

STATE EMPLOYMENT
RELATIONS BOARD

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STATE OF OHIO

STATE EMPLOYMENT RELATIONS BOARD

FACT FINDER'S REPORT AND RECOMMENDATIONS

THE CITY OF MILFORD

AND

FRATERNAL ORDER OF POLICE,

OHIO LABOR COUNCIL, INC.

SERB CASE NUMBER 99-MED-04-0387
(PATROL OFFICERS)

MICHAEL MARMO

FACTFINDER

AUGUST 12, 1999

HEARING

The Factfinding Hearing took place on July 26, 1999 at the Five Points Building, in Milford Ohio. The Hearing, which also considered SERB Case 99-MED-04-0388(Patrol Clerks), lasted from 9:00 a.m. until 10:30 a.m.. Representing the City of Milford were Stan Doughman, the Chief of Police; Larry Lantman, Assistant Chief of Police; Loretta E. Rokey, City Manager; Timothy Werdmann, a Labor Relations Consultant; and Charles A. King, a Labor Relations Consultant and the principal representative of the City of Milford. Representing the FOP/OLC were its principal representative, Thomas J. Fehr, from the FOP/OLC; Ron R. Crider, the Police Officer Representative; and Linda Rudolph, the Clerks representative.

ISSUES REMAINING AT IMPASSE

At the time the Factfinder entered the dispute, the following issues remained at impasse:

Article 19	Hours of Work and Overtime
Article 21	Wages and Compensation
Article 33	Duration

MEDIATION

Mediation was attempted, but was not successful in resolving any of the issues in dispute.

CRITERIA FOR DECISION

As provided by the procedures of the State Employment Relations Board, the Factfinder based his recommendations on the following:

- Past collectively bargained contracts between the parties;
- A 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;
- The interest and welfare of the public, and the ability of the public employer to finance the issues proposed, and the effect of the adjustments on the normal standard of public service;
- The lawful authority of the Employer;

--Any stipulations of the parties;

--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.

ARTICLE 19 HOURS OF WORK AND OVERTIME

POSITIONS OF THE PARTIES

The only area of disagreement on this Article concerns Section 19.1, which in the previous Agreement between the parties states: "The standard work period for all bargaining unit employees shall consist of eighty(80) hours of work within the established fourteen(14) day period. The standard work day shall normally consist of eight(8) hours.

The City proposed deleting the second sentence, which establishes the standard work day at eight hours. Because of the small size of the department, the City argued, it is essential for them to retain maximum flexibility in the scheduling of officers. It is particularly important, the Employer maintained, to schedule so that each of the shifts has an adequate mix of more and less experienced officers. Finally, the Employer indicated that under its proposed change, officers would continue to receive overtime pay for hours worked in excess of eighty(80) in a fourteen(14) day period.

The FOP proposed that no changes be made in Article 19.1-19.6, and that a new Section, 19.7 be added to the Article. The new Section would continue to grant the Employer the right to establish the starting and ending times of each shift. Employees, however, would be granted the right to select their shift assignments every four months, according to their seniority in the bargaining unit. Once a shift is selected, the proposal would require the Employer to give at least ten days notice of a change that was not emergency in nature. Emergencies were defined as natural disasters, civil or political unrest, a riot, or similar circumstances.

The City seeks to eliminate the requirement that shifts normally be eight hours long because they are currently studying the possibility of employing twelve hour shifts. The Employer believes that such a change could increase efficiency.

The FOP, in turn, argued that it is frustrating to plan activities for their off-duty days, only to receive late notice of a shift change. It would be much better, the Union argued, for officers already at work to be asked to work additional hours, rather than to have their day off changed.

FINDING OF FACT

There is no question that scheduling is a particularly difficult problem for a police force the size of the one in Milford. Although the Factfinder appreciates the desire of bargaining unit members to have more certainty in their lives, he does not believe that the FOP proposal grants the City the ability to adequately provide police protection. How, for example, could the City cover for a police officer who is sick? Because an illness would not be defined as an emergency, the City would be required to predict sickness ten days in advance, based on the Union proposal.

Because of the size of the department, the Factfinder is also unwilling to recommend that shifts be selected based on seniority. As the Union itself recognized at the Hearing, it is not desirable to have only inexperienced officers working on a particular shift.

Although the FOP opposed the Employer proposal to delete the requirement that shifts be eight hours in length, it appears that granting this City proposal could potentially provide some advantages to bargaining unit members. Clearly, the Employer proposal does not eliminate the uncertainty that the FOP finds objectionable. However, if a twelve hour day would be instituted as a result of the City's proposal, the standard number of days worked within a fourteen day period would be reduced from ten to seven. Potentially at least, this would create the possibility for larger blocs of time to pursue off-duty activities.

Finally, the FOP proposal on the surface appears to create considerable scheduling problems for the City. Based on the evidence presented to the Factfinder, he does not have adequate information to recommend alternative language that would adequately address the concerns of both the FOP and the City.

RECOMMENDATION

Section 19.7 proposed by the FOP should not be included in the new Agreement.

Section 19.1 should read: "The standard work period for all bargaining unit employees shall consist of eighty(80) hours of work within the established fourteen(14) day pay period."

ARTICLE 21 WAGES AND COMPENSATION

POSITIONS OF THE PARTIES

The City proposed an 11% increase in wages over a three year period, with a 4% increase the first year and 3.5% increases in the other two years. They argued that this increase was well above the increase in the appropriate Consumer Price Index, in line with comparable settlements, and would keep the employer in a competitive position in the market place.

The City pointed out that in the decade of the 1990's the annual CPI has rarely exceeded a 3% annual increase, and in the most recent three year period, it's annual increase has been below 2%.

