

Seattle Police Officers Guild

And

City of Seattle

Fact Findings

Arbitrator: Jonathan S. Monat

Date Issued: 09/30/1978

Arbitrator: Monat; Jonathan S.

Case #: 01789-I-78-00056

Employer: City of Seattle

Union: Seattle Police Officers Guild

Date Issued: 09/30/1978

In the Matter of Fact Finding)

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Between)

THE CITY OF SEATTLE)

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and)

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SEATTLE POLICE OFFICERS GUILD)

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**REPORT OF THE FACT FINDING
PANEL**

September 30, 1978

The City of Seattle and the Seattle Police Officers Guild (SPOG) arrived at impasse under RCW 41:56, on July 14, 1978. An impartial fact finder, Jonathan S. Monat, was appointed to chair the fact finding panel. Other fact finders appointed were Robert Moffett, President, SPOG, by the SPOG, and John Franklin, Negotiator, City of Seattle, by the City. At the prehearing meeting held on August 10, 1978, the panel met with representatives of the City and the Guild to hear proposed agendas and set groundrules for the hearing. The factfinding hearing was held on August 21, 1978, in the Superintendent's Conference Room, Seattle City Light Building.

Although the parties continued to negotiate prior to the hearing, no agreement was reached on the issues. Bargaining continued after the hearing, again with no resolution. A second meeting of the panel was held on September 30, 1978, at SeaTac Airport.

A major factor affecting the fact finding process, in addition to the number of issues, was the inability of the parties to fully agree on what the unresolved issues were. Some sixty-six exhibits were filed at the hearing and numerous post-hearing documents were filed, as well.

In making the recommendations in this case, the chairman has attempted to rely on established collective bargaining principles as a framework for this report. Such principles may be found within the public sector collective bargaining arena, RCW 41.56, and the labor relations history of the City and SPOG. An attempt was made to rely fully on factual evidence rather than an appeal to subjective opinion unsupported by evidence or appeals to conscience.

One principle that should apply consistently throughout is that set of criteria embodied in RCW 41.56.460. Of particular interest is the comparison cities standard, permitting and requiring comparison of Seattle and SPOG to other similar cities on the West Coast. The prehearing conference had identified a set of comparison cities which had been used in previous negotiations and firmly established in the 1977 Arbitration Award. The consistency provided by use of these same cities is viewed as essential to responsible collective bargaining and should not be changed in the absence of evidence contrary to the need for change.

Many cities proposed by the Guild, depending on the issue (i.e.; Detroit, Nassau, Tonawanda, Jersey City, and so on) are neither comparable to Seattle or within the scope of RCW 41.56.460. Comparison cities used by the fact finding chairman include:

Portland, Oregon; Sacramento, California; Tacoma, Washington; San Diego; Long Beach, California; San Francisco; Oakland, California; San Jose

Within this comparison group greater emphasis is given Portland and Tacoma because of different economic conditions than found in California and some recent drastic tax changes in California. Nonetheless, all eight cities are considered.

In addition, the chairman generally has minimized comparisons with the private sector. It is difficult to compare public and private wages, hours, and working conditions without examining the full package. While there may be some similarities, there are many significant differences. And there is no equivalent to police officer in the private sector

Job-Created Stress The Guild presented much evidence that police work is very stressful and that police officers suffer a number of stress-related illnesses. The chairman is sympathetic to the job stress issue and sensitive to the possibility that job stress may be a real liability in the performance of Seattle police work. However, the evidence presented did not show the clear relationship between job stress and Seattle police experience. The papers introduced and the testimony of Dr. Berberich were general in nature. There was no showing that the Seattle police of-

ficer job stress illness experience was different from any other occupation involving shift work or from the population in general.

Nonetheless, the chairman and the panel have given stress some consideration in fashioning this report and its recommendations. The weight given job stress is low, never being significant nor turning an issue.

RECOMMENDATIONS

Terms Of Agreement

The Guild argues for a term of agreement based upon achieving an automatic cost-of-living escalator in a two-year agreement. With a two-year agreement and a COL clause, members would be protected against inflation and the City can plan its economic situation more clearly. According to the Guild, the City argued for two- and three-year agreements prior to the fact finding hearing but now wants a one-year term.

