



## BACKGROUND

The Employer, the City of Independence, is a municipal corporation organized to provide police, fire and other traditional municipal services to its some 6,700 residents within its territory of approximately 9.7 square miles.

With revenues of over \$13 million dollars in 1999 the City ranks fourth among Cleveland suburban municipalities having populations of under 50,000. The City's favorable revenue stream reflects the fact that an office complex along the Rockside Road corridor of the City draws some 25,000 tax paying commuters each weekday. Independence's low poverty rate, (2.8%), and its relatively high medium home sale price of \$162,000.00 is also reflective of the economic health of the City and its inhabitants.

Independence maintains a staff of 137 employees.

The City's Police Department consists of a Chief, two Lieutenants, four Sergeants and twenty Patrolmen, as well as non-uniformed Dispatchers. These personnel are organized into three bargaining units. Sergeants and Lieutenants comprise one unit, and the Dispatchers are designated as a second.

The twenty Patrol Officers form the third unit which is exclusively represented for collective bargaining purposes by the Fraternal Order of Police, Lodge 67.

This conciliation concerns that unit.

Lodge 67 and the City were signatories to a collective bargaining agreement entered into as of January 1, 1997 for an initial term of two years.

The parties met during the month of December, 1998 and January and February, 1999, to negotiate a successor Agreement, but were unable to resolve some 32 issues. Impasse was declared and the fact-finding process undertaken.

An evidentiary hearing was conducted before Fact-Finder James M. Mancini on March 31, 1999 and findings and recommendations were issued on May 3, 1999. The City accepted all of the Fact-Finder's recommendations. While also accepting many of the Fact-Finder's individual recommendations, the Union rejected the Fact-Finder's report as a package, and initiated this conciliation proceeding.

The undersigned was appointed Conciliator as of May 25, 1999 pursuant to a Conciliation Order issued by the State Employment Relations Board to resolve, after hearing, "the dispute between the parties by selecting, on an issue-by-issue basis, from between each of the party's final settlement offers."

Prior to the date of the conciliation hearing the parties had agreed that the successor Contract should extend until December 31, 2000, that any and all economic benefits were to be retroactive to January 1, 1999, and that during the interim the provisions of the expired Contract were to be continued in effect.

At the direction of the parties, the conciliation hearing was scheduled for, and held on, June 24, 1999 at the Independence City Hall. In consideration of the Conciliator's

schedule, the parties graciously agreed to extend the time within which he might issue his Award.

Timely before the hearing both parties submitted the statements required by O.R.C. Section 4117 (G)(3) and O.A.C. Section 4117-9-06 (E) setting forth, inter alia, their respective positions. These were supplemented at the hearing by documentary submissions of comparative wage and benefit data as compiled by SERB, budgetary information and health insurance costs analyses.

The Union announced its adoption of the following recommendations of the fact-finding report:

- "1. The renaming of the "third Monday in January" holiday as "Martin Luther King Day." (Article XXII).
2. Premium pay of time and one-half for officers scheduled to work on Thanksgiving Day, Christmas Day and New Year's Day in addition to all other holiday benefits. (Article XXII).
3. All of the recommendations with respect to uniform allowance and maintenance. (Article XXIV).
4. All of the recommendations with respect to sick leave. (Article XXV).
5. Increases in life insurance coverage. (Article XXX).
6. The payment of premium compensation when patrol officers serve as the "officer in charge." (Article XXXVIII).
7. The inauguration of a paid time-off program. (New Memorandum of Understanding).
8. A two year term for the Contract. (Article XLIV).

The Union then presented its proposals on the five disputed issues - wages, (Article XXXVII), longevity pay, (Article XXXVI), the addition of a personal day holiday, (Article XXII), the elimination of employee contributions towards hospitalization insurance premiums, (Article XXXI), and the establishment of a shift differential for tours of duty scheduled during the evening and early morning hours, (Article XVIII).

All issues, other than those herein above mentioned, have been resolved by agreement of the parties or the withdrawal of the proposal creating the issue, and all of the provisions of the 1997 agreement as to which changes were either not sought by either party or as to which changes have been agreed upon, are to be carried forward and incorporated into the new agreement, mutatis mutandis.

