

AGREEMENT BETWEEN
THE CITY OF SOMERVILLE
AND
THE SOMERVILLE POLICE EMPLOYEES ASSOCIATION

July 1, 2004- June 30, 2008

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This Agreement made and entered into between the City of Somerville, Massachusetts, hereinafter referred to as the "City" or the "Municipal Employer", and the Somerville Police Employees Association, hereinafter called the "Association".

WITNESSETH:

WHEREAS the well being of the employees covered by the Agreement and the efficient and economic operations of the Police Department of the City require that orderly and constructive relationships be maintained between the parties; and

WHEREAS the participation of the employees in the collective bargaining process contributes to the effective conduct of the public business and police administration; and

WHEREAS the parties to this Agreement consider themselves mutually responsible to establish stable and meaningful relations based on this Agreement.

NOW, THEREFORE, in consideration of the mutual promises and agreements herein contained, the parties mutually agree as follows:

ARTICLE I RECOGNITION

Section 1. Subject to applicable provisions of State or Federal law, or regulations there under now or hereafter in effect, the Employer recognizes the Association as the exclusive collective bargaining agent with respect to wages, hours, standards of productivity and performance and other terms and conditions of employment for all full-time, certified police officers employed by the City in its Police Department, inclusive of the rank of Patrolman; but excluding:

1. Chief of Police
2. Deputy Chief of Police
3. Captain
4. Lieutenant
5. Sergeant
6. Stenographer-Senior Accounting Clerk
7. All others

The duties of Master Mechanic shall not be bargaining unit work.

Section 2. The Employer will not aid, promote or finance any labor groups or organizations which purport to engage in collective bargaining, or make any agreement with any

such groups or organizations for the purpose of undermining the Association or changing any term or provision of this Agreement.

Section 3. This Agreement is a complete agreement between the parties governing all mandatory/permissive subjects of discussion. The parties agree that the relations between them shall be governed by the terms of this Agreement and shall be in accordance with the appropriate sections of Chapter 150E of the General Laws of Massachusetts.

No prior agreements or understandings, oral or written, shall be controlling or in any way affect the relations between the parties unless and until such agreements or understandings have been reduced to writing and duly executed by the parties subsequent to the date of this Agreement.

All matters not dealt with herein shall be treated as having been brought up and disposed of and the Employer shall be under no obligation to discuss with the Association any modification or addition to this Agreement which is to be effective during the term hereof.

Section 4. As in this Agreement hereinafter provided, the positions of "records clerk" and "detail officer", as referred to in Article XVIII, Section 3(a) of this Agreement, may, at the Department's option, be civilianized, provided, however, the City and its Police Chief hereby agree that bargaining unit members may not be assigned to perform such assignments on a regular tour of duty or work shift.

ARTICLE II **MANAGEMENT RIGHTS**

Except as provided by the specific provisions of this Agreement and in accordance with applicable law, the City will continue to have, whether exercised or not, all of the right, powers and authority heretofore existing, including, but not limited to, the following: determine the standards of services to be offered by the Police Department; determine the standards of selection for employment; direct its employees; take disciplinary action; relieve its employees from duty because of lack of work or for other legitimate reasons; issue rules and regulations not inconsistent with this Agreement; maintain the efficiency of governmental operations; determine the methods, means and personnel by which the City's operations are to be conducted; determine the content of job classifications; exercise complete control and discretion over its organization and the technology of performing its work; and fulfill all of its legal responsibilities. The above rights, responsibilities and prerogatives are inherent in the Board of Alderman and the Mayor by virtue of statutes or ordinances not superseded by the Agreement, and cannot be subject to any grievance or arbitration proceeding except as specifically provided for in this Agreement.

ARTICLE III **EMPLOYEE'S RIGHTS**

Section 1. Employees have, and shall be protected in the exercise of, the right, without fear of penalty or reprisal, to join and assist the Association.

Section 2. Association officers or stewards, not to exceed two (2), shall be granted reasonable time off during working hours without loss of pay or benefits to investigate, process and settle complaints or grievances, provided that they shall request permission from the Chief or his designee.

Section 3. The members of the Association Bargaining Committee, not to exceed five (5), who are scheduled to work a day tour of duty during the collective bargaining negotiations or who are on a "short-day" so-called between two night tours of duty, shall be granted leave of absence without loss of pay or benefits for all meetings between the City and the Association for the purpose of negotiating the terms of a contract or supplements thereto; such members on a "short-day" so-called shall be credited with a tour of duty for each such meeting. Such meetings shall normally be scheduled for the day-time but if such negotiations continue into the evening hours, such members then working a night tour of duty on their "long-day" so-called shall similarly be granted leave of absence without loss of pay or benefits for all such meetings.

Section 4. Association officers and shift representatives shall be permitted to discuss official Association business (a) with employees during work provided such discussion does not interfere with police business; (b) with the Chief of Police or the Deputy Chief of Police at all mutually convenient times; and (c) with employees prior to on-duty roll call or following off-duty roll call.

Section 5. Association officers and shift representatives, and grievance committee members, not to exceed three (3), may while on duty request permission to attend meetings of the Board of Alderman or other public body without loss of pay or benefits. Said permission, shall not be withheld by the Chief, when the subject matter on the agenda concerns the Somerville Police Department, except in cases of emergency.

Section 6. Association President. In lieu of all other Association leave provided in this Article (except as hereinafter provided), the Association President shall receive two (2) of every four (4) work shifts or tours of duty without loss of pay or benefits, for Association business. Scheduling of such two (2) work shifts or tours of duty shall be determined by the Chief of Police, after consultation with the Association President involved. In establishing the schedule for the President, it is agreed that if the Association President works the alternating night shifts, his/her two (2) shifts or tours of duty shall be either two (2) first half or two (2) last half shifts or tours of duty. It is further agreed that the following must be taken into account: the President must be allowed to attend meetings of the Board of Alderman, to attend grievance and arbitration hearings, negotiation sessions and administrative hearings; the President is expected to perform police duties for all of two of every four work shifts or tours of duty. It is recognized that if the President has to attend to an unforeseen Association obligation during a portion of his/her scheduled work shifts or tours of duty, this will not require a change in his/her work

schedule; the term "unforeseen obligation" shall be reasonably construed and shall include, but not be limited to, a grievance dispute then occurring, an interview or interrogation of an employee, or other request for his/her assistance.

ARTICLE IV **STABILITY OF AGREEMENT**

Section 1. No amendment, alteration or variation of the terms or provisions of this Agreement shall bind the parties hereto unless made and executed in writing by said parties.

Section 2. The failure of the Municipal Employer or the Association to insist, in any one or more situations, upon performance of any of the terms or provisions of this Agreement shall not be considered as a waiver or relinquishment of the right of the Municipal Employer or the Association to future performance of any such term or provision, and the obligations of the Association and the Municipal Employer to such future performance shall continue in full force and effect.

ARTICLE V **COURT TIME**

Section 1. An employee on duty at night or on vacation, furlough or on a day-off who attends as a witness or in any other capacity for, or on behalf of the Commonwealth or the City, or as a result of the performance of duty, in a criminal or other matter, including civil, pending in any court of the Commonwealth or before any Grand Jury proceeding or in conference with a District Attorney or Assistant District Attorney, or at any pre-trial court conference, or any other related hearing or proceeding, or who is required or requested by any City, County, Town, State, or the Federal Government or any subdivision or agency of any of the foregoing to attend or appear before any department, agency, board, commission, division, authority, tribunal or official of the State or the Federal Government or subdivision or agency of either such government, or in any other capacity for or on behalf of the government of the United States or the Commonwealth or the City, or as a result of the performance of duty, in a criminal or other matter, including civil, pending in a Federal District Court or before a Federal Grand Jury proceeding or a United States commissioner, or in conference with the United States Attorney or Assistant proceeding shall be entitled to, and shall receive, overtime compensation at the time and one-half rate for every hour or fraction thereof, computed to the next hour, during which he was in attendance or appearance but in no event less than four (4) hours such pay, provided, however, that if any such occasion occurs on a holiday which falls on an employee's day off or during his vacation, the employee shall also receive the pay due or provided for under the Holiday and Vacation provisions of this Agreement.

Nothing in this section shall be interpreted to require the City to pay to an employee who is a defendant in any legal proceeding brought by or on behalf of the City or who has been

charged with wrongdoing by the City, the compensation provided in this section, regardless of whether said employee otherwise meets the requirements for receiving said compensation.

Section 2. An employee performing court-time duty until 12 noon or thereafter after completing a "last-half" tour of duty and scheduled to report for his "first-half" tour of duty (e.g. commencing at 4:00 or 4:30 P.M.) shall, except in cases of emergency, be relieved from duty, without loss of pay, at 8:00 P.M. of said first half of duty.

Section 3. An employee who is required to appear for court-time during his vacation shall receive, in addition to his regular court-time payment, a compensatory day for each such day or vacation or any fraction thereof in which he is required to appear for court-time, added onto his vacation period.

Section 4 Employees required to report to court while they are on injury leave shall receive no compensation in addition to their regular compensation, unless they are in court for more than forty (40) hours in a payroll week.

ARTICLE VI **PAYING POLICE DETAILS**

The following procedure shall be adhered to in the assignment and recording of all paying police details:

Section 1. All employees will signify in writing from time to time their desire to accept or not to accept paying police details, and a current file on this subject will be maintained at the police headquarters and made available upon request to the Association.

The exchanging of paying police details or the use of substitutes between employees is permitted if the officer of rank assigning details, as hereinafter mentioned, shall make reassignment accordingly.

Section 2. All assignments to paying police details shall be made by an officer of rank (a superior officer), designated by and responsible to the Chief of Police, for the equitable and fair distribution of such details. All paying police details will be distributed to the employees fairly and equitable as to the number of details, type, hour and compensation thereof, and averaged on a continuing monthly basis for the purposes of this subparagraph. Employees shall be given the maximum possible advance notice of paying detail assignment. Any employee who refuses a paying detail shall not be removed from the detail list, but any such refusal shall be recorded for purposes of detail assignment as a detail actually worked under the heading "Pass" (P) with the detail hours thereof noted, in determining the equitable and fair distribution of details of such employee.

Section 3. Such officer of rank (superior officer) shall be responsible for having records of all assigned paying details and shall have assignments posted daily for the attention of

all employees on detail distribution forms acceptable to the parties, and said forms placed on a bulletin board at the station. Said forms shall contain sufficient information to determine whether detail assignments are being made in accordance with the provisions of this Article, and shall include, among other information, the employee's name, detail worked, name of person, firm, corporation or entity received per detail, detail refusals and applicable dates.

Section 4. Any employee, who performs a paying detail not officially assigned by such superior officer and recorded and reported as required by the Agreement will not be protected by the provisions of G.L. (Ter. Ed.) Chapter 41, Section 100, as amended.

Section 5. Any employee who knowingly performs a paying detail not officially recorded and reported on such forms within twenty-four (24) hours after performance may be subject to Department disciplinary action. The assignment of such a detail by a superior officer, may, at the Association's option, constitute a grievance under this Agreement.

Section 6. An employee's claim that he has not received his fair share of details pursuant to the provisions of this Article, shall constitute a grievance under this Agreement. The Association's claim that paying details are not being distributed fairly and equitably to all employees shall similarly constitute a grievance under this Agreement.

Section 7. Detail distribution forms shall be official records of the Department and shall be made available to the Association for its inspection and use upon its request when and if removed from the bulletin board or other place of posting.

Section 8. No paying detail assignments shall be made until the person, firm, corporation or entity requesting or required to have such detail has agreed to pay the following rates of pay per employee therefore, namely:

A minimum of \$35.00 per hour, and, effective thirty-five (35) days after August 15, 2007, \$38.00 per hour for patrolman (\$.75 per hour less for detail work performed for other City departments) plus \$1.00 per hour for sergeants, plus \$2.00 per hour for lieutenants, and plus \$3.00 per hour for captains, when any of said superior officer (i.e., sergeants, lieutenants and captains) perform a detail in a supervisory capacity. A sergeant shall be employed when three or more patrol officers are assigned to a given detail; a lieutenant or captain when six or more patrolmen are so assigned.

For each detail, employees shall be guaranteed a minimum of four (4) hours' pay per detail for each employee so assigned, and with a guarantee of a minimum of eight hours' pay per road or construction detail, but excluding detail work for other city departments, for each employee assigned to a road or construction detail if the detail exceeds four (4) hours; provided, however, that the applicable detail rate shall be increased by \$1.00 hourly if an employee works from 12 o'clock midnight to 8:00 A.M., and Sundays and Holidays; provided, however, that details performed on the following holidays shall be paid at time and one half the regular detail rate:

New Year's Eve (After 5:00 P.M.)
New Year's Day
July 4 (Independence Day)
Thanksgiving Day
Christmas Eve (All Day)
Christmas Day

Employees may not refuse overtime on these dates and work a paid detail.

The detail rate shall be time and one-half the applicable detail rate set forth in this section, for hours in excess of eight (8) hours on a detail, and for employees assigned to strike details, for all such hours worked, subject to the aforesaid minimum guarantees. A minimum of two (2) officers shall be assigned to each location on strike details.

The applicable paid detail rate(s) shall be increased by \$5.00 for any detail at an establishment licensed to serve alcoholic beverages, subject to the aforesaid minimum guarantees.

On or after the date of execution hereof, the Association, at its option, by written notice to the City, attention its Mayor, may increase the applicable detail hourly rate by an amount or amounts not exceeding, in the aggregate, \$5.00 per hour, as its Executive Board shall determine. Said increase(s) shall be cumulative and shall become effective seven (7) days after receipt of said notice(s) by the City, and this Section 8 shall be deemed amended accordingly.

Section 9. Prioritization. Overtime assignments shall take priority over detail assignments. In the event an employee works the overtime assignment, he shall not be charged with the detail hours offered. If the overtime assignment is unfilled when the overtime list is exhausted, employees who have not reported to an assigned detail shall be offered the overtime assignment, which shall take preference over the assigned detail in such case. If an overtime assignment cannot be filled from the overtime list, then employees working a paid detail can be reassigned to the overtime opportunity with the same number of hours as the detail, and shall not be charged with the detail hours involved.

Section 10. Out of City Details. Employees shall continue to be offered road or construction paying police details in other municipalities, subject to the approval of the Mayor or the Chief of Police, in accordance with the provisions of M.G.L. c. 41, Section 99, and subject to the equitable and fair distribution of details provided in Section 2 of this Article.

Section 11. Paid Detail Fund. The City has established and maintains a special detail fund in accordance with the provisions of M.G.L. c. 44, Section 53C, into which all money received from police paid details is deposited, and from which paid detail money is paid to employees under the current system.

The City agrees, on or before September 27, 2007, to submit an appropriation request(s) to the Board of Aldermen in the aggregate sum of \$150,000.00, which sum shall be deposited into the detail fund, thereupon to pay employees for paid details within twenty-one (21) calendar days after a detail has been worked and the proper documentation therefore submitted.

The City shall continue to pay for details within the twenty-one (21) day period so long as money is available from the detail fund and from paid detail receipts. Paid details worked for which there is no receipt of payment therefore from a vendor shall be paid from the detail fund in the order the City receives proper documentation submitted by employees for details worked.

Under no circumstances shall the City be required to pay for paid details worked out of City funds other than from moneys received from vendors and from said aggregate \$150,000.00 appropriation.

Nothing in this Section shall obligate the City to appropriate further funds to the detail fund, and the City shall continue to collect the administrative service fee from all details paid for by vendors.

Section 12. Home Rule Petition. The Association agrees to support the City's efforts, including any "Home Rule Petition" filed by the City with the General Court to increase the City's administrative service fee to not more than fifteen (15) percent, provided, however, such support shall not impose any monetary obligation on the Association.

Section 13. Oversight. The City and its Chief of Police agree to assign a police captain or police lieutenant to oversee the paid detail office; his/her duties shall also include, without limitation, responsibility for finalization of payroll and detail sheets, detail assignments, and overseeing police officers assigned to paid detail as they go about their duties, as well as vendors/contractors in their use of paid details.

Section 13. Detail Officer. Upon funding of the \$150,000.00 sum referred to in Section 11, supra, the Chief of Police may civilianize the position of detail officer.

ARTICLE VII

GRIEVANCE AND ARBITRATION PROCEDURE

Section 1. Definition. For the purpose of this Agreement a "grievance" shall be defined as a complaint between the Employer and the Association and/or any employee(s) involving an alleged violation of a specific provision of this Agreement.

Section 2. Grievances shall be processed as follows:

Step 1. Grievances may be first presented by the employee(s) and/or Association to a senior Captain designated by the Chief within thirty (30) days of the date of the grievance or

of the date the employee first acquired knowledge of its occurrence, and an earnest effort shall be made within the next forty-eight (48) hours to adjust the grievance in an informal manner.

This step may be omitted by mutual agreement.

Step 2. If the grievance is not resolved in Step 1, the grievance shall be then reduced to writing by the Association and presented to the Chief of Police. The Chief shall meet with the Association's Grievance Committee and/or the employee(s) involved within five (5) days from the time the grievance is presented to him to discuss and attempt to adjust the grievance, and he shall answer the grievance within ten (10) days after the meeting in writing.

Step 3. If the grievance is not satisfactorily resolved in Step 2, or answered by the Chief of Police within the time limit set forth above, the written grievance shall be submitted to the Mayor by the Grievance Committee within ten (10) days after the ten (10) day period aforementioned in Step 2. The Mayor or his/her designee shall meet with the Grievance Committee within ten (10) days after the receipt of the written grievance to discuss and attempt to adjust the grievance, and will answer the grievance in writing within fourteen (14) days after the meeting.

Step 4. If the grievance is not satisfactorily resolved in Step 3, or answered by the Mayor within the fourteen (14) day period aforementioned in Step 3, it may thereafter be submitted by the Association, and only by the Association, except as hereinafter set forth in Section 3, to arbitration, by written notice to the Mayor within thirty (30) days after the answer of the Mayor is received, or forty (40) days after the answer of the Mayor is due, whichever is later. The arbitrator shall be selected by mutual agreement of the parties; the parties may also agree to submit the grievance to the State Board of Conciliation and Arbitration for arbitration in accordance with its procedures. If the parties are unable to agree on an arbitrator or said State Board, the Association may, within sixty (60) days after the date of receipt of its written notice to the Mayor, request the American Arbitration Association to provide a panel of arbitrators from which a selection of a single arbitrator shall be made in accordance with its voluntary labor arbitration rules. The fees and expenses of the arbitrator, if any, shall be shared equally by the parties.

Notwithstanding anything to the contrary, no dispute or controversy shall be subject for arbitration unless it involved an alleged violation of a specific provision of this Agreement. The parties are agreed that no restrictions are intended on the rights and powers of the Employer except those specifically and directly set forth in specific provisions of this Agreement. The arbitrator shall arrive at his decision solely upon the facts, evidence and contentions as presented by the parties during the arbitration proceedings.

The decision of the arbitrator shall be final and binding upon the parties, except that the arbitrator shall make no decision which alters, amends, adds to or detracts from this Agreement, or which recommends a right of relief for any period of time prior to the effective date of this Agreement.

Section 3. Employees shall not be disciplined or discharged except for just cause. Any dispute relative to discipline or discharge or to matters heretofore within the jurisdiction of the Civil Service Commission may be a subject of grievance and arbitration under the terms of this Agreement, with the option of any employee to proceed at Step 3 or Step 4 of the grievance procedure, or may be processed respectively before the Civil Service Commission; provided, however, that an employee may not pursue both remedies in terms of the same dispute; and provided, further, that the termination of an employee during his probationary period may be grieved but not arbitrated.

Section 4. An employee may present a grievance directly to the City, commencing at Step 2, provided that in such event the City, by its Chief of Police, shall immediately notify the President or Vice-President of the Association of the initiation of and of the proposed disposition of such individual grievance. Association representatives shall be afforded the opportunity to be present at any conference between the aggrieved employee and the City relative to such grievance and shall also be given the opportunity to confer with the City relative to such grievance. Any adjustment of the individual employee grievance must be consistent with the terms of this Agreement.

Section 5. The employee(s) involved, and the members of the Association's Grievance Committee, not to exceed three (3) in number, shall be in a pay status when processing a grievance, complaint or arbitration, or when acting as a witness when doing same during duty hours.

Section 6. An employee shall have the right to have an Association officer present at any meeting between an employee or group of employees and any City representative outside of the unit concerning the employees' or employees' employment relationship with the City.

Section 7. The time limits established by this Article may be extended by mutual consent of those parties participating at each Step in the grievance and arbitration procedure.

Section 8. Any grievance of a general nature affecting a group or class of employees or of a policy nature may, at the option of the Association, be filed at Step 2 of the grievance procedure.

ARTICLE VIII **HOURS OF WORK AND OVERTIME**

Section 1. **Work Week.** The regular work week of employees shall consist of not more than forty (40) hours, averaged over six (6) weeks, and the regular work day shall consist of not more than eight (8) hours, exclusive of not more than fifteen (15) unpaid minutes for roll call but inclusive of reliefs. Employees shall be scheduled to work on regular work shifts or tours of duty and each work shift or tour of duty shall have the following regular starting time

and quitting time. Work schedules shall be posted on the Department bulletin board and a copy shall be given to the Association.

(a) The work shifts and hours of work of the Day and two alternating Night Divisions are as follows: The hours of the Day Division are from 8:00 A.M. to 4:00 P.M. The hours of the Night Division are, for the first half division, from 4:00 P.M. to 12 Midnight, and for the last half division, from 12 Midnight to 8:00 A.M. The Night Divisions shall alternate between first and last half tours of duty in accordance with present practice.

(b) Effective not less than sixty (60) days after July 1, 2007, on written notice to the Department from the Chief of Police, with a copy given to the Association, the following new major alternating work shifts or tours of duty (hereinafter referred to as the "new shift rotation", which are the same work shifts now being worked by detectives pursuant to agreement between the Association and the City), may be implemented within the two new districts in place of those set forth in subparagraph (a):

(i) two first half shifts (4:00 P.M. to 12:00 Midnight), followed by two day shifts (8:00 A.M. to 4:00 P.M.