The City has argued for a one-year term of agreement at the fact finding hearing. It cited unstable economic conditions and revenue projections as the basis for a one-year term of agreement

There are some strong reasons for a two-year term of agreement. It would stabilize the collective bargaining relationship. Recent bargaining history between the parties show no real time to study important matters which were the basis for Fact Finder Short's recommendations in 1977, for a two-year term of agreement. Yet evidence presented this year suggests continued disagreement in these same substantive areas.

Based upon the bargaining history of the parties; a dispute over the appropriate CPI, the politically-motivated equipment issue, and continued strong disagreement over medical/dental premium levels and availability of medical/dental economic data, a one-year contract is recommended.

Salary

A major issue to resolve in this report is the appropriate Consumer Price Index (CPI). The Bureau of Labor Statistics (BLS) changed CPI measures in June 1978, creating a revised CPI for Wage Earners/Clerical Workers (Revised index) and a second CPI for All Urban Consumers (Urban).

The Guild would have the chairman and the panel use the All Urban index as more representative of police officer life style (GE 15). Incidentally this index shows the greatest cost-of-living increase. The Guild argues that police work is a profession although this claim does not use the traditional standards established by industrial sociologists

to define professions. The Revised Index does not describe the way police officers live.

The City argues for use of the Revised Index, incidentally the lowest increase among CPI measures. But the City notes that the Dictionary of Occupational Titles code puts police officers in the Revised CPI cohort. Also, a close look at the All Urban CPI would show many occupational groups of nonprofessional stature, such as assembly line workers.

The chairman agrees that the All Urban CPI is not the appropriate index to use. The Guild did not establish a factual base to show that the Seattle police officer life style was more akin to one group than another or that there was a predominant police officer lifestyle. Under such circumstances, it would be difficult to avoid the BLS definition. The chairman, in reviewing all the data offered by the Guild in its many arguments, has a nagging concern that the Guild is using an inconsistent set of comparisons and/or established standards of previous negotiations in framing many issues.

But the question of whether to use the unrevised or revised CPI still remains. The best evidence submitted to the chairman indicates that the BLS has carried the Revised Index back to July 1977, affording continuity for the full year since the last agreement. Prior to receipt of this information (City letters of August 31 and September 5, 1978) and its confirmation, the best available information would not have allowed continuity and it would have been difficult to depart from the unrevised CPI this year. But for the above reasons, a change can be made now. Also, it should be noted that actual cost-of-living increases according to either index are below the Guild's extrapolated estimate of 10.52%.

It is recommended that the Revised Index (Wage Earners and Clerical Workers) be used in this agreement and in future negotiations. It is the basis of salary recommendations in this report.

Comparison Cities The problem of comparison cities is no more clearly in evidence than in the area of economic issues. The chairman has articulated a preference for continuity in comparison cities based upon bargaining history. It is recognized that the Guild has had a change in leadership and that leadership be free to fashion new demands. But some principles do carry forward and appropriate comparison cities is one of those principles.

A very real concern to the Guild is the impact of Proposition 13 on previously negotiated pay increases among comparison cities in California. These increases were withheld by law. The chairman has reviewed materials comparing Proposition 13 and what it might mean in Washington State terms. That comparison is not a simple one. Given other evidence presented on

the Washington State tax system, there is no real basis for comparison. However, it is fair to consider the negotiated increases that would have taken effect July 1, 1978, in determining proper salary increases. Table I provides the data, as available.

**Table I: 1978 Salary Increases
Negotiated in Comparison Cities**

City Increase:	Negotiated or Actual	
Portland, Oregon		7.8%
Tacoma, WA (5% +.75x3.4%)		7.6%
Long Beach, CA	5.5%	
Oakland, CA	6.0%	
San Diego	4.7%	
Average	5.4%	7.7%

In examining Table I, it is interesting to note that the average increase in California cities would have been 5.4%, based on available data. The actual average in the Pacific Northwest is 7.7%. Previous fact finders and arbitrators have placed great weight on comparison cities and greatest weight on nearby comparison cities in determining wage increases. The chairman believes this is a sound principle as the economic and other conditions in Portland and Tacoma are more akin to Seattle than the California comparison cities. In addition, the PNW increases are actual figures.