The Conciliator will consider below the proposals and positions of the parties, and the recommendations of the Fact-Finder on each of the five issues and make his Award seriatim. In keeping with his statutory obligation, the Conciliator has carefully considered the factors enumerated in O.R.C. Section 4117.14 (G) (7).

#### 1. Wages (Article XXXVII)

##### The 1997 Contract

The compensation schedule negotiated in the last Contract and obtaining at the present time is reproduced below:

"Section 1. The following compensation schedule shall be effective for full-time patrol officers.

<u>"Service Years</u>	<u>January 1, 1998</u>	<u>Hourly Rate</u>
Ptl. First Year	\$33,860	\$16.28
Ptl. Second Year	\$37,961	\$18.26
Ptl. Third Year	\$42,077	\$20.22
Ptl. Fourth Year	\$46,284	\$22.25"

#### THE FACT-FINDER'S RECOMMENDATION

The Fact-Finder recommended a 3.5% wage increase in each year of the two year Agreement. He concluded that the increments would be commensurate with those provided to Patrol Officers in comparable cities. Thus, he observed that in 1999, "3.5% wage increases were granted to Patrolmen in the cities of Strongsville, Parma Heights., Bay Village, Fairview Park and Bedford Heights. S.E.R.B.'s Wage Report also establishes that a 3.5% wage increase has been the general norm for patrolmen in the area."

In addition, the Fact-Finder recommended that "each bargaining unit member be given a three hundred dollar (\$300) lump sum payment upon execution of the parties' new Agreement."

The text of his Recommendation reads:

"It is the recommendations of this fact-finder that there be 3.5% general wage increase provided to the bargaining unit in each year of the Agreement. In addition, each bargaining unit employee shall be entitled to receive a one-time lump sum payment in the amount of three hundred dollars (\$300). This lump sum payment is to be issued in a separate check from the

employee's regularly scheduled paycheck within thirty (30) days following the execution of the Agreement. The lump sum payment shall not be considered to be an addition to or compounding of an employee's hourly and/or annual wage.

"Wages Effective January 1, 1999 - 3.5%  
increase.  
Second Year of Agreement - 3.5%  
increase.  
One Time Lump Sum Payment - \$300"

#### The City's Proposal

The City adopts the Fact-Finder's findings and recommendations in their entirety.

#### The Union's Proposal

The Union proposes 4% wage increases in both 1999 and 2000, with the 1999 increment retroactively effective to January 1st.

The Union notes that the City has earned the prized title of "safest edge city" in America in competition with over two hundred other "edge cities." The Police Chief takes pride in the quality of the police services rendered by the members of the Department. The Force has been especially effective in dealing with the problems of commercial crime, vehicle theft and traffic congestion.

#### Discussion

Among the eight city police departments deemed comparable by both parties, Independence's ranks second in terms of annual wages paid to Patrol Officers. The 1998 Patrolmen's wages paid by these communities are set forth in the following schedule:

Broadview Heights	\$32,841
Parma Heights	\$40,255
Garfield Heights	\$41,851
Brookpark	\$42,278
Maple Heights	\$42,368
North Royalton	\$42,578
Strongsville	\$44,667
Independence	\$46,284
Brecksville	\$46,465

Furthermore, according to the March 16, 1999 "Benchmark Report" of the State Employment Relations Board Clearinghouse, the average annual wage paid to first-class Patrol Officers in thirty-five suburban Cleveland communities averaged \$43,685, some \$2,600 below that offered by Independence. As the Fact-Finder noted, a 3.5% wage increase has been the "general norm for patrolmen in the area." The Fact-Finders recommendation of 3.5% annual wage increases, therefore, would allow the Independence Patrolmen to retain their relatively high salary ranking.

The Fact-Finder also recommended a one-time, three hundred dollar (\$300) lump sum payment to each unit member upon execution of the new Agreement to address the Union's concerns about the erosive effect of the previously negotiated employee contribution towards payment of health insurance premiums, (currently running at the maximum rate of fifty dollars (\$50) a month), and the relatively low longevity bonuses offered.