The Employer also provided evidence that the wage proposal was in line with recent settlements in comparable jurisdictions. Using a data base of all Ohio cities with populations below 10,000, the City indicated that the average most recent three year settlements were for 10.78%, below its offer of 11%.

Finally, the City argued that an average increase was appropriate because its police officers currently received compensation that was average for comparable jurisdictions. At the lowest pay rate, Milford police officers receive slightly less than average for cities with fewer than 10,000 residents; at the highest wage rate, slightly more than the state average. An average increase is appropriate, the City argued, to maintain this average position.

The FOP also proposed a three year contract, with annual increases of 6%, for a total of 18%.

The FOP did not disagree with the City with respect to changes in the CPI or recent increases received by police officers in comparable departments. The FOP maintained, however, that based on what they considered the appropriate comparables, Milford officers are underpaid, and therefore deserve increases that are considerably above average. Based on the comparables that the FOP used, which are all in close proximity to Milford, the pay of bargaining unit members is near the bottom.

The Union also proposed that officers with ten or more years of service receive \$400 in longevity pay, plus \$50 for each year of service in excess of ten years.

FINDING OF FACT

Based on the statutory criteria the Factfinder is required to use, there is one major issue to resolve; who are comparable employers. The FOP argues that a local comparison is most appropriate, the City provided support for its position using statewide data.

The Factfinder believes that when available, local comparisons are most appropriate. As the City itself argued, in recent years they agreed to above average increases for their police officers because of the need to "remain competitive". For the job of a police officer, the labor market is primarily local. Thus, a Cincinnati area force will likely lose officers to other Cincinnati area police departments if their pay is too low; but they typically do not have to worry about competitive pressures from the Cleveland or Toledo areas.

With this in mind, the Factfinder used the data provided by the City and compared the wages of Milford officers with those of the eleven other Cincinnati area departments; Cheviot, Deer Park, Harrison, Loveland, Madeira, Montgomery, Mount Healthy, St.

Bernard, Silverton, Springboro, and Wyoming. Using this comparison, Milford police officers are considerably underpaid, receiving \$6,351 less than the average at the low end of the salary scale, and \$4,550 below the average at the highest wage. This difference is considerable and should place the City at a competitive disadvantage in attracting and retaining officers.

Thus, while an average increase would be appropriate if Milford officers already received average wages, it is not appropriate if their wages are considerably below average. The logic of this position is supported by the fact that the highest three year increase in the State of Ohio according to the City data was the 15% granted by Springboro; the one Cincinnati area force that currently pays less than Milford at the highest wage rate.

Based on the comparables, therefore, bargaining unit members should receive above average increases in order to improve their relative standing with comparable police forces. The increase the Factfinder is recommending is near the top of the increases received by other departments around the State of Ohio.

The Factfinder does not believe that changes should be made in longevity pay at this time. Because any dollars paid for longevity increases will in effect be taken from dollars that could be used to increase the basic wage rate, he believes that it is more important to increase the basic wage rate.

RECOMMENDATION

Section 21.1 should read:

Effective the beginning of the pay period following June 30, 1999, rates of pay for bargaining unit employees shall be as follows:

Probationary Rate	Step 1	Step 2	Step 3	Step 4	Step 5
14.03	14.87	15.69	16.71	17.71	18.78

The above rates reflect a 4% increase in pay.

Section 21.2 should read:

Effective the beginning of the pay period following June 30, 2000, rates of pay for bargaining unit employees shall be as follows:

Probationary Rate	Step 1	Step 2	Step 3	Step 4	Step 5
14.59	15.46	16.32	17.38	18.42	19.53

The above reflects a 4% increase in pay.

Section 21.3 should read:

Effective the beginning of the pay period following June 30, 2001, rates of pay for bargaining unit employees shall be as follows:

Probationary Rate	Step 1	Step 2	Step 3	Step 4	Step 5
15.17	16.08	16.97	18.08	19.16	20.31

The above reflects a 4% increase in pay.

ARTICLE 33 DURATION

POSITIONS OF THE PARTIES

The FOP and the City agree that a three year contract is appropriate. The FOP, however believes that the contract should take effect when the previous Agreement expires; the City believes that the new Agreement should commence upon execution.

FINDING OF FACT

There was no indication during the Hearing that either side had inappropriately delayed negotiations. Because the parties apparently negotiated in good faith, and did not intentionally delay matters, the Factfinder does not believe bargaining unit members should be denied retroactive pay increases.

RECOMMENDATION

Section 33.1 should read:

"This Agreement shall be effective July 1, 1999, and shall remain in full force and effect through 11:59 p.m., June 30, 2002.

Section 33.2 No changes.

FINAL RECOMMENDATION

The Factfinder recommends that all articles tentatively agreed to by both parties, be incorporated in the new Agreement. He further recommends that where no change has been proposed by either party to sections or articles, the existing language shall prevail.

This concludes the Factfinder's recommendations.

Michael Marmo

Michael Marmo
Factfinder

Cincinnati, Ohio
August 12, 1999

PROOF OF SERVICE

This is to certify proof of service on August 12, 1999 by U.S. Mail, overnight delivery, to Mr. Thomas J. Fehr, FOP/OLC, 10921 Reed Hartman Highway, Suite 317, Blue Ash, Ohio 45242; Mr. Charles A. King, Clemans, Nelson & Associates, 8520 E. Kemper Rd., Suite 4, Cincinnati, Ohio 45249; and Mr. G. Thomas Worley, SERB, 65 E. State Street, 12th Floor, Columbus, Ohio 43215-4213.

Michael Marmo

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