As noted by the arbitration panel in 1977, the Guild has more than caught up with respect to other police officers. The fact finder is unclear as to how the Guild arrived at an uncompensated loss of \$989. The catch-up concept is a carrot-and-stick approach that would never cease. If the arbitration panel was correct last year, the present needs are to retain parity and purchasing power.

Based upon an increase of 7.6%, the top step salary would increase from \$1557 per month to \$1675.33, or some \$1420 per year. In dollar terms, this is far more than the uncompensated loss and does keep the Guild member whole with respect to purchasing power and comparison cities.

The City's data on revenue losses is unclear as to true impact. There is no evidence of the impact of changing revenues nor an accounting for the true impact of some tax changes. At the state level, for example, a projected deficit based upon removal of the food sales tax has been modified to a surplus because of the greatly improved economy. The data are ambiguous and the City has not argued ability to pay.

The fact finder would like to deal with the productivity issue in this report. There is an emerging trend to take up the productivity standard. Unfortunately, there is no conclusive evidence offered by the Guild or the City as to how much productivity is the result of officer contribution, administrative practice, or population shifts. It is recommended strongly that the City and the Guild meet to agree upon how to measure productivity in relation to wage bargaining.

It is recommended that a 7.6% wage increase be awarded to police officers for 1978, retroactive to September 1, 1978.

Medical/Dental

The fact finder is faced with rather complex medical/dental positions which, in effect, ask the panel to determine what the content of that plan should be. Most of the Guild's and the City's arguments are based upon police officers' relationship to average. However, the Guild's chief concern is not to suffer loss of income by being required to pay a portion of Guild member health premiums. So the concept of "average" should not be used as leverage to increase the cost of medical/dental benefits just to increase costs.

Rather the officers should remain whole with respect to present benefit levels. In that way, there is no economic loss to officers and there is a limit to the "blank check" the City might otherwise have to sign.

The chairman is frank to admit that the inconsistency of the Guild's demands as presented to the panel make it unclear as to what its position is. In GE5, there is reference to an average, but the City also paying too much. As noted above, these terms have meaning with respect to coverage and remaining whole rather than with respect to varied plans elsewhere. In GE6, the disparities and inconsistencies are clear when the Guild notes the many varieties of medical/dental plans in comparison cities.

It is recommended that the City should continue to pay 100% medical/dental coverage for police officers and 100% of dependent premiums. The employer shall retain the right to select the insurance carrier. Orthodontics are not an appropriate benefit at this time. All the Guild's comparisons are to private sector agreements or, in the WEA's case, to a private associations. No public sector comparison agencies provide this benefit.

Present benefit packages and benefit levels shall be retained. Appropriate premium amounts necessary to support present benefit levels shall be identified and placed in the agreement as maximum premiums. By present

benefit levels, the chairman means same percentages. For example, if the cost of an ambulance was insured at 75% of the cost and the fee rises from \$50 to \$100, the benefit should rise from \$37.50 to \$75.

Any fund surpluses, as in the dental plan, in a given year shall be used to reduce premium payments for dependent coverage, thus providing mutual incentive to control plan experience.

Shift Differential

The Guild proposes shift differentials as part of a triumverate of benefits (longevity and educational incentive, the others). There is no precedent for shift differential anywhere among the comparison cities or prevailing practices within the scope of RCW 41.56.460, c-e criteria. Also, a greater number of Guild members benefit from longevity in real dollar terms than they would by shift differential. An educational incentive, properly capped, might be more appropriate and better received judging from the mutual concern of the parties concerning police officer quality.

Police Reserves

The Guild argues that the City is using the Police Reserve unit to offset reductions in the number of regular police officers. Language has been introduced by the Guild in this year's and many previous negotiations, but the City has consistently refused to agree to such language. Informally, the City has assured the Guild that it was not intending to increase the reserve level above 60.

