

**FACT-FINDING TRIBUNAL OF THE  
STATE EMPLOYMENT RELATIONS BOARD**

STATE EMPLOYMENT  
RELATIONS BOARD

Dec 30 10 19 AM '96

**IN THE MATTER OF:**

**SPRINGFIELD POLICE  
PATROLMEN'S ASSOCIATION**

**Employee Organization,**

**and**

**CITY OF SPRINGFIELD,**

**Employer.**

**REPORT OF FACT FINDER**

**CASE NO. 96-MED-10-1030**

DATE OF HEARING: December 18, 1996

PLACE OF HEARING: Springfield, Ohio

FACT FINDER: Charles W. Kohler

**APPEARANCES:**

**FOR THE EMPLOYEE ORGANIZATION:**

James Skogstrom, Attorney  
Robert Davidson, SPPA Negotiations Chairman  
Mike Beedy, Patrolman  
Louis Turner, Patrolman  
Joe Tedeschi, Detective  
Rick Fleming, Patrolman

**FOR THE EMPLOYER:**

Jerome Strozdas, Attorney  
David Walters, Captain  
Roger Evans, Chief of Police  
Jim Bodenmiller, Personnel Director

## **PROCEDURAL BACKGROUND**

On November 29, 1996, the State Employment Relations Board ("SERB") appointed the undersigned as fact finder upon selection by the parties pursuant to Ohio Revised Code Section 4117.14(C)(3). The fact-finding hearing was held on December 18, 1996, at the offices of the City of Springfield. The report and recommendations of the fact finder are to be served upon the parties no later than December 26, 1996, pursuant to the mutual agreement of the parties.

This matter involves the negotiation of a successor collective bargaining agreement between the City of Springfield, Ohio ("Springfield" or "City") and the Springfield Police Patrolmen's Association ("Association") for a bargaining unit consisting of those individuals serving as patrol officers in the City's Police Department. At the present time, there are approximately 100 patrol officers in the unit. The prior agreement became effective on January 1, 1994 and expires on December 31, 1996.

Prior to the fact-finding hearing, the parties engaged in nine formal negotiation sessions. The last session was held on December 6, 1996, when mediation was conducted with the assistance of a mediator from the Federal Mediation and Conciliation Service. As a result of these sessions, the parties were able to reach agreement on most issues.

## **MEDIATION**

On December 18, 1996, the fact finder attempted to mediate the issues remaining in dispute. The mediation process continued for several hours, and the parties were able to agree on some of the outstanding issues. The only remaining issues are those which are discussed in this report. The parties have reached a tentative agreement on all other issues. The tentative agreements of the parties on these issues are hereby incorporated by reference into this report as recommendations

## STATUTORY CRITERIA

The following findings and recommendations are offered for consideration by the parties; were arrived at pursuant to their mutual interests and concerns; are made in accordance with the data submitted; and in consideration of the following statutory criteria as set forth in Rule 4117-9-05 of the Ohio Administrative Code:

1. Past collectively bargained agreements, if any, between the parties;
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;
3. The interest 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;
4. The lawful authority of the public employer;
5. Any stipulations of the parties;
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.

## FINDINGS OF FACT AND RECOMMENDATIONS

### ARTICLE 7

#### WAGES

##### Section A

#### **1. Background**

Article 7, Section A, sets forth the wage rates. There are seven steps in the wage progression. The first step, Step 1PN, is the wage paid to a new hire prior to the completion of classroom training. After satisfactory completion of classroom training, the employee advances to Step A. An employee advances to Step B after one year of satisfactory service from the date of hire. Employees then advance one step for every twelve months of satisfactory service until the top level, Step F, is attained. Employees thus reach the top rate after the completion of sixty months of satisfactory service. The 1996 wage rates range from \$26,915.20 (Step 1PN) to \$35,734.40 (Step F).

#### **2. Position of the City**

The City is offering a pay increase of two per cent per year for each year of a three year agreement. It points out that the officers have had wage increases of four per cent for each of the last three years, which has allowed them to benefit from wage increases which have exceed inflation over the same period. The increase in the Consumer Price Index was 2.7 per cent in 1994, 2.5 per cent in 1995, and is projected to be 2.7 per cent in 1996. The City has presented data showing that, since 1988, the officers have had a compounded wage increase of 42.6 per cent while the compounded rate of inflation has been only 37.9 per cent. The City argues that the police officers

have even done better than these numbers indicate because the Consumer Price Index tends to overstate the level of inflation. The City asserts that the wage increase it offers is fair, considering that the employees have received combined wage increases which have exceeded the inflation rate since 1988.