(c) In addition to the major tours of duty or work shifts set forth in subparagraph (a), there are three other work shifts or tours of duty, applicable to certain assignments, as follows:

- (i) Detective Bureau/Traffic Bureau Prosecuting Officers/newly appointed patrol officers attending recruit training at a Police Academy/employees attending school, training or courses on assignment by the Chief of Police and employees assigned to specialized duty of an administrative nature on the order of the Chief of Police – Day Shift 8 A.M. to 4 P.M.
- (ii) Night shift (uniformed division) 12 Midnight to 8 A.M., effective upon implementation of the new shift rotation
- (iii) Power or overlap shift (uniformed division) 6 P.M. to 2 A.M., effective upon implementation of the new shift rotation.

(d) An employee may not work more than sixteen (16) hours in a twenty-four hour period except as may be required by the needs of the Department as determined by the Chief of Police or his designee.

An employee who is requested to work overtime as a hold over shall not be charged (for distribution purposes) with the overtime hours offered, if such employee has been assigned a paid detail during such hours or working the same work day. In the event no other employee is available for overtime, then his/her detail shall be carried as "overtime" and the employee will not be charged for the detail hours assigned.

An employee who accepts overtime as a hold over will be charged if a detail is passed for the overtime. The amount of hours charged for the detail will be the assigned hours of the detail and not charged double.

An employee will be charged (for distribution purposes) for overtime hours worked or if offered overtime on his/her scheduled second day off "overtime day" and he/she passes.

Section 2. Work Schedules, Day-Off or Squad Schedules.

(a) All employees shall receive not less than one hundred twenty-one and one third (121-1/3) regular days off annually, and not less than two (2) consecutive days off weekly, in accordance with and characteristic of the four-and-two schedule so-called, or the modified four-and-two work schedule set forth in subparagraph (b) of this Section.

All employees, under such four-and-two work week so-called the four-on, two-off work schedule, shall receive fourteen (14) regular days-off in each six week period; within each six week period, the work cycle for the four-and-two work week shall be completed. An employee's days off, except as hereinafter provided in subparagraph (b) of this Section, shall drop back one (1) day every week. Employees working the two alternating night shifts, and employees in the Detective Bureau working the alternating night shifts for such Bureau shall go on days off after a first half tour of duty; as an example, a night man working said alternative shifts shall commence work on a last half tour of duty, then work a first half tour of duty the same day, and then go on his two (2) consecutive regular days off, then return to work the same cycle. Employees working the "new shift rotation" shall go on days off after their second day shift tour of duty; as an example, an employee working said new shift rotation shall commence work on a first half tour of duty (4 P.M. to 12 Midnight), then work another first half tour of duty the next day, then work a day shift the next day, then work another day shift tour of duty the following day, and then go on his/her two (2) consecutive regular days off, then return to work the same cycle.

(b) Excepted from the regular four-and-two work schedule so-called set forth in subparagraph (a) above shall be employees assigned as follows, each of whom shall work five (5) consecutive days on, Monday - Friday, and receive two (2) consecutive regular days off, Saturday - Sunday, weekly:

- (1) Traffic Bureau
- (2) Detective Bureau (Days)
- (3) Prosecuting Officers/court Personnel
- (4) Newly appointed patrolmen attending recruit training at a Police Academy
- (5) Employees attending school, training or courses on assignment by the Chief of Police
- (6) Employees assigned to specialized duty of an

administrative nature on the order of
the Chief of Police

provided, however, the Department may continue to assign the same number of employees in the Detective Bureau to the present non-Monday through Friday five-and-two schedule as are currently assigned to such schedule.

Under the five (5) day work week above-mentioned, each of such employees so assigned shall be entitled to and shall receive, in addition to two (2) consecutive regular days off weekly, seventeen and one-third (17-1/3) additional regular days off annually, as will employees working the regular four-and-two work schedule described in subparagraph (a), and, effective upon implementation of the new shift rotation, in subparagraph (b) of this Section. These seventeen and one-third (17-1/3) additional days off shall be taken one (1) each three (3) weeks, or otherwise, in accordance with a schedule that shall be determined by the Chief of Police.

Section 3. Overtime Service. All assigned, authorized or approved service outside or out-of turn of an employee's regularly scheduled tour of duty or work shift (other than paying police details), including service on an employee's scheduled day off, or during his vacation, and service performed prior to the scheduled starting time for his regular tour of duty, and service performed subsequent to the scheduled time for conclusion of his regular tour of duty, shall be deemed overtime service and paid for as such.

(a) Overtime service shall not include:

(1) An out-of-turn work shift or tour of duty which is substituted for a regularly scheduled work shift or tour of duty at the request of an employee (subject to Department approval); or

(2) Swapped work shift(s) or tour(s) of duty between individual employees by their mutual agreement, provided prior notice is given to the Shift Commander; or

(3) A change in the schedule of an employee who is shifted from one Division to another Division or from one shift (tour) to another shift (tour) for a period of forty-two (42) or more consecutive calendar days, or for a period of less than forty-two (42) calendar days for the purpose of in-service training or courses or to bring prisoners back into the City's jurisdiction.

(4) Roll-call immediately prior to the commencement of each work shift or tour of duty, not to exceed fifteen (15) minutes.

(b) **Recall.** If an employee who has left his/her last place of employment or last duty assignment after having completed work on his/her regular work shift or tour of duty of his assigned shift or tour is recalled to Police Headquarters or to any other place, or is placed on a stand-by basis, or if an employee is so recalled or placed on a stand-by basis on a scheduled

day off or during his/her vacation, he/she shall be paid on an overtime basis for all such time and shall be guaranteed a minimum of four (4) hours of overtime recall pay therefore.

Section 4. Scheduling of Overtime. Except in the event of an emergency, no employee shall be required to work overtime. All employees shall be given as much advance notice as possible of overtime work opportunities. Scheduled overtime shall be posted and distributed to all employees on an equitable and fair basis, commensurate with their rank. An overtime roster shall be established and kept on a current monthly basis. The employee with the lowest number of overtime hours worked on a monthly basis shall always be given first choice of work. In the event of a tie, seniority shall prevail. No day officer shall work a Midnight to 8:00 A.M. shift or a 4:00 P.M. to Midnight shift, and no night officer working a Midnight to 8:00 A.M. shift shall work an 8:00 A.M. to 4:00 P.M. shift consecutively, except in case of emergency.

Employees other than those who work beyond their normal work shift or tour of duty due to the exigencies of their workday (such as a late ambulance run, an accident, an investigation, etc.) shall have the option of declining offered overtime, in which event they shall be charged with the overtime opportunity as overtime actually worked, marked in red as a refusal, in determining the equitable and fair distribution of overtime to employees. In the event of an emergency, where time is of the essence in executing the overtime job, such additional personnel, as are deemed necessary by the City, may be required to work overtime on an assigned basis.

All employees shall be afforded the opportunity to accept overtime service, but there shall be no discrimination against any employee who declines to work overtime on a voluntary basis.

Effective January 1, 2002, an employee returning to duty from absence on sick leave who uses or has used ten (10) or more sick days in calendar year 2002, or who uses ten (10) or more sick days in any future calendar year, shall not, in calendar year 2002 or in any such future calendar year, be eligible to receive the next paid detail or overtime opportunity(s) to which he/she is entitled in that calendar year, until he/she has first worked his/her next three (3) regularly scheduled work shifts (hereinafter "three (3) shift period"), and shall be charged with such detail or overtime opportunity(s) as if he/she had worked it or them, provided, however, if a paid detail or an overtime opportunity is not offered the employee within said three (3) shift period, he/she shall nevertheless be charged for one (1) paid detail opportunity as if he/she has worked it.

If an employee produces a sick certificate signed by a doctor, covering an absence sick for more than three (3) consecutive sick days, that absence shall be treated as one (1) sick day; this exception shall not apply more than twice during each such calendar year. In lieu of the sick certificate, an employee may provide other documentation signed by a doctor as to the employee's status.

In the case of an emergency as determined by the Chief of Police or his/her designee, the above limitation on an employee's working paid details or overtime during such three (3) shift period may be waived.

For purposes of these provisions, each calendar year shall stand on its own; no rolling calendar year is applicable.

Section 5. Overtime Compensation, Method Of. An employee who performs overtime service in accordance with the provisions of this Agreement shall receive, in addition to his regular weekly compensation, time and one-half his straight-time hourly rate of pay for each hour of overtime service or fraction thereof, computed to the next hour; provided, however, upon funding of the cost items of this Agreement, the first quarter hour (15 minutes) of overtime service following the scheduled time for conclusion of an employee's regular tour of duty shall not be compensated for unless such overtime service continues beyond the first quarter hour. The straight-time hourly rate shall be computed to the next hour, subject, however, to the foregoing provisions of this Section. The straight-time hourly rate shall be computed as one-fortieth of an employee's regular weekly compensation.

(a) Employees shall not be required to accept compensatory time-off in lieu of monetary compensation for overtime service.

(b) Pay for overtime service (including court-time) shall be in addition to and not in lieu of vacation and holiday pay, and shall be remitted to employees on a weekly basis.

(c) The scheduled work shifts or tours of duty and day off schedules of individual employees or groups of employees shall not be changed to avoid the payment of overtime.

Section 6. Detective's Overtime. Overtime worked by Detectives in the Detective Bureau shall be entered into the regular overtime record sheet.

Section 7. Vacation Overtime. An employee required to work or attend court during his vacation period shall receive, in addition to his overtime compensation, an additional vacation day for each vacation day or fraction thereof of such work or court attendance, added onto his vacation period.

Section 8. Lunch and dinner relief shall follow present practice. Meal reliefs on all shifts shall not exceed thirty minutes.

Section 9. Swapping of Shifts. Employees ranks, may swap shifts with each other, on prior notice to the Shift Commander, provided swapping shall not become a regular practice on the part of any one individual employee.

If any employee makes a swap and the employee who is to work the shift does not report for duty and work the shift, the employee who was originally scheduled to work the shift must make up the shift at a time designated by the Chief of Police or his designee.

If an employee is out sick the day before or the day after he/she swaps a shift with another employee, he/she shall be warned not to do so again; if he/she is again out sick the day before or the day after he/she swaps a shift with another employee, he/she shall not be entitled to swap a shift during the following thirty (30) days period; if thereafter, he/she is again out sick the day before or the day after he/she swaps a shift with another employee, he/she shall not be entitled to swap a shift during the following ninety (90) day period; and if it happens again within any twelve (12) month period, he/she shall not be entitled to swap a shift during the following twelve (12) month period. After said twelve (12) month period, the above process shall start all over again.

Section 10. Annual Buyback of 5/2 Days. Employees assigned to a Monday - Friday schedule pursuant to this Article, may, at their option, annually elect to buyback up to four (4) of the 17-1/3 additional days off each receives, at their applicable daily rate of pay, by notice to the Police Department, in which event, the number of additional days off each receives shall be reduced by the number of buyback days elected and paid for. The annual election and payment for such buyback days shall be made in January of each year for the prior calendar year.

ARTICLE IX **HOLIDAYS**

Section 1. The following dates shall be considered to be paid holidays for the Somerville Police Department:

New Year's Day	Employee's Birthday
Martin Luther King Day	Independence Day
Washington's Birthday	Labor Day
Evacuation Day	Columbus Day
Patriot's Day	Veteran's Day
Memorial Day	Thanksgiving Day
Bunker Hill Day	Christmas Day

or the day of celebration thereof.

Holiday pay shall be paid to each employee in two lump sums, one, for seven (7) holidays not later than the second payday in May, the other, for seven (7) holidays, no later than the second payday in November, so long as the Department has provided the necessary information to the Treasurer's office sufficiently in advance of that date.

Section 2. For the purpose of this Article, the holiday is the twenty-four (24) hour period commencing at 8:00 A.M. of each day listed above.

Section 3. When any of the aforementioned holidays falls on an employee's scheduled workday, on an employee's scheduled day off, during his/her vacation, or during any period of an employee's paid injured leave, he/she shall receive, for each such holiday, in addition to his/her regular weekly compensation, an additional day's pay, computed as one-fourth of his/her regular weekly compensation.

ARTICLE X **VACATIONS**

Section 1. Paid vacations for employees of the Somerville Police Department shall be as follows:

<u>Length of Service</u>	<u>Length of Vacation</u>
up to 10 years	3 calendar weeks
beginning 10 th year	4 calendar weeks
beginning 18 th year	5 calendar weeks
beginning 25 th year	6 calendar weeks

An employee appointed prior to July 1st is entitled to one week's vacation in that calendar year; an employee appointed after July 1st will not be entitled to a vacation until the following calendar year.

Section 2. Vacation choices shall be made by seniority, in accordance with present practice, no later than March 1st of each year, from a vacation list establishing the summer vacation period which shall be posted at least three weeks prior to February 1st.

Section 3. Each employee shall have the option of requesting that he be paid his full vacation pay in advance, by eleven (11) days written notice to the City to such effect.

Section 4. An employee on injured or sick leave, which injured or sick leave was in existence prior to the commencement of his/her vacation, and which injured or sick leave precludes and employee from the use of his/her vacation shall not his/her vacation period credited against him/her, but shall be provided his/her full vacation upon return to work, provided, however, that in no twelve month period shall that employee receive or accrue more than twelve month's injured, sick and/or vacation pay; provided, further, than at employee who exercises his/her right to the injured/sick leave provisions as set out aforesaid, must provide the Police Department with a Doctor's certificate verifying his/her condition and disability and agrees that he/she will remain at his home during the period of time he/she claims injured/sick leave rather than vacation leave; and provided, further, it shall be the responsibility of such

employee to provide the Police Department fourteen (14) days notice, to the extent practicable, of his/her intention not to take the vacation leave that he/she has previously chosen in accordance with this Article, because of injured or sick leave which was in existence prior to the commencement of his/her vacation, as aforesaid.

Section 5. Each employee shall be scheduled for a three (3) week vacation during the period June 1st to October 30th, but may split such three week vacation at his/her option.

Section 6. Each employee shall receive not less than five (5) vacation days for each week off of entitled vacation, in addition to regularly scheduled days off, provided, however, an employee assigned to a ten (10) hour work shift or tour of duty shall receive not more than forty (40) hours of vacation leave for each week off of entitled vacation, subject to Article VIII, Section 7.

Section 7. Vacations shall commence after midnight on a Friday.

Section 8. An employee who picks his/her vacation in accordance with Section 2 and later bids out of his/her seniority shift pick voluntarily, may pick a different vacation on the new shift but may not bump employees out of their vacations that they picked in accordance with Section 2. An employee who voluntarily changes his/her work shift or tour of duty, after having picked his/her vacation on his/her former work shift or tour of duty, may be required to pick a new vacation on the new work shift or tour of duty; if he/she is required to pick a different vacation, his/her original vacation slot shall be made available to employees on the work shift or tour of duty that he/she moved from.

Section 9. Community Police. Not less than two (2) employees assigned as community police officers on each work shift shall be allowed to select their vacations in accordance with this Article, in each vacation slot. Community police officers assigned to the same City ward shall not be permitted to pick the same vacation period.

Section 10 Effective January 1, 2007, each employee may use up to five (5) individual vacation days in each calendar year commencing calendar year 2007; provided, however, that each employee who has not been absent due to illness or non-job related injury for more than five (5) days in a preceding calendar year shall be allowed to use five (5) additional individual vacation days in each successive calendar year, upon, in each instance, forty-eight (48) hours' notice, or less with the approval of the Chief of Police or his/her designee.

Section 11 Effective January 1, 2007, the vacation carryover period shall be extended from February 1 to March 31 of the following year.

ARTICLE XI **CLOTHING ALLOWANCE AND EQUIPMENT**

Section 1. The City, at its sole cost and expense, shall furnish each employee with all necessary equipment needed for the performance of police duties, including by way of example but not by way of limitation, service weapons, handcuffs, holsters, belts, ammunition, night sticks, flashlights, batteries, badges, but excluding shoes.

Section 2. The City agrees to pay for the initial change of any uniform item so ordered by the City, provided, however, employees, when assigned to street duty, shall be entitled to wear blue-black shirts.

ARTICLE XII **BEREAVEMENT LEAVE**

Section 1. Absence from work with pay shall be granted in case of the death of a parent, child, spouse, or a member of the employee's household for a period of five (5) consecutive calendar days. Further, absence from work with pay shall be granted in case of death of a sister, brother, grandparent, or parents-in-law for a period of four (4) consecutive calendar days. Bereavement leave shall commence the day after the day of death, provided, however, effective August 15, 2007, bereavement leave, at the option of the employee, with notice to the Chief of Police or his/her designee, may commence within three (3) days after the day of death, unless previously approved otherwise by the Chief of Police.

Section 2. An absence of one (1) day with pay shall be granted in case of the death of an employee's aunt/uncle, niece/nephew, spouse's grandparents, and an absence of two (2) consecutive days with pay shall be granted in the case of the death of an employee's brother-in-law/sister-in-law in order that he/she may attend the funeral and/or the wake of any such deceased person.

Section 3. Leave without loss of pay as provided in Sections 1 and 2 of this Article shall not be charged to sick leave or vacation leave.

Section 4. If an employee entitled to leave without loss of pay or benefits under this Article requires additional leave for such purpose, or in the event of a death in the immediate family of an employee not entitled to leave without loss of pay or benefits hereunder, leave for such purpose may be permitted without loss of pay or benefits in the discretion of the Chief of Police.

ARTICLE XIII **OTHER LEAVES OF ABSENCE**

Section 1. Subject to the operating needs of the Department, determined by the Chief of Police, leave of absence without loss of pay or benefits will be permitted for the following reasons:

(a) attendance by an employee who is a veteran, as defined in Section 21, Chapter 31 of the General Laws, as pallbearer, escort, bugler or member of a firing squad or color detail at the funeral or memorial services of a veteran, as so defined, or of any person who dies under other than dishonorable circumstances while serving in the armed services of the United States in time of war or insurrection;

(b) attendance by an employee who is a veteran, as defined in Section 21, Chapter 31 of the General Laws, as a delegate or alternate to state or national conventions of certain veterans' organizations as designated from time to time, during the life of this Agreement, by the Mayor of the City;

(c) inoculation required by the Municipal Employer;

(d) Red Cross blood donation authorized by the Department;

(e) promotional examinations conducted under Civil Service Law and rules for promotion to any position in the service of the Department;

(f) medical examinations for retirement purposes;

(g) attendance at educational programs required or authorized by the City of the Department.

Section 2. Military Leave. Every employee covered by this Agreement who is a member of a reserve component of the Armed Forces of the United States shall be granted, in accordance with Section 59 of Chapter 33 of the General Laws, leave of absence with pay, during the time of his annual tour of duty as a member of such reserve component; provided, however, that such leave shall not exceed seventeen (17) calendar days.

Section 3. Personal Leave. Employees shall be entitled to two (2) days of personal leave per year. Scheduling for personal leave shall be subject to the approval of the Chief of Police. Unused personal leave may be accumulated and carried over for use in subsequent years, provided, however, effective July 1, 2007, an employee may buy-back up to five (5) days of accumulated personal leave upon his/her retirement, at his/her then daily rate of pay, and, in the event of his/her death, such buy-back shall be paid to his/her estate. Requests for personal leave must be submitted at least twenty-four (24) hours in advance, except in an emergency.

One employee per shift shall be allowed to select a personal day. Subject to the foregoing, at least one (1) employee on each work shift or tour of duty of the Uniformed Division shall be given his/her personal day-off each day; if more than one (1) employee requests personal leave on each said work shift or tour of duty on a given day, the first employee so requesting shall receive same on a first-come, first-served basis.

Section 4. Parental Leave. Each employee shall be entitled to a two (2) week leave of absence with pay upon the birth or adoption of a child. This provision shall not affect maternity leave.

ARTICLE XIV **INJURY LEAVE AND INDEMNIFICATION**

(1) Members of the bargaining unit shall be granted leave without loss of pay for the period of any absence from duty resulting from personal injury, sickness, or disability arising out of our in the course of their employment.

(2) The City shall indemnify the members of the bargaining unit for medical, hospital and related expenses incurred by them as a result of such personal injury, sickness or disability within sixty (60) days after acceptance or establishment of the City's liability for such personal injury, sickness or disability.

(3) This Article is intended neither to enlarge or diminish the statutory rights of the members of the bargaining unit with respect to injury leave and indemnification except as provided below.

(4) An employee on injury leave shall be entitled to examination and treatment by a physician of his own choice. A doctor designated by the City may examine the employee as to the employee's fitness to resume full police duty or light duty as described herein. The City's doctor shall review the employee's doctor's opinion if the employee or the City so requests.

If the employee's doctor and the City's doctor disagree as to the employee's fitness to resume such full police duty or light duty, necessary steps shall be taken to have the employee examined by a third doctor. This third doctor shall be appointed from a clinic, hospital, or medical center (after prior consultation with the Association) and shall be qualified to make the necessary determination. Pending receipt of this doctor's opinion, there shall be no change in the employee's status based on the City's doctor's opinion.

If the third doctor determines that the employee is not fit to resume full policy duty or light duty as described herein, the employee shall remain on paid injured leave status. If the third doctor determines that the employee it fit to resume full police duty or light duty, as described herein, the employee shall be ordered to return to such duty. All costs and expenses of the third doctor's examination shall be borne by the City.

An employee who is on a light duty assignment shall be provided with whatever time off without loss in pay as needed for medical examination and treatment of and rehabilitation from his/her injury subject to the approval of the Chief after sufficient documentation is provided detailing the necessity of said examination, treatment, or rehabilitation; provided, however, the medical examination, treatment or rehabilitation cannot be scheduled during non-working time.

The objective of this provision is to enable the injured employee to return to full duty as soon as possible.

While on a light duty assignment, an employee shall be entitled to all contractual salary, fringe, and other benefits, provided, however, he/she shall not be entitled to work paid details or overtime in accordance with past practice.

Limited police duties shall be station in-house duties unless otherwise agreed by the Chief of Police and the Association. The Chief will make reasonable efforts to assign a light duty employee to the same shift to which he/she is currently assigned. Assignments to limited duty tasks may be changed or terminated at the discretion of the Chief, subject only to the provision contained herein.

Limited duty tasks shall not involve prisoner contact. There shall be no disciplinary action taken against an employee assigned to perform limited duty tasks who fails to respond to incidents which he/she reasonably believes could result in re-injury or exacerbation of injury.