However, the Guild is concerned about such assurances because a County Councilman has proposed increasing the reserve force. Exhibit 12A showed a fluctuating level of reserve usage but the Guild does not explain why. In essence, the Guild wants this contract language to protect job security.

The City argues that no other West Coast city among the comparison cities limited reserves in the collective bargaining agreement. All but Tacoma uses such units. Most of the reserve assignments were in special events (i.e., football games, King Tut, and so on) and Seattle Center. Thus, the level of reserve usage fluctuates according to the size and number of special events.

The chairman is swayed by the City's interpretation of the data while sympathetic to the concerns of the Guild. The collective bargaining agreement should not be written in response to political pressure and rumor, but in response to real needs in the employment relationship between the parties. The data do not support the claim that Guild members are being replaced by reserves. Also, the management rights clause (Article XIV)

supports the notion that the City is unrestricted by this agreement in the use of police reserves. Police reserves are mentioned nowhere in the agreement. The number of police reserves has fluctuated greatly above and below the level of 60 desired as a cap by the Guild. The Guild has not protested or explained such fluctuations.

Police Cadet and Trainee Program

Given the incentive value of longevity for police cadet and trainee and the relatively small cost, it is recommended that those who went through the cadet and trainee program be awarded longevity pay for time in these programs.

Nondiscrimination

The City argues for one of three alternatives which will bring the contract into conformance with City ordinances as approved by the voters. Alternatives include eliminating the whole section, adding words to avoid conflict with the ordinance, or including the whole ordinance. That the collective bargaining agreement is consistent with the charter is the desire of the City.

The Guild argues: that the contract takes precedence over City ordinance, that the contract operates under state law. It argues passage of an initiative in November could remove the offending language, rendering the fact finding recommendation useless.

The chairman recommends that inclusion of the nondiscrimination clause. To exclude such a clause would be to the disadvantage of both parties and groups presently included. But to include the whole ordinance would be incredibly cumbersome and impractical. To fail to act because the voters might change the ordinance is not appropriate either. The best course is for the parties to amend the nondiscrimination clause presently in the contract to represent the present coverage of the ordinance. Should the ordinance be amended by the voters, the appropriate adjustment will be made to the nondiscrimination clause.

Appendix F: Equipment Required

This issue is a difficult one for the panel. All City evidence and testimony indicated that shooting and equipment policy will be determined by a broad constituency well beyond the collective bargaining relationship. This presents problems because the Guild has taken a firm position to control policy in the contract as is presently done.

Behind these positions is a recent rash of shootings involving police officers and suspected criminals in the commission of a crime. The Guild argues that officer safety is intrinsic to equipment policy. Therefore, the Guild must have some degree of certainty in and through collective

bargaining.

Given the likelihood that City policy on police firearms equipment and shooting policy will be determined at or above the level of the Mayor's Office, the panel's recommendations may be moot. Nonetheless, some recommendations can be made within the collective bargaining framework.

Once negotiated and in a contract, an issue would seem to become a mandatory subject of bargaining whatever its previous status. To remove language unilaterally is not allowable. So the first recommendation is to leave Appendix F in the contract per the parties positions after June 30, 1978.

The second recommendation is that the parties add a clause to Appendix F establishing membership of a Guild officer(s) on the committee which will determine shooting and equipment policy for the City of Seattle. The City and the Guild should establish a joint committee to negotiate a new Appendix F to reflect whatever policy may arise from the Mayor's office.

Recommended, then; that Appendix F remain in the contract as it presently stands without section 2D, that the City agree to Guild membership on the shooting and equipment committee; and that a joint committee be established the negotiate a new Appendix F to account for new policy.

Employment Practices

As part of an existing collective agreement under 41.56, Article IV, sections 1, 2, & 3 are mandatory subjects of bargaining.

Subordination of Agreement

It is recommended that the new section be added to Article XVII - Subordination of Agreement. This new section 3 would read as follows:

"It is also understood by the parties hereto that if any provisions of this Agreement are in conflict with the Personnel Ordinance pursuant to City Charter Amendment V which was approved by City of Seattle voters on November 8, 1977, the parties shall enter into immediate collective bargaining negotiations to reconcile any conflicting provision of this Agreement to provisions of said Ordinance."