The City presented a comparison of the wages of the bargaining unit to those in 14 comparable cities of similar population in the State of Ohio. This data shows that the officers in Springfield are compensated similarly to officers in those cities. The current average annual wage for a police officer at the top step in these 14 cities is \$35,995, compared to \$35,735 in Springfield.<sup>1</sup> The City points out that, while Springfield's compensation is close to the average, its per capita income is in the bottom third of the comparable Ohio cities.

The City also presented data from other jurisdictions in the same labor market, which show that the average wage for a top step police officer in 1996 is \$37,205, with a range from \$28,850 to \$43,680. The City points out that some of these jurisdictions are not comparable in population and some are suburban communities which have different economic circumstances than Springfield.

The City contends that it is more dependant on income tax revenue than most other cities. The largest employer in Springfield is Navistar, which operates a truck manufacturing plant. It has announced plans to reduce the workforce from 5000 employees to 2000, or to possibly close the plant. In either case, the City would lose a

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<sup>1</sup>The City also presented information on total compensation in the 14 cities, which included uniform allowance, longevity, educational incentive, and shift differential. In total compensation, the average is \$38,206, compared with \$37,823 for Springfield.

substantial amount of income tax revenue, because the tax is levied only on payroll and rental income. The City argues that it must be cautious about making future financial commitments under these uncertain conditions.

### **3. Position of the Association**

The Association has presented data showing that the national average top step police officer wage as of May 1, 1996, is \$38,481, which exceeds the top wage in Springfield by almost \$3000. The Association has also presented data from 12 Ohio cities, including Springfield, with populations between 50,000 and 100,000. The average top step wage is \$36,271, which is \$537, or 1.5 per cent, above the same figure in Springfield. The Association points out that Springfield ranks fourth in population among these Ohio cities, but ranks sixth in wages. The Association also presented information showing that the deputies in the Clark County Sheriff's Office will have a top wage of \$36,400 in 1997, which is a 4.25 per cent increase from 1996.

### **4. Discussion and Findings**

Current wages in Springfield are somewhat below the average for comparable Ohio cities. The amount of the difference depends on which cities are used for comparisons. The City's offer of a two per cent wage increase for each year of the collective bargaining agreement would probably result in Springfield's wages falling further below the average. On the other hand, the Association's proposal for a five per cent wage increase each year would probably result in Springfield's wages becoming substantially higher than the average.

The police officers have received wage increases of 4.25 per cent in 1991 and 4 per cent in calendar years 1992 through 1996. Wages have increased during each of these years in amount which exceeded the increase in the CPI by at least one per cent. The officers have benefited because the inflation rate has remained relatively low for the past three years, which means that the police officers have had a real gain in purchasing power for each of these years. Of course, wages must increase more than the inflation rate in order for the wage earner to experience any gain in purchasing power. A wage increase which only equals the inflation rate simply keeps the wage earner even in terms of purchasing power. The City argues that the police officers have had wage increases over the past eight years which have significantly out paced inflation.<sup>2</sup> While it is true that the wages increased 4.7 per cent more than the official inflation rate, the top step wage remains below the average top step wage in comparable cities. The wage comparison data submitted by both parties shows that the wages paid to Springfield police officers are below the average of comparable jurisdictions. While there is not a need for an substantial wage increase based on the wages in other comparable cities, a wage increase should be granted which will allow wages to remain close to the average.

The City submitted data on 14 similarly sized cites and 9 cities in the same labor market. It can be argued that the cities in the same labor market are a more apt reference because these cities compete for the same people. As of December 10,

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<sup>2</sup> The City suggests that recent evidence shows that the Consumer Price Index may overstate inflation, so the police officers may well have benefited even more that the official statistics indicate. However, the CPI is still viewed as the "official" inflation rate and is widely accepted as is demonstrated by the fact that it is used to determine many pension benefit increases, and is used to determine federal income tax brackets.

1996, the average top step wage in the nine jurisdictions in the same labor market was \$37,205, which is \$1470 more than Springfield. However, it must be noted that there is a wide range among these jurisdictions, with almost a \$15,000 difference between the highest and the lowest.