The City supports the Fact-Finders recommendations, but cautions that the cost of the negotiated wage package cannot be estimated merely by performing the mathematics based on the Contractual compensation data. For each dollar of wages paid



Police Officers, the City is obliged to expend an additional 62.7 cents in "roll-ups" and fringe benefits.

The City does not, however, dispute the fact that it has the ability to pay the wage increase proposed by the Union.

But, the fact that the City has the ability to pay the wages sought by the Union is an insufficient reason to grant the wage request.

The problem is that the City's revenues, however large, are finite, while the demands for city services are infinite. Thus, the Union competes for scarce dollars with representatives who seek to promote other interests such as programs for children or the elderly, infra-structure maintenance and myriad other activities. Every dollar given to the bargaining unit members means one dollar less available to devote to these alternative uses.

#### AWARD

The Conciliator believes the City's proposal, which adopts the recommendation of the Fact-Finder for a 3.5% general wage increase in each year of the Agreement, plus a one-time lump sum payment of three hundred dollars, is the more reasonable proposal, and it is so awarded.

#### 2. LONGEVITY COMPENSATION (Article XXXVI)

##### The 1997 Contract

The recently expired Contract contains a long standing two-tier compensation schedule. Employees hired on and after July 1, 1984 received the following annual longevity payments:

<u>Years of Service</u>	<u>Annual Payment</u>
5-10	\$ 550.00
11-15	\$ 700.00
16-20	\$ 850.00
21 & above	\$1,000.00

However, these regular, full-time employees who were on the Force prior to July 1, 1984 were subject to a different schedule which permits significantly higher annual payments after ten (10) years of service:

<u>Years of Service</u>	<u>Annual Payment</u>
6-7	\$ 375.00
8-9	\$ 750.00
10-11	\$1,125.00
12-13	\$1,500.00
14-15	\$1,875.00
16-17	\$2,250.00
18-19	\$2,625.00
20-21	\$3,000.00
22-23	\$3,375.00
24-25	\$3,750.00
26-27	\$4,125.00
28-29	\$4,500.00
30 & above	\$4,875.00

#### THE FACT-FINDER'S RECOMMENDATIONS

The Fact-Finder recommended increases in the schedule of longevity pay only for employees hired after July 1, 1984. The increases would be equivalent to a 31% increase over the current payment schedule. The schedule would be restructured to provide an initial payment of five hundred dollars (\$500.00) after the fifth year of service, and annual increases of fifty dollars (\$50.00) thereafter up to a maximum of fifteen hundred dollars (\$1,500.00) reached after

completion of twenty-five years. The Fact-Finder's formula would allow the employees who complete ten (10) years of service to receive longevity pay in the amount of seven hundred and fifty dollars (\$750.00), an increase of two hundred dollars (\$200.00) over their present entitlement. Under his proposed schedule no current employee would suffer a reduction in the amount of longevity pay presently received. The aggregate amount per employee paid out by the City over this period would increase from sixteen thousand, fifty dollars, (\$16,050), to twenty-one thousand dollars (\$21,000).

The Fact-Finder's recommendation was based upon the fact that Independence ranked 13th out of the enlarged list of fourteen (14) jurisdictions cited by the Union as comparable with respect to longevity pay. The increases he suggested would bring the longevity pay into the mid-range of area longevity pay schedules.

The Fact-Finder's suggested longevity pay schedule is reproduced below:

#### LONGEVITY COMPENSATION

In addition to the amounts provided in this Agreement each full-time regular member of the Independence Police Department hired on or after July 1, 1984 shall receive effective January 1, 1999 through December 31, 2000, longevity pay commencing upon the completion of five (5) years of continuous full-time employment in the amount of five hundred dollars (\$500.00) which shall be increased by fifty dollars (\$50.00) for each succeeding year of employment until a maximum amount of one thousand, five hundred dollars (\$1,500) is reached after twenty-five (25) years of employment and for each year thereafter. For illustrative purposes, the following table may be used:

<u>Years of Service</u>	<u>Annual Payment</u>
5	\$ 500.00
6	\$ 550.00
7	\$ 600.00
8	\$ 650.00
9	\$ 700.00
10	\$ 750.00
11	\$ 800.00
12	\$ 850.00
13	\$ 900.00
14	\$ 950.00
15	\$1,000.00
16	\$1,050.00
17	\$1,100.00
18	\$1,150.00
19	\$1,200.00
20	\$1,250.00
21	\$1,300.00
22	\$1,350.00
23	\$1,400.00
24	\$1,450.00
25	\$1,500.00
26 & above	\$1,500.00/per year

THE CITY'S PROPOSAL

The City adopts the Fact-Finder's recommendations.