An employee who is regularly assigned to night duty and who is assigned daytime limited duty shall continue to receive his/her night shift and weekend differential while assigned to the day shift.

Limited duty assignments will not be made to avoid seniority choices of employees in accordance with other provisions of this Agreement, nor shall any employee on full duty be bumped from his/her then assignment within the station as a result of an employee or employees being assigned limited duty.

It is understood that assignment to limited duty tasks pursuant to the provisions of this Section are temporary in nature and shall not extend beyond the period of disability for full duty.

An employee assigned to limited duty shall be entitled to indemnification as set forth in G.L. c. 41, section 100. The provisions of this Section shall not constitute a waiver of said rights.

Limited police duties shall be station in-house duties unless otherwise agreed to by the Chief of Police and the Association. The Chief will make reasonable efforts to assign a light duty employee to the same shift to which he/she is currently assigned. Assignments to limited duty tasks may be changed or terminated at the discretion of the Chief, subject only to the provisions contained herein.

Limited duty tasks shall not involve prisoner contact. There shall be no disciplinary action taken against an employee assigned to perform limited duty tasks who fails to respond to incidents which he/she reasonably believes could result in re-injury or exacerbation of injury.

An employee who is regular assigned to night duty and who is assigned daytime limited duty shall continue to receive his/her night shift and weekend differential while assigned to the day shift.

Limited duty assignments will not be made to avoid seniority choices of employees in accordance with other provisions of this Agreement, nor shall any employee on full duty be bumped from his/her then assignment within the station as a result of an employee or employees being assigned limited duty.

It is understood that assignment to limited duty tasks pursuant to the provisions of this Section are temporary in nature and shall not extend beyond the period of disability for full duty.

An employee assigned to limited duty shall be entitled to indemnification as set forth in G.L. c. 41, Section 100. The provisions of this Section shall not constitute a waiver of said rights.

An employee returning to limited duty shall wear his/her uniform or plain clothes as determined by the Chief of Police, provided, however, a determination by the Chief that an employee shall wear his/her uniform shall take into account the safety of the employee and the possibility of re-injury or exacerbation of injury, and provided, further, that an employee on limited duty shall not be required to wear his/her uniform while traveling to and from work.

The City will certify to the employee's condition while he/she is on a light duty assignment.

ARTICLE XV **PERSONNEL INTERROGATION PROCEDURE**

No member of the Police Department shall be required or requested, directly or indirectly, to submit to interrogation which could lead to disciplinary action, except in accordance with the following rules:

(1) The interrogation of a member of the Department shall be at a reasonable hour, preferably when the member is on duty unless the exigencies of the investigation dictate otherwise. Where practicable, interrogations should be scheduled for the daytime, and reassignment of the member to a day tour of duty in lieu of his/her next regularly scheduled tour of duty may be employed, or said member shall be compensated on an overtime service basis. No member shall suffer loss of pay for time spent under interrogation.

(2) The interrogation shall take place at the Police Station.

(3) Said member shall be informed of the rank, name and command of the officer in charge of the investigation, as well as the rank, name and command of the interrogating officer and all persons present during the investigation.

(4) Said member shall be informed of the nature of the investigation before any interrogation commences, including the name of the complainant(s). The address of the complainant(s) and/or witness(es) need not be disclosed; however, sufficient information to reasonably apprise the member of the allegations should be provided. If the complaint is filed in writing or has been or can be reduced to writing by the Department, a copy shall be furnished to said member. If it is known that the member being interrogated is a witness only, he/she should be so informed at the initial stage, and not statements, oral or written, given or requested of him/her, may at any later point or stage, be used as a basis of any misconduct or other charges against him/her. If such statement or any information thereby imported is used in any way against said member, any disciplinary charge emanating therefrom shall forthwith be dismissed and quashed.

The parties agree that these provisions of the contract will be amended to provide for those employee rights set forth in the case of Carney v. City of Springfield, with language to be agreed upon within ninety (90) days after the execution of this Agreement.

(5) The interrogation shall be completed with reasonable dispatch. Reasonable respites shall be allowed. Time shall also be provided for personal necessities, meals, telephone calls, and rest period as are reasonably necessary. Said member shall be afforded full time and opportunity to have access to his/her notes and any witnesses to refresh his recollection as to the alleged charges of misconduct and/or the incident in question, and this prior to any interrogation.

(6) Said member shall not be subjected, during said interrogation or at any time prior thereto, to any offensive language, nor shall he/she be threatened with transfer, dismissal, reassignment or other disciplinary punishment. No promises or rewards shall be made as an inducement to answering questions, except that this shall not preclude an offer of immunity from disciplinary action.

(7) The complete interrogation of a member of the force shall be recorded mechanically or electronically or by a department stenographer. Said member shall be given an exact copy of any written statement he/she may execute, and if formal charges are preferred against him/her, he/she shall, at his/her request, be given an exact copy of said interrogation, at no cost to him/her.

(8) In all cases wherein a member is to be interrogated, he/she shall be afforded, if he/she so requests, an opportunity and facilities to contact and consult privately with counsel and/or representative of the Association before being interrogated, provided the interrogation is not unduly delayed. In such event, the interrogation may not be postponed for purpose of counsel and a representative of the Association past 10:00 A.M. of the day following the scheduled day for the interrogation, unless a later date is mutually agreed upon. Counsel, if available, and said Association representative, may be present during the interrogation of said member, and counsel at all times may be a participant in such proceedings.

(9) If a member of the Department is under arrest, or is likely to be, that is, if he/she is a suspect or the target of a criminal investigation, he shall be given his rights pursuant to the Miranda decision.

(10) The refusal by an officer to answer questions as permitted by applicable law may result in disciplinary action.

ARTICLE XVI

SICK LEAVE

Members of the bargaining Unit shall be granted sick leave in accordance with the City's Code of Ordinance, Section 10-7.

Section 1. There shall be a Sick Leave Committee composed of three (3) members of the Executive Board appointed by the President of the Association, and of the Chief of Police and/or his designee. The Committee shall review leave usage and make recommendations with a view towards reducing sick leave usage. The Committee shall meet as needed, but not less often than on a quarterly basis each calendar year.

Section 2. An employee reporting out or sick returning from sick or injured leave, must speak directly to the Commanding Officer. In the event such employee does not or is unable to speak directly to the Commanding Officer, the Commanding Officer shall call such employee at his/her home to verify the illness or his/her return to duty. An employee who reports out sick must do so at least two (2) hours before his/her next tour of duty, except in cases of emergency.

Section 3. An employee who reports out sick, injured or excused must report his or her status daily to the Chief, or the commanding officer if the Chief is unavailable. An employee reporting out sick and injured for his or her shift must, to the extent practicable, do so at least two (2) hours before his or her next tour of duty. An employee who has notified the Chief or his/her commanding officer that he or she will be absent due to sickness or injury on a long-term basis (i.e., in excess of ten (10) working days) is not required to call in his or her sickness or injury on a daily basis, as otherwise required under this paragraph.

Section 4. Employees shall submit sick certificates to the Chief's Office no later than two (2) days after returning to work, to the extent practicable. The sick certificate shall apply to sick absences of three (3) consecutive days or less. For sick absences of more than three (3) consecutive days, the sick certificate is to be signed by a doctor; in lieu thereof, employees may provide other documentation signed by a doctor as to employee's status. An employee who fails to submit a completed sick leave certificate without a reasonable explanation will have his/her pay for the period of his/her absence, or any part thereof, withheld until the sick leave certificate is received by the Chief's Office.

Section 5. If an employee is identified as a sick leave abuser after ten (10) days or has an identifiable pattern, the Chief of Police or his designee shall provide such employee a letter identifying the problem. Such identification shall not be arbitrary, capricious, or discriminatory.

Employees who have received such letter shall be required to be off duty (including details and overtime) for at least twenty-four (24) consecutive hours in a seven (7) day period for the next ninety (90) days after receiving such letter, except in an emergency determined by the Chief of Police or his designee. The twenty-four (24) hour period does not include sick leave, injured leave, or other compensable leave.

Such employee may challenge his/her letter by requesting a meeting with the Executive Officer to discuss the letter, and may be accompanied to such meeting by an Association representative(s) who may participate in such discussion.

Once an employee has received this letter, on the next occasion of his/her calling in sick, his/her Commanding Officer will call the employee at home during his/her schedule shift; if the employee cannot be reached at his/her home, a supervisor may be sent to the employee's home to verify his/her status. In each such instance, the employee will be required to file a station report (as to why he/she could not be reached at home).

If the employee is at home when the Commanding Officer calls, there will be no need for supervisor to make a home visit. If the employee is at a location other than his/her own, it is his/her responsibility to so inform the Commanding Officer when he/she reports out sick.

The foregoing procedures shall apply only to employees who have received a letter concerning sick leave usage. On January 1st of each calendar year, this letter shall be withdrawn from the employee's file and his/her sick days, for the purposes of this Section, shall be rolled back to zero (0).

The provisions of this section shall not be construed to limit the rights and responsibilities with respect to disciplinary actions.

Section 6. Sick Leave Visitation. Routine visitations to employees on sick leave are hereby terminated. The City, however, reserves the right to visit employees having a chronic pattern of non-hospital sick leave; this right shall not be used to discriminate against employees.

ARTICLE XVII **NO STRIKE CLAUSE**

Neither the Association nor any employees covered by this Agreement shall engage in, induce, or encourage any strike, work-stoppage, slow-down, or withholding of services.

The Association agrees that neither it nor any of its officers or agents will call, institute, participate in, sanction, or ratify any such strike, work-stoppage, slow-down, or withholding of services.

ARTICLE XVIII SENIORITY

Section 1. Seniority of patrolmen employees shall run from the date of their permanent original appointment as patrolmen in the employ of the City and its Police Department. For purposes of this Article, seniority as defined in the Article, and not Civil Service seniority shall apply. The seniority for those patrolmen so appointed on the same day shall be governed by the following tie breakers which shall apply, in the following order:

- (i) their average percentage grade at the Police Academy shall govern;
- (ii) their average percentage score in their handgun qualification at the Police Academy shall govern;
- (iii) their average percentage score in their shotgun qualification at the Police Academy shall govern;
- (iv) their best running time in the required distance run at the Police Academy shall govern; provided, however, employees hired on or after July 1, 2007, on the same day, who have already attended a recruit police academy, will use their date of graduation from that academy, as well as the criteria listed above, to determine their seniority.

If an employee resigns from the Police Department or laterals from the Police Department to another Police Department, and is later reappointed or reinstated in the Police Department, or laterals back to the Police Department, his/her date of permanent original appointment for the purposes of this Section shall be deemed to be the date of his/her reappointment, reinstatement or lateral back, as the case may be.

An employee who takes a leave of absence for more than six (6) months, shall have the amount of time beyond six (6) months added to the employee's date of original permanent appointment; (e.g. an employee who is appointed July 10th takes an eight (8) month leave of absence, the new date of original permanent appointment would be September 10th.)

If any employee retires and returns to the Police Department from retirement, whether voluntary or involuntary, his/her date of permanent original appointment for the purpose of this Section shall be deemed to be the date of his/her reappointment or reinstatement.

Effective July 1, 2007, an employee who resigns from the Police Department or laterals from the Police Department of the City to another Police Department within three (3) years from

the date of his/her graduation from a recruit police academy, shall and does hereby agree to reimburse the City for payment by it of the fee of the police academy.

Section 2. Employees shall have the right and option to pick their shift, and, effective upon implementation by the Department of the new shift rotation, either of the two new districts contemplated by the Department, by seniority, with preference given to employees in the order of their seniority, subject to the provisions of Section 4. A seniority pick shall be posted and made in January of each year, on or about January 5th. Each seniority pick shall remain in force for a one year period, except as hereinafter set forth. At the end of such one year period and at the end of every consecutive one year period thereafter, there shall be a new pick. All employees shall be required to make their pick within ten (10) days of notice thereof. The pick shall be completed within one month after the pick is required to be first posted and made.

When a shift and/or district opening becomes available because of a transfer or leave of absence, retirement, death, resignation, or because of a newly authorized or created position(s), or for any other reason, it shall be posted for fifteen (15) days thereafter, and a seniority pick for the shift and/or district opening shall be made, notwithstanding the provisions aforementioned that seniority picks shall be made once each year. In the event of a shift and/or district opening occurring between picks, the pick shall be made and completed within fifteen (15) days after the first posting thereof; provided, however, by agreement between the Association's Executive Board and the Chief of Police, the fifteen (15) day period within which a vacancy shall be posted may be lessened or extended.

The Chief of Police shall assign employees to shifts and districts in accordance with their picks forthwith after the pick is completed.

Section 3(a). Employees shall have the right and option to pick their job assignment within the Uniformed Division, in the following jobs, by seniority, with preference given to such employees in order of seniority, on the shift and, effective upon implementation of the new districts by the Department, district they have chosen in accordance with the provisions of Section 2, hereof:

Patrolmen assigned as (a) detail officer, (b) records clerk, (c) traffic bureau, (d) court house, (e) warrant section, (f) community police officer ("CPO") and (g) station officers; provided, however, upon funding of all the cost items of this Agreement, the words "detail officer" and "records clerk" may be deleted.

The seniority pick shall be posted and made in January of each year and once every year thereafter, on or about January 5th. Each seniority pick shall remain in force for a one year period, except that employees assigned as community police officers shall remain in their pick for a two (2) year period and shall be subject to the same limitations on bidding out for the remainder of the then two (2) year bid pick. At the end of such one or two year period and at the end of every consecutive one or two year period thereafter, there shall be a new pick. All

employees shall be required to make their pick within ten (10) days of notice thereof. The pick shall be completed within one month after the pick is required to be first posted and made.

When a job opening becomes available because of a transfer or leave of absence, retirement, death, resignation, or because of a newly authorized or created position(s), or for any other reason, it shall be posted for fifteen (15) days thereafter, and a seniority pick for the job/district opening shall be made, notwithstanding the provisions aforementioned that seniority picks shall be made every other year. In the event of a job/district opening occurring between picks, the pick shall be made and completed within fifteen (15) days after the first posting thereof; provided, however, by agreement between the Association's Executive Board and the Chief of Police, the fifteen (15) day period within which a vacancy shall be posted may be lessened or extended.

Shift, job, and, effective upon implementation of the two new districts, district, or specialist board openings may be posted for less than fifteen (15) days upon agreement of the Executive Board and the Chief of Police.

The Chief of Police shall assign employees to jobs in accordance with their picks forthwith after the pick is completed.

Notwithstanding the foregoing provisions relating to the right and option of employees to pick the job assignments listed therein, employees who bid for CPO or Traffic Bureau job(s) on the occasion of the January pick, and who are assigned such job(s) because of their seniority, shall not be permitted to bid out of the CPO or Traffic Bureau job (or their shift selection) for the two (2) year period of their CPO or Traffic Bureau pick. Employees so bidding for and assigned to the CPO/or Traffic Bureau job on the occasion of the posting for a vacancy or vacancies in the CPO/ or Traffic Bureau job because of the promotion, retirement, resignation of an employee in such job or who is assigned to the Detective Bureau from such job, as example, shall similarly not be permitted to bid out of the CPO or Traffic Bureau job (or their shift/district selection) for the remainder of their then two (2) year bid/pick.

All employees assigned as CPO's or to the Traffic Bureau immediately prior to the January job pick/bid shall be entitled to rebid or repick their CPO or Traffic Bureau position and may not be outbid for their CPO or Traffic Bureau ward assignment (or their shift selection) on the occasion of the January, 2008 bid/pick, whether they are senior employees or not at the time so bidding or picking, and similarly shall not be permitted to bid out of the CPO or Traffic Bureau job (or their shift selection) for the two (2) year period of their CPO or Traffic Bureau pick. This shall also be the case with respect to future bid/picks for the CPO or Traffic Bureau job. Effective upon implementation of the new shift rotation, delete the word "ward" as found herein and insert the word "district" in its place.

It is the intent and purpose of these provisions that employees who bid/pick for the CPO or Traffic Bureau job and who are assigned to such job (and shift/district selection) by their seniority, may not be outbid, on the occasion of the next job/district pick/bid, for such job

(inclusive of ward and shift selection), whatever his/her then seniority, and this in order to assure that an employee's continuity in a job bid/pick for the CPO or Traffic Bureau job shall continue for at least two (2) job bids/pick cycles. It is also understood that once an employee assigned to the CPO or Traffic Bureau job has served four (4) years in that job (or more than two (2) years but less than four (4) years if so assigned to fill a vacancy), he/she may be outbid by seniority for the CPO or Traffic Bureau job on the occasion of the next job bid/pick".

An employee who bid/picks for the CPO or Traffic Bureau job may, however, request and be assigned to the Detective Bureau pursuant to the Specialist Board provisions of Section 5, in which event he/she shall not be required to remain in his/her CPO or Traffic Bureau job for the remainder of the two (2) year period of his/her then CPO or Traffic Bureau job bid/pick.

Section 3(b). Patrolman employees in the Uniformed Division, other than those referred to in Section 3(a), shall have the right and option to pick their job assignment by seniority, on the shift they have first chosen in accordance with the provisions of Section 2 hereof, from the list of such assignments determined by the Chief of Police or a shift Commanding Officer, at the commencement of each regularly scheduled work shift or tour of duty, in accordance with the patrol deployment formula established by the Chief of Police in 1996 (Memorandum 96-50, 10/01/96), which formula is incorporated by reference; provided, however effective upon implementation of the two new districts, such employees shall continue to pick their job assignment by seniority on a daily basis, on the shift and within the district they have chosen in accordance with the provisions of Section 2 hereof.

Section 3(c). Notwithstanding the provisions of Sections 2 and 3(a) and 3(b) of this Article, the seniority pick made and posted on or about January 5, 1979 for job/shift assignments in the Detective Bureau shall remain in force and effect subject to the following provisions:

If an employee who picked the Detective Bureau pursuant to the January 1979 pick thereafter transfers from the Bureau voluntarily or as a result of promotion, or retires, or dies, the job assignment involved shall be filled in the manner set forth in Section 5 of this Article.

Notwithstanding the provisions of the first paragraph of this Section, an employee assigned to the Detective Bureau pursuant to the January 1979 pick, who is still so assigned as of July 1, 1989, shall not thereafter be transferred out of the Detective Bureau involuntarily, in violation of his seniority rights, without his having the right to grieve and arbitrate his transfer commencing at Step 3 of the grievance procedure. If his experience and qualifications for such assignment are equal or similar to that of an employee recommended thereof and thereupon assigned to the Detective Bureau by the Chief of Police, then preference shall be given to the employee with the greater seniority.

The City agrees to maintain four (4) detective job assignments which were part of the

January 1978 pick, as night detectives on the new shift rotation. The City reserves, however, the right to assign all four (4) detectives to the new shift rotation (First Half), or two (2) of the four (4) to the Day shift in the Detective Bureau.

Section 4. The shift and job assignments of patrolmen assigned to the Uniformed Division, as set forth in the prior year's January rolls, shall determine, at a minimum, the job/shift requirements for which employees within ranks are entitled to make job/shift/district picks by seniority in accordance with the foregoing provisions of this Article.

The following assignments shall be excluded from job/shift/district assignment picks:

- (i) an employee assigned to the Mayor's Office;
- (ii) an employee assigned to the Licensing Board;
- (iii) an employee assigned to the City Solicitor's Office;
- (iv) (a) employees, not to exceed three (3) employees in number assigned to the Domestic Violence Unit;
- (v) an employee assigned to the Policy Academy;
- (vi) an employee assigned to Crime Prevention;
- (vii) an employee assigned as Safety Officer;
- (viii) an employee assigned as Administrative Aide to the Chief of Police;
- (ix) employees assigned to the Vice Squad, not to exceed two (2) employees.

This section shall not prevent department reorganization or abolition of position by the Chief of Police, with the written approval of the Mayor, after discussion and negotiation with the Association.

Section 5. Specialist Board. Assignment of employees to the Detective Bureau, pursuant to the second paragraph of Section 3(c) of this Article, shall be in accordance with the following procedure:

(a) A Specialist Board composed of two (2) captains designated by the Chief of Police and two (2) employees designated by the Association's Board of Officers shall be established. The Board shall review the qualifications and experience of employees who seek assignment as members of the Detective Bureau. An employee is not required to attend an interview but may submit required documentation, such as a resume, instead. An interview may be conducted if requested by the Specialist Board and/or candidate. The Specialist Board shall make recommendations to the Chief of Police, who, on the basis of such recommendations, shall determine whom of said employees seeking such assignment shall be so assigned by him to the Detective Bureau.

Employees assigned to the Detective Bureau subsequent to July 1, 1998, shall be subject to the Specialist Board provisions of this Section each two (2) years after their assignment, and to the approval of the Chief of Police after his review of recommendations by the Specialist Board.

Employees who are members of Specialist Boards shall be compensated, if meeting on their own time, at the applicable overtime rate of pay for such time, with a minimum guarantee of two (2) hours of overtime pay therefor.

Section 6. An employee who requests an out-of-turn work shift or tour-of-duty, in substitution for his regularly scheduled work shift or tour-of-duty, shall go to the bottom of the seniority list for purpose of the daily pick of assignments in accordance with the provisions of Section 3(b) of this Article, but shall have seniority greater, for such purposes, than that of employees working overtime on the substituted shift.

Section 7. An employee who swaps with another employee pursuant to the provisions of Article VIII, Section 3(a)(2) shall take the seniority of the employee with whom he/she swaps for purposes of the daily pick of job assignments, in accordance with the provisions of Section (3)(b) of this Article.

Section 8. Employees on overtime in the Uniformed Division shall pick their job assignments in accordance with the provisions of Section 3(b) of this Article after employees regularly scheduled to work the shift on which overtime occurs, and after employees on swaps or substituting an out-of-turn work shift or tour-of-duty, and their seniority for the daily pick of job assignments shall be deemed less than that of all said aforesaid employees.

Section 9. Professional Picks. The Chief of Police, at his discretion, may select not more than five (5) patrolmen in the Uniformed Division for assignment to any position in the Department, subject to the following provisions:

1. Picks will be no longer than six (6) months in duration, except when an employee is assigned to the police academy for the duration of an academy class.
2. Said picks will not be used to cover existing positions.
3. Officers selected for these positions shall be on a voluntary basis.
4. The same officers shall not be used more than once in each calendar year.
5. Officers shall be selected from the patrol division.