#### **4. Recommendations**

In order to allow the police officers to have a chance to experience some real gain in purchasing power, and to keep their wage close to average in other comparable cities, the fact finder will recommend a wage increase of 4.0 per cent beginning January 1, 1997. This will result in a top step wage of \$17.87 per hour or \$37,169.60 annually for 1997. This increase will result in a top step wage which exceeds the 1996 statewide average for similarly size cities. However, the wages in most, if not all, of these cities will also increase in 1997. Even with the recommended 4.0 per cent increase, the 1997 top step wage will rank seventh compared to 1996 top step wages for 14 similarly sized Ohio cities:

Wage Survey Information Based on Comparable Ohio Cities  
with Populations Ranging from 40,000 to 100,000  
as of December 10, 1996<sup>3</sup>

Mentor	42,735
Parma	39,950
Cuyahoga Falls	39,850
Newark	39,405
Euclid	37,650
Hamilton	37,310
<b>Springfield</b>	<b>37,170<sup>4</sup></b>
Middletown	36,060
Elyria	34,800
Mansfield	33,590
Lorain	33,455
Youngstown	33,400
Lima	32,885
Warren	32,155
Canton	30,690

The recommended increase will still result in a top step wage lower than the current labor market average of \$37,205. However, the labor market average is probably somewhat overstated as it includes Dayton, which is substantially larger than Springfield, and Kettering, which is a relatively wealthy suburban community. In addition, the relatively low per capita income in Springfield as compared to other similarly sized cities is an indication that the economy is not as strong in Springfield as it is in many of the other cities. Therefore, the fact that the wage level is somewhat below average is consistent with relative economic conditions.

Rather than focusing on only the average wage, it is also appropriate to look at

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<sup>3</sup>Data submitted by the City of Springfield at Fact-Finding hearing.

<sup>4</sup>With 4.0 per cent wage increase recommended for 1997.

the range of wage rates. The labor market data of 9 area law enforcement agencies shows that Springfield ranks in the lower part of the mid range of these cities, in seventh place among ten cities. In terms of similarly sized cities in Ohio, Springfield is squarely in the middle, in eighth place among fifteen cities. The recommended increase should allow the City to remain in the mid range in both categories.

The historical data of wage increases which this bargaining unit has received since 1988, shows that, in every year except 1990,<sup>5</sup> the unit has received an increase of 4 per cent or more. The unit received an increase of 4.25 per cent in 1991, and 4 per cent per year in 1992 through 1996. Given the City's current rank among comparable cities, there is no compelling reason to deviate from the pattern at this time. The police officers should be granted a wage increase in the second and third years of the collective bargaining agreement which will give them some cushion against an increase in the inflation rate and will allow them to at least retain their relative standing among comparable cities. The fact finder will therefore recommend an increase of 4.0 per cent in 1998 and 4.0 per cent in 1999. The relatively low per capita income of Springfield and the uncertainty of the level of tax revenue due to the Navistar situation make it imprudent to recommend a larger increase.

#### Section D- Shift Differential

##### **1. Background**

This section provides for shift differential pay of 34 cents per hour for the afternoon shift and 36 cents per hour for the midnight shift. Shift differential pay is

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<sup>5</sup>The 1990 increase was affected by the fact that the unit received a raise of 2 per cent on January 1, 1989, and 3 per cent on September 1, 1989.

considered part of the base pay for the overtime compensation. The Association has proposed that the shift differential pay increase to 45 cents per hour for both shifts.

## **2. Position of the City**

The City points out that the current shift differentials exceed the averages for comparable jurisdictions. Of the 14 comparable cities of similar size, only 9 provide for the payment of shift differential. The average of these nine cities is 28 cents for afternoon shift and 29 cents for midnight shift. The other six cities pay no shift differential.

The City also asserts that an increase in the differential cannot be justified, especially when many of the employees select their own shift.

## **3. Position of the Association**

The Association contends that those police officers who work the less desirable shifts must receive additional compensation. These shifts requires the officers to work during the times that many family activities are held. The Association states that an increase in shift differential is justified.

## **3. Discussion and Analysis**

The information submitted by the City shows that the police officers currently receive a higher than average shift differential than Ohio cities similiar in size. In addition, approximately one-third of these cities pay no shift differential. The fact that the officers on the non-rotating shifts choose their own shift makes it difficult to justify any increase in the amount of the differential.

## **4. Recommendation**

The fact finder recommends that the shift differential as specified in Article 7, Section C remain as in the current agreement.