THE UNION'S PROPOSAL

The Union accepts the recommendations of the Fact-Finder to continue without change the schedule of longevity payments for members hired prior to July 1, 1984. It also adopts the reformulated longevity pay structure suggested by the Fact-Finder for those hired on and after July 1, 1984. However, the Union proposes to increase longevity pay recommendations by one hundred dollars (\$100.00) "across-the-board." Thus, it asks that so-called "Tier II" Officers having completed five (5) years of service receive an annual premium of six hundred dollars (\$600) and an additional fifty dollars (\$50) for each

succeeding year to a maximum of sixteen hundred dollars (\$1,600) after twenty-five (25) years of service.

#### DISCUSSION

The longevity of "Tier I" Officers - those veterans of the force employed before July 1, 1984 - is extremely generous by any standard, and there is no demand to enhance their benefits. However, as a result of retirements and resignations over the succeeding years, only five Officers out of the present complement of twenty who are subject to this schedule.

The "phase-out" of this schedule with attendant cost savings to the City was contemplated when the bargain was struck in an earlier Contract to introduce a "second tier," and less generous, longevity pay schedule. The Conciliator finds no plausible basis for re-examining that bargain now.

On the other hand, there is no doubt that the longevity payments offered by Independence to its post July 1, 1984 hires are presently well below those given by comparable communities.

Comparison of the maximum longevity pay entitlements in the fifteen (15) communities in Cuyahoga County selected by the Union with that offered to Independence's Tier II eligible employees, reveals that Independence ranks fourteenth (14th). However, the median of the maximum longevity payments provided by the fifteen communities falls between fifteen hundred dollars (\$1,500.00) and sixteen hundred dollars (\$1,600.00).

The adoption of the City's proposal for a maximum longevity pay rate of fifteen hundred dollar (\$1,500.00), based upon the recommendation of the Fact-Finder, would thus move Independence from the bottom of the list into the middle of the array.

Moreover, longevity pay must not be viewed in isolation, but rather as part of the entire package of financial benefits available to Patrol Officers. So considered, it appears that Independence Officers are as well, if not better, paid, than the majority of their peers.

When the other favorable financial enhancements already agreed to by the parties, recommended by the Fact-Finder and awarded by the Conciliator are taken into account, the City's proposal, based upon the Fact-Finders analysis, is both fair and reasonable, and brings its Tier II longevity schedule into mid-position with other comparable communities.

#### AWARD

The Conciliator Awards the City's proposal for longevity pay enhancements.

### 3. HOLIDAYS (Article XXII)

#### 1997 Contract

Officers are presently entitled to ten (10) days-off with pay each year. Nine (9) are community recognized, fixed date holidays. The tenth (10th) is the Officer's own birthday.

#### The Fact-Finder's Recommendation

The Fact-Finder did not recommend increasing the number of holidays by adding one personal day as proposed by the

Union. He relied primarily on the fact that all other City employees receive the same ten (10) paid holidays. The Fact-Finder found no sufficient justification to distinguish the Police Officers bargaining unit.

#### The City's Proposal

The City adopts the Fact-Finder's recommendation to retain the existing Contract provision without change.

#### The Union's Proposal

The Union seeks the addition of one "personal day" to the compliment of holidays presently offered. However, modifying to its original proposal, the Union would make the grant of an annual personal day discretionary with the Chief of Police. Approval would be contingent upon the absence of cost implications for the City.

#### Discussion

Of the eight (8) agreed upon comparable communities only Brookpark and Broadview Heights offer as few holidays as Independence. three (3) of the other six (6) - Brecksville, North Royalton and Strongsville - offer eleven (11) days-off with pay, while Garfield Heights and Parma Heights offer twelve (12). The remaining community, Maple Heights, provides thirteen (13) paid holidays for its Officers.