Section 10 Employees shall not be covered by the seniority provisions of this agreement for up to the first three (3) months of employment and during such period are not counted in the daily deployment formula.

Section 11 If an employee is absent from work due to injured leave or sick leave status at the time of the annual or a vacancy shift/job pick, and participates in the shift/job pick, he/she shall not receive the higher differentials for the shift he/she picks until he/she has returned to duty.

ARTICLE XIX **COMPENSATION**

Section 1. Salaries.

(a) Effective July 1, 2004, the following base salaries shall be in force and effect (2%):

<u>Step 1</u> (Appointment)	<u>Step 2</u> (1 Year)	<u>Step 3</u> (2 Years)	<u>Step 4</u> (3 Years)
\$41,280.40	\$42,601.54	\$49,345.25	\$50,795.00

(b) Effective July 1, 2005, the following base salaries shall be in force and effect (2%):

<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>
\$42,106.01	\$43,453.57	\$50,332.15	\$51,810.98

(c) Effective July 1, 2006, the following base salaries shall be in force and effect (2%):

<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>
\$42,948.14	\$44,322.64	\$51,338.80	\$52,847.20

(d) Effective June 30, 2007, the following base salaries shall be in force and effect (2.5%):

<u>Step 1</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>
\$44,021.84	\$45,430.71	\$52,622.27	\$54,168.38

(e) Effective July 1, 2007, the following base salaries shall be in force and effect (4%):

Step 1
\$45,782.71

Step 2
\$47,247.94

Step 3
\$54,727.16

Step 4
\$56,335.19

Section 2. Night Differential. All members of the Bargaining Unit assigned to a night shift or tour of duty (either the first-half or the last-half) shall receive a night differential of six (6) percent per year, payable each pay period. Night differential pay shall be considered regular compensation for pension/retirement purposes, shall be paid to employees when they are on sick leave, injured leave, or vacation, and shall be paid to employees weekly.

Section 2(a). Night Availability Differential. Effective July 1, 2007, in recognition of their availability to work nights, each member of the bargaining unit shall receive a night availability differential of seven (7) percent of his/her base salary as set forth in Section 1 of this Article, payable each pay period. The night availability differential is to be paid for all pay periods including those during which each such member of the bargaining unit is on sick leave, injured leave, vacation, or is absent from work for any other reason. In addition, the night availability differential is to be included in computation of overtime and holiday pay received by each member of the bargaining unit. Night availability differential shall also be considered regular compensation for pension/retirement purposes.

(b) In addition to the night availability differential referred to above, each employee in the uniformed division when first assigned to the 6 P.M. to 2 A.M. power or overlap shift or to the 12 midnight to 8 A.M. fixed last half shift, shall receive a night differential of one thousand (\$1,000.00) dollars per year, payable in equal installments each pay period. This night differential shall be paid to employees when they are on sick leave, injured leave, vacation or are absent from work for any other reason, and shall also be considered regular compensation for pension/retirement purposes.

Section 3. Longevity.

(a) In addition to all other compensation they are entitled to under this Agreement, employees hired before May 23, 1983, shall receive the following longevity compensation:

(i)	5 years of service	\$ 200.00
(ii)	10 years of service	\$ 300.00
(iii)	15 years of service	\$ 800.00
(iv)	20 years of service	\$2,500.00
(v)	25 years of service	\$3,900.00

subject, however, to the provisions of subsection (b) hereof. Employees hired after May 23, 1983, shall not be eligible for longevity payments, but shall be eligible for educational incentive payments as provided in Section 5 of this Article.

In addition to all other compensation they are entitled to under this Agreement, employees hired after May 23, 1983 who are in the employ of the Police Department as of the date of execution of this Memorandum of Agreement shall receive the following longevity compensation:

(i)	15 years of service	\$ 800.00
(ii)	20 years of service	\$1,500.00
(iii)	25 years of service	\$2,100.00

(b) Longevity pay and education incentive pay pursuant to the provisions of Section 5(b) and (c) hereof are separate tracks. Accordingly, employees who qualify for education incentive pay pursuant to Section 5(b) and (c) of this Article, as well as for longevity pay under this Section, shall receive the higher payment to which they are entitled, but not both.

Notwithstanding the foregoing, employees who are entitled to education incentive pay pursuant to Section 5(a) of this Article, as well as longevity pay under this Section, shall receive both such education incentive pay and longevity pay.

(c) Longevity pay shall be considered regular compensation for pension/retirement purposes, shall be paid to employees when they are on sick leave, injured leave, or vacation, and payments shall be made once per year, the first payday in December.

Section 3(A). Senior Longevity. Effective July 1, 2007, notwithstanding any of the foregoing provisions of Section 3 and in addition to all other compensation they are entitled to under this Agreement, employees commencing the following years of service, determined as of December 1 of each year, shall receive the following senior longevity compensation, which shall be paid in a single lump sum payment on the first payday of the month of December:

(i)	20 years of service	\$ 800.00
(ii)	25 years of service	1,600.00
(iii)	30 years of service	3,200.00

Senior longevity compensation shall be considered regular compensation for pension/retirement purposes, and shall be paid to employees while they are on sick leave, injured leave, vacation or are absent from work for any other reason.

The parties agree that senior longevity compensation shall be paid in full to an employee when such employee retires after January 1 for the calendar year in which he/she retires.

Section 4. Weekend Differential.

(a) An employee working days, who is regularly scheduled to work on Saturday or Sunday, shall receive \$4.00 per hour for each hour of regularly scheduled work on a Saturday or Sunday. Effective July 1, 2007, the weekend differential shall be increased to \$5.00 per hour, and, effective June 30, 2008, the weekend differential shall be increased to \$7.00 per hour.

(b) An employee working nights, who is regularly scheduled to work on Saturday or Sunday, shall receive \$3.50 per hour for each hour of regularly scheduled work on a Saturday or Sunday. Effective July 1, 2007, the weekend differential shall be increased to \$4.50 per hour, and, effective June 30, 2008, the weekend differential shall be increased to \$6.50 per hour.

Notwithstanding the foregoing, employees entitled to education incentive pay pursuant to Section 5(a) of this Article, as well as weekend differential pay under this Section, shall receive both such education incentive pay and weekend differential.

(c) Weekend differential shall be considered regular compensation for pension/retirement purposes, and shall be paid to employees weekly.

(d) Employees working days and assigned to a 5/2 schedule (Monday-Friday) pursuant to Article VIII, Section 2(b)(1)(2)(3) and (6), shall receive a differential of \$20.00 per week. Payments under this paragraph shall be paid to such employees when they are on sick leave, injured leave, or vacation, shall be considered regular compensation for pension/retirement purposes, and shall be paid to employees weekly. Effective July 1, 2007, in consideration for the foregoing provisions of Section 2(a), these foregoing provisions shall be deleted in their entirety, crediting, however, payments made to employees by the City under this Section 4(d) on or after July 1, 2007, against the night availability differential effective July 1, 2007.

Section 5. Education Incentive Pay.

(a) Employees who attain an associates degree at an accredited educational institution in other than a law enforcement program, shall be paid yearly, in addition to all other compensation to which they are entitled under this Agreement, the sum of Three Hundred Dollars (\$300) in recognition of the attainment of such academic distinction, payable quarter-annually at the rate of Seventy-Five Dollars (\$75) quarterly. Employees who attain a bachelor's degree at an accredited educational institution in other than a law enforcement program, shall be paid yearly, in addition to all other compensation to which they are entitled under this Agreement, the sum of Five Hundred Dollars (\$500) in recognition of the attainment of such academic distinction, payable quarter-annually at the rate of One Hundred Twenty-Five Dollars (\$125) quarterly.

If such employees also qualify for education incentive pay pursuant to the provisions of paragraph (b) and/or (c) hereof, they shall be entitled to receive such pay pursuant to said paragraphs in lieu of pay under paragraph (a).

(b) Effective July 1, 1994, employees who have earned or who after July 1, 1994, shall have earned an associate's degree in law enforcement, or sixty (60) points earned towards a baccalaureate degree in law enforcement, a baccalaureate degree in law enforcement, or a master's degree in law enforcement or a degree in law, shall receive education incentive base salary increases computed as a percentage of their annual salary (set forth in Section 1 of this Article), according to the following schedule:

<u>Education Degrees/Points Earned</u>	<u>Percentage Payment Based on Annual Salary</u>
Associate Degree, or 60 points earned towards a Baccalaureate Degree	Five (5) percent
Baccalaureate Degree	Ten (10) percent
Master's Degree or Law Degree	Twelve and One-Half (12.5) percent

Payments hereunder shall be made weekly, shall be included in base pay for the purpose of computing sick pay, injured pay and vacation pay, and shall be considered regular compensation for pension/retirement purposes.

In the event that Chapter 835 of the Acts of 1970, as amended, which has been accepted by the City, and at some later date is rescinded or repealed by the General Court, then the provisions of this subsection (b) shall thereupon become effective and apply as if same had never been superseded as aforementioned.

(c) Chapter 835 of the Acts of 1970, as amended, having been accepted by the City of Somerville, the provisions of subsection (b) of this Article are superseded, and employees shall be entitled to education incentive base salary increases as in said Chapter 835 or the Acts of 1970, as amended (Chapter 41, Section 108L of the General Laws) provided, and otherwise in accordance with said law, if thereunder eligible.

Payments hereunder shall be made weekly, shall be included in base pay for purposes provided by law, including computation of holiday pay and overtime and court-time pay, and shall be considered regular compensation for pension/retirement purposes.

(d) In the event that the Commonwealth of Massachusetts reduces its reimbursements to the City below one-half the cost of such education incentive base salary increase payments, then employees hired after July 1, 1994, shall receive one-half such base salary increase payments plus the percentage of amount of the reimbursement to the City by the Commonwealth of Massachusetts, as set forth in Chapter 835 of the Acts of 1970, as amended, if any.

If any such employee refuses to accept education pay as so reduced and commences court proceedings claiming one hundred (100%) percent of his/her Chapter 835 entitlement, then his salary and compensation (other than education pay) shall be reduced as to him, in such fiscal year, by the amount of his/her Chapter 835 entitlement not reimbursed by the Commonwealth of Massachusetts to the City. This Agreement may be reopened by the City as to which particular items of salary and compensation (i.e., salary, holiday pay, night differential, etc.) shall be reduced if he/she commences court proceedings as aforesaid, and the parties shall forthwith meet to negotiate how the City shall be reimbursed.

(e) The City agrees that its right to reduce economic benefits in the event the Commonwealth fails to fund its share of Quinn Bill payments (Associates Degree - 10%, Baccalaureate Degree - 20%, Masters Degree or Law Degree - 25%) shall not apply to employees in the Bargaining Unit as of June 30, 2008.

Section 6. Weapons Pay.

Each employee in the bargaining unit who has qualified in the previous fiscal year with his/her service weapon shall be paid a lump sum differential as follows: July 1, 2004 - \$475.00; provided, however, effective July 1, 2005, recognizing the need to strive for excellence in weapon qualification, employees with a qualification score of 90-99% shall receive additional weapons pay of \$25.00 per year and with a perfect qualification score shall receive additional weapons pay of \$125.00 per year. Weapons pay shall be paid to employees when they are on sick leave, injured leave, vacation or other compensable leave, but not if they have an assignment pursuant to the provisions of Article XX Section 26 (209A Order). Weapons pay shall be considered regular compensation for pension/retirement purposes. Payment of weapons pay shall be made in the first payday in December of each year.

Section 7. Weapons of Mass Destruction Stipend. Effective July 1, 2006, each employee shall be paid a "WMD" stipend of \$500.00 yearly, to be paid within the same time frame as the second holiday pay payment (November).

ARTICLE XX **MISCELLANEOUS**

Section 1. The City agrees to post a seniority list, compliant with the provisions of Article XVIII, Sections 1 and 2, in a conspicuous place within the police station showing names and titles of all employees in the Bargaining Unit.

Section 2. The City agrees to provide space in the Police Station for Association meetings.

Section 3. The City agrees to provide a bulletin board in a suitable space in the Police Station for Association information purposes.

Section 4. Both parties to this Agreement shall cooperate in the enforcement of safety rules and regulations. Complaints with respect to unsafe or unhealthy working conditions shall be brought to the attention of an employee's superior officer or the Chief of Police and shall be a subject of grievance or arbitration hereunder.

The City and the Association shall establish a joint safety committee consisting of not more than three (3) representatives of each party for the promotion of sound safety practices and rules.

Section 5. As is provided by Chapter 150E of the General Laws, the provisions of this Agreement supersede any conflicting or inconsistent rule, regulation, or order promulgated by the Chief of Police or the Police Department or the City.

Section 6. Should any provision of this Agreement or any supplement thereto be held invalid by any court or tribunal of competent jurisdiction or if compliance with or enforcement of any provision should be restrained by any court, all other provisions of this Agreement and any supplement thereto shall remain in force and the parties, one thirty (30) days' notice to the other, shall meet to negotiate immediately for a satisfactory replacement for any such provision.

Section 7. The City and the Association shall establish a joint committee consisting of not more than two (2) representatives of each party, to review and recommend to the parties criteria and standards for annual physical examination of employees.

Section 8. Cruiser Equipment. Each new marked cruiser, when purchased, shall be equipped with spotlights.

Section 9. General Laws. Criminal statutes shall be made available to employees at Police Headquarters.

Section 10. Orders. The Association shall be furnished a copy of each order issued by the Chief of Police.

Section 11. In-Service Training. The City agrees to comply with the provisions of Chapter 932 of the Acts of 1977, and to provide \$10,000 yearly in funds for in-service training.

Section 12. Personal Files. Employees shall have the right to inspect their personal files at any reasonable time, and to be supplied with copies of documents therein.

Section 13. Promotional Vacancies. The City agrees to fill all promotional vacancies as soon as practicable.

Section 14. Color Guard. The City agrees to pay to the Association the sum of One Thousand Five Hundred Dollars (\$1,500) yearly for color guard equipment and paraphernalia.

Section 15. Line-of-Duty Death. The city will provide up to \$5,000 in financial support or facilities, transportation, or other services to assist in post funeral memorial services for officers killed in the line of duty as a result of an assault or accident; provided, however, that none of the funds provided by the City shall be used for the purchase of alcoholic beverages.

Section 16. Health Insurance. The City's Group Insurance Plan (health and life insurance) in force on July 1, 1992 shall remain in force and effect for the term of this Agreement, unless changed by mutual agreement. The City agrees to and shall pay ninety-nine (99%) percent of the premium cost for the Blue Cross/Blue Shield Care Indemnity Plan and for the Blue Cross-Blue Shield Elect Preferred (PPO) Plan (both family and individual), and ninety (90%) percent of the premium cost for HMO plans (both family and individual); effective upon funding of all the cost items of this Agreement, the City, effective August 15, 2007, agrees to and shall pay eighty-five (85%) percent of the premium cost therefore, and, effective June 30, 2008, the City agrees to and shall pay eighty (80%) percent of the premium cost therefore, subject to the Section 16 Side Letter attached. With respect to the current Indemnity Plan (BC-BS Major Medical), it shall be replaced, effective September 1, 2007, by the Blue Cross-Blue Shield Care Elect Preferred (PPO) Plan, subject to the Section 16 Side Letter attached. The City may change the individual insurance carrier so long as the benefit coverage is equivalent to or better than the present benefit coverage, and so long as the City pays ninety-nine percent (99%) of the total premium cost of any new indemnity insurance policy and ninety percent (90%) of the total premium cost of any new HMO plan, and, effective August 15, 2007, eighty-five (85%) percent of the premium cost therefore, and, effective June 30, 2008, eighty (80%) of the premium cost therefore, subject to the Section 16 Side Letter attached.

The City, having adopted a "Section 125 benefits plan", as a condition precedent to insurance premiums increasing as above set forth, Section 16 is hereby further amended to provide that, effective August 15, 2007, employees shall pay for health insurance, life insurance and dental insurance on a pre-tax basis

The parties agree that if legislation is enacted which results in the City being forced to pay a greater contribution to health insurance premium than is currently provided, that the economic items in this Agreement must be adjusted so that the City does not bear the cost of such legislation. If the parties are unable to agree on such adjustments, an arbitrator shall make the decision.

Section 17. The indemnification of police officers for damages or expenses arising out of operation of vehicles or equipment owned by the City shall be in accordance with Chapter 258 of the Massachusetts General Laws.

Section 18. No employee shall be required to operate an unsafe piece of equipment of any kind or a motor vehicle which does not comply with state or federal law. The City agrees that the provisions of G.L.c.89, Section 7B shall not be construed or applied by the city or an official of the City so as to limit, deprive or otherwise abridge the right of covered employees to defense and indemnification by the City of Somerville in any case wherein an employee may or shall possibly be held liable for conduct in the performance of duty. The City agrees, subject to the provisions of G.L.c.258, to defend, indemnify, and hold harmless any employee in and for any situation which may or shall impose liability on the employee for circumstances and conditions or duty. The City agrees, subject to the provisions of G.L.c.258, to defend, indemnify, and hold harmless any employee in and for any situation which may or shall impose liability on the employee for circumstances and conditions or duty. The City further agrees that, in effectuation of G.L.c.41, Section 100H, and C 258, the most of liberal construction and application of such statutes in favor of covered employees and parties in interest shall be the rule and standard; and the City agrees, on execution of this Agreement, to submit and bring about, from time to time, appropriations necessary to effectuate indemnification of employees, in accordance with the law.

No covered employee shall be obliged to purchase or otherwise be covered at his expense by any insurance policy relating to personal injury or property damage liability as such may arise out of operation of any piece of equipment of any kind or of a motor vehicle owned by the City or used on its behalf.

Section 19. Residency. Employees appointed before December 31, 2000 shall be permitted to live outside the City, in accordance with Massachusetts General Laws, Chapter 41, Section 99A, as amended, and, in any event, within the Commonwealth. Residency limits for employees appointed to the force after December 31, 2000 shall be governed by any valid City Ordinance applicable to City employees, provided, however, notwithstanding any such City Ordinance, any such employees shall be permitted to live outside the City in accordance with said General Laws, and, in any event, within the Commonwealth, after seven (7) years from the date of their permanent original appointment to the Police Department of the City or from the date of their lateral appointment to the Police Department of the City, inclusive, within said seven (7) year period, of other service with the City or with its School Department.

If an employee leaves the service of the City and later returns, he/she must complete said seven (7) year residency period.

If an employee is found in violation of the above provisions, he/she shall be given six (6) months within which to reside within the City, failing which, he/she shall be subject to termination for non-compliance. If an employee found in violation becomes a resident of the

City within said six (6) month period, and is later found to reside outside the City, except in accordance with the foregoing provisions of this Section, he/she shall be terminated forthwith.

Section 20. The City agrees to take reasonable, good faith steps to request that a new civil service list for the position of sergeant be established every two (2) years; the Association shall advise the City at appropriate times of examination filing dates.

Section 21. The City agrees to provide office space for the Association in the public safety building.

Section 22. Bi-Weekly Payment of Wages. In the event bi-weekly payment of wages is permitted by statute, the City shall have the right to implement bi-weekly payment of compensation.

Section 23. Disclosure of Personal Information. The City agrees that the telephone numbers and home addresses of employees shall not be issued by the Department at the police station or over the telephone; provided, however, the Chief of Police shall have the discretion of determining to what public official any such telephone number or home address of any employee shall be issued. The City shall require each employee to have a personal telephone, but shall not be obligated to pay the cost of the same.

Section 24 Employees hired after July 1, 1998 from a specialized civil service list must maintain their certification and/or proficiency (language, etc.) that applied at the time of their employment. The City agrees that it will provide such employees training materials and appropriate training opportunities in this regard.

Section 25 Employees who are precluded from carrying their service weapon due to a G.L. 209A court order/injunction shall be assigned to a position within the Police Station replacing the junior employee assigned as station officer unless a more senior employee agrees to swap his/her assignment. This Station assignment shall terminate when the court order/injunction is lifted. The employee who is subject to such C. 209A order/injunction shall be required to make reasonable efforts, within the twelve (12) month period following the issuance of such order/injunction, unless such period is extended by the Chief of Police with the approval of the Mayor, the failure of extension by the Chief of Police may not be grieved, to have same lifted and/or modified to permit the employee to carry his/her service weapon while on duty. This Section shall not apply if the City determines that administrative and/or disciplinary action is appropriate.

Section 26. The City and the Association recognize the importance of stress support services and the need to implement a program to provide these services. Accordingly, a committee made up of two representatives of the City and two representatives of the Association shall meet to make recommendations on the establishment of such a program.

Section 27 . Performance Evaluation Committee. A joint performance evaluation committee shall be established, consisting of not more than three (3) City designees and not more than three (3) Association designees (the number to be the same), to meet and make recommendations to the parties within six (6) months after the date of execution of this Memorandum of Agreement, with respect to a performance evaluation system.

ARTICLE XXI

DRUG TESTING PROGRAM.

A new Article XXA shall read as follows:

“The City and the Association recognize that the critical mission of law enforcement justifies the maintenance of a drug free work environment through the use of a reasonable employee drug testing program. Therefore, the City and the Association agree to implement the following drug testing program which shall provide for “reasonable suspicion” drug testing, random testing, post-incident testing and unannounced follow-up testing, and shall also provide for the rehabilitation of any such employee found to be in violation of this program. It is the general intent to create a humanitarian program where treatment and discipline are both important aspects of the program.”

I. Drug Testing Based on Reasonable Suspicion

A. An employee shall be subject to an immediate drug test if reasonable suspicion of drug use is determined by the employee’s Superior Officer.

B. The reasonable suspicion standard for drug testing is based upon a specific objective fact(s) and reasonable inferences drawn from that fact(s), reasonable in light of experience that the individual may be involved in the use of any illegally used controlled substance. Reasonable suspicion may be based upon the following or other, comparable fact patterns:

(1) Observable phenomena, such as direct observation of illegal use or possession of drugs and/or the physical symptoms of being under the influence of a controlled substance.

(2) A documentable pattern of abnormal conduct or erratic behavior while on duty (i.e. slurred speech, uncoordinated movement, gait stupor, excessive giddiness, unexplained periods of exhilaration and excitement, impaired judgment, deteriorating work performance or frequent accidents not attributable to other factors).

