TRANS #139

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AGREEMENT BETWEEN

THE

CITY OF SOMERVILLE

AND

SOMERVILLE POLICE SUPERIOR OFFICERS ASSOCIATION

JULY 1, 1997 - JUNE 30, 2000

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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 Superior Officers Association, hereinafter called the "Association".

WITNESSETH:

WHEREAS the well being of the employees covered by this 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 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 thereunder now or hereafter in effect, and in accordance with the provisions of the decision and certification of the Massachusetts Labor Relations Commission, Case No. MCR-4009, dated December 26, 1990, 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 following ranks:

1. Sergeant
2. Lieutenant
3. Captain

but excluding

1. Chief of Police
2. Deputy Chiefs of Police
3. Patrolmen
4. Stenographer - Senior Accounting Clerk
5. All other employees of the Somerville Police Department.

6. The Captain designated as the "Executive Officer" by the Chief of Police. This employee will be entitled to rejoin the Bargaining Unit and become a member of the Union without prejudice and without penalty if he is reassigned from the "Executive Officer" position.

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 and modification or addition to this Agreement which is to be effective during the term hereof.

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 rights, 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 Aldermen and the Mayor by virtue of statutes or ordinances not superseded by this 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 (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 four (4), 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 daytime 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, representatives, and grievance committee members, not to exceed three (3), may while on duty request permission to attend meetings of the Board of Aldermen 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. In lieu of all other Association leave provided in this Article, the Association President shall receive one (1) shift per week without loss of pay or benefits for Association business, provided, however, that any such scheduled leave is subject to approval by the Chief.

ARTICLE IV

STABILITY OF AGREEMENT

Section 1. No amendment, alteration or variation of the terms of 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 United States Attorney, Federal Court pretrial conference or any related hearing or 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 such 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 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 tour 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 of vacation or any fraction thereof in which he is required to appear for court-time, added onto his vacation period.

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 police headquarters and made available upon request to the Association.

The exchanging of paying 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 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 employees fairly and equitably 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 assignments. 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 "detail refusal" (DR) with the detail hours thereof noted, in determining the equitable and fair distribution of details of such employee.

Section 3. A superior officer shall be responsible for having records of all assigned paying details and shall have such 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 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 this 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 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 therefor, namely:

A minimum of $25.00 per hour for the employee detail rate ($.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 officers (i.e. Sergeants, Lieutenants, and Captains) perform a detail in a supervisory capacity. A Sergeant shall be employed when three or more men are assigned to a given detail; a Lieutenant or Captain when six or more patrolmen are so assigned, with a guaranty of a minimum of four (4) hours' pay per detail for each employee so assigned; 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), 5:00 P.M.), Thanksgiving Day, Christmas Eve and Christmas Day. Employees may not refuse overtime on these dates and work a paid detail.

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 hourly detail rate by an amount or amounts not exceeding, in the aggregate, $5.00 per hour, as its Executive Board shall determine, as follows:

"On or after the date of execution hereof, by an additional $3.00 per hour;

On or after July 1, 1998 by an additional $1.00 per hour;
and on or after July 1, 1999, by an additional $1.00 per hour."

It is agreed that the detail rate shall be time and a half the rate for hours in excess of eight (8) hours on a detail.

Section 9. A minimum of two (2) officers shall be assigned to each location on strike details. Employees assigned to strike details shall be paid time and one-half their applicable detail rate, as set forth in Section 8, for all such hours worked, with a guaranty of a minimum of four (4) hours' pay per detail for each employee so assigned, and with a guarantee of a minimum of eight (8) hours' pay for road or construction details, 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.

Section 10. The City shall have the option to add a surcharge of up to but not exceeding ten (10%) percent of the applicable paid detail hourly rate to non-cash paid details.

Section 11. Parties are in agreement that the current practice with regard to the assignment, distribution and compensation for paying police details all as set out aforesaid will continue in force and effect in accordance with a side letter to be signed by the City, the Associations and the Patrolmen's Association.

Section 12. 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 can not 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.

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ARTICLE VII

GRIEVANCE AND ARBITRATION PROCEDURE

Section 1. Definition. For the purposes 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. The grievance may first be presented by the employee and/or the Association by reducing it to writing and presenting it 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 eight (8) days after the meeting in writing.

Step 2. If the grievance is not resolved at Step 1, 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) calendar days after the last aforementioned eight (8) day period. The Mayor or his designee shall meet with the Grievance Committee within seven (7) days after 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 3. If the grievance is not satisfactorily adjusted at Step 2, or answered by the Mayor within the time limit set forth above, 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 forty (40) days after the answer of the Mayor is due. 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, within thirty (30) days after said written notice to the Mayor, may 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 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 or 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 any Retirement Board established by law or of the Civil Service Commission may be a subject of grievance and arbitration under the terms of this Agreement, with the option in any employee to proceed at Step 3 or Step 4 of the grievance procedure, or may be processed respectively before a Retirement Board and/or 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, provided that in such event the City 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 employee's 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, and the regular work day shall consist of not more than eight (8) hours, except that the hours of work of employees working a permanent first half shift shall not exceed eight and one-half (8 ½) hours both inclusive of dinner. 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 the 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) An employee may not work more than sixteen (16) hours in a twenty-four (24) 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 during 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.

Employees will be charged (for distribution purposes) for overtime hours if worked or if offered overtime on their scheduled second day off "overtime day" and they pass.

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 regular 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 days or the permanent first half shift shall work four (4) consecutive days and then receive two (2) consecutive regular days off. Employees working the two alternating night shifts, and employees in the Detective Bureau working the alternating night shifts for such Bureau, shall alternate between first and last half tours of duty and shall go on days off after a first half tour of duty; as example, a night man working said alternating shifts shall commence work on a last half tour of duty, then work a first half tour of duty the same day, then receive a day off, then return to work for 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.

(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) Superior Officers training at a Police Academy or training facility

(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 order of the Chief of Police

(7) Domestic Violence Unit

(8) Captains

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, so that each such employee so assigned shall receive the same number of days off annually as will employees working the

regular four-and-two work schedule described in subparagraph (a) 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 shifts(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 if 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 last place of employment or last duty assignment after having completed work on his regular work shift or tour of duty or 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 vacation, he 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 therefor.

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.

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 refusal, in determining the equitable and fair distribution of overtime to employees. In the event of an emergency, whether 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, 1999, an employee returning to duty from absence on sick leave or excused sick leave and who has been absent on sick leave on more than five (5) occurrences since January 1 of each year, shall not be eligible to receive the next paid detail or overtime opportunity to which he/she is entitled, whichever first occurs, and shall be charged with such detail or overtime opportunity as if he/she had worked it, each time he/she calls in sick again during that calendar year. It is understood that the employee shall not be charged with both the next paid detail and the next overtime opportunity on each such occasion, but solely with the first work opportunity, whether paid detail or overtime, to which he/she is entitled.

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. The straight-time hourly rate shall be computed to the next hour. 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 reliefs shall follow present practice. Meals on all shifts shall not exceed thirty minutes.

Section 9. Swapping of Shifts. Employees, within 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 an 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.

ARTICLE IX

HOLIDAYS

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

New Year's Day	Independence Day
Martin Luther King Day	Labor Day
Washington's Birthday	Columbus Day
Patriot's Day	Veteran's Day
Memorial Day	Thanksgiving Day
Bunker Hill Day	Christmas Day
Employee's Birthday	Evacuation Day (1999)

or the day of celebration thereof.

Holiday pay shall be paid to each employee in two lump sums, one, for 7 holidays, no later than the second payday in May, the other, for 6 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 those dates.

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 vacation, or during any period of an employee's paid injured leave he shall receive, for each such holiday, in addition to his regular weekly compensation, an additional day's pay, computed as one-forth of his regular weekly compensation, in accordance with the provisions of Section 1.

ARTICLE X

VACATIONS

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

Length of Service	Length of Vacation
up to 10 years	3 calendar weeks
beginning 10th year	4 calendar weeks
beginning 20th year	5 calendar weeks
beginning 30th year	6 calendar weeks

Effective January 1, 1992,

beginning 18th year	5 calendar weeks
beginning 25th year	6 calendar weeks.

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 first.

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 leave or on sick leave, which sick leave or injured leave was in existence prior to the commencement of his vacation and which sick leave or injured leave precludes an employee from the use of his vacation shall not have his vacation period credited against him but shall be granted his full vacation upon return to work provided, however, that in no twelve month period shall that employee receive or accrue more than twelve

months injured and/or vacation pay. Provided further that an employee who exercises his right to the sick leave provision as set out aforesaid, must provide the Police Department with a Doctor's certificate verifying his condition and disability and further he agrees that during the period of time that he claims sick leave rather than vacation leave, he will remain at his home; 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 no less than five (5) vacation days for each week off of entitled vacation, in addition to regularly scheduled day off.

Section 7. Vacations shall commence on a Sunday.

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 other 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.

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, revolvers, claws, 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 in the ranks of Sergeants, and Lieutenants and Captains when assigned to street duty, shall be entitled to wear blue-black shirts, the cost of same to be charged to their annual clothing allowance as provided by Section 1 of this Article, notwithstanding the foregoing provisions of this Section.

ARTICLE XII

BEREAVEMENT LEAVE

Section 1. Absence from work with pay shall be granted in case of the death of an immediate member of an employee's family for a period of five (5) consecutive calendar days commencing the day after the day of death. "Immediate family" means a parent, child, spouse, or other individual who is an actual member of the employee's household. Absence from work with pay shall be granted in the case of death of other members of the employees family for a period of four (4) consecutive calendar days commencing the day after the date of death. Those other members of the employees family shall mean sister, brother, grandparent, and parents-in-law.

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

An absence of one (1) day with pay shall be granted in case of the death of an employee's aunt or uncle, nice/nephew or his spouse's grandparents, in order that he 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 a 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 alternative 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 donations 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 or 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 Days. Employees shall be entitled to one (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. Requests for personal leave must be submitted at least twenty-four (24) hours in advance, except in the case of an emergency.

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

Section 5. Family and Medical Leave. An employee who has been employed by the City for twelve (12) months and has worked at least 1,250 hours in the twelve months preceding a request for a leave of absence, may be eligible for up to twelve weeks annually of unpaid family and medical leave as required by the Family and Medical Leave Act of 1993 ("FMLA"), and as further required by this section.

If an employee on a leave of absence provides information to the Chief sufficient for him to determine that the need for leave is due to a qualifying event under the FMLA (e.g., a serious health condition, the birth or adoption of a child, or for the care of a family member with a serious health condition) the Chief shall have the right to designate such leave as leave under the FMLA Act and this section, and such leave will be charged against the employee's annual FMLA entitlement.

Further, where an employee on a leave of absence under this section also is eligible for leave under another law or article of this Agreement (such as maternity leave or injury leave), such leaves shall run concurrently.

An employee taking leave under this section will be required to provide to the Chief certification of his or her need for leave at least thirty (30) days in advance of the need for leave, unless the need for leave is due to unforeseen circumstances. The Chief may delay the request for leave if the employee fails to give the required notice. An employee returning from leave under this section may be required to present a certification from a health care provider of his or her fitness from duty.

The Chief reserves the right to have the employee examined by a health care provider designated by the City if he has reason to question the opinion of the employee's own health care provider. In the event that the City's health care provider and the employee's health care provider disagree as to the employee's need for leave, the Chief shall have the right to have the employee examined by a third health care provider. The opinion of the third doctor shall be binding on the City, the Union and the employee.