Moreover, several of the communities additionally allow their Officers to take-off "personal days". Thus, Strongsville provides 4.5 personal days for its bargaining unit members, Maple Heights and Parma Heights offer one (1) personal day. Garfield Heights and North Royalton permit two

(2) personal days. Brookpark provides its officers with one-half (1/2) paid personal day.

Of the fifteen (15) communities the Union listed as comparable to Independence, all except Beachwood offer more compensated days-off. The time-off allowed the other fourteen (14) communities range from 10.5 days in Brookpark to nineteen (19) days in Euclid. The median is twelve (12) paid days-off.

The City argues, and the Fact-Finder agreed, that internal comparisons are more significant here than external comparisons. Since all employees of the City, bargaining unit members and non-organized workers alike, receive ten (10) paid holidays, the Fact-Finder concluded that there was no reason to carve out an exception for Police Officers.

Moreover, the City contended that increasing the number of holidays would negatively impact staffing levels and increase the City's overtime costs.

Were the City to accept to the proposal, it suggests, it would soon be faced with "me too" demands by every other unit.

After the Fact-Finder's report was issued, the City discontinued its permanent shift scheduling and inaugurated rotating shifts so that every member of the bargaining unit is now required to work an allocate share of the afternoon and night shifts. The intermittent assignment to such shifts interrupts the normal rhythm of social life, and it is quite possible that an Officer will be rotated to the night shift on an evening during which an important family event, such as a wedding, will take place. And, if a "trade" is unavailable,



the Officer will be precluded from participating. The personal day option would relieve in some measure this potential concern. Furthermore, as the Union's proposal would have it, the personal day need not impose an increased economic cost upon the City. Since the rotating shift schedule now in place is unique to the Police Department, an Officer's special need for a personal day-off is not necessarily shared by employees in other units.

Accordingly, the Conciliator finds the Union's proposal to be meritorious.

#### AWARD

The Conciliator Awards the Union proposal that there be added to Section 1 of Article XXII the following provision:

"At the discretion, and with the approval, of the Chief of Police or the Chief's designee, each employee may annually take one personal day-off, as a holiday, with regular pay if the Chief or the Chief's designee finds that the absence of the employee will not impair minimum manning standards nor impose overtime or other additional costs upon the City, and that the services of the employee are not otherwise required. The Chief or the Chief's designee shall exercise such discretion in good faith, and such approval shall not unreasonably be withheld."

#### 4. Shift Differential Premium Pay (Article XVIII)

##### The 1997 Contract

The 1996 Contract did not provide a shift differential or premium pay for the second (or evening) shift or the third (or night) shift.

### The Fact-Finder's Recommendation

The Fact-Finder noted that many of the other neighboring jurisdictions which utilized permanent shift schedules, such as Broadview Heights, Brecksville, Garfield Heights, Brookpark, Maple Heights and Strongsville, offered no extra compensation for working comparable evening or night shift hours. He found no persuasive reason for instituting a shift differential in Independence.

### The City's Proposal

The City adopts the recommendation of the Fact-Finder.

### The Union's Proposal

The Union proposes to establish the following shift differential premiums:

"Officers assigned to permanent evening, 2nd shift (8 hours, 3:00 pm-11:00 pm) will be paid a shift premium of \$.50/per hour over base rate.

Officers assigned to permanent night 3rd shifts (10 hours, 5:00 pm-3:00 am or 12 hours, 6:00 pm-6:00 am, early or late cars) will be paid a shift premium of \$1.00/per hour over base rate."

### Discussion

The Union's proposal for a shift differential is based upon the previously existing permanent shift schedule. The Union urged that such premiums constituted a "small measure of compensation for the significant disruption to family life occasioned by permanent night shifts. For example, working regularly and repeatedly from 6:00 pm to 6:00 am with the

biological requirement to sleep, leaves little time to be an effective social member of one's family."

Of the cities cited as comparable by the Union, only Parma Heights and North Royalton maintained permanent shifts with differentials for the afternoon and evening assignments. Moreover, their premiums were significantly less than proposed by the Union. The Parma Heights afternoon differential was thirty cents (\$.30) and the evening premium was sixty cents (\$.60). In North Royalton, the afternoon supplement was only twenty-five cents (\$.25) and the evening supplement was thirty-eight cents (\$.38).

