

1993-94

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In the Matter of Arbitration \*  
Between \*

Boston Police Superior \*  
Officers Federation \*

and \*

City of Boston \*

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Case No. JLMC-92-21P

Arbitrator's Award  
Joint Labor  
Management  
Commission

Appearances: For the Federation - Alan J. McDonald, Esquire  
For the City - Susan M. Coyne, Esquire

On June 14, 1994 the Joint Labor Management Committee of the Commonwealth of Massachusetts designated the undersigned to serve as the mediator-arbitrator in a dispute between the Boston Police Superior Officers Federation and the City of Boston. The undersigned held a mediation session with the parties on February 22, 1994 in an effort to reach agreement or to narrow some of the issues in dispute. Those efforts were not successful and arbitration hearings were then scheduled for March 28, 29, 30 and 31, 1994. The parties were requested and agreed to submit pre-hearing memorandum in support of their bargaining proposals. Such memorandum were prepared and submitted to the arbitrator prior to the hearing on March 28, 1994.

The hearing was divided equally between the parties with the first day and a half devoted to the Federation's presentation and the second day and a half used for the City's presentation. The last day was divided equally between the parties for their rebuttal. Both parties presented extensive testimony and exhibits in support of their positions. Thereafter they argued orally summarizing their respective positions. After reviewing the entire

record and the relevant statutory standards the undersigned has proposed the following opinion and award.

The Boston Police Superior Officers Federation is the collective bargaining agent for a bargaining unit of approximately 200 uniformed superior officers employed by the City of Boston's Police Department. Within the ranks of sergeant, lieutenant and captain there are 148 sergeants, 30 lieutenants and 17 captains

There are also approximately 1,400 uniformed patrol officers represented by the Boston Police Patrolman's Association. A dispute also exists with that organization and the undersigned has likewise been designated as the arbitrator in that case. Hearings have been scheduled for May 16, 17, 18 and 19, 1994.

There are approximately 110 detectives employed in the ranks of captain/detective, lieutenant/detective, and sergeant/detective who are represented for the purposes of collective bargaining by the Boston Police Detective's Benevolent Society. In February of 1994 the membership of the society voted 55 to 50 to accept a new collective bargaining agreement to replace the prior agreement. The prior agreement expired on June 30, 1990 and the new agreement was not effective until July 1, 1993. The Boston Police Detective's Benevolent Society also represents a separate bargaining unit of approximately 220 non-supervisory detectives. On or about March 11, 1994 the membership of that bargaining unit by vote of 123 to 82 rejected a contract settlement patterned on the settlement accepted by the Detective Superior's unit. These parties as well as the other police units have been in negotiations for several years and have been without a contract since June 30, 1990.

The principal statutory factors governing this arbitration are provided in Chapter 150E of the General Laws of Massachusetts. Relevant factors include the "financial ability of the municipality to pay, the interest and welfare of the public, the hazards of employment physical, educational and mental qualifications, job training and skills involved." Also relevant is the "comparison of the wages, hours and conditions of

employment of the employees at issue with the wages, hours and conditions of employment of other employees performing similar services, and with other employees generally in public and private employment in comparable communities." Also to be considered is the "overall compensation packages of the employees in question" and the "average consumer prices for goods and services commonly known as the cost of living."

The parties presented twelve issues which will be considered seriatim. The most significant issue is salary.

Salaries

The employees have not had an increase since 1990 and the Federation has requested retroactive wage increases to cover the period of July 1, 1990 to June 30, 1993. The City has proposed a 3% increase effective on January 1, 1994, 3% effective January 1995 and 5% effective January 1996 for a three year contract from July 1, 1993 to June 30, 1996. The Federation presented alternate proposals. The first one is called a 1 to 3 proposal, which is 1% for the first year, 2% for the second year and 3% for the third year fully retroactive for each level of increase. The Federation has also introduced what it calls a 1 to 6 proposal which includes rate increases under the timetable contained in the 1 to 3 proposal, but without the realization of any retroactive payments until July 1, 1993. The proposal which the Federation describes as option 2 is described as follows:

Fiscal Year	1991	1992	1993	1994	1995		1996		
Effective Date of Increases	7/1/90	7/1/91	7/1/92	7/1/93	6/30/94	7/1/94	4/1/95	7/1/95	1/1/96
Increase	1%	2%	3%	0%	4%	0%	5%	0%	6%

