

STATE OF OHIO  
STATE EMPLOYMENT RELATIONS BOARD  
FACT FINDING PROCEEDINGS

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STATE EMPLOYMENT  
RELATIONS BOARD

REPORT & RECOMMENDATIONS  
OF THE FACTFINDER

AS ISSUED  
SEPTEMBER 6, 2002

STATE EMPLOYMENT  
RELATIONS BOARD  
2002 SEP - 9 A 10-35

IN THE MATTER OF:

<b>City of Cuyahoga Falls</b> <i>(Employer)</i> <i>-and-</i> <b>Fraternal Order of Police/OLC</b> <i>(Union)</i>	SERB Case Nos. 02-MED-03-0198
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APPEARANCES:

**On Behalf of the Union:**

Rick Grochowski	FOP Staff Representative
Charles Curtiss	Detective Bureau Negotiations Representative
Damian Dominic	1 <sup>st</sup> Shift Negotiations Representative
Timothy Coons	2 <sup>nd</sup> Shift Negotiations Representative
Jim Deeks	Negotiations Representative
Ken Johnson	Negotiations Representative

**On Behalf of the Employer:**

Virgil Arrington	Law Director
Hope Jones	Deputy Law Director
Joe Brodzinski	Finance Director

**GREGORY JAMES VAN PELT**  
LABOR ARBITRATION  
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## SUBMISSION

The Parties in the present negotiation have had an ongoing collective bargaining relationship culminating in a contract that obtained until June 30, 2002. Pursuant to the provisions of Ohio Revised Code 4117.14(C)(3), the undersigned was appointed Factfinder in the matter, effective on May 31, 2002. Mutually agreeing to an extension of the statutory deadlines, the Parties met in negotiations toward a successor contract on six occasions, resulting in a tentative agreement on June 6, 2002. On June 24, 2002, the tentative agreement was rejected by the bargaining unit membership. The Parties' representatives again met on July 7, 2002. That meeting failed to result in resolution of all matters in dispute, leaving nine issues at impasse.

The Parties requested the Factfinder to attempt mediation of unresolved issues, and a session was accordingly held on August 9, 2002 at the City facility in Cuyahoga Falls, Ohio. That mediation likewise failed to satisfactorily resolve all matters in dispute. Consequently, an evidentiary hearing was held on August 23, 2002, at which the Parties were afforded an opportunity to present evidence and testimony supporting their respective positions. The matter was declared closed as of the date of hearing, with the Parties mutually requesting issuance of the Report and Recommendations of the Factfinder to correspond with the return of the Cuyahoga Falls City Council in September.

## ISSUES AT IMPASSE

**The Parties identified and presented the following issues as unresolved:**

- 1. Article 17 – Uniform Allowance**
- 2. Article 18 – Holidays and Holiday Pay**
- 3. Article 19 – Wages**
  - A. Wage Rates
  - B. Wage Schedule
- 4. Article 22 – Health Insurance – Prescription Drug Coverage**
- 5. Article 28 – Sick Leave (*new sub-section G.*)**
- 6. Article 34 – Term of Agreement**

The Parties identified and presented the following issues as resolved through negotiation:

- 1. Article 16 E – Overtime**
- 2. Article 22 - Health Insurance/EMS Transport**
- 3. Article 23 A – Other Insurance**

### STATUTORY CONSIDERATIONS

In weighing the positions presented by the Parties, the Factfinder was guided by the considerations delineated in OAC 4117-9-05(K):

- 4117-9-05(K)(1)** Past Collectively bargained agreements, if any, between the parties;
- 4117-9-05(K)(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;
- 4117-9-05(K)(3)** The interests 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;
- 4117-9-05(K)(4)** The lawful authority of the public employer;
- 4117-9-05(K)(5)** Any stipulations of the parties;
- 4117-9-05(K)(6)** Such other factors, not confined to those listed above, which are normally or traditionally taken into consideration in the determination of the issues submitted to mutually agreed-upon dispute settlement procedures in the public service or in private employment.