Nothing in this section shall be interpreted to diminish the rights any employee may have under the Massachusetts Maternity Leave Law, M.G.L. c. 149, § 105D.

ARTICLE XIV

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 a 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 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 witnesses need not be disclosed; however, sufficient information to reasonably appraise 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 should be so informed at the initial stage, and no statements, oral or written, given or requested of him, may at any later point or stage, be used as a basis of any misconduct or other charges against him. If such statements 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 vs. 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 periods as are reasonably necessary. Said member shall be afforded full time and opportunity to have access to his notes and any witnesses to refresh his recollection as to the alleged charges of misconduct and/or 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 be threatened with transfer, dismissal reassignment or other disciplinary punishment. No promises or reward 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 may execute, and if formal charges are preferred against him, he shall, at his request, be given an exact copy of said interrogation, at no cost to him.

8. In all cases wherein a member is to be interrogated he shall be afforded, if he 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 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 XV

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 sick leave usage and make recommendations with a view towards reducing sick leave usage. The Committee shall meet as needed, but not less than a quarterly basis each calendar year.

Section 2. Employees shall not work more than sixteen (16) hours in any twenty-four (24) hour period, except in an emergency as determined by the Chief of Police or his designee.

Section 3. An employee reporting out sick or 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 one (1) hour before his/her next tour of duty, except in cases of emergency.

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 four (4) hours before his or her next tour of duty. An employee who has notified the Chief 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 five (5) days after returning to duty. 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 certificate is received by the Chief's office.

Section 5. If an employee is identified as a sick leave abuser after 10 occurrences 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 said 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 or 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 scheduled 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 a supervisor to make a home visit. If the employee is at a location other than his/her own, it is their responsibility to so inform the Commanding Officer when he/she reports out sick.

These 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 purposes of this Section shall be rolled back to "0". The provisions of this Section shall not be construed to limit 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 XVI

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 XVII

SENIORITY

Section 1. Seniority of Sergeant, Lieutenant and Captain employees shall run from the date of their certification and promotion as such in the classified civil service. Those employees of the same rank so appointed on the same day shall have their relative seniority vis-a-vis each other determined on the basis of their civil service mark in their respective examination; if the mark of two or more of said employees of the same rank is the same, the seniority of said employees in the next preceding rank shall govern.

If an employee retires and returns to the police department from retirement, whether voluntary or involuntary, his date of permanent, original appointment for the purpose of this section shall be deemed to be the date of his reappointment or reinstatement.

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 8 month leave of absence; the new date of original permanent appointment date would be September 10th)."

Section 2. Employees within ranks shall have the right and option to pick their shift by seniority, with preference given to employees in the order of their seniority, subject to the provisions of Section 5. A seniority pick shall be posted and made once every other year, on or about January 5th. Each seniority pick shall remain in force for a two year period, except as hereinafter set forth. At the end of such two year period, and at the end of every consecutive 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 shift opening becomes available because of a transfer or leave of absence, retirement, death, resignation 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 opening shall be made, notwithstanding the provisions aforementioned that seniority picks shall be made every two years. In the event of a shift opening occurring between picks, the pick shall be made and completed within fifteen (15) days after the first posting thereof.

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

Section 3(a). Employees, within ranks, shall have the right and option to pick their job assignment in the following jobs by seniority with preference given to such employees in the order of seniority, on the shift they have chosen in accordance with the provisions of Section 3 hereof:

Lieutenant, or Sergeant assigned as (a) detail officer, (b) traffic bureau, (c) court house, (d) warrant section (sergeant) and subject to the terms and conditions of Memorandum 91-56 dated June 27, 1991 from Captain Robert Bradley.

A seniority pick shall be posted and made every other year, on or about January 5th. Each seniority pick shall remain in force for a two year period, and at the end of every consecutive 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 opening shall thereupon be made, notwithstanding the provisions aforementioned that seniority picks shall be made every two years. In the event of a job opening occurring between picks, the pick shall be made and completed within fifteen (15) days after the first posting thereof.

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

Section 3(b). Notwithstanding the provisions of Sections 2 and 3 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 5, 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 6 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 therefor, 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 six (6) detective job assignments (including two (2) sergeants) which were part of the January, 1978 pick, as night detectives. The City reserves, however, the right to assign all six (6) detectives to the First Half, or three (3) of the six (6), including one (1) Sergeant, to the Day Shift in the Detective Bureau.

Section 4. The shift and job assignments of Sergeants and Lieutenants, and the shift assignments of Captains assigned to the Uniformed Division, as set forth in the Department's monthly roll for January, 1988, shall determine, at a minimum, the job/shift assignments for which employees, within ranks, are entitled to make job/shift picks by seniority in accordance with the foregoing provisions of this Article.

Effective July 1, 1987, the following assignments shall be excluded from job/shift 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) Domestic Violence Unit, superior officer assigned to Domestic Violence;
(v) an employee assigned to the Police Academy;
(vi) an employee assigned to Crime Prevention;
(vii) an employee assigned as Safety Officer;
(viii) an employee assigned as Administrative Aid to the Chief of Police;
(ix) to the Vice Squad, one superior officer;
(x) captains; provided, however, captains who are assigned to the Uniformed Division shall continue to have the right and option to pick their shift by seniority, in accordance with the provisions of Section 3 hereof; and
(xi) a Superior officer assigned as Field Operations Supervisor.

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 negotiations with the Association.

Section 5. Specialist Board. Assignment of employees to the Detective Bureau pursuant to the second paragraph of Section 3(b) of this Article, or on and after July 1, 1987, shall be in accordance with the following procedure:

a) A Specialist Board composed of two (2) captains designated by the Chief of Police and of 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 may seek assignment as members of the Detective Bureau, and shall interview all such employees. After such interview, 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.

Job assignments subject to this Section, in addition to those in the Detective Bureau, shall be those listed in Section 5(iv) (b) of this Article.

Employees assigned to the Detective Bureau subsequent to January 1, 1999, shall be subject to the Specialist Board provisions of this Section at each two year pick after their initial assignment, and to the approval of the Chief of Police after his review of recommendations by the Specialist Board.

Section 6. An employee who swaps with another employee pursuant to the provisions of Article VIII, Section 3(A) shall take the seniority of the employee with whom he swaps for purposes of the daily pick of job assignments.

Section 7. Employees on overtime shall pick their job assignments in accordance with the provisions of Section 3 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 daily pick of job assignments shall be deemed less than that of all said aforesaid employees.

Section 8. Permission to swap bid/pick with an officer of the same rank will not be unreasonably denied in the event of serious documented personal hardship (e.g. grave illness).

Section 9. Employees who are the successful bidders on community policing assignments shall not be permitted to bid out of such assignment except for a detective position until the next two year bid. Further, employees assigned to community policing may not be outbid for the same assignment in the next succeeding bid.

ARTICLE XVIII

COMPENSATION

Section 1. Salaries.

Effective July 1, 1997, the following salaries shall be in force and effect:

Sergeant	$46,722.64
Lieutenant	$53,730.96
Captain	$61,791.45

Effective October 1, 1997, the following salaries shall be in force and effect:

Sergeant	$47,657.09
Lieutenant	$54,805.58
Captain	$63,027.28

Effective July 1, 1998, the following salaries shall be in force and effect:

Sergeant	$48,848.52
Lieutenant	$56,175.72
Captain	$64,602.96

Effective April 1, 1999, the following salaries shall be in force and effect:

Sergeant	$50,448.37
Lieutenant	$58,015.63
Captain	$66,717.97

Effective July 1, 1999, the following salaries shall be in force and effect:

Sergeant	$51,709.58
Lieutenant	$59,466.02
Captain	$68,385.92

Effective January 1, 2000, the following salaries shall be in force and effect:

Sergeant	$51,709.58
Lieutenant	$59,983.11
Captain	$69,580.41

Effective April 1, 2000, the following salaries shall be in force and effect:

Sergeant	$53,002.32
Lieutenant	$61,482.69
Captain	$71,319.92

(a) **Differential.** Effective April 1, 1999 the following differentials shall apply:

Sergeant	21% above patrolman base
Lieutenant	15% above Sergeant base
Captain	15% above Lieutenant base

The above differentials shall remain in effect for the life of the contract, except that on January 1, 2000, the Lieutenant differential shall be increased to 16% and the Captain differential shall be increased to 16%.

Section 2. Night Differential. All members of the Bargaining Unit assigned to a night shift or a 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 3. Longevity.

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

(i)	5 years service	$200.00
(ii)	10 years service	$300.00
(iii)	15 years service	$800.00
(iv)	20 years service	$2,300.00
(v)	25 years service	$3,400.00
(vi)	30 years service	$5,000.00

subject, however, to the provisions of subsection (b) hereof. Employees hired after May 25, 1983, shall not be eligible for longevity payment, but shall be eligible for educational incentive payments as provided in Section 5 of this Article.

(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 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 shall be paid to employees once per year on the first payday in December.

Section 4. Weekend Differential.

(a) An employee working days 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. Employees working nights shall receive a weekend differential of $1.50 per hour. Effective June 30, 2000, employees working nights shall receive a weekend differential of $2.00 per hour.

(b) Weekend differential pay and education incentive pay pursuant to the provisions of Sections 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 weekend differential pay under this Section, shall receive the higher the higher payment to which they are entitled, but not both. Effective January 1, 1990, the restriction on receiving both education benefits and weekend differential payments shall cease.

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 through Friday) pursuant to Article VIII, section 2 (b) (1) (2) (3) and (6), who are not receiving Education Incentive Pay, shall receive a differential of $10.00 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.

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) 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:

Education Degrees/Points Earned	Percentage Payment Based on Annual Salary
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, and shall be considered regular compensation for pension/retirement purposes. Effective January 1, 2000, such payments shall be included in base pay to compute holiday pay.

(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.

Incumbent employees as of January 1, 1999 who hold a Masters in Public Administration or Public Affairs will receive the Educational Incentive Benefits as provided in the Quinn Bill.

(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, 2000.

Section 6. Out of Grade. It is agreed that effective July 1, 1992, Sergeants and Lieutenants who work out of grade for a period in excess of one week, which is not coverage for vacations or holidays, in the position of Lieutenant or Captain wherein they are required to cease

performing their duties in the lower rank in order to perform the duties in the higher rank, be compensated at the rate they would have been paid if they had been promoted to that higher rank for the tours of duty worked in the higher rank.

Effective January 1, 1999, a Sergeant who fills in for a Lieutenant as the Shift Commander shall be paid at the higher rate for each shift so worked.

Section 7. Weapons Pay. Each employee in the bargaining unit shall be paid a lump sum differential as follows: July 1, 1997 - $50.00; July 1, 1998 - $125.00; July 1, 1999 - $225.00.

ARTICLE XIX

MISCELLANEOUS

Section 1. The City agrees to post a seniority list, in compliance with the provisions of Article XVII, 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 co-operate 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 employees superior officer or the Chief of Police and shall be a subject of grievance or arbitration hereunder.

The City and the Association, in concert with the Patrolmen's Association, shall establish a joint safety committee consisting of 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 provisions should be restrained by any court, all other provisions of this Agreement and

any supplement thereto shall remain in force, and the parties, on 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, in concert with the Patrolmen's Association, shall establish a joint committee consisting of representatives of each party, to review and recommend to the parties criteria and standards for annual physical examination of employees.

Section 8. General Laws. Criminal statutes shall be made available to employees at Police Headquarters.

Section 9. Orders. The Association shall be furnished a copy of each order issued by the Chief of Police.