To justify its proposed retroactive increases the Federation points out that the City had offered on November 27, 1990 a three year contract at 2% a year. It had to withdraw that proposal in early 1991 because of financial reasons, but the Federation points out that the offer is an indication of the value by the services of the officers during

that time period. The Federation introduced a series of exhibits to support its claim for the retroactive pay for the years 1990 to 1993. The Federation particularly notes that the State Police Association of Massachusetts entered into a contract with the Department of State Police for 6% increases for the years 1993, 94 and 95 for a total of 18%. In addition thereto the State Police received a lump sum payment of \$1,500.00 in lieu of retroactive payments for the years 1991 and 1992. The Federation argues that the State Police is the only organization in the state which is at all comparable to the police force of the City of Boston

With respect to comparability the Federation argues that the fact that the City has entered into at 11% increase without retroactivity over a three year period 1993 to 1996 with several of its non-uniformed employees should not be binding upon the Federation, because the work of the police is distinct involving substantial hazards. However on one basis of comparison, retroactivity, the Union argues that a unit of non-public safety supervisors known as SENA received a 4% increase effective July 1, 1990 and a unit of supervisory personnel in the Boston School System received a 4% increase effective September 1, 1990, while for the same period of time the City has not offered any retroactive increase to the police

The Federation also notes the wages increases awarded to the Detective Superiors is a basis for a larger increase for the Federation. The Detective Superiors received 3% on July 7, 1993 and in addition thereto effective on July 7, 1993 they received an additional 1% increase on their base related to the detective differential. On January 4, 1995 they will receive 4% and an additional 4% on July 5, 1995. Then effective July 6, 1994 they are also to receive an additional 2.5% on their base which results in increases of at least 14.5% for the three year period. In addition thereto the differential is to be computed into their base effective on January 1, 1996 for computing all other economic benefits. The clothing allowance for Detective Superiors was also increased as well as increases were granted for educational allowances. The Federation conservatively values those additional

benefits at another 1% for a package of at least 15.5%. With respect to the differential paid for education to the detectives, the Federation states that no such award is given to its members while at the same time there is no special training required for detectives.

As for the other statutory factors to be considered the Federation requests the arbitrator to take notice of the stress faced by police officers at all levels and calls attention to the fact that three officers were killed in the line of duty in the past year. The Federation cites program underway in the City of Boston and elsewhere for community policing, and argues that a heavy responsibility will be placed upon supervision to implement more effective community policing

The Federation's exhibits demonstrate that the cost of living rose from 1989 to July of 1992 by 13.3% under the Urban Wage Earners Index and 14.3% under the All Urban Index. Using a midpoint of 13.8% it shows how far behind the police fell during that period of time. The Federation summarizes that it is seeking an average increase of 3.5% a year over a six year period it argues, which is extremely reasonable. The Federation points out to a survey of the nine largest public safety contracts in Massachusetts in 1993 whose average salary increase was 3.3%. The Federation also argues that the increase requested is still significantly below the increase awarded to the State Police of 6% a year for three years. The State Police received \$1,500.00 each in lieu of retroactivity for a two year period in addition they received three 6% increases.

As for ability to pay, the Federation calculates the annual cost of 1% for its bargaining unit at \$116,000.00. The Federation noted in closing argument that the City claimed 1% was \$110,948.00. The Federation also states that the Police Department funded the salary account in fiscal 1994 at a level sufficient to hire 100 new police officers, but in fact only hired 39 such officers. The excess funding for those salaries the Federation claims, is more than sufficient to cover the increases requested by the Federation. The Federation stresses that, since the City has settled with the Boston Detective Superiors, it obviously had set aside funds for wage increases and that only a

slightly higher sum of \$232,000.00 in 1994 is necessary to fund the Federation's request. The Federation asserts that the total projected cost of its 1 to 6 proposal is only \$841,000.00 more than the contract projected based upon the Detective Superior settlement. The Federation also states that the City has available some \$23,000,000.00 in a land fund sale which can be used part to fund wage increases.

The City points to its economic problems starting with the affect of proposition 2 1/2 and the impact of the economic recession on the revenues for the State of Massachusetts and the City of Boston. The City asserts its proposal is fair and reasonable and within the City's ability to pay. The City notes its offer is almost identical to the economic package accepted by SENA, a bargaining unit which represents a civilian managerial personnel citywide, which the City asserts is comparable to the Federation's membership.

The City defends its 3.5% additional offer for the differential to the detectives in addition to the 11% wage increase by arguing that there was a legitimate reason to restore integrity to the differential benefits. The City adds that the 3.5% increase was given in consideration of the Detective Superiors willingness to voluntarily agree to health insurance language, residency language, the substance abuse policy, Rule 102 changes, and the ability to discuss changes in the detail system. All of such factors the City stated contributed to the its willingness to increase its offer to the Detective Superiors. The City notes that the Federation's proposal, if given to all of the public safety unions, would total some 66.7 million dollars and the City has no source of funds to cover such a large amount. The City denies that it is able to fund any retroactive increase, and that a substantial retroactive award would impair the City's financial stability. Furthermore a retroactive award would negatively impact the City's relationship with a majority of its unions that settled without a retroactive gain.