The current language in all sections of Article 7 should be retained, except that Schedule A, as referred to in Section A, should provide as follows to reflect a wage increase of 4.0 per cent during each year of the agreement:

Police Division Salary Schedule Effective January 1, 1997

Grade/Step	Hourly Rate	Bi-Weekly Rate	Annual Rate
1P New Hire	\$13.46	\$1,076.80	\$27,996.80
1P A	\$14.02	\$1,121.60	\$29,161.60
1P B	\$15.50	\$1,240.00	\$32,240.00
1P C	\$16.07	\$1,285.60	\$33,425.60
1P D	\$16.62	\$1,329.60	\$34,569.60
1P E	\$17.18	\$1,374.40	\$35,734.40
1P F	\$17.87	\$1,429.60	\$37,169.60

Police Division Salary Schedule Effective January 1, 1998

Grade/Step	Hourly Rate	Bi-Weekly Rate	Annual Rate
1P New Hire	\$14.00	\$1,120.00	\$29,120.00
1P A	\$14.58	\$1,166.40	\$30,326.40
1P B	\$16.12	\$1,289.60	\$33,529.60
1P C	\$16.71	\$1,336.80	\$34,756.80
1P D	\$17.28	\$1,382.40	\$35,942.40
1P E	\$17.87	\$1,429.60	\$37,169.60
1P F	\$18.58	\$1,486.40	\$38,646.40

Police Division Salary Schedule Effective January 1, 1999

Grade/Step	Hourly Rate	Bi-Weekly Rate	Annual Rate
1P New Hire	\$14.56	\$1,164.80	\$30,284.80
1P A	\$15.16	\$1,212.80	\$31,532.80
1P B	\$16.76	\$1,340.80	\$34,860.80
1P C	\$17.38	\$1,390.40	\$36,150.40
1P D	\$17.97	\$1,437.60	\$37,377.60
1P E	\$18.58	\$1,486.40	\$38,646.40
1P F	\$19.32	\$1,545.60	\$40,185.60

ARTICLE 8

HOURS OF WORK

**1. Background**

Sections D and E of this article are in dispute. The sections currently set forth the particulars of the shift selection procedure. The Association proposes that the current shift selection procedure be retained, while the City desires to change the procedure.

The current agreement allows those employees who have completed five years of service, and are assigned to duties which are carried out twenty-four hours per day, to chose their desired shift primarily on the basis of seniority. The police department has both rotating and non-rotating assignments. The shift selection procedure applies only to the non-rotating assignments. The current agreement specifies that there be a minimum number of non-rotating assignments on each of the shifts, as follows:

First Shift (12:00 a.m. to 8:00 a.m.)	14 Positions
Second Shift (8:00 a.m. to 4:00 p.m.)	12 Positions
Third Shift (4:00 p.m. to 12:00 a.m.)	16 Positions
Total	42 Positions

Employees who have completed less than two years of service are currently assigned to shifts by the Police Chief. Those employees with more than two years of service, but less than five years, and are assigned to duties which are carried out twenty-four hours per day, are assigned to a rotating schedule which results in a change of shifts every four months. However, if there are not enough employees with five years of service to fill the minimum number of non-rotating assignments, then employees who have at least two years of experience may select a non-rotating shift assignment. At this time, some employees with less than five years of service are working on these non-rotating shift assignments.

The right to choose shifts has resulted in a greater number of high seniority employees working on the day shift. This situation is due to the fact that employees with the highest seniority tend to prefer the day shift. The average number of years of service of employees on the non-rotating shift assignments is 9.7 on days, 6.7 on afternoons, and 6.1 on midnights. If employees on both rotating and non-rotating shifts are included, the average number of years is 6.5 on days, 3.5 on afternoons and 4.4 on midnights. The average experience is less when both rotating and non-rotating shifts are considered because many newer officers are assigned to rotating shifts.

Under the current agreement, the seniority selection system can be altered by the Police Chief in order to ensure that there are enough officers with requisite job skills on each shift.

## **2. Position of the City**

The City asserts that the current method of shift selection has an adverse impact on its ability to provide police services in a proper and efficient manner. Many employees decide to stay on one shift for an extended period of time. The City contends that this can lead to the development of certain attitudes which are based upon the situations encountered on specific shifts. The City points out that some high seniority employees select the midnight to 8:00 a.m. shift for questionable reasons, such as to avoid contact with the higher ranking officials in the police department and the City. The City asserts that a particular mind set can ensue when an employee is "locked in" to a particular shift. The development of this mind set is a detriment to the proper operation of the department. In addition, employees working the same shift all of the time are more likely to experience burnout, according to the City.