Section 10. 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 11. Personal Files. Employees shall have the right to inspect their personnel files in the police department at any reasonable time, and to be supplied with copies of documents therein. Nothing negative shall be included in an employee's personnel file without the employee being shown the information and being given an opportunity to respond to same. Employees may inspect their personnel files at City Hall, if they choose.

Section 12. Promotional Vacancies. The City agrees to fill all promotional vacancies as soon as practicable. Parties agree that they will create a Labor Management Committee made up of two (2) representatives of the Union and two (2) representatives of the Employer. The purpose of this committee will be to discuss promotion policy and the manner in which vacancies will be filled.

Section 13. 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.

Section 14. Health Insurance. The City's Group Insurance Plan (health and life insurance) in force on the effective date shall remain in force and effect for the term of this Agreement, unless changed by mutual agreement. The City agrees to pay ninety-nine (99%) percent of the premium cost for the Blue Cross/Blue Shield indemnity plan (both family and individual), and ninety (90%) percent of the premium cost for the HMO plans (both family and individual). 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 (99%) percent of the total premium cost of any new indemnity insurance policy and ninety (90%) percent of the premium cost of any new HMO insurance plan.

To the extent it continues to have any rights therein, upon the funding of the provisions of this Agreement the Association agrees to withdraw its pending grievance relative to HMO premiums (AAA Case No. 11-390-01620-90), and to dismiss the case of Ribeiro v. Capuano et al, U.S. District Court (MA) No. 91-10220-H. In the event any Union representing other City employees prevails in a claim for money based on HMO premiums, the Association shall have the right to reopen this Agreement on this issue only.

Section 15. 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 16. 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 further agrees that, in the effectuation of G.L. C. 41, Section 100H and c. 258, the most 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 law.

No covered employee shall be obligated 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 the operation of any piece of equipment of any kind or of a motor vehicle owned by the City or used in its behalf.

Section 17. Residency. Employees appointed before December 19, 1978, shall be permitted to live outside the City in accordance with M.G.L. c. 41, Sec. 99A, as amended, and in any event, within the Commonwealth. Residency limits for employees appointed to the force after December 19, 1978, shall be governed by any valid City ordinance applicable to city employees. It is further agreed that if the City residency ordinance is amended, the Association shall have the right to reopen this Agreement for the purpose of negotiating on this issue. However, in no event will these provisions effect the residence status of employees appointed December 19, 1978.

Section 18. The City agrees to provide office space for the Association in the new public safety building.

Section 19. 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 20. 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 wages.

Section 21. 5 and 2 schedule, buyback of days. Employees assigned to a Monday-Friday schedule may, at their option, annually elect to buy back 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. Effective January 1, 1999, the buyback election shall be increased from four (4) days to five (5) days.

Section 22. The City agrees to take reasonable steps to request a Civil Service Examination for positions in the bargaining unit with the intent that civil service lists shall be continuously in effect.

Section 23. The City and the Association agree to form a joint committee for the purpose of discussing training programs for employees in the bargaining unit.

Section 24. Line of Duty Death. The City will provide up to $5,000.00 in financial support or facilities, transportation or other services to assist in post funeral memorial services for Somerville police 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 25. Drug Testing Program. 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	300
(25 ng/ml if Immunoassay specific for morphine)	
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 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.

Section 26. Carrying of Weapon. 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 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 27. 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 28. Professional Development. There parties agree to form a bi-lateral committee to study and make recommendations to the Chief and the Mayor relative to professional development activities for members of the bargaining unit. This committee shall issue its report by June 30, 1999.

Section 29. Stress Support. 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.

ARTICLE XX

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 Superior Officers Association
Somerset Savings Bank
40 Union Square
Somerville, Massachusetts 02143

or to 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 equivalent to 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 a 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 XXI

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 or in the course of their employment.

2. The City shall indemnify the members of the Bargaining Unit for all medical, hospital and related expenses incurred by them as a result of such personal injury, sickness or disability within sixty 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 nor 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 the third doctor's opinion, there shall be no change in the employee's status based on the City doctor's opinion.

If the third doctor determines that the employee is not fit to resume full police duty or light duty as described herein, the employee shall remain on paid injured leave status. If the third doctor determines that the employee is 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 injury subject to the approval of the Chief after sufficient documentation is provided detailing the necessity of said examination, treatment or rehabilitation; provided 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 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.

The Chief of Police and the Association shall meet within thirty (30) days of execution of this agreement to define such light duty.

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

ARTICLE XXII

DURATION OF THE AGREEMENT

Section 1. Term. This agreement shall be in full force and effect from July 1, 1997, or at such later date, as to certain provisions thereof, as may be specifically referred to in this Agreement, and shall continue in full force and effect (subject to certain reopener agreements) to and including June 30, 2000.

On or after December 1, 1999, either party may notify the other of its first proposals for a new Agreement to be effective on the termination of this Agreement, and the parties shall proceed forthwith the bargain collectively with respect thereto.

If negotiations for a new Agreement to be effective on the termination of this Agreement continue beyond June 30, 2000, this Agreement shall continue in full force and effect until a successor is executed.

This Agreement is subject to funding.

Witness our hands and seal this _____ day of February 1999.

SOMERVILLE POLICE SUPERIOR OFFICERS ASSOCIATION

By_____
President

_____
Vice President

_____
Treasurer

_____
Secretary

CITY OF SOMERVILLE

By_____
Mayor

Approved as to form:

_____

City Solicitor

8913.1

11/06/01

July 1, 2000 Through June 30, 2004

Memorandum of Agreement
Between City of Somerville and Police Superiors

1) Residency – anyone hired after Nov. 1993 must live in the City for five years in order to be exempt from the waiver requirement in the ordinance. Failure to comply subjects members to termination.

2) Court Time – Those able to attend court proceedings while receiving 111F (duty injury) benefits will not be paid overtime to do so, as they are already being paid. Doctor's reports will be used to determine when an officer is able to attend court proceedings.

3) Hours of Work and OT, Sec. 4 – amend to read: Effective January 1, 2001 an employee returning to duty from an absence on sick leave and who has taken seven sick days in the preceding twelve month period, shall not be eligible to work a detail or overtime assignment until after the employee has actually worked three consecutive shifts, except in the case of an emergency to be determined by the Chief or his designee.

4) Miscellaneous – Section 26, Amend, as found the in the 1997-98 MOA, to provide a twelve month limit (209A) in which to gain ability to carry a gun. The Chief may extend this period with the permission of the Mayor in unusual circumstances.

5) Implementation of Annual Performance Appraisal system. The parties have agreed that a Committee will be formed to review and discuss an appraisal system. The Committee will consist of up to four Union Representatives and the Chief and/or his designee. The Committee will issue a report of recommendations for implementation to the Mayor and the Personnel Director no later than the last day covered by this memorandum of agreement.

6) Injury Leave and Indemnification – Article XXI, delete the second to last sentence and insert the following language: Light duty shall be police duties which the employee is physically capable of performing. The inside commander (Lt.) position will not be considered a light duty position.

7) Reorganization. per attached (To be Initialed)

8) Officers may accrue compensatory time at 1 ½ time (no four hour minimum) in lieu of overtime, the time earned must be used within 30 days if possible but no later than six months from time earned. Time should be used when it does not create an overtime situation unless OK'd by the Chief. In no case may anyone accrue more compensatory time than the amount allowed under the FLSA.

9) Out of Grade pay for Sgts will now include Quinn benefits plus Article 5, section 2 will be amended to reflect that when an Sgt. works out of grade to cover an 8 p.m. release, this portion of the shift will be paid at the out of grade rate

10) 5 & 2 Stipend – a weekly stipend of $20 will be paid to union members who are assigned to the day shift 5 & 2 schedule Effective upon implementation of reorganization.

11) The private detail supervisory rate will be increased from the current $30 per hour to $36 for a Sergeant, $39 for a Lieutenant and $42 for a Captain when these ranks are working in a supervisory capacity only. A new sentence will be added to Article VI, section 8, paragraph two as follows: If a detail has more than twelve patrol officers assigned to more than one location, there shall be one Sergeant, one Lieutenant and one Captain assignments. These rates will become effective upon ratification of the contract by the members and the City.

12) A new sick leave accrual system will replace the current ordinance system effective January 1, 2002 as follows:

a. Employees will accrue 15 days per year to be credited on January 2nd for the prior year. Employees absent for illness or injury of longer than one month will not earn sick leave but will be credited with 1.25days per month for each month worked.
b. To implement this accrual system, members will be credited with 100 (one hundred) sick days effective 1/1/02. The first annual crediting of accrued time will be on January 2, 2003.
c. The maximum accrual of sick days will 150 (one hundred and fifty) days.
d. For absence due to sickness or injury, the chief or his designee or the appointing authority may require evidence in the form of a physician's certificate for the necessity of such absence, such certificate will indicate the nature of the illness or injury and the expected duration.
e. Union Members who retire shall be entitled to "buyback" 25% of their unused sick time accrual (maximum of 150 sick days) at their current salary at the time of retirement.
f. Effective calendar year 2004 Union Members will be eligible to earn an annual perfect attendance bonus of $500, or $400 for near perfect attendance of two days absence or less, or $300 for near perfect attendance of three days absence or less, in a calendar year. Said bonus to be paid in January 2005 for the prior calendar year and annually in January thereafter for the prior year.
g. Members will be covered for catastrophic, life threatening illness and injury, per the agreed list (to be initialed), once they have expended all of their sick, vacation, personal, and 5 &2 days.
h. The parties have agreed that a committee will be formed to review and discuss the establishment of a Sick Leave Bank. The Committee will consist of up to four Union members and the Chief and /or his designee and the Personnel Director and /or designee. The purpose of the Sick Leave Bank is to afford the Union the opportunity to grant members, on a case by case basis, who have utilized all of their paid time off and are not covered by the catastrophic illness provision, additional paid time off.

13) The rank differential spread will be increased by ½ percent on 7/1/00 and ½ percent on 7/1/01 and ½ percent on 1/1/03.

14) Vacations - The practice that each employee who has not been absent due to illness or non-job related injury for more than seven days is allowed to use one week of vacation (five days) individually in a calendar year will be added to the contract. Currently, vacation time may be carried over until February 1st of the following year and this carryover period will be increased to March 1st.

15) Quinn Bill will be included in overtime rates effective 1/1/02

16) Wages: Effective 7/1/00 – 3%, 7/1/01 – 3%; 7/1/02 – 3%; 7/1/03 – 2% and 2% on 1/1/04

17) Duration: Two contracts for a total of 4 yrs

(Note: Final contract language to be drafted by parties attorneys)

Signed for the Union

Signed for the City

Date: 11-7-01

Date 11/7/01

COLLECTIVE BARGAINING AGREEMENT
Between
CITY OF SOMERVILLE
And
SOMERVILLE POLICE SUPERIOR OFFICERS' ASSOCIATION

WHEREAS, The parties, the City of Somerville ("City") and Somerville Police Superior Officers' Association ("SPSOA"), are parties to a collective bargaining agreement ("Agreement") for bargaining unit employees that expired on June 30, 2004;

WHEREAS, the parties wish to put in place certain terms and conditions at this time to complete successor negotiations for the benefit of all concerned;

THE PARTIES HEREBY AGREE, in return for good and valuable consideration, to the following terms to be incorporated into the collective bargaining agreement between the parties which will continue in full force and effect, subject to the following modifications:

1. Term of Agreement: July 1, 2004 through June 30, 2006;

2. Vacation Time: Article X, "Vacations" shall be amended as follows:

    a. Employees may use up to one week of accrued vacation time as individual days off provided that the employee gives 12 hours or more notice to the Chief or his designee;
    b. Employees who have five (5) or fewer sick days in the preceding year will be eligible to request up to one additional week of accrued vacation time as individual days off provided that the employee gives 24 hours or more notice to the Chief or his designee;
    c. On a trial basis, without prejudice or precedence to either party, for the vacation period of February 2007 through March 2008, the employees in the sergeant's and lieutenant's ranks may pick independently from each other using the same formula as currently in use;

3. Bereavement Leave: Modify Article XII, "Bereavement Leave" to provide for the following: "Said leave shall commence within three (3) days of death unless previously agreed to by the Chief of Police";

4. Personal Leave Buyback: Modify Article XIII, "Other Leaves of Absence", Section 3 to provide for the following: "Employees may buyback up to five (5) accrued personal days upon retirement";

5. Sick Leave Accrual: Modify Article XV, "Sick Leave", Subsection (c) by DELETING "The maximum accrual of sick days will be 150 (one hundred and fifty) days.

