

City of Boston and Boston Police Patrolmen's Association

JLMC No. 12-32P

AWARD

The panel convened pursuant to the joint submission of the parties after a declaration that the parties were unable to agree to the terms and conditions of a new collective bargaining agreement for the period commencing July 1, 2010.

Following a multi-day hearing where all parties were afforded the opportunity to present evidence and arguments, and following the deliberation of the panel, and with full consideration of the factors identified in the statute, a majority of the panel agree as follows:

Duration

There will be two, three-year contracts:

First Contract: 7/1/10-6/30/13

Second Contract: 7/1/13-6/30/16

Compensation

Base Wage Increases:

January 1, 2011 (FY11): 2.5%

July 1, 2011 (FY12): 1.0%

July 1, 2012 (FY13): 1.0%

October 1, 2013 (FY14): 3.0%

October 1, 2014 (FY15): 3.0%

October 1, 2015 (FY16): 3.0%

One Time Parity Adjustment:

After the 3% base wage increase on October 1, 2013, all BPPA members will receive a one-time, \$2000 Annual Strip Base Wage increase effective January 1, 2014.

Educational Incentive Program:

Quinn:

Quinn incentives will remain at 50% through FY13. Incentives will gradually increase starting on July 1, 2013, as follows: FY14 to 65%; FY15 to 70%; and FY16 to 50% + a flat amount. In FY16, 50% + the flat amount will equal approximately 75%.

These flat amounts in July 2015 (FY16) will be:

Associate: \$2,100

Bachelor: \$4,100

Master/JD \$5,100

Post Quinn Hires

Starting in July 2013 (FY14), post-Quinn hires with equivalent education will receive a New Education Incentive equal to benefits described above, except there will be no program incentive for post-BA degrees.

Longevity Benefits

New Longevity benefits will replace existing career pay and only be available to those members not receiving educational incentives. Starting in July 2013 (FY14), the Longevity benefits will be as follows:

5 Years: \$2,000

10 Years: \$4,000

15 Years: \$6,000

20 Years: \$8,000

Cumulative Risk Enhancement Adjustment

After the 3% base wage increase on October 1, 2013, a new 20 year Strip Base, equal to the 3rd year Annual Strip Base Wage plus \$3,000, will exist effective July 2014 (FY15). This new 20 year Strip Base will be the new Strip Base for all BPPA members with 20-24 years of service, regardless of eligibility to receive other career or education payments. This adjustment does not impact the 3rd year Annual Strip Base.

After the 3% base wage increase on October 1, 2013, a new 25 year Strip Base, equal to the 3rd year Annual Strip Base Wage plus \$6,000, will exist effective July 2014 (FY15). This new 25 year Strip Base will be the new strip base for all BPPA members with 25 or



more years of service, regardless of eligibility to receive other career or education payments. This adjustment does not impact the 3rd year Annual Strip Base.

Retroactive Overtime:

Retroactive Overtime increases are waived before July 1, 2013, the effective date of the current Collective Bargaining Agreement.

Safe Street Teams

A new subsection 7 will be added to Section 1(b) (Shift Selection Based Upon Seniority) of Article IX (Hours of Work and Overtime). The new subsection 7 to Section 1(b) will provide as follows:

There shall be a Safe Street Team (SST) Unit whose purpose shall be to deploy teams of officers to specific locations that the Police Commissioner determines would benefit from a concentrated police presence. The SST members will focus on interacting with residents and business owners and will primarily, but not necessarily exclusively, utilize foot patrols and bicycle patrols, as opposed to patrol cars, to maximize the time members are interacting with the public. Members of a SST may respond to radio calls for service ordinarily handled by district patrol officers if the call corresponds to their assigned SST location. However, they will generally not respond to radio calls for service outside of their assigned location.

Examples of specific locations to which a SST may be deployed include, but are not limited to, a neighborhood, housing development, business district or park or playground such as: Bowdoin/Geneva; Downtown Crossing; Codman Square; Grove Hall; Franklin Field; Lenox Street Housing; and Uphams Corner.

The department shall post, department-wide, Safe Street Team Police Officer (SSTPO) vacancies. All police officers will be eligible to apply for SSTPO vacancies. Selection of an employee for a SSTPO assignment shall be made on the basis of qualifications and abilities as determined by the Commissioner or his designee.

