

**STATE EMPLOYMENT RELATIONS BOARD
FACT-FINDING REPORT**

STATE EMPLOYMENT
RELATIONS BOARD

2008 MAR 25 A 11:46

Springfield Police Patrolmen's Association

and

City of Springfield

SERB CASE NO: 07-MED-09-0977

Fact-Finding Hearing: February 22, 2008

Fact-Finding Report: March 24, 2008

Union Representative: Paul J. Kavanagh - Cole Acton Harmon Dunn, 333 North Limestone Street,
P.O. Box 1687, Springfield, Ohio 45501

City Representative: Jerome Strozdas - City of Springfield, 76 East High Street, Springfield, Ohio
45502

Fact-finder: Ann C. Wendt, Ph.D., SPHR

STIPULATION 1

The parties stipulated that the instant dispute is properly before the Fact-finder.

STIPULATION 2

The parties reached a tentative agreement on December 14, 2007. The Union presented the tentative agreement to the Membership. The Membership rejected the tentative agreement (33 accepted and 38 rejected). Following mediation with Commissioner Steve Anderson, FMCS, two (2) issues were presented to the Fact-finder. During the City's opening statement, the City offered language for the retroactivity provision. The Union agreed to the proposed language for this provision. Therefore this issue was not presented to the Fact-finder. The parties requested that the Fact-finder include the retroactivity language in the Fact-finding Report.

The parties stipulated that all tentative agreements concluded during their negotiations and/or through mediation shall continue if either party rejects the Fact-finder's Report.

STIPULATION 3

The parties stipulated that all SERB reporting requirements have been fulfilled.

CRITERIA

Pursuant to 4117-9-05(J) State Employment Relations Board, the Findings of Fact and Recommendations presented in this Fact-finding Report are based on reliable information relevant to the issues before the Fact-finder.

BACKGROUND

Springfield, Ohio is the county seat of Clark County. Its population is 65,358. The City is served by I-70; I-75 (20 miles west); I-71 (30 miles south); and US Routes 40 and 68; Ohio Routes 4, 41, 72 and 334. Dayton, Columbus and Cincinnati International Airports are within 30 to 90 minute drive time. The city school system includes 2 high schools, a joint vocational school, 5 middle schools, 13 elementary schools, and 7 parochial schools. In addition, Clark State Community College and Wittenberg University are located within the city. Two health care institutions, Community Hospital and Mercy Medical Center, have a long tradition of serving area residents. These hospitals have joined together to form Community Mercy Health Partners and are constructing a new facility within the Springfield city limits. International Harvester is Springfield's largest employer. Numerous other manufacturing companies also operate in Springfield and the surrounding area. Springfield also has numerous shopping centers. (<http://www.ci.springfield.oh.us/profile/>)

ECONOMIC AND FINANCIAL CONDITIONS OF SPRINGFIELD

Strategic location is the key ingredient to any successful business, and accessibility is one of Springfield's most powerful assets. Located between Dayton and Columbus along interstate 70, Springfield, Ohio has next morning truck delivery to 69 percent of the U.S. population and 74 percent of wholesale sales nationwide, which guarantees businesses the ability to efficiently move raw materials and products. Quality of life is also a big factor in business location decisions, and the Springfield area comes up a winner on all accounts. By setting community standards high, Springfield has grown and prospered as a superb business location. The area's commitment to nurturing a first-class business environment goes beyond strictly business. It includes a rich history, exciting sports and recreation, bustling commercial districts, outstanding cultural attractions, nationally recognized educational institutions, and comfortable housing - all amenities that anchor and enhance the lives of the families that live and grow here. Springfield's city income tax is 2%, with local property taxes of 49.28 per \$1000 for Residential and Agricultural and 60.52 per \$1000 for Commercial and Industrial (<http://www.ci.springfield.oh.us/profile/>).

ISSUES

Article 10 - Longevity, Section A

CITY'S POSITION:

The City provides a generous longevity benefit to bargaining unit members. In addition to their wages, they receive, after 5 years of service, an annual payment of \$100 for each year of service. The \$100 per year of service formula is the highest of any of the City's bargaining units.