### BACKGROUND

Located in Summit County, Cuyahoga Falls sits on the northern edge of the Akron metropolitan area, and contains approximately 50,000 people according to SERB Benchmark information. The City's employees are represented by six bargaining units; at the time of hearing three had reached and ratified agreements with the Employer, with one other unit tentatively agreeing to terms. The present bargaining unit is composed of approximately 50 police patrol officers and detectives, represented by the FOP Ohio Labor Council. The Parties currently relate under a predecessor Agreement that became effective on July 1, 1999 and obtained through June 30, 2002.

Under that Agreement, bargaining unit members receive an entry-level wage of \$35,131.20, and progress through seven steps to a top level wage of \$47,361.60. after fifteen

years of service. While it makes no assertion of inability to pay the compensation increases sought by the FOP, the City maintains that such increases are out of line with the terms of its other contracts, and would lead to unmanageable labor costs in the future.

No Summit County communities cited in SERB Benchmark data closely compare in size or character to Cuyahoga Falls. Akron, contiguous on the south with a population of approximately 217,000 retains some 485 patrol officers whose current entry level wage is \$38,521.60 progressing through four steps to a top level of \$44,948.80. Nearby Fairlawn, with a population of only 7,000, employs 16 patrol officers whose wages ranged in their previous Agreement from entry level at \$30,329.67 to a top of \$47,020.41. Other Summit County communities are comparably compensated, with the upper level cited by the SERB Benchmark Report as Twinsburg's six-step schedule with a top wage of \$49,560.00 for 2002.

Neighboring northern Ohio municipalities of comparable size provide similar wages to patrol officers: Officers in Mentor, with 50,000 residents in Lake County, progressed from an entry level wage of \$41,625.00 to a top level of \$52,551.20 under an Agreement that ended on April 7, 2002. In Cuyahoga County, contiguous to Summit on the north, officers in the City of Euclid, which has a population of 52,000.00 are paid an initial wage of \$36,087.22 and can rise to a top level of \$43,652.18.

As these figures indicate, bargaining unit members fall within the middle to upper level of market wage rates for police patrol officers in northeastern Ohio. Evidence likewise indicated that patrol officers in Cuyahoga Falls enjoy internal parity with other safety forces; under City proposals, the base wage for FOP members would be slightly less than that agreed to by the City's firefighters.

During the course of these negotiations the Employer and the FOP Negotiating Committee reached a Tentative Agreement as to the terms of a successor contract. That Tentative Agreement was rejected by the Union's membership, who preferred to follow the statutory fact-finding process available to them under ORC 4117.14(C). The City expressed concern that in future negotiations other Cuyahoga Falls bargaining units would likewise agree to tentative terms, then strategically reject the tentative agreement in order to gain further concessions from the Employer. In consideration of that position, the City does not offer retroactive compensation and urges the Factfinder not to do so.

The Union does urge a recommendation that increases in compensation be retroactive to the July 1, 2002 commencement of the successor Agreement. The FOP understands that while

this Factfinder is at liberty to recommend retroactivity of wage and benefit increases, a Conciliator is precluded from awarding compensation increases for the current fiscal year under ORC 4117.14(G)(1), should the Fact-Finding Report be rejected by the bargaining unit.

Having reached impasse, the Parties requested that the Factfinder attempt mediation of the unresolved issues. Those efforts failed to result in an agreement the FOP negotiating committee believed would be acceptable to the membership, and the present fact-finding proceeding was held.

### **FINDINGS OF FACT & RECOMMENDATIONS**

#### **Article 17 – Uniform Allowance:**

##### **Union Position:**

The FOP proposes a \$150.00 increase in the present \$900.00 annual uniform allowance, effective on July 1, 2002. Additionally, it proposes language that would allow bargaining unit members an option of either cash payment of the allowance paid twice per year as is the current practice and accommodates the needs of non-uniformed investigative officers, or of a voucher, redeemable at specified area uniform stores.