The chairman makes this recommendation since the Charter would seem to take precedence over the contract. Hence, the contract should provide an orderly mechanism to resolve any conflict and, thus, promote a stable collective bargaining relationship.

Holiday Premium

The fact finder has reviewed holiday premium issues and, based upon comparison city data, sees no reason to pay premium for holidays not worked. The payment of a day's pay is sufficient. The number of holidays is not an issue. This position was clarified and reinforced at the meeting of September 30, 1978.

Chief Dispatcher

The Guild's major argument is one of job security. GEIO purports to show that a police department document, in effect, guarantees the Chief Dispatcher will be a police officer. GEIOA details the Chief Dispatcher's responsibilities and appears to emphasize police background. Workload data were introduced (GEIOC) to show that the bulk of the calls (40%) were assigned to Seattle police officers and another 4% to other police agencies. Additional objective testimony was entered to show that the Chief Dispatcher should be a police officer.

The City argues the police officer class specification (CE17) does not specify the officer be trained to do dispatch work. No spec for Chief Dispatcher was submitted. Evidence was presented which showed 4 of 8 comparison cities, including Seattle, use both Police and civilian dispatchers (CE18). Four cities use civilians exclusively as dispatcher. In four cities, including Seattle, the Chief Dispatcher was a police officer. In no city was the Chief Dispatcher required to be a police officer by labor agreement. But the Communication Division was usually supervised by a police officer.

In Seattle, the Chief Dispatcher has been traditionally a police officer. It is viewed as a responsible position which requires the judgment of a police officer. More importantly, it appears to have been the informal practice to use only police officers in this position. There appears to be a trend toward the use of civilian dispatchers, though the City says it does not intend to place civilians in this position.

At the hearing of September 30, 1973, some discussion was held over management's rights to assign the chief dispatcher. The chairman, on consideration of the discussion, agrees with the position that the language of the Management Rights - Article XIV clause takes precedence over an informal and nonnegotiated practice.

RECOMMENDATIONS

In summary, the chairman and the panel make the following recommendations.

- 1) The term of this agreement should be one year, from September 1, 1978 to August 31, 1978.

- 2) All terms of this agreement shall be retroactive to the expiration date of the old agreement, September 1, 1978.
- 3) Based upon the Revised CPI, the salary of Seattle police officers should be increased 7.6%. All pay (i.e., longevity) and related benefits should be adjusted accordingly.
- 4) Employment Practices, Article IV, section 1, 2, & 3, are deemed to be mandatory subjects of bargaining and cannot be removed from the agreement unilaterally.
- 5) The nondiscrimination clause should be modified to reflect the present requirements of City ordinances
- 6) Any change in equipment policy in the collective agreement shall be negotiated. Appendix F should stand therefore, sans section 2D, a section previously agreed to be deleted.
- 7) No shift differential is recommended.
- 8) Police officers should retain present levels of medical and dental benefits, including dependent coverage. The City should determine premiums to maintain these benefits and insert the maximum premiums in the agreement as a cap for the contract year.
- 9) Holiday premium pay structure should remain as presently in the collective agreement.
- 10) Police cadets and trainees should receive longevity pay for time served as cadet or trainee.
- 11) No language should be added to the contract governing police reserves. At best, the parties might agree to a memorandum of agreement.
- 12) The City's proposed section 3 to Article XVII - Subordination of Agreement should be added to the contract as a means to insure peaceful resolution of differences.
- 13) No language should be added to the contract governing assignment of police officers to the position of Chief Dispatcher.

This fact finding report was written by the chairman after full and open discussion and with the fullsome input of panel members Moffett and Franklin. All matters with respect to the application of law were decided by the chairman.

**Seattle, Washington
September 30, 1978 Jonathan S. Monat, PhD
Impartial Chairman**

**Robert Moffett John Franklin
Appointed by the Guild Appointed by the City**