Approximately two years ago, the City contracted with Wittenberg University to conduct a study to review various employment benefits to see how they compared with other communities in the

area. The study concluded that among area communities the City's longevity benefit was comparatively generous. The City Commission directed staff to explore methods to contain the growth of longevity in the future, and to do so, to the extent possible without adversely affecting current employees.

Out of this process the City developed a "two tiered" approach to the longevity benefit. Existing employees would continue to receive the benefit, as it existed, even if they had not yet reached the five-year threshold. Newly hired employees would receive a benefit of 50% of the existing benefit when they reached the five-year threshold.

An ordinance was passed in May 2006 implementing this proposal for non-bargaining unit employees. Subsequently, as contracts expired, the City proposed the reduction of longevity pay to other bargaining units. All other bargaining units (except the SPPA) have accepted the new longevity formula.

Springfield has lost many manufacturing jobs over the latter decades of the 20th century. Through the City's efforts, together with Clark County and the Chamber of Commerce, many of these jobs were replaced (with service sector employment). The new jobs are in lower numbers, however, and at significantly lower wages than the manufacturing jobs lost.

Police Division operations are funded almost exclusively by the City's General Fund. Some additional funding is provided by a Special Police Levy Fund.

The City has not been a mere idle observer. It has taken timely, appropriate and unpleasant action to address and alleviate the financial stress. Attrition between 2002 and 2008 resulted in the number of vacant positions growing to over 70 as the City enters 2008.

Springfield is heavily reliant on its 2% municipal income tax. Therefore, the economic stagnation in these early years of the 21st Century has created great fiscal stress. The City cannot continue to meet its obligations by consuming its reserves. They are nearly exhausted.

The City cannot continue to reduce its employment. Total jobs have already been reduced by more than 10%, excluding the elimination of seasonal positions. Further reductions will compromise the delivery of services.

In this climate it is necessary and appropriate for the City to contain future spending commitments. The "two tiered" approach to longevity is an integral part of the City's containment of future spending commitments. The City wisely chose to take this approach rather than proposing reductions in longevity and other benefits for current employees.

Other City bargaining units have accepted the necessity of this approach despite some reluctance. The bargaining committee for this unit accepted this approach despite some reluctance. The fact finder should also accept this approach.

UNION'S POSITION:

The obvious purpose of longevity is to provide good officers with an incentive to remain with the Department. Historically, longevity has been used as a way of compensating officers without a percentage raise which compounds over time.

The City's position of reducing a police officer's longevity pay to pre-1990 levels is unprecedented. The City has failed to identify a compelling reason to lower the compensation of a police officer.

It is inequitable to treat two officers riding in the same patrol car, protecting the same citizens and fighting the same criminals, differently. The proposal by the City to pay newly hired officers less than their veteran brothers is likely to lead to resentment between officers in the same bargaining unit.

The Patrolmen were unable to find any comparable cities that used this divisive two tier system as part of their contract.

The proposed reduction in compensation for new hires will not take affect for five (5) years. It is impossible to know or predict what the City's ability to pay police officers will be in five (5) years. Any analysis of the City's current budget is useless because those budget predictions do not extend beyond the next fiscal year.

The City has used the loss of manufacturing jobs as a reason for inability to pay for the past three (3) contract negotiations. Although any city would be better off if it did not lose manufacturing jobs, those losses have been offset by gains in technology and service industries.

It is clear that the City of Springfield has successfully moved from a city solely relying upon manufacturing jobs, to a city with a diversified economy with a perfect blend of technology, manufacturing and service. The future looks bright for Springfield with the commitment of the hospitals to merge and build a \$210 Million facility in downtown Springfield. In addition, a new state of the art surgical hospital is also scheduled to begin construction this year.

The City of Springfield is in a unique position because the citizens of Springfield approved a permanent 3-mill property tax levy in 2001. The levy initiative was originally brought to the voting public by the Patrolmen in 1990. The levy is dedicated to "training, equipping, and supporting twenty-four police officers." The policy levy pays for 26% of the total police budget. In addition to adding extra officers to the streets, the police levy dramatically reduces the strain on the City's General Fund. The police levy makes longevity an affordable part of the wage package for a police officer.