SSTPOs will be part of a centralized unit assigned back to the districts provided, however, that they will be eligible for paid details and non-SST overtime through Area F. The SST unit will have a separate overtime list for SST assignments. The department shall assign overtime arising in the SST unit to SSTPOs consistent with the purposes of the unit as defined in this subsection.



Current SSTPOs who wish to remain on a SST need to apply for a vacancy. If selected, he/she shall be detailed to his/her present assignment and shift.

Equipment and uniforms for SSTPOs will be provided without affecting officers' current uniform allowance.

City's Holiday Proposal

denied

Union Release Time

The following language will be added to the end of Article IV, Section 2:

Officers covered by Section 2 shall not be compensated in any matter for Section 2 covered activities performed on a regularly scheduled day off or vacation day, or other leave days, except for meetings attended by: agents of the city, arbitrators, mediators, representatives of labor relations and labor and employment agencies who request their attendance. Officers attending such meetings on a non-working day when the activity cannot be rescheduled shall receive a minimum of 4 hours compensatory time, and after that shall receive compensatory time on an hour for hour basis.

Injured on Duty Status

The City withdrew its proposal on this issue.

Compensatory Time Revisions

Add to Article IX ("Hours of Work and Overtime") a new Section 7 entitled "Compensatory Time" to provide as follows:

I. Accrual of Compensatory Time: Members of the BPPA may only earn compensatory time in lieu of overtime for service performed in the following categories:

A. Officer Initiated Out of Turn Service:



i. "Officer Initiated Out of Turn Service" shall be defined as an out of turn tour of duty which is substituted for a regularly scheduled tour of duty by mutual agreement between the Department and the employee.

ii. An officer may be allowed to swap tours of duty outside of his/her regularly assigned shift (day tour for night tour, etc.). The out of turn tour must be worked prior to the regularly scheduled tour of duty being taken off.

iii. When an officer requests to work an out of turn tour of duty, the officer must specifically designate the regularly scheduled tour(s) of duty he/she intends to take off. Such tour(s) must be within the same Fair Labor Standards Act ("FLSA") pay period as the day the officer "worked in."

iv. Upon receiving a written request to work an out of turn tour of duty, signed by the affected officer(s), the commanding officer may allow the swapping of a tour of duty as described herein. The commanding officer's discretion is paramount in these cases and his/her decision is not subject to Article VI ("Grievance Procedure and Arbitration").

v. An officer is not entitled to a guaranteed minimum number of hours for "Officer Initiated Out of Turn Service." All time will be calculated based on actual hours worked. Accrued time must be used in full shift increments and the bargaining unit member must have sufficient accrued time for each shift he/she "works out."

B. Officers Performing Certain Administrative Functions: Time and Attendance Clerks, Detail Clerks, and Chief Clerks performing certain administrative functions pursuant to Article XVI, Section 24 of the collective bargaining agreement may, at the discretion of the Captain, earn compensatory time for service he/she performs on behalf of another officer performing the same administrative functions. Such officers shall accrue said compensatory time on a straight time ("hour for hour") basis unless overtime compensation is required pursuant to the Fair Labor Standards Act (FLSA).

C. Training: An officer is entitled to earn compensatory time in accordance with Article IX ("Hours of Work and Overtime"), Section 3(F) ("Training").

D. Overtime Service on a Vacation Day: An officer who is called in for overtime service during his/her vacation shall receive, in addition to the overtime compensation otherwise provided under Article IX, Section 4(A) of the collective bargaining agreement, a compensatory day off for each such day of vacation on which he/she performs overtime service.



E. Department Meetings: By mutual agreement between the Department and the employee an officer (or officers), other than Community Service Officers, may attend a meeting other than on the officer's regular tour of duty, without regard to the "low man" principle, if there is a special need for sending the selected officer(s) to the meeting or event, i.e. sending an officer familiar with crime in a particular location to a meeting about crime in that particular location. The selected officer(s) shall accrue compensatory time on a straight time ("hour for hour") basis for attending the meeting or event unless overtime compensation is required pursuant to the Fair Labor Standards Act (FLSA).