(3) Arrest, indictment or conviction for a drug related offense or the identification of an employee, through an affidavit, as the focus of a criminal investigation into illegal drug use or trafficking.

(4) Evidence that an employee has tampered with a previously administered drug test and/or has made false or misleading statements to Department personnel regarding past or present illegal use of drugs.

(5) A documented, written report of drug use, in affidavit form, provided by reliable and credible sources such as other law enforcement agencies (but not including affidavits by their informants).

(6) Causing an accident with "accident" being defined as an unplanned, unexpected and unintended event which:

- (a) occurs on Department property, on Department business or during working hours; and
- (b) initially appears to have been caused wholly or partially by an employee; and
- (c) results in either:
 - (i) fatality;
 - (ii) any injury requiring medical treatment away from the scene of the event; or
 - (iii) damage to property in excess of \$5,000.00.

An unplanned, unexpected and unintended discharge of a firearm is also an "accident".

Notwithstanding the foregoing, determination of reasonable suspicion shall comport with Constitutional guarantees and limits.

C. The Superior Officer shall consult with a second Superior Officer and/or the Chief of Police in determining whether reasonable suspicion exists and if the employee shall be referred for testing. One of the Superior Officers must be above the rank of Sergeant. The Superior Officer shall provide a written report setting forth his/her grounds for determining reasonable suspicion.

D. In those cases where the Superior Officer determines that the employee's condition or behavior causes a potential threat of harm to himself/herself or others, the employee will be immediately escorted to the collection facility and shall be placed on paid administrative leave.

E. Once an employee has been referred for testing based on reasonable suspicion, it will be the responsibility of a superior officer to advise the employee of such decision and to escort the employee to the collection facility. The Superior Officer shall remain with the employee at the collection site until testing is concluded. If the employee so desires, an Association representative, if then available, may accompany him/her to the collection facility to act as an observer. Once the collection procedures are over the Superior Officer shall transport the employee to the Police Station and arrange for transportation for the employee to his/her home or residence. The Superior Officer shall also notify the employee that he/she is not to return to work pending receipt of the test results, or until a determination is made that reasonable suspicion was not substantiated. The employee shall be in a pay status when referred to and being tested and while awaiting the test results.

F. Appeal of Decision to Test Under "Reasonable Suspicion".

1. Should an employee dispute the determination that "reasonable suspicion" exists for requiring his/her submission to a drug test, as discussed in Section I of this Article, the employee shall so notify the City, by filing an appeal with the office of the Chief of Police or the Superior Officer at the time a specimen is provided by the employee. The laboratory shall be noticed simultaneously with delivery of the specimen that the test is subject to protest, and this by the Superior Officer. The sample shall be held and no testing done until a determination is made after the appeal process set forth herein.

2. The dispute shall be submitted immediately upon provision of the sample to the City's Personnel Director. The Police Department shall be confined to substantiation of the reasons articulated pursuant to Section I(B) of this Article. The employee and the Department shall be entitled to representation at the hearing, the employee by the Association, the Department by counsel or by the Superior Officer. The employee and the Association shall have the right to refute any of the reasons so articulated.

3. Should the Personnel Director determine that there was "reasonable suspicion", the laboratory shall be instructed to immediately conduct the test on the employee sample. The results of such test shall be forthwith delivered to the Chief of Police, who shall notify the employee in question of the results.

4. Should the Director of Personnel determine that there was not "reasonable suspicion" to test, the employee urine sample and all records associated with the incident shall be destroyed forthwith.

II. Random Drug Testing.

A. All employees will be subject to random drug testing, which shall be done during an employee's regularly scheduled shift.

B. Upon notification that an employee is scheduled for random drug testing, such employee will appear as required at the location specified for drug testing.

C. The random selection process shall be by computer generated numbers for each sworn officer in the bargaining unit. Such computer generated program shall be performed by an outside contractor hired by the City after consultation with the Association and which specializes in such function. The parties agree to develop said program mutually, so that the parties and the affected employees fully understand the rationale behind the computer generated numbers, and the potential application to an individual employee of such program and numbers.

D. An employee who tests positive after a random drug test shall be subject to the same conditions as those who test positive following a "reasonable suspicion" drug test.

III. Post-Incident Testing.

An employee shall be subject to an immediate post-incident drug test when involved in a "critical incident". A "critical incident" is defined as:

1. The action of any on duty employee which results in injury or death of another person;
2. The operation of a vehicle on duty or any time in a department vehicle off duty by an employee which results in a fatal traffic accident or an accident causing any injury or property damage in excess of \$5,000.00;
3. Where the action of an employee causes any physical injury or death to a person by the use of a firearm either on-duty or off-duty.
4. Any other event that may be agreed upon by the City and the Union as constituting a "critical incident."

An employee who tests positive after a post-incident drug test shall be subject to the same conditions as those who test positive following a "reasonable suspicion" drug test.

IV. Procedures for Drug Testing.

A. All urine drug testing will be performed under the Federal Department of Health and Human Services Mandatory Guidelines for federal workplace testing as described in Appendix DT/S-I, "Procedures for Drug Testing". These procedures call for the use of an Immunoassay Screen (i.e. "EMIT") with all positive results tested for confirmation using Gas Chromatography/Mass Spectrometry (GC/MS) technology or more advanced technology agreed to by the City and the Association.

B. In accordance with M.G.L. Chapter 94C, all drug tests will consist of determinations of the presence of these five drugs, classes of drugs, or their metabolites: marijuana metabolites, cocaine metabolites, opiate metabolites, phencyclidine (PCP) and amphetamines.

The initial test shall use an Immunoassay. The following initial cut-off levels shall be used when screening specimens to determine whether they are negative for these five drugs or classes of drugs:

Initial Test Cut-Off Levels (ng/ml)	
Marijuana metabolites	100
Cocaine metabolites	300
Opiates metabolites (25 ng/ml if Immunoassay specific for morphine)	300
Phencyclidine	25
Amphetamines	1000

All specimens identified as positive on the initial test shall be confirmed using gas chromatography/mass spectrometry (GC/MS) techniques at the cutoff levels listed in this paragraph for each drug. All confirmations shall be by quantitative analysis.

Confirmatory Test Cut-Off Levels (ng/ml)	
Marijuana metabolites	15
Cocaine metabolites	150
Opiates:	
Morphine	300
Cocaine	300
Phencyclidine	25
Amphetamines:	
Amphetamine	500
Methamphetamine	500

C. At the time of the drug test, the employee's urine sample will be divided into two collection bottles ("split sampling"). If a specimen is reported as positive, the employee may have the untested specimen independently tested by a laboratory licensed by the Massachusetts Department of Public Health to perform forensic/drug testing, upon written application to the Chief of Police within seventy-two (72) hours of the notification of a positive result, consistent with the Health and Human Services Guidelines.

D. At the time that the employee provides a urine sample, the employee shall also provide a confidential, written statement as to whether he/she is using any prescription drugs. If

the test is positive, the employee must present evidence of the use of prescription drugs which may include written confirmation from the employee's prescribing physician and copies of the prescriptions.

E. If an employee tests negative and/or is successful in an appeal of the grounds for a "reasonable suspicion" test, said urine samples shall be destroyed and no material on such test shall be placed or remain in the employee's personnel file and any other City/Department file.

F. The order for test submission and the actual testing process and results shall not be implemented for the purpose of substantiating criminal allegations against the subject employee.

V. Refusal To Submit To Testing.

An employee's refusal to submit to a test when directed will be deemed to have tested positive and will be immediately placed on leave. Failure or refusal to submit to such tests as directed includes the failure to proceed directly to the testing facility as directed, failure to provide adequate amount of urine for testing, or failure to complete all of the necessary paperwork. Additionally, notwithstanding any other provision of this policy, such employee may be subject to serious disciplinary action, up to and including discharge.

VI. Consequences of a Confirmed Positive Test.

A. An employee who tests positive for use of drugs may be subject to disciplinary action. However, any employee testing positive for the first time shall be allowed to enter a rehabilitation program, in-state or out-of-state, in lieu of discipline with the full support and encouragement of the City, and shall be subject to unannounced testing for a period of twenty-four months following a first positive test. A second positive test will result in disciplinary action. The employee will be allowed to again enter a rehabilitation program, and shall be subject to unannounced testing for thirty-six months. A third positive test will result in termination.

B. An employee must provide documentation to the City of its Chief of Police regarding entry into and successful completion of a drug rehabilitation program. Such documentation will indicate that the rehabilitation program is a certified, recognized program by the Massachusetts Department of Public Health. In addition, the employee shall provide the City or its Chief of Police with proof of successful completion of said rehabilitation program.

C. The employee entering a Rehabilitation Program will sign a Rehabilitation Agreement with the Department and abide by its terms and conditions.

D. An employee's contractual seniority will not be interrupted by any in-patient or out-patient participation in a rehabilitation program as provided in this Article.

E. The employee must successfully complete the rehabilitation program before returning to duty. Before being re-instated to duty the employee shall meet with the Chief of Police and the Department's Drug Program Administrator to discuss the rehabilitation program and its completion and to discuss assignment options. Such meeting(s) will be designed to assist the employee's re-entry into the workplace.

F. During any in-patient period of such rehabilitation program(s), an employee can utilize sick, vacation or other leave credits otherwise available to him or her by the Association/City collective bargaining agreement ("CBA") to maintain compensation status. During any out-patient period of such rehabilitation program, he/she may use up to a maximum of ten (10) days sick leave, if needed by him/her while enrolled in such program(s), and can also utilize vacation or other leave credits otherwise so available to him/her, to maintain compensation status.

The City may pay the cost of those items not otherwise covered by the employee's health insurance plan for any rehabilitation program pre-approved by the City or its Chief of Police.

G. An employee's failure to successfully complete the rehabilitation program, where such failure is not based on his/her failure to attend, cooperate with or participate in the rehabilitation program may result in disciplinary action and the employee may be required to undergo further rehabilitation. After a second unsuccessful attempt at rehabilitation, the subject employee may be disciplined, up to and including termination. An employee's failure to successfully complete the rehabilitation program, where such failure is attributable to employee fault regarding attendance at, cooperation with or participation in the rehabilitation program may result in discipline, up to an including termination.

H. Upon return to duty following a first positive test, and after successful completion of the drug rehabilitation program, the employee shall be subject to unannounced, follow-up drug testing for a period of twenty-four (24) months. Following a second positive test, and after successful completion of the drug rehabilitation program, the employee will be subject to unannounced, follow-up testing for a period of thirty-six (36) months, during which time any positive test results may result in termination. An employee refusing to be administered a drug test during said twenty-four (24) or thirty-six (36) month period, when required by the Chief of Police, shall be terminated.

VII. Selection of Laboratory and Medical Review Officer.

- A. The Department shall contract for laboratory services with a laboratory certified by the Federal Department of Health and Human Services under the Mandatory Guidelines for Federal Workplace Drug Testing Programs, and by the Massachusetts Department of Public Health.
- B. As set forth in said Mandatory Guidelines, there shall be a Medical Review Officer ("MRO") chosen to fulfill the function of reviewing the results of the

tested employee and protecting the confidential nature of the employee's medical information. The qualifications of the MRO, as set forth in said Guidelines, include being a licensed physician, the role of the MRO is to review and interpret confirmed positive test results obtained through the Department's testing program. The MRO shall not be an employee of the City.

VIII. Confidentiality of Records.

Test results and other information relating to drug testing of an employee shall be maintained in a confidential file separate from the employee's personnel file.

ARTICLE XXI **DUES AND AGENCY FEE**

Section 1. Dues. The City agrees to deduct Association dues from the salary of all employees who have signed membership Authorization Forms, and to remit said dues with an alphabetical list of names of employees from whom dues have been deducted to:

Somerville Police Employees Association
Citizen's Bank
40 Union Square
Somerville, Massachusetts 02143

or such other depository as the Association may from time to time designate in writing to the City, attention its Treasurer.

Section 2. Agency Fee.

(a) Each employee who elects not to join or maintain membership in the Association shall be required to pay as a condition of employment, beginning thirty (30) days following the commencement of his/her employment or the date of execution of this Agreement, whichever is later, a service fee to the Association which is proportionately commensurate to the cost of collective bargaining and contract administration, but not more than the amount of periodic dues paid by employees who are members of the Association.

(b) The Association agrees to hold the City harmless and to indemnify it from any back pay liability incurred pursuant to final order or decree of a court or agency of competent jurisdiction with respect to any employee whose employment is unlawfully terminated as a result of the Association's enforcement of the preceding section.

ARTICLE XXII **DURATION OF AGREEMENT**

Section 1. Term. This Agreement shall constitute two (2) separate Agreements. The first Agreement shall be in full force and effect from July 1, 2004 through June 30, 2006. The second Agreement shall be in full force and effect from July 1, 2006 and continuing through June 30, 2008.

On or after December 1, 2007 either party may notify the other of its first proposals for a new Agreement to be effective on the termination of the second Agreement, and the parties shall proceed forthwith to bargain collectively with respect thereto.

If negotiations for a new Agreement to be effective on the termination of the second Agreement continue beyond June 30, 2008, the second Agreement shall continue in full force and effect until a successor Agreement is executed.

It is understood and agreed that if all of the cost items of the Memorandum of Agreement between the parties, dated August 15, 2007, as incorporated herein, for both contract terms, are not funded, then all the terms and conditions of the Memorandum of Agreement, as incorporated herein, for both contract terms, shall be returned to the parties for further bargaining.

WITNESS our hands and seals this _____ day of _____, 2007.

CITY OF SOMERVILLE

**SOMERVILLE POLICE
EMPLOYEES' ASSOCIATION**

By: _____
Mayor

President

Labor Counsel

Vice President

Approved as to form:

Treasurer

City Solicitor

Secretary

Section 16 Side Letter

Notwithstanding the amended provisions of Section 16 of Article XX, those employees who are now enrolled, as of June 30, 2007, in the BC-BS Indemnity Plan, may, at their option, remain so enrolled and continue to pay one (1) percent of the premiums therefore, subject, however, to their right, annually, to enroll into the HMO or PPO Plans, after which they may not re-enroll into the BC-BS Indemnity Plan, and subject, further, to the City's paying the above-referred to percentages of the premiums therefore, 85-15% and 80-20%, with said employees paying the balance, if permitted by applicable law.

James Brown Side Letter

COLLECTIVE BARGAINING AGREEMENT
Between
CITY OF SOMERVILLE
And
SOMERVILLE POLICE EMPLOYEES ASSOCIATION
(SPEA / Patrol Officers)

Effective: July 1, 2008 through June 30, 2009

The parties agree that they will integrate the following terms as part of any successor collective bargaining agreement.

March 27, 2009

- I. Duration: Modify Article XXII "Duration of Agreement" to reflect a contractual period of July 1, 2008 through June 30, 2009;
- II. Kronos Time Keeping System: Add to Article XX, "Miscellaneous" NEW Section 28 to read as follows:

"The City shall have the right to implement an electronic time and attendance system."
- III. Furloughs: Effective from July 1, 2009 through June 30, 2010 bargaining unit members shall receive a weekly deduction from their pay in the amount of 1/52.2 of their weekly base pay. All employees from whom this deduction is made will receive a lump sum payment on the pay period following July 15, 2012 equal to one week's base wages at the base rate in effect on July 1, 2012;
- IV. Paid Police Details: The City agrees to adopt the SPEA's proposed language by adding the following language as Section 14 of Article VI, "Paying Police Details"

Pursuant to state law, the determination of the level of services, as well as the assignment of public safety employees, are what the courts refer to as non-delegable exclusive managerial prerogatives. The City of Somerville and the Somerville Police Employees Association acknowledge that the Chief of Police possesses the discretion to determine the appropriate level of police service as well as the qualifications of persons to perform traffic direction in the City to ensure public safety. Therefore, notwithstanding any regulation to the contrary, the Chief of Police has the discretion to require the presence of a sworn police officer, including but not limited to one employed on a paid detail basis, in all instances where there is a street opening or any work to be done on a public way or at a public function in the City. The parties also

acknowledge that the Chief of Police has the further discretion to determine the number and ranks of officers assigned in any such instance necessary to maintain public safety or other legitimate interest of the community or department.

- V. Compensation: Modify Article XIX, "Compensation", Section 1 to include a 0% across-the-board increase for July 1, 2008 through June 30, 2009;
- VI. Quinn Bill Benefits: Modify Article XIX, "Compensation", Section 5 (e) by DELETING "June 30, 2008".

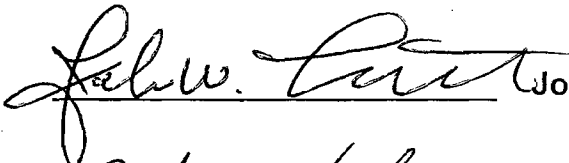
Signed this _____ day of March, 2009 by the parties representatives:

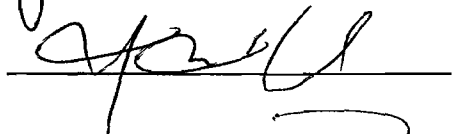
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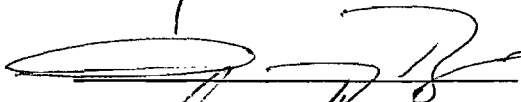
Signed on behalf of:

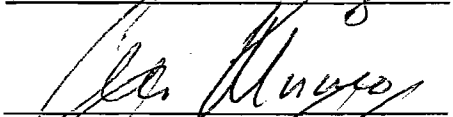
SOMERVILLE POLICE EMPLOYEES ASSOCIATION

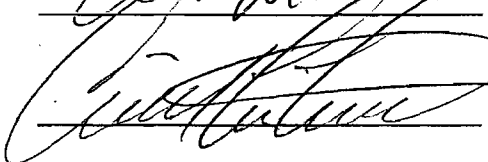
Date: _____

 John W. Leutcher, President

 Michael McGrath, Vice President

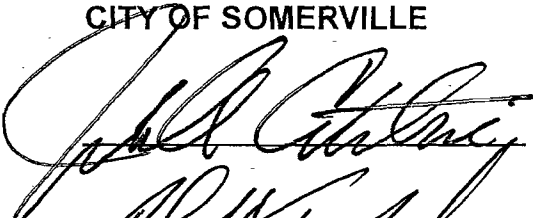
 Daniel Rego, Vice President

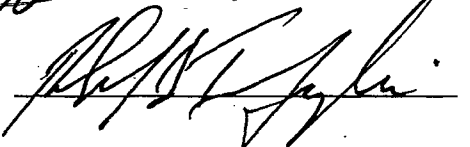
 Alan Monaco, Secretary

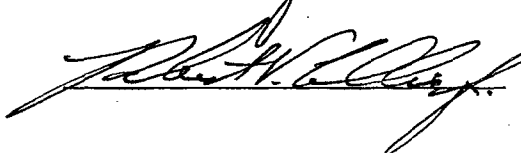
 Clifford Mansir, Treasurer

CITY OF SOMERVILLE

Date: _____

 Hon. Joseph A. Curtatone, Mayor

 Richard Tranfaglia, Director of Personnel

 Robert V. Collins, Chief Labor Counsel

TWO
COLLECTIVE BARGAINING AGREEMENTS
Between
CITY OF SOMERVILLE
And
SOMERVILLE POLICE EMPLOYEES ASSOCIATION
(SPEA / Patrol Officers)

*Effective: July 1, 2009 through June 30, 2011
And July 1, 2011 through June 30, 2012*

- I. No severability: The parties agree that these two collective bargaining agreements (contracts) are to be ratified and enforced jointly as a package consisting of two (2) contracts and that one contract cannot be ratified by either party without ratification of both.
- II. Duration: Modify the first paragraph of Article XXII "Duration of Agreement", Section 1 to reflect a two (2) year Agreement with a contractual period of July 1, 2009 through June 30, 2011, and delete the remaining paragraphs.
- III. Duration: Modify Article XXII "Duration of Agreement" by adding "Section 2" to reflect a contractual period of July 1, 2011 through June 30, 2012 to reflecting a one (1) year Agreement.
- IV. No Retroactivity of Grievance / Arbitration Provisions: Nothing in this Agreement shall permit the filing or processing of a grievance or arbitration of any event that arose prior to the ratification and signing by the parties of the most recent successor agreement effective from July 1, 2011 through June 30, 2012. Nothing in this provision is intended to limit grievance / arbitration rights effective after the ratification and signing by the parties of this successor Agreement. Nothing in this provision shall be used in Superior Court case number: MICV2010-04401-C nor shall any language in this provision be used to challenge the Court's determination. Nothing in this provision shall limit either parties' right of appeal.
- V. Evergreen Provision: Modify Article XXII by adding "Section 3" stating, "If negotiations for a successor collective bargaining agreement to the contract which expires on June 30, 2012 continue beyond that date, the terms of the Agreement will continue in full force and effect until a successor Agreement is reached or June 30, 2014, whichever is sooner. The parties agree that the provisions hereunder shall not extend beyond June 30, 2014.

- VI. Compensation: Modify Article XIX, Section 1 by DELETING current subsections (a) through (e), inclusive, and replace with the following across-the-board wage adjustments:
- a. Effective July 1, 2009 the base wage shall be increased by 2%
 - b. Effective July 1, 2010 the base wage shall be increased by 2%
 - c. Effective July 1, 2011 the base wage shall be increased by 2%
- VII. Protective Equipment: ADD to Article XI, "Clothing Allowance and Equipment", new Section 3 stating, "Employees who become members of the bargaining unit on or after July 1, 2011 shall wear ballistic vests as determined by the Chief of Police in his sole discretion.
- VIII. Sick Leave Committee: Modify Article XVI, "Sick Leave", Section 1 to reflect a Sick Leave Committee consisting of: one (1) representative to be chosen by the president of the Association, one (1) representative to be chosen by the president of the superior officers association, and one (1) representative to be chosen by the Chief of Police.
- IX. Modification and Clarification of Language in Article VIII, "Hours of Work and Overtime" as well as to Article XVI, "Sick Leave": The parties agree to modify the language in Articles VIII and XVI as follows:
- a. Article VIII, Section 4: Delete 4th paragraph and replace with, "An employee returning to duty from absence on sick leave who uses or has used ten (10) days or more sick days within 365 days shall not be eligible to receive the next paid detail or overtime opportunity / opportunities to which he/she is entitled until he/she has first worked his/her next three (3) regularly scheduled work shifts (hereinafter "three (3) shift period"), and shall be charged with such paid detail or overtime opportunity / opportunities as if he/she had worked it or them, provided, however, if a paid detail or overtime opportunity / opportunities is/are not offered the employee within said three (3) shift period, he/she shall nevertheless be charged for one (1) paid detail opportunity as if he/she had worked it."
 - b. Article VIII, Section 4: Add new 5th, 6th, and 7th paragraphs (following the language added in VIII, (a), above, of this Agreement) inserting paragraphs 3, 4 and 5 from current Article XVI, Section 5.
 - c. Article XVI, Section 5: Delete the current 2nd paragraph and insert: "An employee returning to duty from absence on sick leave who uses or has used ten (10) days or more sick days within 365 days shall not be eligible to receive the next paid detail or overtime opportunity / opportunities to which he/she is entitled until he/she has first worked his/her next three (3) regularly scheduled work shifts (hereinafter "three (3) shift period"), and shall be charged with such paid detail or overtime opportunity / opportunities as if he/she had worked it or them, provided, however, if a paid detail or overtime opportunity / opportunities is/are not offered the

employee within said three (3) shift period, he/she shall nevertheless be charged for one (1) paid detail opportunity as if he/she had worked it.

d. Article XVI, Section 5: Delete the current 6th paragraph in its entirety.