ANALYSIS:

The Fact-finder, in an attempt to obtain current variables, requested from SERB the following data:

- Longevity pay information for cities of 65,000 (+/- 25,000) population
- Patrol officers wage data for cities of 65,000 (+/- 25,000) population

The City introduced two (2) groups of comparables during the Fact-finding hearing. The comparable cities of the Wittenberg study (2005) were selected based on population and proximity to Springfield. Further, the Wittenberg study focused on non-bargaining unit employees. The comparable cities identified in City Exhibit 3 were selected based on population, county seat status, and collective average [population, per capita income, median household income, poverty rate, median property value] close to that of Springfield. The Union introduced one group of comparable cities along with multiple analysis based upon previously collected data that the Union and the City have consistently used in collective bargaining (which were used the 2005 negotiations).

While the data cites interesting information, both the Union's data and the City's data are aged. The Union data was from the 2005 negotiations. The City's data does not include a date; however, the variables [population, per capita income, median household income, poverty rate, and median property value] appear to have come from 2000 census data. The Wittenberg study was conducted in 2005 and therefore may contain even older data than 2005.

The variables presented by the Fact-finder were requested from SERB on February 22, 2008. These reflect the most recent data and contracts submitted to SERB.

Exhibit 1 (Fact-finder Longevity Calculations) reveals that the City of Springfield has a robust longevity benefit. At the 5, 10, 15, 20, 25, and 30 year benchmarks, Springfield is approximately \$120, \$200, \$330, \$380, \$680, and \$1,020 (respectively) higher than the average longevity of other comparable cities.

The purpose of longevity is to reward patrol officers who have reached the maximum on their pay schedule and to enhance their propensity to continue working for the City of Springfield. Therefore, to fully examine the relationship between longevity pay and the comparables, it is necessary to compare the comparables cities to the salary of Springfield patrol officers. Springfield patrol officers reach the maximum of their pay upon completion of 60 months (5 years) of satisfactory service.

Exhibit 2 contains a list of comparable cities based on salary. The entry level salaries and top level salaries were used to calculate average salaries for each city. Averages of the entry level salaries and the top level salaries were also calculated and compared to that of Springfield. The comparison reveals that entry level Springfield patrol officers are paid approximately \$3,000 less than the average entry level salary of the comparable cities' patrol officers. Top level Springfield patrol officers are paid approximately \$2,200 less than the average top level salary of the comparable cities' patrol officers. A Springfield patrol officer must receive salary with longevity pay for 22 years before reaching the average salary (without longevity) of the comparables cities. Were the longevity pay to be reduced by 50%, a Springfield patrol officer would never reach that average. Further, the patrol officers of the other cities also receive longevity pay. When the average longevity pay of other cities' officers is considered, Springfield already falls short and never achieves the overall average of salary plus longevity.

The City has proposed that the 50% reduction in longevity pay be effective January 1, 2013. The City presented evidence of staff reductions and other economizing measures to curtail expenses in the City of Springfield. Under cross examination, the Assistant City Manager conceded that projecting the budget more than one (1) year in advance is difficult. He suggested that certain trends are considered, but that these are estimates-not firm projections. The record does not contain compelling economic evidence that a 50% reduction in the patrol officers' longevity pay is necessary in 2008. Furthermore, the hearing record reveals that the parties have agreed to a 2 year contract. Therefore, another round of negotiations will occur at the end of 2009.

The City averred that the loss of manufacturing jobs, which in some cases has been replaced by service and technology jobs, has resulted in an economic downturn necessitating the proposed longevity reduction. Interestingly, since the February 22, 2008 Fact-finding hearing, local television stations have reported that the City of Springfield has announced that two new business which will bring numerous new employees to the City in the near future. These announcements are consistent with evidence presented during the Fact-finding hearing that Springfield has moved from a predominantly manufacturing community to a blend of service and technology. Thus, the Record lacks compelling evidence to support the City's claim that a 50% reduction in longevity pay for patrol officers is warranted, effective 2008.