F. Voluntary Assignments: By mutual agreement between the Department and the employee, the Department shall have the right to grant compensatory time in lieu of pay for the following voluntary assignments:

- i. Award ceremonies
- ii. Funeral escorts/wakes
- iii. Gaelic Column
- iv. Honor Guard
- v. Community meetings and events such as mentoring programs, community crime prevention meetings, basketball games, tennis programs, or any other activity designed to improve relationships between the Department and the community.

Employees who earn comp time in lieu of overtime for the categories of service listed in Section 1 F shall receive a minimum of four (4) hours of compensatory time.

An employee shall receive comp time on an hour for hour basis for any work that is performed in excess of four (4) hours in these above-mentioned categories, unless otherwise required by the FLSA to be 1.5 hours per hour.

G. The Parties agree that a lunch break is not considered "hours worked" for purposes of accruing FLSA compensatory time.

2. Compensatory Time Banks

A. The Department will establish two compensatory time banks. One compensatory time bank shall be used to record contractual compensatory time earned for each officer and the other bank shall be used to record FLSA compensatory time earned for each officer.

- a) Effective January 2014, the maximum number of hours an employee may have in his/her FLSA and Contractual Comp time bank combined shall be one-hundred and sixty (160) hours. In January of 2014 the City will make a payment to each



employee to bring his/her combined bank down to a total of one-hundred and sixty (160) hours.

b) Effective January 2015, the maximum number of hours an employee may have in his/her FLSA and Contractual Comp time bank combined shall be eighty (80) hours. In January of 2015 the City will make a payment to each employee to bring his/her combined bank down to a total of eighty (80) hours.

c) From January, 2014 forward, if an officer accumulates more than one-hundred and sixty (160) hours in his/her banks combined, then the Department will pay the officer the number of hours necessary to bring his/her banks down to one-hundred and sixty hours. The Department will process these adjustment payments at least once per calendar quarter.


d) From January, 2015 forward, if an officer accumulates more than eighty (80) hours in his/her banks combined, then the Department will pay the officer the number of hours necessary to bring his/her banks down to eighty (80) hours. The Department will process these adjustment payments at least once per calendar quarter.

e) If an officer exceeds the applicable maximum hours in his/her banks combined, s/he shall not be permitted to perform any additional "Officer Initiated Out of Turn Service" until he/she drops below the applicable maximum hours in his/her banks combined.

3. Use of Compensatory Time:

A. Any and all requests to use compensatory time other than "Officer Initiated Out of Turn Service" which is governed by Paragraph 1(A) of this Section, shall be made pursuant to the following procedures:

- i. The officer shall make a written request for the use of compensatory time off using form 0047-BFS-1011.
- ii. Compensatory time may only be used in full tour increments.
- iii. Officers requesting to use either contractual or FLSA compensatory time shall make a written request at least ninety-six (96) hours before the beginning of the first shift in which the compensatory time off would fall.
- iv. A request to use FLSA compensatory time shall be subject to the standard as set forth in the Fair Labor Standards Act ("FLSA") and interpreted by the courts.
- v. If the Department approves an officer's request to use compensatory time, the Department shall first deduct the compensatory time from the officer's FLSA compensatory time bank. If the officer does not have any compensatory time in



his/her FLSA compensatory time bank, the Department shall deduct the compensatory time from the officer's contractual compensatory time bank.

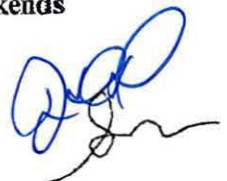
B. The following restrictions apply to the use of compensatory time:

1.
 - i. The City is not required to grant any request(s) to use compensatory time where the Police Commissioner determines that staffing levels must be temporarily increased to meet public safety needs. This includes but is not limited to the following events/circumstances: First Night, Boston Marathon, Caribbean Festival, July 4th, major sporting events, major cultural events, and weather emergencies.
 - ii. If an officer is receiving minimum hours for any overtime service, i.e. court overtime and recall overtime, he/she shall not be eligible to earn compensatory time until the period for which he/she is receiving compensation for the minimum hours has concluded.
 - iii. Notwithstanding Paragraph 3(B)(ii) of this Section, if an officer is off duty pursuant to a C-Day, E-Day, P-Day, L/O day, vacation day, compensatory day, blood or cancer day, court vacation day, administrative leave, absent pending, bereavement leave, holiday, sick day, IOD, small necessities leave act day, FMLA, military leave, training day, SWO or suspension, he/she shall not be allowed to earn compensatory time on any tour of duty during that calendar day.
2.
 - (i) In any district or unit with greater than 25 officers, on weekdays (any shift between 4 p.m. Sunday through 4 p.m. Friday), up to four (4) officers may use **contractual** compensatory time, and on weekends (any shift from 4 p.m. Friday through 4 p.m. Sunday) up to three (3) officers may use **contractual** compensatory time during any month of the year ("low season") **except** the 14 summer vacation weeks and the 2 weeks around Christmas ("high season"), during which each of these totals shall be reduced to three (3) and two (2) officers, respectively;
 - (ii) In any district or unit with fewer than 25 officers, up to two (2) officers may use **contractual** compensatory time during any month of the year **except** the 14 summer vacation weeks and the 2 weeks around Christmas, during which this total shall be reduced to one (1) officer.
 - (iii) **Provided, however**, that the number of officers on contractual compensatory time where there are also officers on the shift on FLSA compensatory time shall be determined in accordance with the following chart:

Unit Size

Low Season Wkdays

Low Season Wkends



Greater than 25:

FLSA comp time officers off 0 1 2 3 4 5 6 or more

0 1 2 3 4 or more

CBA comp time Dept must allow 4 4 4 3 2 1 0

3 3 2 1 0

High Season Wkdays**High Season Wkends**

FLSA comp time officers off 0 1 2 3 4 or more

0 1 2 3 or more

CBA comp time Dept must allow 3 3 2 1 0

2 2 1 0

25 or Fewer:**Low Season (all days in a week)**

FLSA comp time officers 0 1 2 3 or more

CBA comp time Dept must allow 2 2 1 0

High Season (all days in a week)

FLSA comp time officers 0 1 2 or more

CBA comp time Dept must allow 1 1 0

C. Upon separation of employment from the Department, employees shall receive compensation for all accrued but unused compensatory time.

D. Additional use of contractual compensatory time over and above that which is outlined in Paragraph 3 B(2) hereof may be approved at the commanding officer's discretion. The commanding officer's decision to deny the additional use of contractual compensatory time over and above what is outlined in Paragraph 3 B(2) of this section shall not be subject to the grievance procedures of the contract.

E. The parties shall meet semi-annually to review the use of compensatory time. The Department shall provide details of compensatory time usage at those meetings.

Add a new Paragraph E to Article IX ("Hours of Work and Overtime"), Section 3 ("Overtime Service") to provide as follows:



E. Community Service Officers (CSO's) who are assigned to attend community meetings or functions/events beyond their normal work hours with the approval of their Captains, shall only be compensated in the form of overtime payment for additional time on duty to attend the community meeting or function/event and in accordance with Article IX Sections 3 and 4, including the 4 hour recall pay when applicable. CSO's shall not be eligible to earn compensatory time for attending community meetings or functions/events beyond their normal work hours.

By Direction of the Arbitrator

Members of the BPPA will switch from a 7 day work period to a 28 day work period consistent with FLSA regulations.

GPS

1. The Department may implement GPS any time within 45 days after funding of the award.
2. The City shall provide notice to all officers 45 days prior to implementation that GPS will be installed and implemented in department vehicles; that it will display in real time on a video screen the location, movement and speed and that it will record for later reference all information displayed.
3. The information delivered by the devices during their first 6 months of operation shall not be used by the department for disciplinary action of officers.
4. When the Department receives a public information request or a subpoena for GPS information involving a patrol officer, the department shall notify the officer, furnish a copy of the subpoena and allow the officer reasonable time to oppose or otherwise react to the subpoena.

Other impact bargaining issues identified in the Supplemental submission were resolved.

Union Overtime Proposal

The neutral arbitrator denied the Union's proposal.

Union Sick Leave Proposals

The neutral arbitrator denied the Union's Proposal.

Vacation Buy Back




Amend Section 18 to permit the annual buy out of unused vacation: An officer who earns five or more weeks annually may redeem up to four weeks; an officer who earns fewer than five weeks annually may redeem up to three weeks.

Promotional Exam

The neutral arbitrator denied the Union's proposal.