6. Sick Leave Buyback: Modify Article XV, "Sick Leave", Subsection (e) by increasing the buyback percentage from 25% to 30% at the time of retirement;

7. Sick Leave Death Benefit: Modify Article XV, "Sick Leave", Subsection (e) by providing that the sick leave buyback benefit provided under this Article will be transferred to the estate of a deceased employee;

8. Compensation:

   a. Weapons Proficiency Pay: Replace current $225.00 stipend found in Article XVIII, "Compensation", Section 7 with:
      - Section 7. Weapons Proficiency Pay:
        - Employees shall be compensated via a stipend recognizing their proficiency with firearms;
        - In the event that the City does not offer an opportunity for an employee to participate in an annual weapons proficiency qualification, that officer will receive no less than the minimum stipend of $300.00;
        - Payment of this stipend shall be via a lump sum payable on July 1st of each year, commencing July 1, 2007, based on their annual qualification score:
          - Qualification score of 80% to 89% = $300.00;
          - Qualification score of 90% to 99% = $500.00;
          - Perfect qualification score of 100% = $600.00
          - Qualification score: Below 80% = failing / no stipend;

   b. Weapons of Mass Destruction Stipend: Article XVIII, "Compensation" NEW Section 8 to include a yearly stipend of $500.00 for all employees who have been certified in "Weapons of Mass Destruction" and for the maintenance of specialized equipment pertaining thereto;
      1. Payment of this stipend shall be via a lump sum payable in November of each year, commencing November, 2006,

   c. As an integral part of this collective bargaining agreement and the total compensation package for bargaining unit employees, bargaining unit members will receive the following increases in base wages tied to the following employee contribution rates for health care premiums:

      1. Bargaining unit members will receive a 2.0% across-the-board wage increase effective July 1, 2004;

      2. The 2.0% wage increase referenced in paragraph 1, above, shall be retroactive to July 1, 2004;

3. Bargaining unit members will receive a 2.0% across-the-board wage increase effective July 1, 2005;

4. The 2.0% wage increase referenced in paragraph 3, above, shall be retroactive to July 1, 2005;

5. Effective July 1, 2005 the rank differential for sergeants will be increased by 1% from 22.5% to 23.5% and the rates for lieutenant and captain will be adjusted accordingly;

6. Bargaining unit members will receive a 1.0% across-the-board wage increase, as outlined in paragraph 7, below, effective June 30, 2006 and agree to increasing employee contributions for health care premiums by 5%;

7. The City of Somerville will establish an account (the "account") and deposit 1.0% of base pay for all hours paid to bargaining unit members beginning June 30, 2006 to be held in escrow by the City;

8. The City agrees to provide a quarterly statement of the sum contained in the account to the Union through its treasurer and/or president;

9. The parties recognize that currently, although the Somerville Police Superior Officers' Association ("SPSOA") has agreed to increase employee contributions for health care premiums by 5%, the parties cannot implement this increase until all of the bargaining units agree to the same or greater increases in employee premium contributions;

10. The deposits made by the City of Somerville to the account referred in paragraph 7, above, will not be paid to bargaining unit members until such time as employee contributions for health care premiums actually increase by the 5% agreed to in paragraph 6, above. Once the City implements the 5% increase in employee contributions for health care premiums, the deposits in the account will be paid out to bargaining unit members based upon their wage rate and the total number of hours paid and the 1% will be added to their regular pay;

11. The parties also recognize that, via operation or change in law, circumstances may occur in which the City may implement the 5% increase referenced above and, in such case, bargaining unit members will be paid from the deposits in the account based upon their wage rate and the total number of hours paid;

12. Should the state legislature enact law that increases employee contributions greater than the percentages provided for in this agreement at the City's option, then the City agrees to honor the 15% employee contribution rate until such time as either: a) the parties negotiate a rate adjustment; or b) the City is required by law to implement an increase;

13. The parties agree that should the 5% increase in health care premiums take effect after June 30, 2006 the increase will not be considered retroactive to that date but only on a prospective basis;

14. Any interest earned by the account shall be the property of the City of Somerville as provided by law;

15. The City of Somerville agrees, to the extent permitted by law, to allow bargaining unit members to pay for the following insurance premiums on a pre-tax basis within thirty (30) days of the signing of this agreement (thereby adopting so-called a "Section 125" benefits for those premiums);

- Health Insurance Premiums;
- Life Insurance; and
- Dental Insurance Premiums;

For the City of Somerville

By _____
~~Richard Tranfaglia~~ Joseph A. Curtatone
~~Director of Personnel~~ Mayor

Date: 10/25/06

Somerville Police Superior Officers' Association ("SPSOA")

By _____

By _____

By _____

By _____

Date: 10/25/06

Approved as to form

By _____
John Gannon, City Solicitor

MEMORANDUM OF AGREEMENT

SUCCESSOR COLLECTIVE BARGAINING AGREEMENT
Between
CITY OF SOMERVILLE
And
SOMERVILLE POLICE SUPERIOR OFFICERS' ASSOCIATION (SPSOA)

Effective: July 1, 2006 through June 30, 2009

The City of Somerville and the Somerville Police Superior Officers Association agree to the following terms and conditions of a collective bargaining agreement to succeed the collective bargaining agreement which expired on June 30, 2006 (the "Prior Agreement"). This Agreement is subject to ratification by the membership of the Association and by a funding vote by the City's Board of Aldermen. Except as set forth below, all other terms and conditions of the Prior Agreement remain in full force and effect.

1. Article III, Employee Rights, Section 6 of the Prior Agreement shall be replaced with the following:

> In addition to all other Association leave provided in this Article, the President shall receive two (2) shifts off per week without loss of pay or benefits for Association Business. All other executive Board members shall receive four (4) hours off per month without loss of pay or benefits for Association Business. In the absence of the President, the Vice President or other E-Board member so designated shall maintain the duties of the President and receive the two (2) shifts off without loss of pay or benefits for Association Business. Leave under this section shall be subject to approval by the Chief of Police, but shall not be unreasonably denied. The Chief shall have the right to deny the second day and/or the four hours off if replacement will cause overtime.

2. Article VI, Paying Police Details, of the Prior Agreement shall be amended by:

   a. Deleting Section 10 in its entirety and renumbering the remaining sections as Sections 10 and 11 respectively; and

b. Adding a new Section 12 to read:

The City and the Association agree that public safety interests are best served when traffic control on and around the roads, streets, highways and other passageways during construction, repair and maintenance projects; utility construction, repair and maintenance projects; and all 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 the Police Chief or his designee deems traffic control appropriate, and where the Chief has the authority to do so, will be performed only by sworn police officers pursuant to the Department's paid detail system. Nothing in this section shall alter the Police Chief's authority to deny use of a detail in those circumstances where the Chief presently has deemed it unnecessary.

3. Article VIII, Hours of Work and Overtime, of the Prior Agreement shall be amended by adding a new Section 10 to read:

The City shall have the right to implement the electronic time keeping system for the purposes of payroll (except for the detail payroll), monitoring attendance, recording and starting and quitting times, and identifying accumulation of sick and vacation time. It will not be used for other purposes without the written agreement of the Association. Nothing in this Agreement shall prevent the City from using the data obtained to discipline employees under a just cause standard.

4. Article X, Vacations, of the Prior Agreement shall be amended by

(a) replacing Section 1 with the following:

Paid vacation for employees of the Somerville Police Department shall be as follows:

Length of Service	Length of Vacation
Up to ten years	3 (three) weeks
Beginning 10th year	4 (four) weeks
Beginning 15th year	5 (five) weeks
Beginning 20th year	6 (six) weeks
Beginning 30th year	7 (seven) weeks

and

(b) Adding a Section 9 to read:

Employees may use up to one week (five days) of accrued vacation time as individual days off. Employees who have not been absent due to illness or non-

job related injury for more than seven (7) days may use one additional week (five days) individually in a calendar year provided that the employee gives 24 hours or more notice to the Chief or his designee. Vacation time may be carried over until March 1, of the following year.

Article X, in its entirety, shall apply to the 2009 vacation bid process.

5. Article XIII, Other Leaves of Absence, of the Prior Agreement shall be amended by replacing Section 3 with the following:

Employees shall be entitled to three (3) 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. Requests for personal leave must be submitted at least twenty-four (24) hours in advance, except in the case of an emergency. Employees may buyback up to ten (10) accrued personal days upon retirement or separation from the department.

6. Article XV, Sick Leave, of the Prior Agreement shall be amended by

(a) replacing subsection (c) with the following:

(c) Unused, accrued sick days will carry over and accumulate from year to year without limit on the number of total days accrued.

and

(b) replacing subsection (e) with the following:

(e) Employees who retire shall be entitled to buyback 35% of their total accumulated unused, accrued sick time at their salary rate in effect at the time of retirement.

7. Article XVIII, Compensation, of the Prior Agreement shall be amended:

(a) At Section 1 by setting forth the salaries in effect as June 30, 2006 and as amended by application of the rank differential provisions of the collective bargaining agreement effective July 1, 2006; June 30 2007 and July 1, 2008 respectively and by adding the following sentence:

Except as adjusted in accordance with the rank differential provisions of this Agreement, as set forth above, the across the board salary increases through June 30, 2009 shall be as follows:

July 1, 2006	0.0%
July 1, 2007	0.0%
July 1, 2008	0.0%

and

(b) At Section 5(d) and (e) by replacing both with a new Section 5(d) to read:

If the Commonwealth reduces its share of the educational incentive, the City shall assume the full responsibility for educational incentive payment so reduced in addition to the payments it is otherwise responsible to pay under contract and/or law. The purpose of this provision is to ensure that all bargaining unit members will continue to receive the full level of educational incentive that they are now receiving.

and

(c) by adding a new Section 8 to read:

Effective on and after the execution of this MOA, all employees shall receive a one-time $1,000 service recognition payment upon completing thirty (30) years of service within the Somerville Police Department.