Signed this 21st day of November, 2011 by the parties' representatives:

**SOMERVILLE POLICE EMPLOYEES
ASSOCIATION:**

Supervisor President
[Signature]
R. Keller
[Signature]

CITY OF SOMERVILLE:

[Signature]
Alvin Pargamarello
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COMMONWEALTH OF MASSACHUSETTS
JOINT LABOR MANAGEMENT COMMITTEE FOR MUNICIPAL POLICE
AND FIRE
JLMC-14-4174

IN THE MATTER OF ARBITRATION BETWEEN:

CITY OF SOMERVILLE

&

SOMERVILLE POLICE EMPLOYEES ASSOCIATION

AWARD AND DECISION BY THE ARBITRATION PANEL

Background

The City of Somerville ("City" or "Employer") and the Somerville Police Employees Association ("Union") are parties to a Collective Bargaining Agreement ("Agreement") that expired June 30, 2012. The parties engaged in direct negotiations and mediation, and agreed upon a number of matters, but were unable to reach a successor Agreement. A petition was filed for the Massachusetts Joint Labor Management Committee ("JLMC") to exercise jurisdiction, and the JLMC then exercised formal jurisdiction over the ongoing dispute between the City and the Union.

An Arbitration hearing commenced on June 27, and continued on July 20, and August 28, 2016 in Somerville, Massachusetts before a Tri-partite Panel consisting of Gary D. Altman, Esq. Neutral Panel Member, Mayor Dean Mazzarella, Management Panel Member, and William DeMille, Union Panel Member. Alan J. McDonald, Esq., represented the Union and Philip Collins, Esq., represented the City of Somerville. The parties submitted post-hearing briefs.

Analysis and Issues

Under the Collective Bargaining Laws of Massachusetts, the Interest Arbitration process is utilized when "there is an exhaustion of the process of collective bargaining which constitutes a potential threat to public welfare". In reaching the conclusions in the present award, the Arbitration Panel has considered the criteria set forth in the statute including the municipality's ability to pay, wages and benefits of comparable towns, and the cost of living. It must also be noted that large gains or major concessions are not achieved in the format of arbitration. An arbitrator is reluctant to modify contract provisions where the parties, in past years, have already reached agreement, the contract article has been in the contract for a considerable period of time, and there has been no ascertainable problem with the contract language.

Background

The City of Somerville is located in Middlesex County. It has a population of approximately 80,000 people in a land area of 4.2 square miles. The City is governed by a Mayor and has an eleven member Board of Aldermen. The bargaining unit is composed of approximately eighty-eight patrol officers. The most recent Collective Bargaining Agreement expired on June 30, 2012.

The JLMC conducted a Section 3A hearing on November 12, 2015. At the outset of the hearing each party submitted a list of outstanding issues to the JLMC. On November 23, 2015 the Committee determined that there was "an apparent exhaustion of the process of collective bargaining which constitutes a potential threat to public welfare." The JLMC certified the following issues to be decided in the arbitration proceeding:

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Wages and Duration

The most recent collective bargaining Agreement expired on June 30, 2012, and the parties have been negotiating over the terms of a successor Agreement for an extended period of time. The parties' proposals on wages and duration are as follows:

CITY'S POSITION

The City proposes a one-year contract for the period of July 1, 2012 through June 30, 2013 and a three-year agreement from the period of July 1, 2013 through June 30, 2016.

One Year Agreement - 7/1/12 - 6/30/13

2% across the board increase.

Three Year Agreement 7/1/13 - 6/30/16

July 1, 2013 - 2% across the board increase.

July 1, 2014 - 2% across the board increase.

July 1, 2015 - 2% across the board increase.

Under the City's proposal, wage increases would be retroactive for those employees who are still employed and those who retired, but not to those employees who resigned or were discharged.

Summary of the City's Arguments

The City maintains that its proposal of an 8% wage increase over the four-year period should be awarded. The City states that the list of six municipalities presented by the Union are not comparable, and should not be used in considering wages and benefits for Somerville police officers. The City strongly objects to the Union's inclusion of Boston as a comparable community, arguing that it has significant demographic and economic differences from Somerville. Specifically, the City maintains that the City of Boston and Somerville have considerably different populations, as Boston has a population of 650,000 which is considerably larger than that of Somerville, with a population of 78,804. The City also asserts that Boston, as the Capital of the Commonwealth, is a tourist destination with many hotels and mass transportation venues, whereas Somerville has only two hotels and only one subway station.

Most significantly, the City argues that the financial resources of Boston are in no way comparable to what exists in Somerville, and that in communities chosen by the Union the per-capita income is considerably higher than exists in Somerville. On the other hand, the City contends that the communities that it has chosen as comparable are more appropriate; that they are closer in proximity, have populations nearer in size to Somerville, that income and budgets are more comparable to Somerville, and they have previously been used as comparables in negotiations for other City bargaining units.

The City argues that the wages and benefits of Somerville Patrol Officers compare well with their counterparts in other comparable communities, and that Somerville Patrol Officers rank at the top in terms of total compensation. The City states that this is due primarily to a high base salary rate paid to its Patrol Officers, which is the third highest in its list of comparable communities. The City thus maintains that there is no justification for any type of equity adjustment. Moreover, the City states that a review of wage increases awarded by arbitrators in other jurisdictions shows that its wage proposal is justified. The City also points to the settlements reached with other City of Somerville bargaining units. The City contends that its proposal is almost identical to what the other City bargaining units agreed to for the same time period, and reflects the City's ability to pay for this contract period.

The City also states that because of the high base rates provided to Somerville Police Officers, there are no recruitment or retention issues for the Somerville Police Department. The City also maintains that its wage proposal is currently above the consumer price index for the relevant time period.

The City also maintains that its ability to pay is reflected in its wage proposal made to the Union. The City acknowledges that the City has seen an economic resurgence, although there are still a number of financial issues that confront the City. Specifically, the City points to cuts in State Aid, which is down \$12.4 million from what it was in 2008. Further the City states that it is facing rising pension and post retirement benefits, and multi-million dollar infrastructure costs. The City points to the delay

in the Green Line extension, and, as a result, new growth projections have been adjusted downward. The City concludes that there is no justification to grant wage increases to Somerville Patrol Officers more than provided to any other City of Somerville bargaining unit.

UNION'S POSITION

The Union proposes a three-year agreement for the period July 1, 2012 through June 30, 2015.

Three Year Agreement 7/1/12 - 6/30/15

July 1, 2012 - 3% across the board increase.

July 1, 2013 - 3% across the board increase.

July 1, 2014 - 4% across the board increase.

The Union also proposes that "evergreen" language should be added to the parties' agreement, which reads:

If negotiations for a new agreement continue beyond June 30, 2015, this Agreement shall continue in full force and effect until a successor agreement is executed.

Summary of the Union's Arguments

The Union maintains that the agreement should be for a three-year duration, not four years, as proposed by the City. The Union states that whether a three or four year agreement, the parties must immediately begin negotiations for a successor Agreement, as the terms of the arbitrated agreement will have already expired. The Union maintains that in the vast majority of arbitration cases, Arbitrators are reluctant to award an agreement of more than three years. The Union further states that it should be up to the parties to negotiate the terms going forward and not have the fourth year determined by an arbitration panel, when the parties have not negotiated over this additional year.

The Union further asserts that its proposed evergreen language should be added to the parties' Agreement. The Union states that in the past the parties worked under an evergreen clause, and the most recent contract had an evergreen clause that was in effect for only two years. The Union states that after the expiration of the evergreen clause the parties have had to resort to filing charges at the Division of Labor Relations, and that nineteen charges were filed by the Union alleging contract violations or changes in past practice. The Union maintains that a review of contracts in comparable communities shows an overwhelming practice of having evergreen clauses in the police labor agreements. The Union maintains that the City has not presented a legitimate argument as to why there should be no evergreen clauses in the Agreement.

The Union contends that a review of comparable salaries and benefits demonstrates that more must be done to improve the wages and benefits for Somerville Patrol Officers. The Union first states that the comparable communities selected by the City are not appropriate, as they are too large a group, many of which are non-urban communities, and share little in common with Somerville. The Union argues that its list of comparables is smaller and more appropriate. Specifically, the Union contends that Boston should be considered as comparable due to its close proximity, its population density, and the fact that it is faced with similar urban policing concerns. The Union argues that a review of its comparable communities shows that wages and benefits of Somerville Patrol Officers lag behind what is provided in these other communities.

The Union argues that a review of total compensation of patrol officers in the comparable communities shows that

Somerville Patrol Officers receive less, and under the City's proposal will fall even further behind. The Union argues that recent wage settlements show that the region has recovered from the great recession and have provided wage increases to attract and retain their police officers.

The Union further argues that the wage settlements provided to other bargaining units in the City of Somerville should not be controlling in this proceeding. The Union asserts that the proper benchmark as provided by the arbitration law is wages and benefits paid to comparable employees, which means it is more appropriate to look at wages and benefits provided to other municipal police officers. Moreover, the Union asserts that in the present case there is ample justification to provide wage and economic benefits higher than recently agreed to by other Somerville bargaining units, including Somerville Firefighters who work under different working conditions, and have a history of different benefits.

The Union further argues that the City has the financial ability to pay for the Association's proposal, and that the City has not presented any evidence that it does not have the financial means to pay the Union's proposed increases. The Union points to the City's free cash and stabilization fund, and that the City currently has an Aa2 bond rating, which shows the financial health of the City. The Union also contends that the City is enjoying new growth and commercial development, and an expanding housing market. The Union maintains that more must be done to increase the wages and benefits of Somerville Patrol Officers to ensure that they remain competitive with their police colleagues in the area.

Discussion

Determining the "appropriate" salary increase is not an exact science. In general, arbitrators consider the cost of living, wages and benefits of comparable employees, the ability of the employer (or citizens) to pay for an increase in wages, the bargaining history of the parties and recent contract settlements. Arbitrators often pay great attention to wage settlements that have occurred within the municipality, as internal wage settlements demonstrate the so-called "going rate" and the municipal employer's ability and willingness to pay, in the current economic times.

I. Somerville Wage Increases

The wage settlements for Somerville municipal employees for the most recent round of contract negotiations are as follows:

	FY 13	FY 14	FY 15	FY 16
Fire Fighters	2.5%	2%	2%	N-S
Fire Alarm	2.5%	2%	2%	N-S
SEIU Local 888 E-911	2%	2%	2%	2%
SEIU Local 888 X-Guard	2%	2%	New scale	2%
NCFO Local 3	2%	2%	2%	2%
SMEA Unit A	2%	1%	2%	2%
SMEA Unit B	2%	1%	2%	2%
SMEA Unit D	2%	1%	2%	2%

II. Comparability

The parties disagree as to which communities should be the basis for comparisons with Somerville. The City asserts that the communities of Arlington, Brookline, Cambridge, Everett, Framingham, Lowell, Malden, Medford, Melrose, Newton, Peabody, Quincy, Revere, Waltham and Weymouth should be used as comparable communities for considering wages and benefits. The Union's universe of comparable

communities is much smaller and includes the communities of Medford, Lynn, Cambridge, Newton, Boston, and Quincy.

There is no right or wrong answer in deciding which communities are in fact comparable. Comparability does not mean that the communities must in fact be equivalent in each and every respect. There in fact may be reasons to compare various conditions of employment that exist for Somerville Police Officers with the police officers in a large number of municipalities. For example, the facts may show that there is a consistent state-wide trend, for example, working hours or shift schedules for police officers. Thus, a comparison with a large number of communities would be most relevant in this regard.

In 2012 the City of Somerville engaged the Collins Center for Public Management at the University of Massachusetts to conduct a classification and compensation study for the City's for non-union positions. In the survey the Collins Center stated:

The criteria considered in recommending comparable municipalities included geographical proximity to Somerville, similarity of population size, and similarity in terms of having a goal of employing the most innovative methods of municipal service delivery, both locally and nationally. The Collins Center project team met with the Compensation Advisory Board and presented several suggested comparable municipalities.

Those communities chosen in the Collins Center classification study were Arlington, Brookline, Cambridge, Lowell, Malden, Melrose, Newton, Quincy, and Waltham. It is these communities that will be considered for review, and the City of Medford will also be reviewed, since both the

Union and City agreed that it was appropriate to be considered.

Wage adjustments in these communities over the relevant time frame are as follows:

<u>Community</u>	<u>FY 13</u>	<u>FY 14</u>	<u>FY 15</u>	<u>FY16</u>
Arlington	3%	2.75%	2.75%	2.80%
Brookline	2%	2%	2%	2%
Cambridge	2.50%	2.50%	NS	NS
Lowell	2.25%	3.50%	2.50%	NS
Medford	1.00%	1.00%	2.00%	
Malden	3%	2%	2%	2%
Melrose	2%	2%	2%	NS
Newton	\$700+1.5%	1.50%	NS	NS
Quincy	1%	2%	2%	NS
Waltham	2.50%	NS	NS	NS

The wage adjustments in surrounding communities for the relevant time period show that the wage increases proposed by the City are in line with the wage increases agreed to in these surrounding communities. Moreover, the evidence also demonstrates that the overall compensation (including wages and benefits) provided to Somerville Police, although not the same, is comparable to what is provided to police officers in these other communities. There is, therefore, no justification for any large-scale equity adjustments to the Somerville Patrol Officer wage increases.

As of FY 2012, the wage rates for Somerville Police Officers and Somerville Firefighters were essentially equal: Somerville Police \$59,783 and Somerville Fire \$59,742. The Union proposal would significantly alter the basic wage parity relationship that has historically existed between these two public safety groups. There is, therefore, no compelling justification for this Panel to

award increases higher or lower than have been agreed to with Somerville Firefighters for the same contract period.

Duration

The City also proposes agreements covering a four year-time period, fiscal years 2013 through fiscal year 2016, whereas the Union proposes a three-year agreement, 2013-2015. Both parties argue that it is the other party's fault for the protracted delay in negotiations. It is not this Panel's role to assess fault for the length of time involved for the contract negotiations for this successor Agreement.

No matter whether the City's proposal or the Union's proposal is awarded, on the date that this Arbitration Award is finally issued the parties will again be out of contract. There is, certainly, justification to award a contract for as many years as possible. Nonetheless, this Panel will not award a contract for more than three years. First and foremost, a review of internal settlements shows that the Somerville Firefighters Union, the other large public safety unit, has not reached agreement for FY 2016. This Panel, as opposed to reviewing the existing wage pattern, would for all practical purposes, be setting the future wage pattern for the City's public safety employees. Moreover, a review of the external comparables shows that there are not many wage settlements for Fiscal Year 2016, and thus this Arbitration Panel does not have sufficient data to make a rational decision to award wage increases for this additional year.

Evergreen Clause

The Union proposes to add a provision to the duration clause known as "an evergreen clause". The Union's proposal reads:

If negotiations for a new Agreement continue beyond June 30, 2015, this Agreement shall continue in full force and effect until a successor agreement is executed.

The Union contends that the terms of an evergreen clause, which continue the terms of a collective bargaining agreement until a new agreement is reached, provides stability of labor management relations and protects the provisions of the negotiated agreement. The Union states that with the benefits of an evergreen clause, the Union has been forced to challenge any changes in contract terms or the status quo at the Department of Labor Relations, which has been costly and contentious. The Union further maintains that the overwhelming number of police agreements in the Commonwealth have evergreen clauses.

City Position

The City opposes adding an evergreen clause to the parties' Agreement. The City maintains that the absence of an evergreen clause had no impact on the parties' labor relations, and that the Union has had the ability to challenge allegations that the City has made unilateral changes by resorting to the Department of Labor Relations, and has done so on repeated occasions. The City further argues that the most compelling evidence on this issue is the fact that no other City bargaining unit now has an evergreen clause, and the lack of such clause has not had a negative effect on labor relations in the other City bargaining units.

Discussion

The facts show that, except for the City of Somerville, evergreen clauses are almost a universally

accepted provision in labor agreements in the Commonwealth. Indeed, whether looking at the City's list of comparable communities or the Union's list of comparable communities, contract language exists in these agreements that provides that the terms of the Agreement will continue after the expiration date of the Agreement.

In view of the overwhelming practice in other communities, it cannot be said that the existence of such clauses has a detrimental effect on labor relations. The existence of evergreen language permits the parties to continue to resort to the grievance arbitration procedure after the Agreement has expired. In view of the inherent delay in negotiations in the public sector, and the evidence showing the overwhelming acceptance of evergreen provisions in police agreements, there is no good reason for this Panel not to award the Union's proposal to add an evergreen clause to the duration provision of the parties' Agreement.

AWARD - DURATION & WAGE INCREASES

The Panel Awards wage increases for the three-year period:

FY 2013 - 2.5%
FY 2014 - 2%
FY 2015 - 2%

The parties shall add to the duration clause the following language:

If negotiations for a new Agreement continue beyond the expiration date of this Agreement the terms of this Agreement shall continue in full force and effect until a successor agreement is executed.

UNION ISSUES

Article XIX – Education Incentive

The current contract provides that officers hired before July 1, 2009 who had been receiving Quinn Education Incentives continue to receive full Quinn Educational Incentives. Officers hired after July 1, 2009, who had not yet matriculated into a Quinn Bill criminal justice program by October 1, 2009, receive no educational incentive.

Union's Proposal

The Union's proposal reads as follows:

Article XIX, Compensation, shall be amended at Section 5 Education Incentive Pay by deleting Sections (b) through (e) and replacing them with a new (b) and (c) to read:

(b) The City, having accepted the provisions of General Laws, Chapter 41, Section 108L, agrees to and shall pay to all employees so entitled, police career incentive base salary increases, as provided in, and pursuant to said Chapter 41, Section 108L. If at any time the legislature should amend or repeal Chapter 41, Section 108L, and/or fail to appropriate the state's share of payments to eligible officers, resulting in a loss of incentive pay to officers who previously had eligibility for payments thereunder, the City shall nonetheless continue to pay such officers as if the pre-existing Section 108L were still in effect and fully funded, but as an independent contractual educational incentive requirement rather than a statutory requirement. The City shall, effective July 1, 2012, also pay to officers who are not eligible for payments under Chapter 41, Section 108L due to the 2009 legislative amendments thereto as if they were so eligible but as an independent contractual educational incentive system rather than a statutory requirement.

For purposes of this section should at any time the Board of Higher Education for any reason no longer certify institutions of higher learning under Section 108L, the City shall deem any such institutions as

certified if they have been previously certified by the Board.

The purpose of this section is to guarantee the continuation of educational incentive benefits to previously hired officers, and the provision of the same educational incentive degrees to all newly hired officers, in the amount of 25% of base pay for Masters degrees or law degrees in criminal justice; 20% of base pay for Bachelor degrees in criminal justice and 10% for Associate Degrees and/or 60 credits in a Bachelor's degree program in criminal justice. This provision shall be liberally construed to further this purpose.

Officers already employed by the City of Somerville at the time of the 2009 amendments who were rendered ineligible because they had not enrolled in a Quinn eligible program prior to October 1, 2009 will be eligible for the same educational incentive benefits as set forth in the preceding paragraphs if and when they meet the educational requirements for those benefits.

Officers who on or after July 1, 2009 laterally transfer into the Somerville Police Department and who were receiving educational incentive benefits in their previous Department under Chapter 41, Section 108L shall be paid those benefits according to their original hiring date with the previous department.

(c) Officers who do not have a degree in criminal justice, but have degrees in Sociology, Psychology, Computer Science, Education, Computer Analytics, Crime analysis, law, and other degrees to be mutually agreed upon by the City and the Association, shall receive an annual payment of \$3,000 for an Associates' Degree, \$6,000 for a Bachelors' Degree, \$7,500 for a Masters' Degree and \$10,000 for a Law Degree. Payment of the incentives under this provision shall be included in officer pay for the same purposes as pay under Section (b) above.

The Union maintains that it is necessary and appropriate that all Somerville patrol officers, who have earned the appropriate educational degrees, should receive

the full Quinn Educational Incentive. The Union states that in 2009 the Commonwealth stopped funding half of the costs of the Quinn incentive, and that although Somerville continued to provide full Quinn incentive payments to those who had earned degrees new officers hired since 2009 do not receive any educational incentive. The Union states that this has now created a bifurcated pay structure with officers. With higher education, hired before 2009 being paid significantly higher amounts than officers hired after 2009, even though they have the same education, and perform the same duties. The Union states that the loss of income over the career of an officer hired after 2009 can be staggering, ranging in the hundreds of thousands of dollars.

The Union asserts that in many communities, including its list of comparable communities, the municipalities have continued to pay all their police officers the full educational incentive. The Union argues that the City should encourage its officers to be better educated, to be able to address the more complex and legalistic policing environment and not continue the disparity in benefits for its patrol officers.