The City desires to have the right to require employees to rotate among the different shifts. It states that this would expose the officers to a wider variety of situations, as some types of problems tend to occur with more frequency during a certain part of the day. The current system limits the right of the Police Chief to assign a police officer to a certain shift so that the officer can gain a specific type of experience. Having the right to assign employees to day shift would increase contact between the administration officials and the police officers for those employees who now work only on the midnight shift.

The City contends that the current system results in many of the less experienced officers working on the afternoon and midnight shifts, which are the busiest and have more calls of a serious nature. On the other hand, officers who work the day

shift have the highest average seniority of any shift. If the Police Chief had more discretion with regard to shift assignment, experienced police officers could be more efficiently assigned to assist and train less experienced officers.

The City has proposed that the Police Chief be allowed to change the shift of police officers every 112 days, which is approximately every four months. This is a sufficient length of time to allow an employee to become acclimated to the shift and does not cause the disruption in sleeping patterns caused by more frequent changes. Employees would also be able to make personal plans, as they would know they would be working the same shift for at least four months.

### **3. Position of the Association**

The Association contends that the current shift assignment procedure has worked well and the City has not shown that there is a need for any change. The Police Chief is also allowed to assign personnel so that a sufficient number of trained officers are present on each shift. The Association points out that the Police Chief makes all of the assignments on rotating shifts, as well as those positions with duties which are not performed on a twenty-four hour basis.

The Association emphasizes the fact that the current language has been in effect for nine years. When this language was adopted, the Association contends that it gave concessions to the City in other areas of the collective bargaining agreement. The proposal of the City would be disruptive, as the operation of the department would radically change. The Association contends that the proposal contains no safeguards which would prevent the Police Chief from making shift assignments in a punitive manner.

### **3. Discussion and Findings**

Information presented by the Association from the 1995 City Report shows that, of 127 police officers and supervisors, 52 had less than five years of experience. In terms of percentage, 41 per cent had less than five years of experience. The large percentage of employees with less than five years of experience can be traced to the passage of a police levy about five years ago. The additional funds generated by the levy allowed the City to hire a large number of police officers in a relatively short period of time. Much of the hiring was done in 1991 and 1992, when 40 officers were hired.

There is obviously a need to adequately train new officers. Much of that training must be done on the job. In order to gain the maximum benefit from this type of training, new officers should be paired with more experienced officers. The current agreement addresses that need by allowing the Police Chief to make the assignments for those officers with less than two years of experience. The City also has the right to change an employee's shift for 40 hours of training each year. In addition, officers with more than two years, but less than five years of experience, can normally be assigned to rotating shifts. However, with the large number of new police officers on the force, many officers with less than five years of experience have been able to fill a vacancy on a non-rotating shift. This situation was caused by the unusual hiring pattern following the passage of the police levy. The situation will change in the near future as the 40 officers hired in 1991 and 1992 become more experienced. Under normal hiring patterns, the current agreement allows the Police Chief to assign newly hired police officers to all shifts during the first five years of employment.

#### **4. Recommendations**

The current contractual provision has been part of the last three collective bargaining agreements. It addresses the need of the City to have some discretion in the assignments of less experienced officers and also allows more experienced officers to have some choice in the shift that they work. The Association bargained for the right to be able to exercise seniority rights in the selection of shifts. The shift selection procedure in the current agreement has the characteristics of a provision which addresses the needs and desires of both sides. The fact finder is very reluctant to disturb language which is the result of the give and take of the collective bargaining process without strong evidence that the provision is either unworkable based on changed conditions, or that is detrimental to the interests of the public.

The fact finder can understand that employees who constantly work the same shift may develop a certain manner of thought and behavior. This can occur in an industrial setting as well as in public service. However, the City has some authority to deal with this situation under the current agreement, such as assigning an employee to duties which are not carried out on a twenty-four hour basis or giving an employee an assignment other than uniform patrol. For more serious problems, the disciplinary procedure can be used. While the current system has undoubtedly caused some operational and management problems, there is insufficient evidence to show that a change is warranted at this time.

The fact finder recommends that the current language in Article 8 be retained.

## ARTICLE 10

### LONGEVITY

#### **1. Background**

The current agreement provides for the annual payment of \$90.00 per year of service for those employees who have five or more years of service with the City. The Association proposes that longevity payments be increased to \$95.00 in 1997, \$97.50 in 1998, and \$100.00 in 1999.

#### **2. Position of the City**

The City proposes that the amount of the longevity payment in the current agreement be retained. It states that recent court decisions hold that the Fair Labor Standards Act may require that longevity payments be considered part of the base rate for the computation of overtime. Therefore, the City proposes that language to this effect be included in the new collective bargaining agreement.