This payment shall also be made to officers within the bargaining unit who have already completed 30 years of service at the execution of this Memorandum of Agreement.

and

(d) by deleting the current Article XIX, Section 14, Health Insurance, and adding a new Section 9 to read:

The City's Group Insurance plan (health and life insurance) in force on the effective date of this agreement shall remain in force and effect for the term of this Agreement, unless changed by mutual agreement. In addition, the parties agree that:

a. Effective July 1, 2009, the City will pay 80% of the total premium cost of any healthcare plans provided to employees including, but not necessarily limited to, any indemnity plan(s), HMO plan(s) and/or PPO plan(s) and employees who elect coverage shall pay the balance of any premium effective July 1, 2009;

b. The failure of the City to implement any increase to an employee's share of their healthcare premium shall not preclude the City from subsequently increasing those rates subject to the limitations set forth above;

c. The parties agree that any member(s) of the bargaining unit who are currently enrolled in the City's Blue Cross / Blue Shield indemnity plan as of January 1, 2009 will be "grandfathered" in, subject to the terms listed above and the ability of the City to offer said plan, but no other present or future members of

the bargaining unit will be allowed into that plan and that, should a member currently enrolled in the indemnity plan leave said plan for any reason, they will not be allowed to re-enroll.

8. The parties agree to the following Furlough plan of the City as a part of this MOA:

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.

i. Payout as per the "patrol officers' furlough model":

1. Employees to be paid back during payroll period following July 15, 2012 unless separated from service prior to 2012;

2. 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 unless separated from service prior to January 1, 2012 and electing, in writing, the alternate payment in paragraph III (i) (5), below;

3. Payback rate at either July 2012 base rate or base rate at last day of employment if separated before 2012; and

4. If an employee is separated from service before January 1, 2012 they shall receive their payout (pro rata, where appropriate) within 90 days of their separation from service at the base rate of pay on their last day of employment or on the July 2012 payout date at the 2012 rate, whichever one the employee chooses provided that if the employee wishes to receive a payment prior to July 2012 he/she must notify the Personnel Department, in writing, prior to their last day of employment.

5. The Side Letter covering "Retired Members Furlough Payment" dated March 13, 2009 between the City and the Somerville Police Employees Association shall apply in full to superior officers covered by this Furlough Program.

9. The parties agree that notwithstanding any other reorganization plan agreement between them, the reorganization plan most recently negotiated between Chief Holloway and the Association (hereinafter the "Holloway Plan"), rather than the so-called Bradley Reorganization Plan, shall be implemented at a time mutually agreed upon between the Police Chief and the Association. Further, the parties agree that they have memorialized the terms and conditions of their agreement on the Holloway Plan in

writing and shall add it to the collective bargaining agreement as a new article entitled "Reorganization."

10. The parties agree that any employee who files an application for retirement on or before May 29, 2009 shall receive, in addition to any other payments to which he/she may entitled, a $5,000 service recognition payment to be made within thirty days of the employee's last day of employment.

11. Article XXII, Duration of the Agreement, shall be amended to read:

ARTICLE XXII

DURATION OF THE AGREEMENT

Section 1. Term. This Agreement shall be in full force and effect from July 1, 2006, or at such later date, as to certain provisions thereof, as may be specifically referred to in this Agreement, and shall continue in full force and effect to and including June 30, 2009.

On or after December 1, 2008, either party may notify the other of its first proposals for a new Agreement to be effective on the termination of this 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 this Agreement continue beyond June 30, 2009, this Agreement shall continue in full force and effect until a successor is executed.

Signed this 1ST day of ~~April~~ May, 2009 by the parties' representatives:

For the City of Somerville

By: _____
Joseph A. Curtatone, Mayor

For the Association

By: _____
John Aufiero, President

MEMORANDUM OF AGREEMENT
Between
City of Somerville
And
Somerville Police Superior Officers Association

Effective: July 1, 2009 through June 30, 2012

The parties, City of Somerville ("City") and the Somerville Police Superior Officers Association ("SPSOA" or "Union") hereby agree to incorporate the following terms of this Memorandum of Agreement into a successor collective bargaining agreement effective: July 1, 2009 through June 30, 2012, subject to ratification by membership of the Association and funding by the City's Board of Aldermen pursuant to Chapter 150E. The Association will recommend a favorable ratification vote by its members and the Mayor will recommend a favorable funding vote by the Board of Aldermen.

1. **Duration**: Three year collective bargaining agreement (July 1, 2009 through June 30, 2012);

2. **Night Availability Differential**: Night availability differential of 7% will be implemented for all bargaining unit members, regardless of the shift to which they are assigned. The "Night Availability Differential" is to be paid for all pay periods including those which each such member of the bargaining unit is on sick leave, injured leave, vacation or is absent for work for any other reason. In addition the "Night Availability Differential" is to be included in the 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. Said differential will not apply when an employee is on any non-paid status.

Any bargaining unit members receiving a "5 and 2 differential" in lieu of the night differential will forfeit said differential in favor of night availability.
Night availability to be effective July 1, 2011;

3. **Compensation**: Article XVIII, "Compensation" shall be replaced with the following:

Section 1. The parties agree to the following across-the-board base wage increases on the dates noted below. If the SPEA receives an increase greater than provided in sub-sections (a) through (c), inclusive, below, the "Base Wage Rank Differentials" in subsection (d) will be applied, but only to the extent necessary to maintain the rank differentials at the levels required by subsection (d).

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%
d. Base Wage Rank Differentials:

1. Sergeant: 23.5% above patrol officer base
2. Lieutenant: 17.5% above sergeant base
3. Captain: 17.5% above lieutenant base

4. **Longevity**: Pay current longevity as provided in collective bargaining agreement for employees who do not receive Quinn benefits;

5. **Chief's Picks**: The Sgt/NPO Supervisor and Lt./Special Operations will become a "Chief's pick" vs. a "seniority assignment" provided that the incumbent officers are grandfathered until they bid out of those positions. Reconfigure the hours of the supervisor of the Gang Task Force to align with the "power shift". This position is already a "Chief's pick" but the incumbent will be given the option of whether to remain in the reconfigured position;

6. **Health Insurance**: The language contained in Article XVIII, Section 9 (formerly Article XIX, Section 14) of the parties' July 1, 2006 - June 30, 2009 Memorandum of Agreement/successor collective bargaining agreement shall be replaced with the following:

a. The City will pay 80% of the total premium cost of any healthcare plans provided to employees including, but not necessarily limited to, any indemnity plan(s), HMO plan(s) and/or PPO plan(s) and employees who elect coverage shall pay the balance of any premium;

b. If any City union or unions achieve through coalition bargaining under Chapter 32B, Section 19 a commitment from the City to pay more than 80% of the total premium cost of healthcare plans for any period covered by this agreement, the City agrees to reopen this provision at the Association's request for bargaining over the extension of the same City contribution on behalf of members of the Association's bargaining unit.

c. The parties agree that no member(s) of the bargaining unit are currently enrolled in the City's Blue Cross/Blue Shield indemnity plan and no other present or future members of the bargaining unit will be allowed into that plan.

d. The health insurance plans and plan designs existing as of June 30, 2011 will continue in force and effect in accordance with the parties' Memorandum of Agreement effective July 1, 2006 through June 30, 2009, until if and when they are replaced pursuant to Massachusetts General Laws chapter 32B as amended by Chapter 69 of the Acts of 2011.

7. Except as amended by this Memorandum of Agreement, all other terms and conditions of the predecessor collective bargaining agreement shall be carried forward in the July 1, 2009 through June 30, 2012 collective bargaining agreement.

For the City of Somerville

By: Joseph A Curtatone, Mayor

Dated: 8/5/11

For the Somerville Police Superior Officers Association

By: John Aufiero, President

Dated: 8/5/11

COMMONWEALTH OF MASSACHUSETTS

JOINT LABOR MANAGEMENT COMMITTEE FOR MUNICIPAL POLICE AND FIRE

JLMC-17-6072

IN THE MATTER OF ARBITRATION BETWEEN:

CITY OF SOMERVILLE

&

SOMERVILLE POLICE SUPERIOR OFFICERS ASSOCIATION

AWARD AND DECISION BY THE ARBITRATION PANEL

Background

The City of Somerville ("City" or "Employer") and the Somerville Police Superior Officers 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. The parties then entered into a Voluntary 3A Agreement to submit the unresolved disputes to Arbitration.

An arbitration hearing commenced on May 11, and continued on May 18, 2018 in Somerville, Massachusetts, before a Tri-partite Panel consisting of Gary D. Altman, Esq., Neutral Panel Member, Mayor Dean Mazzarella, Management Panel Member, and Richard R. Pedrini, Union Panel Member. Alan J. McDonald, Esq., and John O. Killian, Esq., represented the Union and Philip Collins, Esq., and Melissa R. Murray, 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 thirty-one (31) Superior Officers, comprised of four Captains, eleven Lieutenants, and sixteen Sergeants.

The parties initially engaged in direct negotiations for an agreement covering the period from July 1, 2012 through June 30, 2015. They were, however, unable to reach agreement for this three-year period of time. In the meantime, Interest Arbitration proceedings were completed for the Somerville Police Association and the City, covering the period of July 1, 2012 through June 30, 2015. The Superior Officers and the City have agreed that the

subjects of wage increases, GPS/Narcan, Ballistic Vests, Alcohol Testing, Post Quinn Education Incentive Benefits, Traffic Control Jurisdiction Language, and Evergreen Clause, that were awarded in the 2016 Patrolman's Arbitration Decision shall be adopted and applied to the Superior Officer's Agreement. Accordingly, these subject matters are hereby incorporated and made part of this Arbitration Decision.

The Union and the City also submitted a list of those issues that were not resolved, and would be submitted to arbitration, which were as follows:

Joint Issues

Union Issues

City Issues

Wages and Duration

The parties' proposals on wages and duration are as follows:

CITY'S POSITION

The City proposes a six-year agreement from the period of July 1, 2015 through June 30, 2018 with the following wage increases:

July 1, 2012 – 2.5% across the board increase.

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

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

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

July 1, 2016 - 2% across the board increase.

July 1, 2017 - 2% across the board increase.

Summary of the City's Arguments

The City maintains that its proposal of annual increases of 2% over the three-year period from July 1, 2015 through July 1, 2018 is fair and reasonable and should be awarded.

The City argues that the wages and benefits of Somerville Superior Officers compare well with their counterparts in other comparable communities, and that Somerville Superior Officers rank at the top in terms of total compensation. The City states that this is due, not only to a high base salary, but also the generous benefits that are provided to the Superior Officers. The City thus maintains that there is no justification for any type of equity adjustment or increase in existing benefits. The City argues that the Union's proposal, which totals more than 24% over the six year contract period, is not warranted by reviewing either the external or internal comparisons. Moreover, the City states that a review of wage increases awarded by arbitrators in other jurisdictions shows that its wage proposal is reasonable and justified.

The City points to the settlements reached with other City of Somerville bargaining units. The City contends that six of the seven City bargaining units that settled for FY 2016, the first year of the second three-year contract under consideration, agreed to 2% across the board increases. In addition the City states that Fire

Dispatchers, Police Dispatchers, Crossing Guards, and School Custodians settled for 2% for FY 2017 and FY 2018. The City states that this wage pattern demonstrates that its proposed annual increase for this two three year contract period is fair and should be awarded in this proceeding.

The City maintains that the fact that it provided equity or market adjustments to certain non-union management positions is not relevant to this proceeding. Specifically, the City states that non-union employees did not receive the same wage increases that have been provided to Unionized employees, and in fact received wage freezes while Police and Fire received more than a 20% increase over this same time period. The City argues that it was necessary to provide compensation levels for these non-union positions that are comparable to the market rates, and such equity adjustments are not warranted for Police Superiors who have received annual wage increases, and whose total compensation is well above the levels provided to Superiors Officers in comparable communities. The City states that the Police Department has had no issue retaining its Superior Officers.