City's Proposal

The City proposes the following changes in the education incentive:

The City of Somerville proposes that officers hired after July 1, 2009, and officers hired before then who did not matriculate into a Quinn Bill qualifying criminal justice program by October 1, 2009, receive the following annual education incentive pay stipends for degrees meeting so-called Quinn Bill standards:

For an Associate's degree in Criminal Justice	\$3,000/year
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For a Bachelor's degree \$6,000/year
in Criminal Justice

For a Master's degree \$7,500/year
in Criminal Justice

For a Juris Doctor degree \$10,000/year

Payments shall be made bi-annually, two equal payments in June and December, and shall not be included in base pay for any purpose. The June payment shall be based on degrees achieved and provided to the City before the preceeding January 1. The December payment shall be based on degrees achieved and provided to the City before the preceding July 1.

This provision will be effective on July 1, 2014.

The City maintains that the State's failure to fund half of the costs of the Quinn Educational Incentive placed severe financial costs on municipalities including Somerville. The City states that to prevent Somerville Police Officers from suffering large reductions in their pay if it only paid half of the Quinn Incentive, it continued to fully fund the education incentive for those officers who had qualified; this resulted in the City having to fund 50% of the costs that had previously been paid by the State, not an insignificant amount.

The City states that to now provide the full Quinn Educational Incentive to all officers hired after 2009 would be very costly, and that it must be remembered that even when Quinn was in place, communities were only responsible for half of the costs of the Educational Incentive. The City maintains that its proposal to now provide educational incentives to those officers hired after 2009, but set forth in flat dollar amounts, rather than on a percentage basis, is reasonable and an affordable

means to provide educational incentives for all Somerville Patrol Officers. Moreover, the City states that this is an approach that has been taken in other communities such as Brookline, which agreed to pay officers a flat dollar amount for educational attainment, and Quincy, which pays new officers half the original Quinn Incentive payments. The City maintains that it seeks to provide educational incentives for officers hired after 2009, but must do so in a manner that is affordable for the community.

Discussion

The Quinn Bill, the so-called educational incentive, was enacted to encourage police officers in the Commonwealth to attain higher education, and better serve the citizens of the Commonwealth. The Quinn Bill provided that officers who attained degrees in criminal justice would be paid an additional 10% for an Associate's degree, 20% for a Bachelor's degree, and 25% for a Master's or Law degree. The Commonwealth reimbursed communities half of the cost of the total educational incentive paid to officers.

The landscape for educational incentives changed dramatically in 2009, when the Commonwealth decided to no longer reimburse communities for half of the costs of the educational incentive. Litigation ensued with respect to communities' obligation to continue to fully fund educational incentives despite the lack of State funding. In 2012 the Supreme Judicial Court ruled that the communities were not legally required to fully fund the educational incentive in the absence of State funding.

Faced with what would have amounted to significant pay cuts to officers' wages, many communities, including Somerville, decided to provide the full educational incentive to those officers who were eligible, and had been

receiving the benefit. As the chart below shows, some communities continued to fund full educational benefits for those officers hired after 2009, some provided lower incentives, and some, like Somerville, decided to provide no educational incentive for those hired after 2009:

Community	Associates	Bachelors	Masters	
Arlington	10%	20%	25%	crim just.
Brookline*	\$5,000	\$10,000	\$12,500	crim & related
Cambridge	10%	20%	25%	crim just.
Lowell	10%	20%	25%	crim just.
Medford**	0%	10-20%	12.5-25%	crim just.
Malden ***	10%	20%	25%	
Melrose	0	0	0	
Newton	10%	20%	25%	crim & related
Quincy****	5%	10%	12.50%	law enforc.
Waltham	10%	20%	25%	law enforc.

* Brookline's Flat dollar amounts became effective July 1, 2014.

** Malden's program is paid on January 1, after an officer's 3rd anniversary.

*** Medford's program provides half of the Quinn's percentages after five years of service, and provides full Quinn percentages after 8 years of service.

**** Quincy's program is paid after one full-year of employment.

There are now a significant number of Somerville patrol officers (32 out of 88 hired after 2009), who, by virtue of their hire date, receive no educational incentive. It is hard to justify paying officers hired after 2009 a significantly lower rate of pay when they have the same educational degree and perform the same police duties as officers hired before 2009. Moreover, it appears that even those communities that did not provide educational incentives to officers hired after 2009 are now making some effort to provide educational incentives to these newly hired officers.

At the present time both the Union and City acknowledge the appropriateness of providing educational incentives for officers hired after 2009. The Union seeks full Quinn percentage payments, and to expand the scope of the incentive to degrees even if they are not criminal justice related degrees, whereas the City proposes flat dollar amounts for criminal justice related degrees.

The approach recently agreed to in Medford provides a methodology to provide full educational incentives to all Patrol Officers. Phasing in the educational incentive over a period of time is a reasonable and affordable method to equalize the educational incentive for all Somerville Patrol Officers. This staggered time period for providing full benefits is not unusual in labor relations as parties often have pay scales which provide higher pay rates for continued service. Similarly longevity payments reward officers with more years of service.

Medford does not provide educational incentives to officers who have an Associate's degree. In this proceeding, the Union and the City both acknowledge the merit of paying officers with an Associate's degree some amount for this educational attainment. Further, a review of the data shows that the majority of departments continue to pay officers with an Associate's degree. Moreover, the Panel believes that five year the waiting period for receiving any educational incentive agreed to Medford is too long, and educational incentives should begin sooner than five years of service. Specifically, the Panel believes that half of the Quinn percentages should be paid after three years of service, and full Quinn Incentives should be paid after five years of service. Further educational payments under this provision shall not

commence until January 1, 2015. Accordingly, the panel Awards the following Educational Incentive provision be added to the parties' Agreement.

AWARD - EDUCATIONAL INCENTIVE

The following provision shall be added to the parties' Agreement:

Article XIX, Compensation, shall be amended at Section 5 Education Incentive Pay, by deleting Sections (b) through (e) and replacing them with a new section (b) to read:

b. The City, having accepted the provisions of General Laws, Chapter 41, Section 108L, agrees to and shall pay to all employees so entitled, police career incentive base salary increases, as provided in, and pursuant to said Chapter 41, Section 108L. If at any time the legislature should amend or repeal Chapter 41, Section 108L, and/or fail to appropriate the state's share of payments to eligible officers, resulting in a loss of incentive pay to officers who previously had eligibility for payments thereunder, the City shall nonetheless continue to pay such officers as if the pre-existing Section 108L were still in effect and fully funded, but as an independent contractual educational incentive requirement rather than a statutory requirement. The City shall, effective July 1, 2012, also pay to officers who are not eligible for payments under Chapter 41, Section 108L due to the 2009 legislative amendments thereto, as if they were so eligible but as an independent contractual educational incentive system rather than a statutory requirement.

For purposes of this section, should at any time the Board of Higher Education for any reason, no longer certify institutions of higher learning under Section 108L, the City shall deem any such institutions as certified if they have been previously certified by the Board.

The purpose of this section is to guarantee the continuation of educational incentive benefits to previously hired officers in the amount of 25% of base

pay for Master's Degrees or Law Degrees in criminal justice; 20% of base pay for Bachelor's Degrees in criminal justice and 10% for Associate's Degrees and/or 60 credits in a Bachelor's degree program in criminal justice. This provision shall be liberally construed to further this purpose.

Officers hired after July 1, 2009 shall be eligible for contractual educational incentives in the amount of 5% for an Associate's Degree in Criminal Justice, 10% for a Bachelor's Degree in Criminal Justice and 12.5% for a Masters' Degree in Criminal Justice or a Law Degree but only after three years of service with the City of Somerville Police Department; after the completion of five years such officers shall be eligible for 10% for an Associate's Degree, 20% for a Bachelor's Degree in Criminal Justice and 25% for a Master's Degree in Criminal Justice or a Law Degree.

Officers already employed by the City of Somerville at the time of the 2009 amendments who were rendered ineligible because they had not enrolled in a Quinn eligible program prior to October 1, 2009 will be eligible for the same educational incentive benefits as new hires as set forth in the preceding paragraphs if and when they meet the educational requirements for those benefits.

Officers who, on or after July 1, 2009, laterally transfer into the Somerville Police Department and who were receiving educational incentive benefits in their previous Department under Chapter 41, Section 108L shall be paid those benefits as per this Section and based upon their original hiring date with the previous department. For example, an officer who was hired in another City on 7/1/11 and is receiving "Educational incentive benefits" for a Bachelor's degree in that City laterally transfers to Somerville on 7/1/14; the officer will be eligible for "Educational Incentive Benefits" in the City of Somerville on 7/1/14 at the rate of 10%. The officer will be eligible for the full 20% on 7/1/16.

Educational Incentive payments provided under this provision shall commence effective January 1, 2015 to those officers based on their years of service and educational attainment at that time. For example if an

officer was hired in July 2009 and has a Bachelor's Degree effective January 1, 2015, the officer's educational incentive will be 20%.

Article New - Hazardous Duty Pay

The parties' current Agreement provides for an annual Weapons of Mass Destruction stipend of \$500.00 and an annual Weapons Qualifications stipend between \$425.00 to \$600.00.

Union Proposal

The Union proposes to eliminate both annual stipends and in its place substitute a stipend of 3% for hazardous duty. Under the Union's proposal this benefit would be added to employees' base pay.

The Union maintains that its proposal recognizes the unique hazards of the job, and would ensure that the compensation would be part of patrol officers' base pay and would therefore be fully pensionable. The Union states that this change would only be a minimal increase in the current payments. The Union further states that hazardous day payments are common stipends paid to public safety employees throughout the Commonwealth, and such payments are often part of the employees' base pay.

City Position

The City is opposed to the Union's proposal. The City states that there is no justification to change the current stipends in the Agreement. The City states that the variation in the amounts for weapons qualifications is to reward officer with higher pay if they attain a higher qualification standard, and this incentive to achieve a higher score would be lost if the payment was converted to a percentage basis. Moreover, the City contends that eliminating the payment and substituting a hazardous duty

pay of 3% would be a significant increase in the amount of the two benefits, as the 3% would be added to not only base salary, but Quinn incentive, night shift differential, holiday pay and overtime. The City further states that Firefighter now receive an annual stipend of \$1,000 for hazardous duty, which is a little less than the weapons qualification and the hazardous duty stipend paid to Somerville Patrol Officers. For Somerville firefighters the \$1,000 hazardous duty stipend is paid in flat dollars, and is not rolled into their base pay.

Discussion

There is insufficient justification to grant the Union's proposal. It is true that other Police Departments in the list of comparable communities provide additional financial recognition for the hazards of being a police officer. This is also the current situation for Somerville Police Officers who receive an annual Weapons of Mass Destruction stipend, and also a separate payment for weapons qualification; both stipends pertain to the unique duties and responsibilities of being a police officer. It cannot be said that it is a prevailing practice that such stipends are part of the base pay in other police departments. Moreover, the current hazardous duty stipend paid to Somerville Firefighter is paid as an annual stipend, and is not rolled into the firefighter base pay. Accordingly, there is insufficient justification to make any changes in this benefit at the present time.

AWARD - HAZARDOUS DUTY PAY

The Panel does not award the Union's proposal.

Article XIX - Longevity Pay

Article XIX, Section 3(A), Senior Longevity, provides annual longevity payment as follows:

(i)	20 Years of Service	\$800
(ii)	25 Years of Service	\$1,600
(iii)	30 Years of Service	\$3,200

Union Position

The Union proposes to modify the current Senior Longevity schedule to read as follows:

(i)	20 Years of Service	2%
(ii)	25 Years of Service	4%
(iii)	30 Years of Service	6%

The Union maintains that its proposal to convert from flat dollar longevity payments to percentage-based longevity payments would provide a modest increase to the longevity payments now paid to officers. The Union states that there have not been increases in the longevity payments in more than a decade. The Union further argues that when reviewing longevity payments in other communities the longevity pay for Somerville Police is lower than that provided in other communities, such as Boston, and Lynn. Moreover, the Union states that the longevity payments for officers at the highest years of service at the 20 and 25 levels, fall behind payments made to officer with same years of service in the other communities. The Union further maintains that at the present time Somerville firefighters and police superiors currently receive higher longevity payments at certain levels than Somerville Patrol Officers.

City Position

The City opposes the Union's proposal. The City first states that the Union seeks to convert the current flat

dollar longevity payments to a percentage basis, which would result in automatic increases every time the parties change the base rate, and would also increase overtime and other fringe benefits. The City states that longevity payments paid to other City employees are expressed in flat dollar amounts, not on percentage basis. The City states that the parties agreed that at thirty years of service officers receive \$3,200, an amount that is higher than paid in most other comparable communities.

Discussion

The chart below shows longevity payments for comparable communities.

Community	5 YRS	10 YRS	15 YRS	20 YRS	25 YRS	30 YRS
Arlington	\$540	\$1,081	\$1,621	\$2,161	\$2,702	\$2,702
Brookline	\$0	\$500	\$650	\$800	\$800	\$1,000
Cambridge	\$0	\$0	\$0	\$0	\$0	\$0
Lowell	\$983	\$1,967	\$2,950	\$3,934	\$4,917	\$6,556
Medford	\$0	\$550	\$550	\$1,250	\$1,650	\$1,850
Malden	\$1,689	\$2,252	\$2,534	\$2,815	\$5,631	\$5,631
Melrose	\$0	\$550	\$750	\$1,330	\$1,750	\$2,500
Newton	\$0	\$650	\$800	\$2,000	\$2,500	\$2,500
Quincy	\$100	\$150	\$200	\$600	\$1,500	\$1,500*
Waltham	\$0	\$0	\$4,048	\$4,588	\$5,127	\$5,667

* Quincy – after 28 years officers receive 5% above the final step, and at 29 years officers receive an additional 5%.

The chart demonstrates that longevity payments vary from community to community. There is no norm; some communities pay longevity on percentage basis and some on flat dollar basis. The payment of \$3,200 for officers of thirty years in Somerville is within the norm of longevity payments. Moreover, longevity payments cannot be considered in isolated manner, as it is simply one benefit that must be assessed in the total compensation paid to patrol officers.

The evidence suggests that total compensation paid to Somerville officers is competitive with officers in surrounding communities.

The comparison for other City of Somerville employs shows:

	5 YRS	10 YRS	15 YRS	20 YRS	25 YRS	30 YRS
Somerville Fire	\$300	\$400	\$900	\$1,650	\$2,200	\$2,200
Police Superiors	\$200	\$300	\$800	\$2,300	\$3,400	\$5,000
SEIU 911/Dispatch	\$0	\$0	\$250	\$500	\$500	\$500
SMEA Unit A	\$500	\$600	\$850	\$1,250	\$1,400	\$1,600
SMEA Unit B	\$500	\$600	\$850	\$1,250	\$1,400	\$1,600
SMEA Unit D	\$500	\$600	\$850	\$1,250	\$1,400	\$1,600

No other Somerville employee receives longevity on a percentage basis. The Police Superiors do receive higher longevity payments, but this appears to be a long-standing practice. There is no evidence that any other city bargaining unit received increases in longevity amounts during the most recent round of contract negotiations. Accordingly, based on totality of facts there is insufficient justification to change the current longevity payments at this time.

AWARD - LONGEVITY PAY

The Panel does not award the Union's proposal.

Article VI - Detail Rate

The language in the current provision on paid detail rates provide:

After October 1, 2007; the Association, at its option, by written notice to the City, attention its Mayor, may increase the applicable detail hourly rate by an amount or amounts not exceeding, in the aggregate, \$3.00 per hour as its Executive Board shall determine. Said increase(s) shall be cumulative and shall become effective seven (7) days after receipt of said

notice(s) by the City, and this Section 8 shall be deemed amended accordingly.

Union Proposal

The Union proposes to amend the current provision to provide for an increase in the detail rate from \$43.00 to \$46.00 and to amend the current provision to read:

After January 1, 2016; the Association, at its option, by written notice to the City, attention its Mayor, may increase the applicable detail hourly rate by an amount or amounts not exceeding, in the aggregate, \$4.00 per hour as its Executive Board shall determine. When the Department designates as a priority detail, the detail rate shall be \$5.00 per hour higher than the regular detail rate then in effect.

The Union maintains the increase in the detail rate is justified based on the detail rate now paid in comparable communities. The Union further states that the language it has proposed would permit the Union to increase the rate to ensure that the rate does not fall behind the rate paid in comparable communities. The Union also contends that providing an additional amount for priority details would encourage officers to work these details. The Union contends that it is not unusual for other departments to have higher detail rate for certain details when liquor is served or for details worked during work stoppages.

City Position

The City opposed the Union's proposal. The City maintains that the current provision allows the Union to increase the current rate by \$3.00 per contract term, and that the Union already increased the rate during the period covered by this Award. The Union states that the union's proposal would allow the Union to increase the rate in advance of the next Agreement. The City further states that

there is no justification for the Union's language to pay more for priority details, as such language does not exist in agreements in any other comparable community.

Discussion

The current provision allows the Union to increase the current rate per contract by \$3.00 an hour. The testimony at the hearing shows the Union increased the detail rate by the \$3.00 to the current rate of \$43.00. The evidence shows that the majority of agreements do not grant the discretion to the Union, but rather the parties negotiate the specific detail rate. Thus, there is insufficient justification to amend the current provision. Moreover, the Union asks for the contractual right to increase the effective January 1, 2016, which covers a time period outside of this Award; the Union did not want to extend the duration for FY 2016. Thus, the contract at issue will have expired at the time of the issuance of this Award, and any increase in the detail rate will not be retroactive, and will be the subject of future negotiations. Further, the Union's proposed language for special rate for priority details is not awarded. The language proposed by the Union does not exist in any of the comparable communities.

AWARD - ARTICLE VI - DETAIL RATE

The Panel does not award the Union's detail proposal.

Article VI - Detail Jurisdiction

There is nothing in the parties Agreement with respect to using non-law enforcement officers to perform detail work on public roadways.

Union Proposal

The Union proposes to add a new section 9 to Article VI, which reads as follows:

Section 9. Traffic Control Jurisdiction

The City and Association agree that public safety interests are best served when traffic control on and around the roads, streets, highways and other passageways for construction, repair and maintenance projects; utility construction, repair and maintenance projects; and all other activities requiring traffic control is performed by sworn police officers.

Therefore the City and the Association agree that traffic control on all such projects and activities where traffic control is deemed appropriate by the Police Chief or his designee will be performed only by sworn police officers pursuant to the current practice under the Department's paid detail system (i.e., limited to bargaining unit officers, superior officers, bargaining unit retirees, and City Housing Officers), provided that if there are insufficient sworn police officers/retirees within the Department to handle available details on a given tour of duty, sworn police officers from other law enforcement agencies may be used to fill them under terms and conditions agreeable to the Association and approved by the Police Chief. Nothing in this section shall alter the Police Chief's authority presently existing to determine the appropriate level of traffic control measures on such projects and/or activities.

The Union states that Commonwealth issued new regulations that allow municipalities to use civilian flaggers, rather than sworn police officers, on certain road projects. The Union states that its proposal would ensure that civilian flaggers would not be used for traffic control on the City's roadways. The Union contends that under its proposal that once the Chief or his designee determines that a traffic detail is appropriate, the work would then be performed only by sworn officers.

The Union maintains that there is a public safety benefit to having sworn police officers directing traffic as it provide an additional police presence in the community. The Union asserts that the City has implicitly

recognized the value of police officers performing detail by its own regulations, and that the language it has proposed is often found in collective bargaining agreements in urban communities. Finally, the Union states that the City's contention that the issue is not an appropriate subject of bargaining is without merit as the JLMC certified this issue as an appropriate subject to be presented in arbitration, and has, in fact, been the subject of prior Arbitration Awards in other communities.

City Position

The City opposes the Union's proposal. The City contends that the Union's "flagman" proposal is an issue that is not an appropriate subject to be resolved by this Arbitration Panel. The City, citing a number of court cases, argues that the matter of assignment is core managerial right of the Chief which cannot be delegated. The City further contends that the pecking order of who will receive details after details are assigned to sworn officers is not a mandatory subject of bargaining and is further reason to deny the Union's proposal.

Discussion

The City cites a number of legal arguments as to why the Union's proposal should be rejected. It must first be stated that the JLMC certified this issue as an appropriate issue to be resolved by the Arbitration Panel. Moreover, under the Union's proposal the Chief retains the management right to determine whether a detail is necessary and the number of officers to be used on any detail assignment. It is well known that throughout the Commonwealth private details are an extremely important and well-recognized means for police officers to supplement that their annual income, and private details also allow for communities to

provide additional police presence in the community which is paid for by private entities.

It certainly appears that contract language restricting the use of flaggers or civilians to perform road details is not uncommon, and similar language is found in number of urban police departments such as Cambridge, Lynn, Medford, Newton and Quincy. Accordingly, there is merit to the Association's proposal to add its proposed language to the parties' Agreement. Indeed, the Union's proposal is modeled on the language in the City of Cambridge Police Agreement. Accordingly the Union's proposal is justified.

AWARD - ARTICLE VI - DETAIL JURISDICTION

The Union's proposal is awarded and its proposed language should be added to parties' Agreement.

City Issues

Article II - Management Rights

Article II, the current Management Right article provides that the City has the managerial right to "to determine the methods, means, and personnel by which the City's operations are to be conducted' and "exercise complete control and discretion over ... the technology of performing its work".

The City now seeks to add the following paragraph to the current Management Rights provision:

The City at its sole discretion, shall have the right to implement any and all technological enhancements or new technologies that may benefit the public safety and/or officer safety including, but not necessarily limited to: any use of Global Positioning System (GPS) technology, the administration of advancements or increased "First Responder" medical care to members of

the public or other enhancements in providing medical care, and the use of video, audio or other electronic or other recording devices, including body worn cameras. This provision includes the City's right to require officers to utilize tools, equipment and/or methods for which they have received department approved or provided training.

Although the proposed language expands the City's managerial rights in a broad and unspecified manner, in the present case the focus has been on three distinct subjects that it seeks implement at the present time; body cameras worn by members of the bargaining unit, GPS monitoring, and administration of NARCAN by members of the bargaining unit.

A. Body Cameras

The City seeks to adopt a program for members of the bargaining unit would be required to wear body cameras. The City states that having police officers wear body cameras would offer greater transparency to the public, and also provide protection for members of the public, and the patrol officers. The City points to United States Department of Justice report that found that body worn cameras by patrol officers improves public safety, reduces crime, and improves public trust between police and members of the public. The City also states that Massachusetts Police Chiefs Association now supports the use of body worn cameras.