The City claimed during the Fact-finding hearing that the current trend in collective bargaining is toward two-tier wage systems. Carrell and Heavrin suggest a different trend: "Two-tier systems have declined in usage in recent years. They appeared in about 41% of manufacturing contracts in 1995 but fell to only 33% by 2002 and in 2005 appeared in only 27% of all contracts."¹ Another byproduct of two-tier systems is that lower-paid employees frequently express their dissatisfaction with lower productivity and lower quality. In the context of two patrol officers riding in the same patrol car and fighting the same criminals, being on a two-tier longevity system creates the potential for dissatisfaction and lack of esprit de corps. A two-tiered longevity system should be a last resort in cost reduction. The record of the City's finances, presented in the Fact-finding hearing, does not support a conclusion that this is the only way the City of Springfield can achieve sound, fiscal management.

¹ Carrell, Michael R. and Christina Heavrin. *Labor Relations and Collective Bargaining: Cases, Practice, and Law*. 8th ed. New Jersey: Pearson Education Inc., 2007, p.296.

RECOMMENDATION:

“All employees with five or more years of service with the City shall be entitled to longevity pay at the rate of One Hundred dollars (\$100.00) per year of service.”²

² S.P.P.A Agreement Between The City of Springfield, Ohio And The Springfield Police Patrolmen's Association Thru December 31, 2007, Article 10-Longevity, Section A.

Exhibit 1

	Year 5	Year 10	Year 15	Year 20	Year 25	Year 30
Canton City	\$300.00	\$600.00	\$900.00	\$1,200.00	\$1,500.00	\$1,800.00
Cleveland Heights City	\$0.00	\$439.92	\$880.10	\$1,332.24	\$1,799.98	\$2,000.18
Cuyahoga Falls City	\$416.00	\$603.20	\$790.40	\$790.40	\$790.40	\$790.40
Elyria City	\$417.35	\$431.49	\$445.64	\$459.78	\$473.93	\$488.07
Euclid City	\$1,603.56	\$2,368.66	\$3,180.49	\$4,039.03	\$4,163.61	\$4,288.19
Hamilton City	\$840.09	\$1,758.68	\$2,755.74	\$4,789.12	\$4,985.34	\$5,181.56
Lakewood City	\$0.00	\$450.00	\$700.00	\$950.00	\$1,200.00	\$1,250.00
Mansfield City	\$400.00	\$900.00	\$1,400.00	\$1,900.00	\$2,400.00	\$2,900.00
Mentor City	\$0.00	\$850.00	\$1,300.00	\$1,800.00	\$1,800.00	\$1,800.00
Newark City	\$436.80	\$561.60	\$728.00	\$894.40	\$894.40	\$894.40
Parma City	\$0.00	\$350.00	\$600.00	\$850.00	\$1,100.00	\$1,350.00
Springfield City	\$500.00	\$1,000.00	\$1,500.00	\$2,000.00	\$2,500.00	\$3,000.00
Youngstown City	\$58.86	\$58.86	\$58.86	\$58.86	\$58.86	\$58.86
Average	\$382.51	\$797.88	\$1,172.25	\$1,620.29	\$1,820.50	\$1,984.74
Difference	\$117.49	\$202.12	\$327.75	\$379.71	\$679.50	\$1,015.26

Exhibit 2

	Entry Level Salary	Top Level Salary	Average Salary
Canton City	\$38,255.00	\$47,311.00	\$42,783.00
Cleveland Heights City	\$51,099.00	\$58,130.00	\$54,614.50
Cuyahoga Falls City	\$42,029.93	\$56,662.11	\$49,346.02
Elyria City	\$40,603.02	\$49,090.22	\$44,846.62
Euclid City	\$44,570.20	\$53,913.86	\$49,242.03
Hamilton City	\$40,435.00	\$52,208.00	\$46,321.50
Lakewood City	\$49,193.00	\$59,544.00	\$54,368.50
Mansfield City	\$31,024.00	\$42,556.00	\$36,790.00
Mentor City	\$50,430.38	\$63,666.72	\$57,048.55
Newark City	\$31,012.80	\$47,944.00	\$39,478.40
Parma City	\$44,348.00	\$61,303.00	\$52,825.50
Springfield City	\$38,251.20	\$52,000.00	\$45,125.60
Youngstown City	\$35,123.49	\$49,054.45	\$42,088.97
Average	\$41,226.84	\$54,186.26	\$47,706.55
Difference	(\$2,975.64)	(\$2,186.26)	(\$2,580.95)