The City also maintains that its wage proposal is well within the range of wage settlements that have occurred in comparable communities. The City states that its wage proposal for a 6.5% (2.5% 2%, and 2%) increases for the first three year agreement is above the wage increases agreed to in the comparable communities. The City also states that in those communities in which the parties agreed to more than 6.5% over the three year period (Arlington and Malden), the wage rate and total compensation for Superior Officers in these communities

lags far behind the wages and total compensation paid to Somerville Superior Officers.

The City also states that when reviewing the wage rates of Somerville Police Superiors, they compare well with the counterparts in other comparable communities; the rate for Somerville Sergeants is third highest in the list of comparables, Lieutenants have the highest base rate except for Quincy. For the second three-year period the City maintains that its wage proposal of 2%, 2%, and 2% fares well with the wage rates given to other Superior Officers. Accordingly, with the City's wage offer, Somerville Police Superiors will continue to be paid at the top of the wage scale.

The City also maintains that its ability to pay is reflected in its wage proposal made to the Union. The City acknowledges that it has seen an economic resurgence, but contends that potential future growth should not be the basis of this proceeding, which is considering pay increases for past years. The City points to cuts in State aid from FY 08 to the present, that it is facing rising pension and post retirement benefits, the construction of a new high school, and must contribute an additional $50 million for the Green Line extension. The City also contends that it is facing multi-million dollar infrastructure costs, due to years of unaddressed needs. The City points to the delay in the Green Line extension, and, as a result, new growth projections have been adjusted downward. In addition the City states that it is running a structural deficit. The City concludes that there is no justification to grant wage increases to Somerville Superior Officers more than provided to any other City of Somerville bargaining unit.

The City contends that its wage proposal of annual 2% increases for the last three years of the Agreement, the same rate agreed to by a number of other City Unions, should be awarded.

UNION'S POSITION

The Union proposes a three-year agreement for the period July 1, 2015 through June 30, 2018.

Three Year Agreement 7/1/12 – 6/30/15

July 1, 2012 – 2.5% across the board increase.

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

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

July 1, 2015 - 3% across the board increase.

July 1, 2016 – 3.5% across the board increase.

July 1, 2017 - 4% across the board increase.

Summary of the Union's Arguments

The Union contends that a review of the ten comparable communities considered in the Patrolman Arbitration demonstrates that the total compensation of Somerville Superior Officers has fallen behind the total compensation levels provided to Superior Officers in these other communities, and there is ample justification to increase the wage rate of Superior Officers higher than the 2% proposed by the City. In particular, the Union points to settlements in communities such as Arlington, Cambridge and Lowell, that have increased the amounts at various steps and have rolled benefits into base salary and have provided other benefit increases. The Union maintains that these communities have recognized that the recession has passed and have provided wage and benefit increases significantly higher than offered by the City of Somerville.

The Union contends that increases in the total compensation of Superior Officers in these comparable

communities shows that Somerville Patrol Officers will lose ground when compared to their colleagues in these other communities. The Union argues that recent settlements show that these communities have provided wage increases to attract and retain their superior officers. The Union also points to large increases recently provided to non-union employees in the City of Somerville, rates considerably higher than have been offered to Superior 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 contends that unlike the Patrolman's arbitration where all City Units had already agreed to wage settlements, in the present case, less than half of the City's Union have reached agreements and none of the other public safety units has reached a successor agreement. Moreover, the Union maintains that it is important for the Panel to consider the unique job duties and responsibilities performed by public safety officers when considering the appropriate wage increase. Specifically, 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 superior police officers not civilian employees working in the City.

The Union states that the cost of living has increased 3.6% in the previous twelve months. The Union contends 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 ($11.6 million) and stabilization fund

($34.1 million), and that the City currently has an Aa2 bond rating, which shows the solid 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 states that recently the Mayor extolled the financial condition of the City in his 2018 budget, stating that “free cash and rainy day funds remain at the highest in our history”, and the bond rating “remains the highest in the City’s history”.

The Union maintains that more must be done to increase the wages and benefits of Somerville Superior Officers to ensure that they remain competitive with their colleagues in the area. The Union concludes that its wage proposal should be awarded.

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

There is no dispute over the appropriate pay increases for Superior Officers for the FY 2013 – 2015 three-year period. Specifically, Superior Officers and the City agreed that the increases awarded in the Patrol Officers Award for this three-year period should apply to Superior Officers.

Accordingly, these increases shall be made part of this Award.

The wage settlements for Somerville municipal employees for the six year period is as follows:

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

	FY 16	FY 17	FY 18
Fire Fighters	N-S	N-S	N-S
Fire Alarm	2%	2%	2%
Patrol Officers	N-S	N-S	N-S
SEIU Local 888 E-911	2%	2%	2%
SEIU Local 888 X-Guard	2%	2%	New scale
NCFO Local 3	2%	2%	2%
SMEA Unit A	2%	N-S	N-S
SMEA Unit B	2%	N-S	N-S
SMEA Unit D	2%	N-S	N-S

II. Comparability

In the Police Arbitration Award the Panel decided to review a listing of comparable communities that was utilized by the Collins Center for Public Management at the University of Massachusetts, when conducting a classification and compensation study for the City’s non-union positions. Those communities chosen in the Collins Center classification study were Arlington, Brookline, Cambridge, Lowell, Malden, Melrose, Newton, Quincy, and Waltham. The parties also agreed to consider the City of Medford as an appropriate comparable. These communities were used in the Police Arbitration and will be reviewed in this Decision.

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

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

Community	FY 16	FY 17	FY 18
Arlington[1]	2.8%	2%	2%
Brookline	2%	NS	NS
Cambridge[2]	2.4%	2%	2.5%
Lowell[3]	1%	3%	3%
Medford	2%	2%	2%
Malden	2%	2%	NS
Melrose	2.5%	2.5%	2.5%
Newton	NS	NS	NS
Quincy	1%	2%	2%
Waltham	2%	NS	NS

The facts show that the base wage rate for Somerville Police Superiors is well above the average rate for the group of comparable communities.

Community FY 2015 Max Base	SGT	LIEUT	CAPT
Arlington	$66,812	$78,169	$90,676
Brookline	$74,808	$88,274	$103,281
Cambridge	$71,377	$84,222	$99,382
Lowell	$80,644	$90,321	$101,159

[1] The parties in Arlington rolled into base a number of stipends that have been separately paid. In the prior Police Arbitration Award the amount reported was 2.8% for FY 2016.
[2] These increases are based on the base wage rates set forth in the Agreements that were provided at the Arbitration Hearing for the Cambridge Police Superior Officers Association. There were also a number increases in differentials for this contract period.
[3] The Union states that Superior Officers received the equivalent of a 1% increase for that year.

Malden	$67,547	$77,003	$87,784
Medford	$78,707	$91,300	$105,909
Melrose	$63,515	$73,677	
Newton	$73,956	$86,528	101,238
Quincy	$80,188	$98,630	$121,316
Waltham	$65,725	$77,556	$91,516
Somerville	**$78,736**	**$92,514**	**$108,704**
AVERAGE	$72,328	$88,274	$100,251

The evidence further demonstrates that the overall compensation (including wages and benefits) provided to Somerville Police Superiors, although not the same, is comparable to what is provided to police superiors in these other communities. In fact the total compensation for Somerville Police Superiors is above the average provided in the comparable communities. The Union's wage proposal for the last three years of the six-year agreement of 3%, 3.5% and 4%, is well above the base wage increases that have been agreed to in comparable communities. There is, therefore, no justification for increases of this magnitude to the Somerville Superior Officers for this three-year period.

On the other hand, the data also shows that what was a prevailing pattern of 2% increases for Police Departments that were agreed to for the past three-year contract period is edging higher than 2% annual adjustments, and this can be seen in some of the comparable communities (e.g. Lowell, and Cambridge). This is also the case with the consumer price index, which is seeing increases above the 2% level, and also wage increases in the region are higher than 2%. There is no good economic justification to provide pay increases for this second three-year period that are less than received for the first three-year period; the economy

is stronger now than it was for the first three years as demonstrated by the City's bond rating. In FY17, Somerville realized $291.9 million in new growth valuation, more than any other year in its history. Moody's Investment Services increased the City's bond rating from Aa2 to Aa1 in July of 2017, which is within the period of the second three-year contract. The City announcing the upgrade issued a press release stating:

> Moody's has a favorable view of the Somerville economy, noting in its report that "the city experienced seven consecutive years of assessed value growth including a strong 13.1% in fiscal 2017 growth (compared to fiscal year 2016), which is the third largest increase of any municipality in the Commonwealth.

Moreover, it must also be stated that for FY 17 and FY 18 less than half of the employees are under agreement in the City, and none of Somerville's Public Safety employees have reached agreement for the second three-year period. This is unlike the situation that was in place for the Patrol Officers Arbitration when all other public safety groups were under contract for the relevant time period, and there was a clearly defined City pattern of wage settlements.

AWARD – DURATION & WAGE INCREASES

The Panel Awards wage increases for the six-year period as follows:

FY 2013 – 2.5%
FY 2014 – 2%
FY 2015 – 2%
FY 2016 – 2%
FY 2017 – 2.5%
FY 2018 – 2.5%

UNION ISSUES

Night Availability Pay/Educational Incentive

The current contract provides that Superior Officers receive night availability pay of 7% that is calculated on Superior Officers' base pay. All Superior Officers receive this payment no matter what shift they are assigned to work. At the present time Quinn Educational incentives are paid on A Superior Officer's base pay without factoring in other incentives such as the Night Availability pay.

Union's Proposal

The Union proposes that Night Availability Pay should be included in the calculation of the educational incentives provided to Superior Officers, and that this should be retroactive to July 1, 2014.

The Union maintains that it must be remembered that Patrol Officers received an increase in educational incentive in the recent Arbitration Award, that provided significant increases in the existing benefit to many Patrol Officers: since the vast majority of Superior Officers have already earned an educational incentive, providing this benefit to Superior Officers is not a costly benefit increase for Superior Officers. Moreover, the Union states that a number of other changes awarded to Patrol Officers in the recent Patrol Officer Arbitration Decision, such as the evergreen clause, and traffic control language, were contract provisions that were already in place for Superior Officers, and thus Superior Officers will receive no "tangible benefit" for those changes that were awarded to Patrol Officers.

The Union also states that a review of comparable communities also supports its proposal. Specifically, the Union maintains that a majority of comparable communities

include night differential and other regular payments in the calculation of an Officer's educational incentive. The Union concludes that there is ample justification for Night Availability Pay to be included in the calculation of the Education Incentive Payment.

City's Proposal

The City is opposed to the Union's proposal. The City maintains that it is illogical to place this differential into an employee's base pay for purposes of determining an employee's educational incentive. The City also states that rolling the night pay into an employee's base pay is not provided to Somerville Patrol Officers or Somerville Firefighters. Moreover, the City contends that this is not a commonly accepted practice.

The City also contends that the Union's proposal is expensive, and would add an additional 7% cost to the Quinn payments that are now paid to Superior Officers, which the City now pays in its entirety after the State decided to no longer contribute half the costs of the Quinn Education Incentive. The City maintains that all Somerville Superior Officers receive the 7% Night Availability Pay, even those officers who are assigned to work the day shift. The City argues that paying all Superior Officers for night differential is generally not the prevailing practice in comparable communities, and there is insufficient justification to further increase this already generous benefit.