The City maintains that body worn cameras has recently been adopted in the City of Methuen and Chief Solomon of the Methuen Department testified that the City and Union agreed to their implementation, and the procedures to be followed for the use of the cameras. The City states that Chief Solomon's explained that body cameras produce videos that capture the entire situation involving members of the

public and patrol officers, not just the portion that is produced by members of the public. The City states that body worn cameras are not intended to catch officers engaging in misconduct, but to provide officers with evidence that can show events that have actually occurred in an objective manner. The City again points to Chief Solomon's testimony that use of cameras has assisted to expeditiously resolved citizens complaints, and that reports show that citizens complaints go down when a Department has implemented body worn cameras.

The City also states that use of body worn cameras is consistent with public policy of both the State and Federal governments. The City points to the fact that both State and Federal governments are providing grants for departments to implement pilot programs for the use of body worn cameras. The City also points to a Department of Justice study that "recognizes body-worn cameras as a law enforcement strategy aimed at improving public safety, reducing crimes and improving public trust". The City states that body-worn cameras have been in adopted number of cities throughout the country, and that the data from these cities shows that the use of force is down, and citizens' complaints are also lower.

The City contends that body worn cameras are slowly being adopted in the Commonwealth that in addition to the City of Methuen, the Essex County Sheriff Department, Cape Cod National Seashore Rangers, and most recently a pilot program has been implemented in the City of Boston. The City argues that there is no convincing argument not to adopt body worn cameras for officers of the City of Somerville. The City further maintains that it has proposed a draft program that would allow officers to review any

videos before they complete their written reports, and is willing to negotiate the impacts of the trial program for as set period of time over the contours of a trial program to obtain input from those using the body-worn cameras during the trial period.

B. GPS

As part of the City' management right proposal it proposes to add language to the management rights provision would specifically allow the City to use Global Positioning System (GPS). The City contends that GPS technology is another technology advancement that would assist in the efficient dispatch of patrol units and would further assist in ensuring the safety of police officers that are patrolling the streets of Somerville. The City states that if an officer were involved in an accident or incident in which the officer was unable to respond, the GPS technology could determine the police officers location. The City disputes the Union's contention that the GPS technology would be used as means to monitor officers and spy on officers, and the City is willing to adopt language that bars random searches for disciplinary issues. The City further states that number of other Massachusetts communities have adopted GPS technology for its police cruisers and points to recent Interest Arbitration Award issued for Boston Police in which the Arbitrator adopted the City of Boston's proposal to add GPS technology.

C. NARCAN

The City states that the Arbitration Panel should specifically endorse the City's proposal that the existing management Right language should include the administration of NARCAN by its police officer. The City states that it widely recognized that the administration of NARCAN is

extremely effective in saving lives. The City further maintains that NARCAN is easy to administer, through a nasal spray that all public safety employees and First Responders in the City of Somerville have been trained in the administration NARCAN. The City also states that, at the current time, administration of NARCAN is included at police and fire training academies, and that most significantly as of the June 2016 arbitration hearing more than 55 lives have been saved by administration of NARCAN.

The City also states that Police Superior Officers now administer NARCAN, and that Somerville Firefighter also administer NARCAN and that the administration of NARCAN is often administered by police officers in other Massachusetts communities as part of their first responders duties.

UNION POSITION

The Union opposes the City's proposal to add the language to the management rights provision of the Agreement. The Union argues that three issues specifically proposed by the City in this proceeding, body worn cameras, GPS, and NARCAN have not been fully addressed in the parties' direct negotiations. The Union also contends that the changes proposed by the City are significant and controversial, and should not be awarded in an arbitration proceeding. The Union contends that the language proposed by the City is far reaching, and could potentially cover subjects and new technologies yet to be defined.

The Union maintains that with respect to the issue of body-worn cameras, this is still a new and controversial subject, and at the current time virtually no other police Departments in the Commonwealth of Massachusetts requires, as a condition of employment, that its officers wear body

worn cameras. The Union maintains that as body worn cameras are not in an accepted working condition for police officer in the Commonwealth, there is no justification to mandate such a new and controversial requirement at this time.

The Union also opposes the City's proposal on the use of GPS. The Union maintains that again a review of comparable communities demonstrates that GPS monitoring of Police Officers is not a well-accepted working condition. The Union further states that in a small City the size of Somerville, officers are readily available by radio communication and therefore the intrusion of privacy that comes with GPS monitoring, is not warranted.

The Union states that members of the bargaining unit have been administering NARCAN since directed to do so by the Chief, and the Union recognizes the value and the opportunity to save lives by use of NARCAN. The Union asserts, however, that the City has never negotiated over the impacts of its administration including safety protocols and other employment issues that could arise with the Administration of NARCAN, and that accordingly this matter should not be added to the parties' Agreement.

Discussion

A. Body Worn Cameras

There can be no dispute as to the national notoriety on the issue of having police officers being required to wear body worn cameras while performing their duties. Forceful and legitimate arguments have been presented by the City as to the need and importance for full transparency of police when they are performing their important public safety duties. Indeed, as Methuen Chief Solomon testified the public is using their cell phones to take videos of police thus it is only logical that police

have access to videos that show the entire incident and not just portions from a bystander's point of view.

Despite the forcefulness of the City's arguments for a number of reasons, the City's proposal cannot be awarded at this time. As stated at the outset of this Decision, novel and untried subjects are not generally awarded in interest arbitration proceedings. Arbitrators are interested in reviewing prevailing working conditions, and not establishing new conditions where there is no track record of success or failure of the subject matter at issue. The facts show that body worn cameras are not a prevailing working condition in the Commonwealth of Massachusetts. Except for Methuen, no other municipal police department has contract language addressing the complexities involving the wearing and the use of videos from body worn cameras.

The City of Boston this past summer agreed to a pilot program that after a rocky start has now been implemented. This program is only a pilot program and the results of this pilot program are not yet concluded, and thus nothing has been made public with respect to issues that have arisen with the adoption of this program. Thus, it is too early to assess the success or failure of the program for the City of Boston. As stated above, the contract at issue in this arbitration proceeding will have expired by the time the Award is issued. The parties will have ample time to review the results of Boston's pilot program by the time they begin negotiations for a successor Agreement. Accordingly, the City's proposal to adopt a body-worn camera program is not awarded by this Panel.

Dissent by Mayor Dean Mazzearella

Mayor Dean Mazzearella dissents in the Panel's decision not to award body worn cameras. Mayor Mazzearella pointing to the recent events for the Boston Police believes that Somerville Police should adopt, at a minimum, a pilot program on the use of body worn cameras.

NARCAN

NARCAN is also a subject that has received much national attention. The Administration of NARCAN is an entirely different matter than the issue of body cameras. The evidence demonstrates that the administration of NARCAN is fairly well accepted practice by public safety officers in the Commonwealth. Indeed, at the present time the Somerville Firefighters administer NARCAN as part of their duties, Police Supervisor administer Narran, and the testimony at the hearing is that the Somerville Patrol Officers also have been administering NARCAN. The testimony at the hearing also shows that the administration of NARCAN is now taught at the Police Academy and is an accepted responsibility of First Responders, and Somerville Patrol Officers are First Responders. The language of the parties Agreement must be amended to reflect that it is part of Somerville Patrol Officer duties to administer NARCAN when appropriate and necessary.

GPS

The City seeks to add language that would allow any use of Global Positioning System in police cruisers. The inclusion of language on GPS is now accepted in some comparable communities (Newton and Quincy). Most recently

in an Arbitration Award in the City of Boston, Arbitrator Buckalew reasoned:

The GPS transponders are to be installed on department issued equipment operated for police business and do not track officers's private movements. Whatever slight privacy interests officers may bring to work and that might be conceivably infringed by the UPS supported dispatch system must be deemed secondary to the City's interest in improving the efficiency of police dispatch operations. While there was some argument that such systems have not always delivered as promised, the evidence was insufficient to overcome management's legitimate interest in improving police operations that will likely result from increased ability to track the location of police cruisers.

Arbitrator Buckalew awarded the City's proposal on GPS.

Cities such as Newton and Quincy have contractually set forth provisions on use of GPS, and also provide that use of GPS cannot be used as primary source of evidence to impose discipline.

AWARD ARTICLE II - MANAGEMENT RIGHTS

Article II shall be amended to add the following sentence:

This provision includes the City's right to require officers to administer NARCAN to members of the public. The Police Department may implement Global Positioning System technology (GPS) for purpose of further enhancing the safety of the public, efficiency, quality and delivery of police services to the citizens of Somerville. It is further understood that the disciplinary actions and excessive monitoring is not the intended purpose of GPS monitoring. The Department shall not randomly review GPS data. GPS data may be used to verify specific events such as complaints by member of the public, or alleged incidents, and in such cases GPS data may then be used to verify the accuracy of such information.

Article II Section 2 - Ballistics Vests

The current contract language provides that officers hired after July 1, 2011 are required to wear ballistic vests.

City Position:

The City proposes to Revise Article XI, Section 3 to read:

Employees who are members of the bargaining unit shall wear ballistic vests as determined by the Chief of Police in his/her sole discretion.

The City states that its proposal makes common sense and there is overwhelming proof that the wearing of vests can save officers lives. The City contends that it difficult to come up with cogent arguments against wearing vests. The City states that the Union's objection that the wearing of vests should be a personal decision is misguided, when wearing vest can potentially save lives and prevent injuries. The City states that many police Departments in the United States require officers to wear vests. The City also points to recent Arbitration Award in the City of Lexington in which the same issues were raised and the Panel granted the City's proposal for officers to wear vests.

Union Position

The Union opposes the City's proposal. The Union maintains that wearing of vests is a uniquely personal decision that may interfere with an officer's mobility and flexibility. The Union states that Officer do no object to having vests with them while patrolling in cruisers, but they should not be required to do so at all times during the work day. The Union argues that the City's decision is motivated, in part, by the Department of Justice's decision

to reimbursement communities. The Union also states that the money that the Department will receive in reimbursements should be considered in overall economic proposals sought by the Union.

Discussion

There can certainly be no dispute of the dangers and safety risks for police officer in todays work. There are compelling arguments for requiring patrol officers whenever they are on patrol to wear ballistic vests. Although the facts show that ballistic vests are not commonly mentioned in collective bargaining agreements, there can be no question that patrol officers in many communities throughout the Commonwealth now wear ballistic vests. Somerville patrol officers hired after 2011 are now required to wear vests and there is no longer rational reason that this requirement should no apply to all Somerville Patrol Officers. Any reasonable method to reduce the potential of injury or death to patrol officers should be condition of employment.

AWARD - ARTICLE II SECTION 2 - BALLISTICS VESTS

The City's proposal on ballistic vests is awarded.

Article XVIII - Seniority

The current provisions on seniority that are issue Section 3(b) and Section 9 of Article XVIII, and read as follows:

Section 3(b). Patrolman employees in the Uniformed Division, other than those referred to in Section 3(a), shall have the right and option to pick their job assignment by seniority, on the shift they have first chosen in accordance with the provisions of Section 2 hereof, from the list of such assignments determined by the Chief of Police or a shift

Commanding Officer, at the commencement of each regularly scheduled work shift or tour of duty, in accordance with the patrol deployment formula established by the Chief of Police in 1996 (Memorandum 96-50, 10/01/96), which formula is incorporated by reference; provided, however effective upon implementation of the two new districts, such employees shall continue to pick their job assignment by seniority on a daily basis, on the shift and within the district they have chosen in accordance with the provisions of Section 2 hereof.

* * *

Section 9. Professional Picks. The Chief of Police, at his discretion, may select not more than five (5) patrolmen in the Uniformed Division for assignment to any position in the Department, subject to the following provisions:

1. Picks will be no longer than six (6) months in duration, except when an employee is assigned to the police academy for the duration of an academy class.
2. Said picks will not be used to cover existing positions.
3. Officers selected for these positions shall be on a voluntary basis.
4. The same officers shall not be used more than once in each calendar year.
5. Officers shall be selected from the patrol division.

City Position

The City proposal is as follows:

1. Seniority. Modify Article XVIII, Section 3(b) to read as follows:
 - a. Patrol Officers will bid their assignment with reference to the annual job bids as is current practice. [The parties will incorporate specific language reflecting the current practice.]

b. Each tour of duty will have posted all available positions as is the current practice.

[The parties will incorporate specific language reflecting the current practice.]

c. Each day the first seven Patrol Officers will be allowed to bid their positions by seniority. Thereafter, any additional officers will be assigned to any remaining posted positions based on a list developed by the Chief of Police or his or her designee.

d. The Patrol Commander may take into consideration an Officer's seniority, as well as any special circumstances or skill set required for a particular task.

e. In the event that there is a need for additional/supplemental positions in either the station or another district, the Chief or Deputy Chief may authorize a bid at the beginning of a shift or tour of duty to be based on seniority with the assignment going to the most senior officer bidding, or the most junior if the assignment cannot be filled by a seniority pick.

In Section 9, The City proposes to revise the current contract language to allow up to ten (10) police officers to be picked by the Chief for specialty assignments for a duration of up to one year.

The City maintains that its proposal preserve job seniority for the first seven patrol assignments but for those shifts with more than seven officers it would allow additional flexibility for assigning officers to assignments or tasks that the City deems necessary, that would promote effective policing. The City states that its proposal would still preserve job picks for the seven cruiser assignments per shift.

The City further states that at the present time the Chief has discretion to pick five officers for so called

"professional picks", and that such picks are limited to a six month period of time. The City argues that the current positions at issue are limited to obsolete positions such as assignments to the police academy or to the City's Solicitor's officer, and the current language is too limited, and does not allow officer to become well versed in the subject area to which they are assigned.

Union Position

The Union opposes the City's proposal to change the current language and practice on specialty assignments. The Union contends that the current provision balances the seniority rights for employees and the City's operational needs. The Union contends that the City's proposal to modify Section 9 would create a number of positions that could be filled at the Chief's sole discretion. The Union further states that the City's proposal on Section 9 would double the number of officers that can be assigned not based on seniority, and also doubles the time period by which officers could be assigned to these duties.

Discussion

To grant the City's proposal to modify both Sections would seriously erode the current practice on seniority shift bidding. The Chief, however, presented compelling justification to amend the provision on the professional assignments referenced in Section 9. Specifically, the Chief should be allowed to chose five officers (the current number) to any specialty assignment that the Chief in his discretion believes is appropriate, and the assignment should not be limited to the positions set forth in Section 4 to current positions. Moreover, the assignment should be extended to a one-year period of time.

AWARD - ARTICLE XVIII - SENIORITY

The Panel awards the City's proposal to amend Article XVIII, Section 9 to allow the Chief to make professional picks for up to five officers to be assigned to an assignment determined by the Chief for up to a one-year period of time.

Article XXI - New Language Alcohol Testing

City Position

The City proposes to amend Article XXI, the contract provisions addressing drug testing to add alcohol testing, to the existing contract language wherever drug testing is provided for or called for in the Agreement. The City's proposal would specify that .02 BAC would constitute a positive test result.

The City maintains that it is not unusual for police agreements in comparable communities to have provisions for drug and alcohol testing. The City states that currently there is language for both drug and alcohol testing for Somerville Fire Fighters. The City further argues that a .02 BAC level is appropriate to trigger a positive test result, maintaining that such standard was recently awarded in an Arbitration Decision for Lexington Police, and further that it is appropriate that police due to their duties and responsibilities have lower limits than fire fighters due to the inherent dangers of the position.

Union Position

The Union states that subjects such as drug and alcohol testing are controversial. The Union states that some years ago it agreed to drug testing, but contends that no evidence has been presented to demonstrate the need for officers to also be subject to alcohol testing. The Union

further maintains that alcohol testing is not a prevalent working condition for police officers in the region, citing Boston and Lynn departments, as examples. The Union also states that even in those communities that have alcohol testing in their police agreements they provide for a BAC limit of .04 not the .02 proposed by the City. The Union concludes that there has been insufficient evidence presented justifying the City's proposal.

Discussion

As the chart shows alcohol testing for public safety officers is not an unusual contract provision:

Community	Alcohol Testing
Arlington	Yes
Brookline	No
Cambridge	Yes
Lowell	No
Malden	No
Medford	Yes
Melrose	No
Newton	Yes
Quincy	No
Waltham	No
Somerville Fire	Yes

A review of the Newton Police, Cambridge Police and Medford Police agreements, as well as the Somerville Fire agreement, show that a positive result is reached at .04 BAC. Accordingly, the Panel concludes that .04 BAC is an appropriate level to trigger the applicable consequences set forth in the policy.

AWARD - NEW LANGUAGE ALCOHOL TESTING

The Panel Awards the City's proposal, as written, with the exception that .04 BAC should be the applicable standard.

New Provision – Civilian IT Duties

There is no language on the use of civilian employees performing Information Technology (IT) services for the Department. The current practice has been that a member of the bargaining unit has performed IT services for the Police Department.

City Position

The City proposes to add the following language:

Notwithstanding prior assignments of trained police officers to assist in information technology matters, the Chiefs right to "determine the methods, means and personnel by which the City's operations are to be conducted" shall include the assignment of any and all information technology tasks and duties to trained professionals who are not members of the police officer bargaining unit.

The City maintains that Information Technology of the Somerville Police Department is today more complicated and require the best possible candidate to perform the duties. The City states that issue of IT security and technology were recently brought to the forefront as thee Massachusetts police departments have had their systems hacked. Moreover, the City states that it makes more sense that Chief the have the discretion to assign officers to patrol or other police functions, and not be required to continuously fill any IT positions in the police Department with bargaining unit employees.

Union Position

The Union opposes the City's proposal. The Union maintains that for the past fifteen years a patrol officer, a members of the bargaining unit, has been assigned to perform the Department's IT services, and the City's justification to make the change is that the City's

Director of IT did not get along with a former member of the Police Department who performed the services, not that the work was deficient. The Union further contends that it is beneficial for a police officer, who knows the working of the Department and the nature of police work, to be assigned to perform these duties. The Union states that it is not unusual for police departments in the region to have members of the bargaining unit perform IT services for their respective police departments.

Discussion

The issue of assigning IT duties in the police department has been a controversial issue between the parties. It is logical and appropriate with the ever changing demands of information technology that the Department should have access to the most up to date technology, and the personnel to perform such duties. This can be accomplished not by eliminating the current IT assignment to a patrol office, but allowing the Department the ability to supplement and use outside contractors or other City employees, to assist and supplement the Police IT Department, when necessary, without the Union challenging such assignment as an improper assignment of work outside the bargaining unit.

AWARD - CIVILIAN IT DUTIES

The Panel awards the following paragraph to be added to the parties Agreement.

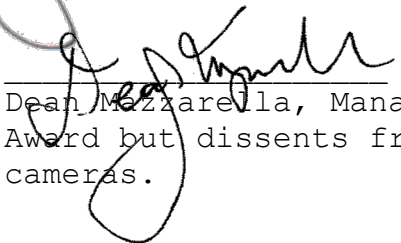
The Chiefs shall the right to use trained professionals who are not members of the police officer bargaining unit to assist and supplement the information technology tasks and duties now performed by members of the bargaining unit. Such assingment shall not displace members of the bargaining unit who have been previoulsy assigned to perform these duties.

Conclusion

The Panel has considered the statutory criteria in an effort to balance the interests of the bargaining unit employees, the City, and the citizens of the City of Somerville. Although all concur in this result, except for Mayor Mazzarella's dissent on the subject of body worn cameras, it must be noted that the reasoning set forth above is that of the neutral arbitrator.



Gary D. Altman, Esq., Neutral Arbitrator



Dean Mazzarella, Management Panel Member, Concurs in this Award but dissents from the Panel's Decision on body-worn cameras.

William DeMille

William DeMille, Union Panel Member, Concurs in this Award

Dated: December 22, 2016

Body Worn Cameras

The following is the reasoning for my dissent from the Chair's decision on the issue of body worn cameras. It is my opinion that the decision undercuts the agreement the Police Association already made to grant the City the management right to "exercise complete control and discretion over the technology of performing its work". Body worn cameras certainly fit within that authority.

The opinion of both the Chair and the Union's designee seems to be based on the fact that only one Massachusetts municipal police department (Methuen) has implemented a full body worn camera program and that this is sufficient reason to not have Somerville become the second. This opinion does not weigh the strong evidence presented by the City, much of which is stated in the Chair's description of the City's position. That evidence, which was not rebutted by the Union, includes the following:

- That these programs are working in a number of major cities across the United States and in Methuen.
- That the body worn camera will record the entirety of an incident, as opposed to a bystander's video of an officer's reaction to some provocation or threat not recorded.
- That the camera will also provide valuable evidence about criminal behavior as well as the interaction of our police officers with our citizens.
- That in communities with body worn cameras, use of force and civilian complaints have been significantly reduced.
- That the U.S. Department of Justice and Massachusetts Police Chiefs Association are both supporting these programs.

These are all strong reasons for using this technology as a tool to benefit law enforcement. The opinion and the award do not take into account the evidence presented that there should be such a program.

In my opinion, the Association has not engaged the City on this issue, but just repeatedly rejected the proposal without offering any questions or concerns about the City's proposed policy even at arbitration. Instead of sanctioning this approach, the Panel should be encouraging the parties to work together toward what will clearly be a beneficial tool for law enforcement and a program likely to increase transparency

and public confidence in our police. As Methuen Police Chief Solomon testified, those videos will also have the benefit of expeditiously clearing officers of alleged wrongdoing where a citizen's complaint is unfounded. We saw a good example of this in the recent DUI arrest in Scottsdale, Arizona of a newly acquired Patriot's player.

The program is currently working in Methuen with the support of its police officers and Boston is conducting a trial. In short, we need more trials of this promising technology, rather than simply ignoring the successful implementation in Methuen and elsewhere and/or waiting for the results of one trial with a rocky start in the Boston Police Department. I believe that the panel should have at least endorsed a trial period of one year, with a labor-management committee, including representatives from both police bargaining units.

The public in Somerville and its public representatives have supported this initiative for two years. This Panel should have moved the process forward rather than sending the parties back to their very divergent positions, as they start bargaining in 2017 for a multi-year agreement.

In explaining my dissent, I do so with the respect for the views of the Chairman, and for the admirable job he did in evaluating not just the economic issues but also the other significant issues presented in this case.