#### **3. Position of the Association.**

The Association argues that the same data which supports a wage increase also supports an increase in longevity. The Association also proposes that language be added which reflects the recent court decisions on the computation of overtime

#### **4. Discussion and Analysis**

The amount of the longevity payment in the current agreement appears to be well within the mid range for comparable cities of similar population. The amount is considerably above the average longevity payment in jurisdictions in the area labor market. The inclusion of longevity in the base rate for overtime will result in an increase

in longevity the payment of 7.6 per cent for the average patrol officer, according to calculations made by the City.

## **5. Recommendation**

The fact finder agrees that language should be included to reflect the recent court decisions. However, the data presented does not support an increase in the amount of the longevity payment at this time.

The fact finder recommends that Article 10 provide as follows:

### ARTICLE 10 LONGEVITY

Section A.  
Current Language

Section B.  
Current Language

Section C.  
Current Language

Section D.  
Longevity payments shall be considered as part of the base rate for overtime compensation.

### ARTICLE 27

#### UNIFORMS AND EQUIPMENT

##### **1. Background**

The current agreement provides that those officers who have one or more year of service be paid \$700.00 per year to defray the cost of maintenance and repair of uniforms and equipment. The payment is made in two equal amounts in April and October. The Association has proposed increasing the amount of the allowance to \$800.00 per year.

## **2. Position of the City**

The City asserts that the current allowance provides adequate compensation to employees for uniforms and equipment. It submitted data which shows that the cost of replacing all of the items furnished to a new police officer is \$1124.74 in 1996. In 1995, the cost was \$1102.37. Therefore, the annual payment made to current police officers is very generous, and the cost has not significantly increased since the prior year. The City also has submitted data from the 14 cities in Ohio of similar population which shows that the average allowance is \$665.00.

## **3. Position of the Association**

The Association is bases its proposal upon the assertion that the increase is necessary due to a price increase in certain uniform items.

## **4. Discussion and Analysis**

Although the Association contends that a price increase in certain uniform items justifies an increase, no evidence has been submitted to support the contention. The City has presented a price list as of November 1996, which is based on the prices it negotiates for uniforms for new officers. Part of the City's agreement with the supplier is that items will be sold to individual police officers at the same cost. Based on the costs submitted, the current allowance should enable a police officer to replace worn clothing and equipment on regular basis. Therefore, an increase cannot be justified at this time.

## **5. Recommendation**

The fact finder recommends that the current language be retained in Article 27.

## ARTICLE 28

### HOLIDAYS

#### **1. Background**

The current agreement provides that employees who are required to work on any of 12 designated holidays shall receive one day of absence with pay for each holiday worked. The Association has proposed that additional language be added to the article which would require compensation of one and one-half of the base rate for any work performed on Thanksgiving and Christmas.

#### **2. Position of the City**

The City points out that not every employee can take off work on the same holidays. The current agreement allows employees to have a day off with pay if they work on a holiday. The City asserts that it is not willing to provide both a day off with pay and premium pay for any holiday.

#### **3. Position of the Association**

The Association notes that working on Thanksgiving and Christmas is disruptive to families. Therefore, some additional compensation should be paid to benefit those who are required to work on these two holidays.

#### **3. Discussion and Analysis**

Police departments, like fire departments and hospitals, must provide services every day of the year, including holidays. The current agreement acknowledges this fact of life by providing that employees who work on holidays will receive one day off with pay. The parties have agreed that this is the procedure to be used to compensate employees for the fact that they must work on a holiday. The proposal of the

Association would not result in any less disruption of family activities on Thanksgiving and Christmas. The fact finder does not recommend that premium time be paid for the Thanksgiving and Christmas holidays.

#### **4. Recommendation**

The fact finder recommends that Article 28 remain as written in the current agreement.

### ARTICLE 31

### INSURANCE

#### **1. Background**

This article sets forth the agreements of the parties as to life, health, vehicle liability and professional liability insurance. The parties agree that current language should be retained for the provisions concerning life insurance and both types of liability insurance. The employees currently contribute to the cost of their health insurance premium at the rate of \$9.17 per month for single coverage and \$27.50 per month for family coverage. The City proposes increasing the contribution amounts in 1997 to \$11.00 and \$33.00. In 1998, the contribution amounts would be \$13.20 and \$39.60 and, in 1999, the amounts would be \$15.85 and \$47.50. The Association proposes to retain the contribution amount at the 1996 level for the three years of the new collective bargaining agreement. The Association also proposed the addition of a dental insurance plan, which would require the City to pay one-half of the premium, up to a maximum of \$5.14 per month for single coverage, and \$16.15 per month for family coverage.