However, as previously noted, subsequent to the report of the Fact-Finder, the City eliminated permanent shift assignments in favor of rotating shift schedules.

This significant accommodation means that the burden of evening shift operations is shared by all members of the Department and not visit upon a few. With the end of permanent shift operations, there is no longer any reason to award premium pay. Now serving on the second and third shifts has become simply a part of the standard job requirements.

The Conciliator finds no basis for awarding additional compensation to the members of the bargaining unit beyond that already agreed to or awarded.

#### Award

The Conciliator rejects the Union's proposal for shift differential premium pay and awards the City's proposal for maintenance of the status quo.

5. ELIMINATION OF HEALTH INSURANCE PREMIUM CO-PAYMENT

(Article XXXI)

The 1997 Contract

The City is obligated to provide medical/hospitalization coverage including drug, dental and vision insurance. However, Section 2 of the Contract provides:

"City will pay up to a maximum of \$675.00 dollars per month for family coverage (\$700.00 effective 08/01/97) or up to a maximum of \$235.00 a month for single coverage, whichever is applicable. If the premium costs to the City exceed \$675.00 per month for family coverage (\$700.00 effective 08/01/97) or up to a maximum of \$235.00 a month for single coverage, the employee will pay the difference up to a maximum of \$50.00 a month.)"

The Fact-Finder's Recommendation

The Fact-Finder recommended against any change in the current hospitalization insurance provision. He concluded that the employee contribution, currently at the maximum level of fifty dollars (\$50.00) a month for family coverage was not unreasonably high and that the State Employment Relation Board's Report on Health Insurance in the Public Sector revealed that, statewide, over one-half of public employees contribute towards the cost of their health insurance, and that the fifty dollars (\$50.00) per month deduction was not significantly greater than the average charge to these employees.

### The City's Proposal

The City opposes rescission of the requirement that employees contribute to the payment of premiums a month up to a maximum of fifty dollars (\$50.00) a month, and adopts the Fact-Finder's recommendation.

### The Union's Proposal

The Union proposes to delete the employee contribution requirement. However, it seeks to have the change become prospectively effective so that deductions would be discontinued only for the remaining period of the successor Agreement, and employees would not be entitled to a refund of any contributions thus far made in 1999. The Union complains that it is unfair that the non-unionized employees and City Council members are not obliged to make any similar contribution for their health insurance, and that the current \$50.00 per month contribution by bargaining unit members "effectively erodes any meaningful compensation increases."

### Discussion

The State Employment Relations Board's "Report on the Cost of Health Insurance in Ohio's Public Sector" surveyed over 500 governmental units, and found that sixty-eight percent (68%), of public employees contribute to the cost of their medical insurance. It further found that:

"When employees pay a portion of the premium cost for medical coverage, their monthly contributions average \$21.44 and \$61.72 for single and family coverage, respectively. These rates amount to 11.7% of the cost of a single plan and 13.1% of the monthly family premium."


The Conciliator notes that the trend in public employment throughout the State is to require some employee contribution towards the cost of health insurance. Not only does this relieve employers of some of the burden of escalating health insurance costs, but also, may help control excessive utilization.

The Union agreed in the last Contract to share in paying for the cost of health insurance premiums. No reason appears to cancel that deal in the current one. It came quickly to pass that the inflationary trend in health insurance required bargaining unit employees to pay the maximum charge of fifty dollars (\$50.00) a month, for family coverage, but that amount will not increase regardless of future increases in insurance premiums. Further, if the Joint Medical/Hospitalization Insurance Committee on which the Union is represented is able to arrange alternative, lower cost insurance coverages, the Union members may be relieved of part, if not all, of their contribution obligation.

#### AWARD

The Conciliator rejects the Union's proposal to eliminate from Article XXXI, Section 2 the obligation to contribute up to a maximum of fifty dollars (\$50.00) per month towards the cost of health insurance. The Conciliator awards the City's proposal to continue without change the text of Article XXXI, Section 2.

Award signed, dated and issued at Cleveland, Ohio this  
16th day of August, 1999.



Alan Miles Ruben  
Conciliator

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