Akron police receive replacement uniforms on a voucher system, the Union contends, in addition to \$1,225.00 to \$1,550.00 annual allowance for civilian attire. At current retail prices in the Cuyahoga Falls area, a \$150.00 increase would permit purchase of one pair of uniform pants, one summer and one winter shirt and one pair of shoes annually. Accordingly, the Union asks that its proposal for an immediate \$150.00 increase be recommended.

##### **City Position:**

The Employer argues that it cannot support the immediate increase urged by the FOP. Accordingly, it proposes to increase the bargaining unit's uniform allowance by \$50.00 per year in each of the contract's three effective years, for the total increase proposed by the Union.

##### **Discussion and Recommendation:**

The FOP's data indicate that an increase in uniform allowance afforded Cuyahoga Falls police officers is warranted, to which the City is largely in agreement. There is little evidence to support the City's position that deferral of portions of that increase until the second and third years of the contract is necessary. Originally suggested by the City during mediation of this matter, the option of accepting vouchers in lieu of the semi-annual cash disbursements represents certain tax advantages to uniformed officers, while accommodating non-uniformed officers who

report in civilian attire not available in uniform shops. The recommendation is that Article 17 be changed accordingly:

“The City shall cause to be set aside for each member of the bargaining unit the sum of ~~Nine Hundred Dollars (\$900.00)~~ **One thousand fifty Dollars (\$1,050.00)** in each year of this Agreement, for the purchase and maintenance of uniforms. **The member shall have the option of either cash or a voucher, which may be redeemed at an area uniform shop or shops designated by the City. \* \* \***“

### **Article 18 – Holidays and Holiday Pay**

#### **Union Position:**

The FOP proposes the addition of Columbus Day to those holidays on which bargaining unit members enjoy compensatory time off with pay, effective in the current year.

#### **City Position:**

The City agrees to the addition of Columbus Day to the benefits of Article 18, but proposes that it not become effective until Columbus Day of 2004, in the final year of the Agreement. The City argues that it cannot afford to institute the additional holiday in combination with other financial increases instituted in the first year of the Agreement.

#### **Discussion and Recommendation:**

Here again, the Parties are largely in Agreement as to an additional holiday benefit on Columbus Day - differing only as to the date of its inception. The City’s police supervisors currently enjoy 13 holidays, the number to which the present bargaining unit would be raised with the addition of Columbus Day. The evidence indicates that delay of institution of the benefit is unnecessary; it is therefore recommended that Columbus Day be added effective in the current contract year:

“All members of this bargaining unit shall have compensatory time off with pay for the following holidays: . . . **and Columbus Day.**“

## **Article 19 – Wages**

### **Union Position:**

#### **19(A) Wage Rates:**

The FOP proposes wage increases of 3.5% in the initial contract year; 3.5% in the second year; and 3.25% in the final year of the Agreement. Internally, the Union argues that entry-level officers presently earn \$35,131.20 per year, compared to entering fire fighters, who earn \$33,302.27 under their 2002 contract. Top level police officers receive \$47,361.60 per year as compared to the \$49,381.78 received by firefighters.

Externally, the Union presents evidence it contends places Cuyahoga Falls officers below co-workers in both neighboring and comparable communities across the state.

#### **19(C) Longevity:**

The FOP proposes a reduction in the number of years required to reach the top two steps of the longevity schedule. The Union proposal provides for reaching Step F in seven years rather than the present ten; and for reaching Step G after ten years of service, rather than the present 15 years. The FOP contends that the majority of Ohio police departments require only three to five years to reach the top pay level. Accordingly, it asks that its proposal be recommended and that the reduction become effective as of the current contract year.