## **2. Position of the City**

The City states that the health insurance plan offered provides comprehensive coverage with nearly all services covered on a first-dollar basis. The City points out that the 1996 SERB report on the cost of health insurance in Ohio's public sector finds that 59 per cent of negotiated health plans require the employees to make a contribution toward the premium. The average amount paid in 1996 is \$20.09 for single coverage and \$47.50 for family coverage. Under the City's proposal, employees will be paying only about 80% of the 1996 statewide average contribution during the last year of the agreement, in 1999. The City asserts that the cost of medical care has increased at a rate higher than the inflation rate for the past few years.

The City opposes the dental plan proposed by the Association. It states that the Association has presented only a sketchy outline of the plan. In addition, a committee of the City has considered the adoption of a dental plan for City employees, but has decided to wait until the details of a new alternative health plan are developed.

## **3. Position of the Association**

The Association is willing to continue to make contributions for health insurance but does not desire to increase the amount of the contribution. Any increase in the contribution will offset part of any wage increase offered by the City. The Association has provided more details of a dental insurance plan, which could be provided to the police officers at a modest cost to the City.

## **4. Discussion and Findings**

It is clear that the Association has agreed to share the cost of health insurance coverage with the City. In the absence of any compelling information, it is reasonable to expect that the employees would pay a portion of any increase in premium. The

Association correctly points out, however, that this is an economic item and gains in other monetary benefits will be reduced by any increase in the amount of the contribution. Nevertheless, the reality of the situation is that health care costs are increasing, and employees should shoulder a share of that increase.

The Association has proposed that the City provide a dental plan which would only cost the City a modest amount per employee. While the amount per employee is relatively small, the aggregate cost to City is not insignificant for a bargaining unit of 100 employees. If one-half of the employees elected single dental coverage and one-half elected family coverage, the cost to the City could be as much as \$12,774 per year, or \$38,322 over the life of the contract. If a dental plan is to be adopted, it is better that it be negotiated by the parties so that appropriate details can be worked out by the parties.

## **5. Recommendation**

The fact finder recommends that the employee's share of the health insurance premiums be increased by a modest amount. While it is reasonable to expect the employees to share in the increased costs of health insurance, the amounts proposed by the City are excessive. The City proposal amounts to a contribution increase of almost 20 per cent for both single and family coverage for the first year of the contract, with additional increases in the second and third years. The fact finder recommends an increase of \$.83 per month for single coverage in 1997, 1998 and 1999. For family coverage, the fact finder recommends an increase of \$2.50 in the monthly premium in 1997, 1998 and 1999. This represents the same increase in premium contained in the current agreement. Even with these increases, the police officers will still be paying far less than the average contributions as shown in the SERB data.

The fact finder recommends that Article 31 provide as follows:

ARTICLE 31  
INSURANCE

Section A.  
Current Language

Section B.  
1. Current Language

2. Cost Sharing

Employees shall pay, by wage withholding, the following sums monthly: \$10.00 single coverage or \$30.00 family coverage effective with the first full pay period in 1997; \$10.83 single coverage or \$32.50 family coverage effective with the first full pay period in 1998; \$11.66 single coverage or \$35.00 family coverage effective with the first full pay period in 1999;

3. Current Language

Section C.  
Current Language

Section D.  
Current Language

ARTICLE 32

DRUG TESTING

**1. Background**

The current agreement refers to a drug testing program to be developed by the City in consultation with the Association. Since the current agreement was ratified, the City has adopted a written drug testing program. Article 32 specifies that the City can require drug testing of employees in the bargaining unit under specified circumstances, including: prior to employment; upon reasonable cause; following an on-the-job accident; prior to and returning from duty after failing a drug test; and after completion of rehabilitation treatment. The current agreement specifies that there will be no random testing.

## **2. Position of the City**

The City proposes that Article 32 be amended to reflect the fact that a drug testing program has been established. The City also proposes that random drug testing of police officers be permitted. The City contends that because drug usage has such a pervasive influence on our society, it would be foolish to think that drug abuse would not occur in the police department. The City has instituted a random testing program for those employees who hold Commercial Drivers Licenses, and believes that this has had a deterrent effect on the use of illegal drugs and upon the inappropriate use of alcohol among these employees.