Discussion

At the present time Night Availability Pay is not factored in when computing educational incentives. This is the case not only for Superior Officers but also for the Patrol Officers, the largest bargaining unit in the Police

Department. It is true, as the Union points out, that a number of communities do, in fact, include night differential in the computation of educational incentives; it must be remembered that many of these communities only pay night differential to those officers actually working evening or night shifts, unlike in Somerville, where all Superior and Patrol Officers receive the benefit. Moreover, the fact that in the Police Arbitration Award the Panel awarded the Patrol Officers contract language that was already in place for the Superior Officers, such as the evergreen clause and traffic control language, is not justification to increase the educational incentive. Specifically, in the Patrol Arbitration Decision, the Panel did not consider the issue of calculating night shift differential based on Officer's education incentive.

AWARD – Night Availability Pay/Educational Incentive

The Union's proposal is not awarded.

Sergeant Base Rate

In the 2009 - 2012 Agreement the parties agreed that the Sergeant's pay should be set at 23.5% above the patrol officer's base pay. The 23.5% differential has continued since that Agreement, as Superior Officers have now agreed to the same base wage increases that were awarded to Police for the 2012 – 2015 period.

Union's Proposal

The Union proposes to increase the rank differential between Sergeant and Patrol Officer to 25%; a 1.5% increase over what now exists. The Union also contends that it is important to preserve and retain the rank differential that now exists in the parties' Agreement.

City Proposal

The City opposes the Union's proposal to increase the differential, which essentially amounts to an additional 1.5% increase to base wages above and beyond the across the board increase. The City maintains that there is no justification for such an increase. The City argues that the current differential of 23.5% is now the highest differential in the comparable communities. Moreover, the City argues that it is well settled precedent that such fixed differentials between two distinct bargaining units is an impermissible subject of bargaining, and should not be awarded in this Interest Arbitration Proceeding.

Discussion

A review of the rank differentials in comparable communities shows the following differences:

MUNICIPALITY	Sergeant - Patrol Differential	Lieutenant – Sergeant Differential	Captain - Lieutenant Differential
Arlington (FY2018)	18%	17%	16%
Brookline (FY2016)	20%	17%	17%
Cambridge (FY2018)*	15.2% (18.9%)	18%	18%
Lowell (FY2018)	20%	12%	12%
Malden (FY2017)	14%	14%	14%
Medford (FY2015)**	12%	16%	16%
Melrose (FY2015)	19%	16%	n/a
Newton (FY2014)	21.50%	17%	17%
Quincy (FY2020)	23%	23%	23%
Waltham (FY2016)	18%	18%	18%
Average	18.10%	16.80%	16.80%

*CBA does not specify sergeant's pay is tied to patrol; higher number includes Master Patrol rate received after 5 years.

** CBA does not specify sergeant's pay is tied to patrol. MOA for period FY16 to FY19 adds base pay increases ($2,251, $2,612, and $3,028) to superiors' top steps (1/1/18).

The current differential between ranks in Somerville for sergeant is 23.5% above patrol officers, a Lieutenant

is 17.5% above Sergeant, and Captain is 17.5% above Lieutenant. As discussed above, the pay rate at all ranks for Somerville is considerably higher than the average, and the set differential for Somerville Superiors is higher than in those communities that specify rank differentials. Moreover, as stated above, the base wage rates of Somerville Superior Officers is well above the average rates paid to superior officers in other communities.

For the first three years of the Agreement under consideration, the wage increase provided to Patrol Officers is the same that will be provided to Superior Officers. Thus, the existing rank differential has been preserved. For the second three years of the Agreement Patrol Officers have not yet settled. Thus, it cannot be concluded that the differential between ranks has been eroded.

Although the Panel will not change the current rank differentials that now exist, the Panel recognizes the importance of rank differentials for Somerville Superior Officers and the past history of the parties negotiating over the subject of differentials. Accordingly, language will be added to the parties' Agreement that for the period of FY 2016 through 2018, should the Somerville Patrol Officers Association agree to higher across the board base wage increases, or should Somerville Patrol Officers be awarded an across the base wage increase higher than granted in this Award, the Union may request to reopen the Agreement, the reopener being limited specifically to the issue of base wage increases for the three year period.

AWARD – Rank Differential

The Union's proposal to modify the current rank differential is not awarded. There shall be added to the

Agreement language that provides for re-opener limited to base wage rates increases should Patrol Officers agree or be awarded base wage rate increases higher than awarded in this proceeding for the period of FY 2016 through FY 2018.

Article XIX – Senior Longevity Pay

The current longevity stipend for Superior Officers is as follows:

	5 YRS	10 YRS	15 YRS	20 YRS	25 YRS	30 YRS
Police Superiors	$200	$300	$800	$2,300	$3,400	$5,000

Under the current Agreement, only those Superior Officers who do not receive educational incentives receive the longevity stipend. There is also a one-time payment of $3,000 for those Superior Officers who have attained thirty years of service.

Union Position

The Union proposes to add a Senior Longevity schedule as follows:

5 Years of Service	$0
10 Years of Service	$0
15 Years of Service	$2,000
20 Years of Service	$2,500
30 Years of Service	$3,000

Under the Union's proposal, this longevity stipend would be available to those Superior Officers who also receive an educational incentive. The Union maintains that currently Somerville Patrol Officers and Somerville Firefighters receive longevity payments, and such payments are not tied to whether the employees receive an educational incentive, which both Patrol Officers and Firefighters also receive.

The Union also maintains of the comparable communities, all but Cambridge provide longevity benefits to all employees, without any condition as to whether the employee is receiving an educational incentive. The Union states that Cambridge provides a Master Superior Officer Differential, which is tantamount to longevity payments. The Union states that its longevity proposal would fall in the middle of the communities that now provide longevity payments to officers.

City Position

The City opposes the Union's proposal. The City states that years ago the parties agreed to provide longevity benefits to those employees who do not receive Quinn Bill benefits, with the intent that Superiors would pursue higher education, and that this, in fact occurred. The City further states that it is not unusual that Police who receive educational benefits do not also receive longevity benefits, as this is the case in Malden and Cambridge, which entirely eliminated longevity in 1977.

Discussion

The chart below shows longevity payments for comparable communities.

Community	5 YRS	10 YRS	15 YRS	20 YRS	25 YRS	30 YRS
Arlington	1%	2%	3%	4%	5%	5%
Brookline	$0	$500	$650	$800	$800	$1,000
Cambridge*	$0	$0	$0	$0	$0	$0
Lowell		.03% each yr				9%
Medford	$0	$300	$300	$700	$1,100	$1,100
Malden**		3%	3.5%	4%	10%	10%
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		7.5%	8.5%	9.5%	9.5%	9.5%

* Cambridge provides a masters superior stipend after five years.
** Malden – only available to officers not receiving education.
*** Quincy – after 28 years officers receive 5% above the final step, and at 29 years officers receive an additional 5%.

The chart demonstrates that there is a wide variation in longevity payments from community to community. There is no prevailing pattern; some communities pay longevity on a percentage basis and some on flat dollar basis.

The comparison of longevity payments for other City of Somerville employees is as follows:

	5 YRS	10 YRS	15 YRS	20 YRS	25 YRS	30 YRS
Somerville Fire	$300	$400	$900	$1,650	$2,200	$2,200
Police Officers	$0	$0	$0	$800	$1,600	$3,200
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

It also appears that Somerville Patrol Officers and Firefighters currently receive longevity payments and their longevity payments are not tied to whether the employee receives educational incentive payments.

The Union's proposal would dramatically increase the longevity payments at the 20 and 25 year levels from what now exists for Somerville Patrol Officers. Moreover, granting the Union's request would provide two longevity schedules; one for those officers who do not have educational incentives (which is at the higher rates), and another for those who have educational incentives. There is no justification to provide two levels of longevity payments for Superior Officers, and there is no justification to award a longevity schedule that is different from what now exists for Patrol Officers. It

would certainly appear that the Union's longevity proposal would be more costly than the longevity schedule now in effect for Patrol Officers, as its proposal dramatically increases the payments that Officers would receive upon fifteen, twenty, and twenty-five years of service.

As Patrol Officers now receive longevity payments no matter whether they also receive educational benefits, it is appropriate that Superior Officers have the same longevity schedule as the Patrol Officers. This being the case, there should only be one longevity schedule, and no longer a separate and higher schedule as exists for those Superior Officers who do not have educational incentives.

Accordingly, as of July 1, 2017, the longevity schedule in place for Patrol Officers should be added to the Superior Officers' Agreement. The current longevity schedule for those Superior Officers, who do not have educational benefits, shall be eliminated from the Agreement as of July 1, 2017. Any Superior Officer who currently receives the payments provided by the current schedule shall be grandfathered, and continue to receive those longevity payments so long as they do not receive any educational payments. Finally, in view of the Panel's Decision to award the same longevity schedule as exists for Patrol Officers effective July 1, 2017, the one-time longevity payment of $3,000 to Superior Officers who reach thirty year of service will be eliminated effective July 1, 2017.

AWARD – LONGEVITY PAY

The Panel awards the following changes in longevity payments for Superior Officers. As of July 1, 2017, the longevity schedule in place for Patrol Officers should be added to the Superior Officers' Agreement, and shall be

paid irrespective of whether the Superior Officer also receives educational payments. The current longevity schedule for those Superior Officers, who do not have educational benefits, shall be eliminated from the Agreement as of July 1, 2017. Any Superior Officer who currently receives longevity payments provided by the current longevity schedule shall be grandfathered and continue to receive those longevity payments so long as they do not receive any educational payments. Finally, the one-time longevity payment of $3,000 to Superior Officers who reach thirty years of service will be eliminated effective July 1, 2017.

Article New – Hazardous Duty Pay/Weapons Pay

The parties' current Agreement provides for an annual Weapons of Mass Destruction stipend of $500.00 and an annual Weapons Qualification stipend, currently between $425.00 and $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 an employees' base pay.

The Union maintains that its proposal recognizes the unique hazards of police work in a major urban area, and ensures that the compensation would be part of superior 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 duty payments are now 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 weapons qualifications payment is intended to reward officers 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.

The City further states that Firefighters 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 and Superior Officers. For Somerville Firefighters the $1,000 hazardous duty stipend is paid in flat dollars, and is not rolled into their base pay.

Moreover, the City contends that eliminating the current payments and substituting a hazardous duty pay of 3% would be a significant increase in overall compensation, which is not warranted. The City also states that this issue was proposed by the Union in the Patrol Officers Arbitration proceedings, and was rejected, and there is no good reason at this time to now award this proposal for the Superior Officers

Discussion

This was an issue that was raised by the Patrol Officers in their recent arbitration, and the Arbitrator Panel rejected the Union's proposal. The neutral Arbitrator wrote:

> 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 Firefighters 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.

Both Superior Officers and Patrol Officers receive the same weapons qualification pay and the Weapons of Mass Destruction pay. To grant the Union’s proposal would not be an insignificant cost. Accordingly, there is insufficient justification to grant the Superior Officer’s proposal, when the benefit was not granted to the Patrol Officers in the prior arbitration proceeding.

AWARD – HAZARDOUS DUTY PAY

The Panel does not award the Union’s proposal.

Weekend Differential

In the current Agreement Superior Officers receive $4.00 per hour for working weekend days, and $3.00 for working the first half night on weekends.

Union Proposal

The Union proposes to increase the weekend day differential to $7.00 an hour and increase the night differential for working to weekends to $6.50. The Union states that its proposal would equalize the weekend

differentials to the amounts currently received by Patrol Officers. The Union maintains that it is reasonable and fair that Superior Officers receive the same weekend differentials provided to Patrol Officers.