Article 7 - Wages, Section F - Retro-Active Pay

The new pay rates will be implemented as soon as practicable after the execution of this agreement. Retro-active payment for the period beginning January 1, 2008, and ending with the last day of the pay period in which the agreement becomes effective shall be calculated and pay checks issued as soon as practicable. Retro-active pay will be paid only to those employees on the payroll on the date of execution of this agreement.

ANALYSIS:

The City's proposal of the aforementioned retroactivity language (language that had appeared in earlier contracts adopted by the parties) was accepted by the Union.

RECOMMENDATION:

Incorporate the retroactivity language as written above into the collective bargaining agreement.

POINT OF LAW

During the Fact-finder's opening statement to the parties, she indicated that it was her understanding that two issues were in dispute: longevity and retroactivity. The City responded that retroactivity was not in dispute and proposed the language which appears above. The City did not challenge the legitimacy of longevity being before the Fact-finder.

During cross-examination of Union witnesses who were members of the Union negotiating team, the City questioned these witnesses concerning their understanding of the role they had as a member of the Union negotiating team when the tentative contract settlement was presented to the Union Membership for ratification. The Record reveals that these witnesses responded that their understanding was that they take the tentative agreement to the Membership, explain the changes in the tentative agreement from the previous contract, and then the Membership votes to accept or reject the contract. The Record further reveals that the City, during cross-examination, asked these witnesses if they were aware as a member of the Union negotiating team that they had a responsibility to advocate to the Membership that they accept the contract. The Record reveals that the witnesses responded that they did not understand this to be their responsibility.

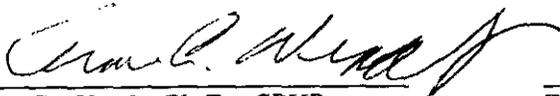
The Record is void of any mention by the City of the Fact-finder's report (American Federation of State, County, Municipal Employees, Ohio Council 8, Local 101, AFL-CIO Employee Organization and City of Kettering, Ohio Employer) during the City's cross-examination of the Union witnesses or during the City's presentation of its case. The City introduced the Fact-finder's report as a "point of law" during its closing statement.

The Fact-finder has carefully read Fact-finder Colvin's report. Interestingly, although Fact-finder Colvin refers to a tentative agreement, the Fact-finding report contains no mention of a vote by the Membership rejecting the tentative agreement. In the instant dispute, the Record contains a report of the Membership's vote rejecting the tentative agreement. The Record also contains testimony from Union negotiating team members identifying the reason for the rejection as longevity.

The Ohio Revised Code 4117.14 (C) (3) (a) provides for the parties to submit unresolved issues to the Fact-finder through a position statement (24 hours before the Fact-finding hearing) and to present these issues before the Fact-finder in the subsequent hearing. The City submitted its position statement on February 20, 2008. Its position statement reflected the issue of longevity as being in dispute. Further, the City did not disagree that longevity was in dispute at the beginning of the Fact-finding hearing. Therefore, the Fact-finder concludes that the longevity issue is properly before the Fact-finder.

CONCLUSION

The Fact-finder has attempted to resolve the difficult issues presented with a thorough review of interrelated contract provisions and with careful attention to all the evidence and argument presented. If the parties find any substantive error in this report needing correction, a conference call should be arranged to discuss the concern, and a request may be filed with -SERB for authorization to adjust the report [O.A.C. Rule 4117-9-05(L)].



3/24/08

Ann C. Wendt, Ph.D., SPHR
Fact-finder

Date