#### **19(D) Shift Differential – new provision:**

The Union withdraws its original proposal for a shift differential of .35/.50.

### **City Position:**

#### **19(A) Wage Rates**

Cuyahoga Falls offers increases in bargaining unit members' wages of 3% effective on signing this Agreement and a 3% increase on the ratification anniversary date in each of the final two years of the Agreement. All other City unions have accepted a 3% increase in each year of their respective agreements, it asserts. This offer, says the Employer, is significantly in excess of the current Consumer Price Index indicating increases in the cost of living of only 1.35% in the past year. In addition, the City argues, it has provided additional economic benefits resulting in greater advances in total compensation for this bargaining unit than received by other City unions.

19(C) Longevity

The City offers to reduce the number of years required to reach Steps F and G of its longevity schedule to 8 and 13, respectively. However, it proposes deferral of implementation of this reduction until the first anniversary of the date of ratification of the Agreement.

**Discussion and Recommendation:**

19(A) Wage Rates:

The evidence presented by both Parties here indicates that wages paid Cuyahoga Falls police officers compare favorably to those afforded officers in comparable and contiguous communities. And while the Union argues its members are paid less than the City's fire fighters, such direct comparison of safety force compensation is tenuous; police officers and fire fighters have different qualifications, duties, schedules, and compensation schemes. Moreover, the difference in direct wages paid the two forces is minimal, in any case. Certainly, no evidence was presented to indicate that Cuyahoga Falls has any difficulty attracting and retaining qualified, professional police officers.

As the City points out, the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) was +1.3% for the period July, 2001 to July, 2002. The Factfinder takes notice that the Consumer Price Index for All Urban Consumers (CPI-U), was +1.5% for the same period, as listed by the Bureau of Labor Statistics. Therefore, the 3% annual increase offered by the City would not only ameliorate the effects of inflation on the economic position of FOP members, it would increase their buying power relative to similarly situated wage earners. Consequently, a 3% wage increase in each of the contract years is recommended.

However, the City's position that these increases should become effective only on signing the Agreement and on each of its anniversary dates would effectively penalize the bargaining unit for engaging in a settlement process not only statutorily prescribed, but encouraged for safety forces in Ohio. Accordingly, the recommended 3% annual increases are to become effective on July 1<sup>st</sup> of each respective contract year, retroactive to July 1, 2002.

Therefore:

**The wages set forth in Appendix A of this Agreement shall be increased as follows:**

<b>July 1, 2002</b>	<b>3%</b>
<b>July 1, 2003</b>	<b>3%</b>
<b>July 1, 2004</b>	<b>3%</b>

### 19(C) Longevity

The Union's proposal to reduce the number of years required for officers to reach the upper wage rates in Cuyahoga Heights may have some merit; however, no specific evidence was presented to indicate that bargaining unit members require immediate, Draconian relief. The City's proposal represents a reasonable initial decrease in the number of years officers must serve in order to reach the upper levels of compensation. Accordingly, the City's proposal of 8 and 13 years of service for Steps F and G, respectively, is recommended. Nonetheless, no evidence presented compels the conclusion that deferral of the reduction is necessary, and the change will accordingly become effective retroactive to July 1, 2002.

**Appendix A shall be revised to reflect attainment of:  
Step F after 8 Complete Service Years  
Step G after 13 Complete Service Years**

### Article 22 – Health Insurance – Prescription Drug Coverage

#### **City Position:**

At present, FOP members co-pay \$2.00 for each generic prescription and \$10.00 for each brand name drug they or their families receive; if generic drugs are unavailable, members pay only the generic rate. Arguing that it self-insures and must therefore exercise some control over health care costs, the City proposes to increase the prescription drug co-pay for bargaining unit members to \$5.00 for retail generic purchases and \$20.00 for brand name pharmaceuticals; mail order purchases – a ninety day supply – would require a co-pay of \$10.00 for each generic order and \$40.00 for brand name drugs.

