B)(2) of the collective bargaining agreement between the City and the police officers provides, in relevant part, that “[a]ll eligible employees shall be paid, upon retirement, four (4) days’ wages for each year of continuous employment with the City of unused sick leave which has been accumulated, to a maximum of one hundred twenty (120) days’ wages.” The Union requests in its position statement that the number of days an employee can cash in at retirement should be increased from four days for each year of service with a maximum of 120 days to six days for each year of service with a maximum of 180 days. The Union views its proposal as a method to compensate employees who have not used or abused sick leave during their careers with the City.

The City proposes that the parties maintain the current contract language which utilizes the statutory formula contained in the Ohio Revised Code. The City contends that this is a “global” economic issue with city-wide implications, and the Union’s proposal would create a significant unfunded future liability which the City cannot afford. The City further contends that in the event the fact-finder changes such a fundamental retirement policy every other bargaining unit and non-union employee of the City would feel that they too are entitled to a

new sick leave cash out formula. Lastly, the City argues that sick leave is intended to be utilized as a short-term disability insurance policy, rather than a retirement benefit.

The Union has presented no probative evidence from comparable jurisdictions regarding the payment of accumulated sick leave upon retirement. The City has presented uncontradicted evidence that it currently implements a statutorily provided formula for determining the payment of accumulated sick leave upon retirement. Based upon these facts, the fact-finder concludes that a change in current contract language is not warranted at this time.

Final Recommendation

It is the fact-finder's final recommendation that the Union's proposal to modify Article 25(B)(2) of the collective bargaining agreement between the City and the police officers not be incorporated into the new agreement.

Issue 9: Holidays and Personal Leave (Dispatchers)

A dispatcher currently receives three personal days per year. The Union requested in its position statement that the number of personal days should be increased to four days per year. The City maintained the position that the current contract language should remain unchanged. At the fact-finding hearing, the parties agreed to maintain the current contract language of three personal days per year.

Issue 10: Sick Leave and Vacation Conversion (Dispatchers)

The current collective bargaining agreement between the City and the dispatchers provides that after twenty years of service a dispatcher may convert 40 hours of sick leave into one week of vacation each year. (Article 23). The Union proposes to modify this language so as to allow dispatchers to cash in 32 hours of sick leave for vacation hours each year after ten years of service, and to cash in 56 hours of sick leave for vacation hours each year after twenty years of service.

The City maintains the position that the current contract language should remain the same. The City contends that the current contract language regarding cashing in sick leave for vacation hours was a creative tool utilized in order to settle contract negotiations in a preceding contract with the police officers. According to counsel for the City who negotiated this provision, the language was clearly intended to apply only to senior employees.

The testimony at the fact-finding hearing reveals that the City agreed to contract language with the LPSA which allows such officers to cash in sick leave for vacation time after 15 years of service. This language was constructed in order to provide a distinction for higher ranked officers and also to set forth a provision which the lower ranked employees could aspire toward. The City states that it cannot compromise and lower the years of service requirement to fifteen years.

The Union counters that it first came to the bargaining table with a sick leave buy-out proposal which was similar to language contained in the collective bargaining agreement between the City and the police officers. The Union then decided to propose the sick leave conversion language instead because the City did not want to accept its sick leave buy-out proposal. The fact-finder concludes that there is some merit in the City's argument to recognize a distinction between higher ranked officers and lower ranked employees with the sick leave conversion benefit. Moreover, the evidence reveals that the dispatchers are currently entitled to the same sick leave buy-out package and sick leave conversion as the police officers employed by the City. Therefore, the fact-finder concludes there is no justification presented by the Union for granting the dispatchers the right to cash in 56 hours of sick leave after twenty years of service while the police officers are only permitted to cash in 40 hours of sick leave after twenty years of service.

The Union failed to present any probative evidence from comparable cities which would warrant the acceptance and recommendation of its proposal. Viewing the totality of the evidence, the fact-finder concludes that Article 23 of the collective bargaining agreement between the City and the dispatchers should not be modified.

Final Recommendation

It is the fact-finder's final recommendation that the Union's proposal to modify Article 23 of the collective bargaining agreement should not be incorporated into the collective bargaining agreement between the City and the dispatchers.



JONATHAN I. KLEIN, FACT-FINDER

Dated: March 4, 1999

CERTIFICATE OF SERVICE

Originals of this Fact-Finding Report and Recommendations were served upon Melvin C. Walcutt, Staff Representative, Fraternal Order of Police, OLC, Inc., 222 E. Town Street, Columbus, Ohio 43215-4611, Thomas J. Wiencek, Esq., Brouse McDowell, 500 First National Tower, Akron, Ohio 44308-1471, 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 4th day of March, 1999.



JONATHAN I. KLEIN, FACT-FINDER