Respectfully submitted,

Timothy J. Buckalew, Esq., Panel Chair and Neutral Member


Susan Horwitz, Union Appointed Member

9/27/13

See Attached Dissent 

John Dunlap, City Appointed Member



CITY OF BOSTON OFFICE OF ADMINISTRATION & FINANCE

City of Boston and Boston Police Patrolmen's Association JLMC No. 12-32P

Dissent by the City of Boston Panel Member John Dunlap

This award grants a salary increase of 25.4% to police officers over a six-year period and will cost the taxpayers more than \$80 million – more than twice as much as the City's offer would have cost. It has been the history in the Police Department that superior officers and detectives unions receive parallel increases, which would drive the total implications of this award significantly higher. I believe the award is unfair to Boston's taxpayers and to the vast majority of the City of Boston's hardworking, lower-paid union employees who voluntarily settled for less than half of what this panel has awarded to the police.

Listed below are two primary reasons for my dissent:

The Award is based on a "parity" argument that has no established definition and can always be used as a justification to spend more.

The principal argument made by the police union was that it wanted to achieve "parity" with firefighters. The panel, however, did not acknowledge that even prior to any salary increases under the new contract, police and firefighter total compensation and total working hours were virtually identical. The City's witnesses demonstrated that in 2012, after firefighters received a FY11 increase, but before any increase was awarded to police officers, police officers actually earned slightly more than firefighters: \$109,847 average earnings for police, \$109,090 average earnings for firefighters, both including details and overtime.

The panel failed to take into account the "overall compensation" earned by police officers. The panel did not give any weight to the overtime, pay for time not worked, and paid detail earnings of the police officers, all of which are critical elements of police officer compensation. The City's evidence demonstrated that police officers, on average, earned more than \$13,000 in overtime annually in FY12; and more than \$18,000 in paid details, which all parties acknowledged were a critical component of officers' earnings. The record showed that many officers earn far more than these averages.

The union offers, and the arbitrator accepts, an invitation to define "parity" in terms of pensionable earnings, thereby knocking the value of police details and overtime out of the evaluation of total compensation. By doing so, the majority of the panel is able to reach the conclusion that "parity" does not exist between rank-and-file police and firefighters. The panel then uses this rationale to award the union a contract that is literally double the value of the contracts that have already been settled with 30 of the City's 40 unions.

Since there is no agreed-upon definition of parity between labor and management, or among unions, or even among arbitrators, the fire union will be well positioned to challenge this panel's definition of "parity" and claim they have a right to a 25.4% award also.

Moreover, if we were to accept the union's position that "parity" should be defined only as pensionable earnings, the panel ignores the fact that the difference in pensionable earnings between police and fire has occurred, in part, due to decisions this union made during previous rounds of bargaining.

The Award Departs from the Established Settlement Pattern for the Current Round of Bargaining

The evidence before the panel showed that prior to this award, the City had settled with 30 of its unions, comprising 76% of all of the City's unionized employees, for six-year contracts totaling 12.3% salary increases, as follows: FY11: 0%; FY 12: 1%; FY13: 2%; FY14: 3%; FY 15: 3%; FY 16: 3%. The group of unions which had voluntarily settled with the City included the Boston Teachers Union (BTU) – the City's largest union. For decades, the BTU had traditionally received higher annual increases than the other civilian bargaining units. The City's settlement with the BTU was a significant milestone in the City's labor relations history, because it finally established the principle that all of the City's employees should be treated equally.

This award uses the ever evolving definition of "parity" to justify a radical departure from the City's well-established six-year settlement pattern. The award will inevitably result in escalating demands by the City's other unions to receive the same amount as the police. It will be difficult for the City to explain to its lowest-paid employees that because they are not entitled to arbitration, they should get only half the raise of police officers.

Conclusion

The record evidence before the panel contained exhaustive testimony by the City's witnesses explaining the extraordinary cost of the union's demands, the effect unwarranted increases would have on police/fire comparative overall compensation, the consequences of a departure from the wage pattern negotiated with thirty of the City's other unions, and the effect an unbudgeted award would have on other City services. The panel's decision fails to fairly consider these issues.

For these reasons I respectfully dissent from the Panel's award.



John Dunlap
Chief of Personnel and Labor Relations
September 27, 2013