The City maintains that it chose this option to offset the excessive cost of bio-pharmaceutical and other sophisticated and expensive medications prescribed for some City employees and their families. The alternative – requiring individual employees, including some members of the bargaining unit, to pay for most, if not all the cost of these medications - could pose potential financial disaster for the employees. Instead, says the City, it chose to spread the risk by implementing an increase in co-pay for all Cuyahoga Falls employees.

#### **Union Position:**

The FOP accepts the City's increase in prescription drug co-pay, but seeks to add language limiting the amount for brand name drugs to the generic rate when no generic alternative is available. This protection, it argues, is currently enjoyed by the Union under the

predecessor Agreement. The increases proposed by the City could place a difficult financial burden on officer's families, according to the FOP. Consequently, it asks the Factfinder to recommend protective language.

**Discussion and Recommendation:**

Self-insured, the City nonetheless offers 80%/20% health care coverage at no monthly cost to employees with only a \$10.00 co-pay for each office visit; the FOP accepts this plan. Likewise, the FOP agrees to the prescription drug language proposed by the Employer, but it asks that guarantees be inserted to limit co-pay to the generic rate if only brand name medication is available.

However, the City's prescription drug plan is predicated on spreading the high cost of bio-pharmaceuticals and other sophisticated prescriptions among all Cuyahoga Falls employees, rather than requiring individual employees to accept the burden. The co-pay provisions proposed by the City adversely affect that risk sharing scheme. Acceptance of the FOP's proposal would defeat that purpose, and might require more drastic changes in the City's health care benefits in future contracts. Accordingly, the Union's proposal is not recommended:

**Prescription Drugs:**

**Member co-pay for prescription drugs:**

**Retail Purchases**

**\$5.00 generic/\$20.00 name brand**

**Mail Order Purchases (90 day supply)**

**\$10.00 generic/\$40.00 name brand**

**If a name brand drug is dispensed, the co-pay for name brand drugs applies regardless of whether a generic equivalent is available. Members needing at least a ninety day supply of prescription drugs after obtaining two thirty day prescriptions of the drug shall obtain further refills through the City's mail order prescription drug service.**

**Article 28 – Sick Leave (new sub-section G.)**

**Union Position:**

The Union proposes language allowing eligible police officers to cash out 960 hours of accrued sick leave in three equal, annual payments of 320 hours each.

**City Position:**

The City has negotiated similar language with its police supervisors, and proposes the benefit become effective on ratification of the Agreement.

**Discussion and Recommendation:**

**The provision is recommended as proposed, effective on ratification of the contract.**

**Article 34 – Term of Agreement**

**Discussion and Recommendation:**

**The Agreement shall become effective on July 1, 2002 and obtain through June 30, 2005.**

## SUMMARY OF RECOMMENDATIONS

1. **Article 17 – Uniform Allowance**  
\$150.00 annual increase – effective July 1, 2002
2. **Article 18 – Holidays and Holiday Pay**  
Addition of Columbus Day holiday - effective July 1, 2002
3. **Article 19 – Wages**
  - C. Wage Rates  
3% - 3% - 3% - effective July 1, 2002
  - D. Wage Schedule  
Step F – 8 years; Step G – 13 years – effective July 1, 2002
4. **Article 22 – Health Insurance – Prescription Drug Coverage**  
\$5/\$20 30-day retail co-pay  
\$10/\$40 90-day mail order co-pay  
Brand name co-pay even if generic unavailable
5. **Article 28 – Sick Leave** (*new sub-section G.*)  
Sick leave cash out 3 years prior to retirement; 960 hours at 320-320-320
6. **Article 34 – Term of Agreement**  
Effective July 1, 2002 through June 30, 2005

Respectfully submitted, this 6th day of September, 2002  
At Shaker Heights, Cuyahoga County, Ohio

  
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Gregory James Van Pelt  
Factfinder  
State Employment Relations Board