The City argues that those who enforce the laws and deal with the problems which stem from drug abuse should be a part of the random testing program. The City has a responsibility to the public to assure that those employees who enforce the laws remain drug-free. The Police Chief testified that making sure police officers are not under the influence of drugs is especially important given the amount of power they possess, and the fact that they are armed.

## **3. Position of the Association**

The Association opposes random drug testing. It states that the City has not identified any legitimate need to conduct random tests. The Association is concerned about the inherent risk of false positives, as well as the invasive nature of such tests. The Association is also concerned about the invasion of privacy rights.

## **4. Discussion and Findings**

Since that last collective bargaining agreement was negotiated, the City has implemented a drug testing program for all City employees. A review of the program shows that it includes both drug and alcohol screening. The only employees subject to

random testing are those who hold Commercial Drivers Licenses, who are required by federal law to be tested on a random basis.

It is generally accepted that random drug tests involve an invasion of an individual's privacy. Court decisions dealing with this issue use a balancing test to determine whether there is a compelling interest in using random testing which overrides the individual privacy rights. The Employer asserts that court decisions have generally upheld the right of a government unit to randomly test police officers. However, just because random tests may be legally permissible does not mean that they should necessarily be implemented in all situations.

## **5. Recommendation**

The fact finder has reviewed the City's drug testing policy, including the provisions for random testing of certain employees. It appears to be a policy which has been carefully thought out. The City has not, however, provided evidence of problems or suspected problems among the police officers. The evidence does not show that such a program is necessary to protect the welfare of the public. The fact finder is not inclined to recommend a random drug testing program in the absence of such evidence.

The fact finder notes that under the current language in the collective bargaining agreement, the City can impose a drug test upon reasonable cause and in certain other situations. This gives the City the authority to test employees in appropriate circumstances. There are many procedural issues which must be dealt with in establishing a random testing program, and it is better if both labor and management can negotiate the terms of the testing program so that the concerns of both parties can be addressed.

The fact finder recommends that Article 32 provide as follows:

ARTICLE 32  
DRUG TESTING

The City may administer a drug testing program in accordance with its established Drug and Alcohol Policy. However, the City may require testing of bargaining unit members only in the following circumstances:

(Remainder of article to be the same as in current agreement.)

PROPOSED NEW ARTICLE

EDUCATIONAL INCENTIVE

**1. Background**

The current agreement contains no educational incentive provisions. The Association proposes that bonuses be paid to employees who hold an educational degree from an accredited college. In addition, the Association proposes a tuition reimbursement program.

**2. Position of the City**

The City asserts that the proposal would be costly, especially the tuition reimbursement program. The City points out that it currently does not require any college training for police officers. In addition, the Association's proposal is not limited to job related degrees or courses. The City presented data showing that a majority of comparable cities do not offer educational incentives.

**3. Position of the Association**

The Association states that its proposal will benefit both the City and the police officers. It asserts that better educated individuals make better police officers.

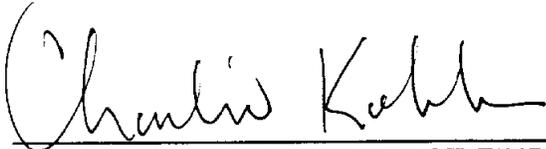
#### **4. Discussion and Analysis**

It is likely that the City would benefit by having police officers become better educated. However, the cost of providing the proposed incentive has not been established. With a force of 100 patrol officers, the cost could be substantial. If a sufficient number of police officers are interested in this benefit, it is possible that other economic benefits could be adjusted to accommodate educational incentives. In that event, the language would have to be "fine tuned" to prevent possible abuses and to allow the City to control the cost of the program.

#### **5. Recommendation**

The fact finder recommends that this proposal of the Association not be included in the new agreement.

Respectfully Submitted,



CHARLES W. KOHLER, FACT FINDER

Dated: December 26, 1996

#### CERTIFICATE OF SERVICE

I do hereby certify that a copy of the foregoing report of the fact finder was served upon James Skogstrom, Attorney at Law, 39 North Fountain Ave., Springfield, Ohio 45502; and Jerome Strozdas, Attorney at Law, Strozdas and Pedraza, 22 South Limestone Street, Suite 330, Springfield, Ohio 45502; each by Federal Express overnight delivery on this 26th day of December 1996; and G. Thomas Worley, Administrator, Bureau of Mediation, State Employment Relations Board, 65 East State Street, Columbus, Ohio 43215; by regular U.S. Mail, postage prepaid, on this on this 26th day of December 1996.



Charles W. Kohler, Fact Finder