City Position

The City opposes the Union's proposal. The City states that there is no good reason to increase the weekend differential as the total compensation for Superior Officers is well above average. Moreover, the City states that a review of the comparable communities shows that weekend differentials are not a common benefit for Superior Officers.

Discussion

Patrol Officers now receive a higher weekend differential rate than Superior Officers. It is appropriate and reasonable that Superior Officers receive the same weekend differential. Accordingly, the weekend differential rates for Superior Officers should be increased to $7.00 for day differential and $6.50 for the weekend night differential. This increase shall be effective June 30, 2018.

Award - Weekend Differential

The Union's proposal to increase the weekend differential is awarded. The higher differential shall commence as of June 30, 2018.

City Issues

The JLMC certified two issues submitted by the City: "Police Chief's Professional Picks" and "Union Leave". The Union maintains that even though the City presented these issues to the JLMC, the City never actually submitted its

proposed language on these two subject matters until a week before the Arbitration Hearing was scheduled to start.

The Union states that parties should not be permitted to present proposals in Arbitration that have never been presented during the parties' direct negotiations. The Union contends that the parties should have an opportunity to discuss proposals during their direct negotiations and not be presented with proposals for the first time at interest arbitration. The Union maintains that such tactics defeat the purpose of collective bargaining, which is for the parties to first address topics in their direct negotiations before presenting the proposals at interest arbitration, which is the final step of the negotiation process. Accordingly, the Union argues that the City's proposals relating to Police Chief's Professional Picks, and Union Business Leave should not be considered by this Arbitration Panel.

The Arbitrator recognizes that the collective bargaining process is best served when the parties have an opportunity to review and discuss the merits of specific proposals during their direct negotiations, well before resorting to interest arbitration. In an agreement dated January 8, 2018, the issues of Professional Picks and Union Leave were listed as issues to be raised by the City in the arbitration proceedings. Whether the Arbitration Panel agrees that a party has demonstrated the need to change an existing contract provision, the Panel, nonetheless, believes that it must consider and address the issues certified by the JLMC to be decided in this Interest Arbitration proceeding. Accordingly, the fact that the City did not present the actual language of its proposals to the Union until two weeks before the Arbitration hearings,

while unusual, does not bar the City from presenting its specific proposals and the Panel will consider these issues in this proceeding.

Article XVIII – Seniority Professional Picks

The parties have detailed language on seniority bidding and what assignments are excluded from seniority bidding, Known as Chief's Picks. At the present time Patrol Supervisor positions and positions of Lieutenant Detail Supervisor, Lieutenant Day Detective Commander, Lieutenant Night Detective Commander, Lieutenant Family Services Coordinator, Lieutenant Traffic Commander, Sergeant Traffic Supervisor, Sergeant Night Detective Supervisor first and second positions, Sergeant Superior Court/Evidence, Sergeant Police Supervisor are bid by seniority.

City Position

The City proposal is as follows:

> Notwithstanding any prior contract provision or past practice the following provisions shall govern the selection and assignments of Superior Officers not in the Patrol Division. By making this proposal the City does not waive, but rather reserves, all rights of the Police Chief to assign officers as a non-delegable managerial prerogative under established case law.
>
> 1. The Chief of Police shall determine what non-patrol assignments and functions to create and fill, and the decision not to fill a particular assignment shall not diminish the Chief's right to do so in the future.
>
> 2. All Captain's duties shall continue to be assigned by the Chief.
>
> 3. Posted Lieutenant and Sergeant assignments outside of patrol shall be made by the Chief using his discretion to select the most qualified Superior Officer to best address current Public Safety concerns.

The City maintains that under Section 4A of the JLMC statute the right to assign is a non-delegable management right that is vested with the Chief of the Department. The City states that this management right is predicated on the interests of public safety and cannot be a subject to this interest arbitration proceeding. The City contends that the Chief should be the entity that decides whether it is necessary to fill a specialty assignment, that appointments should be made based on qualifications, and that there should be no limitations on the length of time for the specialty assignment. The City states, for example, that the Lieutenant assignment for Special Operations is a Chief's Pick, but the Sergeant's Special Operations position is a seniority pick, and this is illogical.

The City further contends that positions of Homeland Security, CID, Court Liaison, Lieutenant Night CID, Lieutenant Traffic Commander, Lieutenant Day Detective, Sergeant Traffic Supervisor, and Sergeant Special Operations should not be seniority picks but should be based on qualifications and the decision who should fill these positions should be made by the Chief, not based on solely on an employee's seniority.

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 further maintains that the City never presented any reason to the Union during direct negotiations as to the need for the wholesale revision of the contract language and modifying the parties' past

practice. Moreover, the Union states that there has been insufficient justification presented during the arbitration hearing to justify the change presented by the City, as the Chief has indicated that the incumbents holding the current positions are performing in an excellent manner.

Discussion

The parties have negotiated over the topic of specialty assignments for many years. The oldest contract introduced into evidence in this proceeding was for the period 1997 through 2000 and the subject of job picks was set forth in that Agreement. In fact, that Agreement refers to a 1987 Agreement that excluded certain designated positions from seniority bidding. That is a more than a thirty year history in which the parties have negotiated over which specialty positions should be excluded from seniority bidding. Indeed, in the most recent Agreement (2009-2012) the parties agreed upon and made changes, and added a position to be a Chief’s Pick. This Arbitration Panel will not nullify this long established history and practice of negotiating over this subject matter.

As was the case with the Patrolmen, the subject of certain specialty positions was raised in Arbitration, and the Panel in that case made modifications to the language as the evidence warranted changes in the current language. In the present case, there is no evidence that there are operational problems with the current specialty assignments. Specifically, the Chief indicated that those Superior Officers assigned to the various specialist positions are doing an excellent job. If the City seeks to change what positions should be deleted or to add additional positions from the seniority bidding process, this matter must first be addressed in the parties’ direct

negotiations. This can certainly occur now, as the Agreement under consideration expired this past June, and the parties will soon engage in negotiations for a successor Agreement and can directly negotiate as to changes that should be made to the current contract language.

Award - Article XVIII – Seniority Professional Picks

The City's proposal is not awarded.

Article III – Employee Rights

Article III of the current Agreement provides as follows:

* * *

> Section 2. Association officers (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 four (4), 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 daytime 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, representatives, and grievance committee members, not to exceed three (3), may while on duty request permission to attend meetings of the Board of Aldermen 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. In addition to all other Association leave provided in this Article, the President shall receive two (2) shifts off per week without loss of pay or benefits for Association Business. All other executive Board members shall receive four (4) hours off per month without loss of pay or benefits for Association Business. In the absence of the President, the Vice President or other E-Board member so designated shall maintain the duties of the President and receive the two (2) shifts off without loss of pay or benefits for Association Business. Leave under this section shall be subject to approval by the Chief of Police, but shall not be unreasonably denied. The Chief shall have the right to deny the second day and/or the four hours off if replacement will cause overtime.

City Proposal

The City proposed the following language Bold is proposed new language:

a. Article III, section 2. **Except as herein provided, Union business shall be conducted by Association officials on off-duty hours.** Association officers (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 form the Chief or his designee **in advance. Such officers shall also be granted reasonable time off from duty to represent employees at disciplinary hearings and investigations/interrogations, district court proceedings, or otherwise before the Department Head and/or Command Staff, or at the office of the Mayor. Association officials and representatives shall conduct Association business in a manner which shall not be disruptive to the City's operations or any City employee's work. The Association will furnish the City with a list of the designated Association officials.**

b. Article III, DELETE Section 6 of the current Agreement.

The City states that the evidence demonstrates that there has former Union President abused union business leave and that many of the days the former Union President took leave for Union business to work paid details. The City contends that this demonstrates that there was no need to conduct Union business on these dates, and that the current Agreement provides more Union release time than is necessary to attend to Union business.

Moreover, the City contends that the Union cannot show why it needs so much time off as the evidence demonstrates that hardly any grievances or prohibited practice charges have been filed by this Union that would require so much time off. The City states that there is no justification to continue the time off provided by Section 6, and this Section should be deleted.

Union Position

The Union first maintains that the City has not presented justification to amend Section 2. The Union states that there has never before been a requirement of advance notice to utilize Union business. The Union also contends that there is insufficient justification to delete

Section 6 of the current provision. The Union acknowledges that the former Union president did use Union leave to work paid details. The Union states, however, that the current provision provides that leave is subject “to approval of the Chief”. The Union maintains that the Department never required the former Union President to justify his leave, and thus is partly to blame for allowing this use of Union Leave.

Discussion

The City’s proposal to modify Section 2 is reasonable. Specifically, it specifies those instances in which Union officials can take time off and the reasons for the leave. It is also appropriate that permission for the leave be requested in advance. Specifically, Superior Officers have major responsibilities overseeing Patrol Officers and the various divisions of the Department. Their primary responsibility must be to ensure the operation of the Department. Moreover, the City’s proposed change will allow for better record keeping of those instances in which Union leave is taken, preventing disputes over the use of such time.

Section 6 was added to the parties’ Agreement in the 2006-2009 Agreement. The evidence demonstrates that a former Union President was taking such leave, and working paid details. This certainly demonstrates that there was no need for so much leave time. Accordingly, this is a situation in which sufficient justification has been presented to modify the status quo. Prior to 2006-2009 the Association President was granted one shift off per week. It is therefore appropriate to revert back to the previous practice and grant one shift per week. This change shall be

effective thirty days after the implementation of this Award.

AWARD - ARTICLE III – Employee Rights

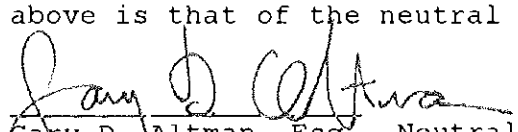
Article 3 shall be amended to read as follows:

> Section 2. Except as herein provided, Union business shall be conducted by Association officials on off-duty hours. Association officers (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 in advance. Such officers shall also be granted reasonable time off from duty to represent employees at disciplinary hearings and investigations/interrogations, district court proceedings, or otherwise before the Department Head and/or Command Staff, or at the office of the Mayor. Association officials and representatives shall conduct Association business in a manner which shall not be disruptive to the City's operations or any City employee's work. The Association will furnish the City with a list of the designated Association officials.
>
> Section 6. In addition to all other Association leave provided in this Article, the President shall receive one (1) shift off per week without loss of pay or benefits for Association Business. All other executive Board members shall receive four (4) hours off per month without loss of pay or benefits for Association Business. In the absence of the President, the Vice President or other E-Board member so designated shall maintain the duties of the President and receive the two (2) shifts off without loss of pay or benefits for Association Business. Leave under this section shall be subject to approval by the Chief of Police, but shall not be unreasonably denied. The Chief shall have the right to deny the four hours off if replacement will cause overtime.

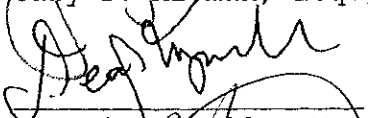
Conclusion

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

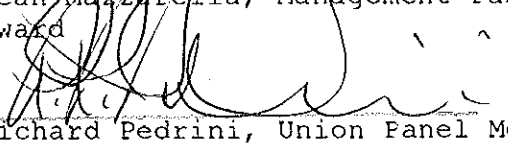
Somerville. It must be noted that the reasoning set forth above is that of the neutral arbitrator.



Gary D. Altman, Esq., Neutral Arbitrator



Dean Mazzarella, Management Panel Member, concurs in this Award



Richard Pedrini, Union Panel Member, Dissents on the issue of wages but concurs in all other issues in this Award

Dated: October 3, 2018