## Discussion

This arbitrator will award a modification of the Federation's 1 to 6 proposal. A major difference will be that he will not award a retroactive percentage increase as such, but will instead adapt the formula used by the State of Massachusetts and award a \$1,500.00 sum in lieu of retroactivity to all officers who were employed during that three year period. That retroactive sum is less than half of that requested by the Federation and will not affect their base rates, but it will recognize the valuable services provided by the officers who have worked for almost 4 years without a contract. In addition thereto the arbitrator will award 4% effective on July 1, 1993, 5% effective July 1, 1994, and 6% effective on January 1, 1996. This award is made for the following reasons:

The arbitrator believes such sums are clearly within the City's ability to pay. The proposed increases total 15% not compounded. The Detective Superiors contract totals 14 1/2% and its other benefits, including career awards, educational incentive and clothing allowance equal at least another 1%, for a total of 15 1/2%. The City explained its grant of the additional 3.5% over the 11% offered to the Federation because it recognized the "Detective's willingness to voluntarily agree to health insurance language, residency language, the substance abuse policy, Rule 102 changes and the ability to discuss changes in the detail system." As will be seen the arbitrator has awarded the City's position on those issues. Therefore the City should have no objection to the additional 4% awarded to the Federation because the City should be fully prepared to fund the Federation increases with the award of the "City's language priorities." Again while the rates awarded are 15% as against the Detective Superior rates of 14 1/2%, the package is still less than the Detectives Superiors because of the other fringe benefits received by the Detectives. Furthermore the City did not explain why it would delay the first increase in the Federation offer to January 1, 1994, while it offered the Detective Superior's their first increase on July 1, 1993. On the other hand, the deferral of this 6% to January 1, 1996 will save the City a considerable sum.

As for the issue of retroactivity, the arbitrator finds that sum is also within the City's ability to pay. The amount, which should be slightly less than \$300,000.00, is a non-recurring expense. If need be the City has the ability to pay it out of the \$21,000,000.00 plus realized from the sale of land for the Central Artery project. Also the arbitrator notes that while the City budgeted in fiscal 94 for 100 new officers, only 39 had been hired by the time of the hearings, which means funds are available. The award of retroactivity recognizes the value of the services provided by the officers, but it does not saddle the City with a higher base rate. The \$1,500.00 is also based on the retroactivity payment to the State Police, who received such sum in lieu of two years of no increase. In this case the officers have gone three years without an increase.

The arbitrator also believes the award is in the interest and welfare of the public. The public has a responsibility to its public safety officers, which was recognized for example, by the State Police contract, which awarded 6% a year plus retroactivity.

There can be no question that police work is hazardous, particularly in the City of Boston where three police officers were killed in line of duty in 1993.

A comparison with raises given to other police officers in Massachusetts also shows that the Federation is deserving of an increase. The Federation exhibits show that for the public safety contracts, which were arbitrated in fiscal 1994, the average increase was 3.33%. By averaging the 15% over six years the average increase is for the Federation is 2.5%. If a percentage value is placed on retroactivity of 2.58% and that is added to the 15%, the result is 17.58%. When divided by six the result is only 2.93% per year.

As for the cost of living, it is manifest that from 1989 to 1992 the CPI increase was from 13.3% for the Urban Wage Earners Index to 14.3% for the all Urban Index. The Federation received nothing during this period.

Thus after considering the relevant standards the arbitrator is persuaded that the increases awarded are fully justified.



### Residency

The City has proposed on the matter of residency as follows: "All members of the bargaining unit shall be residents of the City of Boston and subject to the terms as the City of Boston's Residency Ordinance (1976C9) All bargaining unit members who are under department payroll as of the date of the execution of this agreement shall not be subject to the terms as the City's Residence Ordinance while they remain members of the bargaining unit." The Federation stated that it is willing to include a residency requirement for bargaining unit members provided that incumbent members are grandfathered and fully protected against adverse consequences from such requirements

### Discussion

The arbitrator will award the City's proposal on residency with the understanding that all incumbent members are grandfathered as long as they are employed by the Boston Police Department

### Substance Abuse Policy

The City over the past two years has developed a comprehensive substance abuse policy which has been the subject of negotiation with the uniformed unions. The City during negotiations with the Detective Superiors modified it's policy substantially as follows:

1. The department raised the permissible level of alcohol in the blood from .02 to .04, thereby modifying it's position on zero tolerance for alcohol while on duty;
2. The department broadened the employees option for alcohol testing by giving the employee the option of either a breath screen or blood alcohol test. Additionally the department upgraded it's testing obligation for those procedures;
3. The department modified it's position on the consequences of a positive finding for illicit drugs by mandating rehabilitation for first time offense for drug use. The accompanying discipline was modified from a mandatory six months up to 45 days suspension;

4. The referral procedures for supervisors was amended to remind employees of their Weingarten rights;
5. The referral procedures were amended to include the guarantee that the supervisor shall consult with a second supervisor of higher rank and shall jointly decide whether to refer an officer for testing. Additionally the department agreed that all persons involved in the decision making process will receive training;
6. The department agreed to assure that an employee, who was determined to be a potential threat to himself or others, shall be carried on paid administrative leave;
7. The department agreed to insure that the medical review officer, (MRO) is approved by the NIDA certified laboratory retained by the City. Additionally the department agreed to insure no conflict of interest arises between the MRO and the laboratory;
8. The department clarified it's position on record keeping to insure that test records are to remain as confidential as legally possible

The awarded policy as described has been accepted by the Detective Superiors. The City also asserts that the Boston Firefighters are subject to reasonable suspicion drug and alcohol testing. The Fire Department also offers rehabilitation in lieu of discipline. The Federation takes the position that it is willing to include a provision in the contract permitting testing under reasonable suspicion standards, but seeks to exclude alcohol testing from the policy.

#### Discussion

The arbitrator is persuaded that the City's proposal should be adopted as modified by the agreement with the Detective Superiors. The arbitrator cannot accept the Federation's opposition to alcohol testing. The department's expert witness, who testified, Robert M. Stutman, emphasized that alcohol testing has to be part of a reasonable substance abuse policy, because police officers are more prone to alcohol abuse than drug abuse. The arbitrator endorses the City's substance abuse policy as amended in December 1993, believing it to be well thought out and reasonable.

### Health Insurance

The City's health insurance proposal is as follows: The City's contribution to all group hospitalization insurance premiums shall be as follows: A. 75% of the total monthly premiums for the policy selected by the employer, including master medical or the equivalent benefits. B. 90% of the total monthly premium for all approved and authorized health maintenance organizations.

The City and the employees have experienced an extreme increase in the cost of health insurance. The premium for family coverage now approaches \$750.00 per month for Blue Cross/Blue Shield Master Medical. The City explains that it is unable to entertain a competitive bid for health insurance because of a contract provision which requires it to offer Blue Cross/Blue Shield Master Medical and because of the small group of employees involved. The City argues that the only way that it can hope to reduce the cost of health insurance is by entertaining a bid for all or nearly all of its employees and that it cannot do so when it is bound by individual union contracts that limit its rights.

The Federation understands the City's problem, but is unwilling to grant it the ability to unilaterally change health insurance carriers. Therefore, the Federation proposes a scheme by which it can arbitrate on an expedited basis whether the insurance program offered by the City through a different carrier is the equivalent of Master Medical.

The arbitrator notes that the contract entered into with the Detective Superiors contains the following provision: "Should the City develop an RFP (request for a proposal) for an indemnity plan other than Blue Cross/Blue Shield Master Medical, it shall meet with the Union in advance of the advertisement of said RFP. The meeting shall be for the purpose of soliciting comments and suggestions from the Union prior to finalizing the RFP. The Union shall be furnished with a copy of the finalized RFP."

### Discussion

The arbitrator is persuaded that the City's position on health insurance is sound. The City and the employees are faced with extremely high premiums from Blue

Cross/Blue Shield Master Medical. As long as the City is contractually bound to only contract with that provider, it cannot hope to have a reduction in benefits, particularly when small units are involved. Accordingly the arbitrator agrees that the City should have the freedom to contract with other carriers that may provide the equivalent of Blue Cross/Blue Shield Master Medical. Ideally that contract should involve all of the unions or at least a majority of all it's employees

As for the Federation's proposal that it should be able to grieve the issue of equivalent coverage, the contract as written would permit it to grieve, if the plan was not the equivalent plan. In the meantime, the delays inherent in the proposed arbitration, even though expedited for, for this relatively small union could hamstring the City's ability to negotiate for all the employees

The arbitrator's experience with a similar provision in the State of Illinois convinces him of the soundness of this view. In that instance involving Fire Fighters, they had filed a grievance which the undersigned arbitrated concerning the issue of substantial equivalency. While I upheld the grievance, a number of months had passed since the plan had been changed. The employees were made whole and the plan was not changed, but the delays involved would not have been tolerable for either the City or the employees if the changed plan had to await an arbitration ruling. Accordingly the arbitrator will award the City's plan with the provision that the Federation be consulted and invited to make suggestions prior to finalizing an RFP in the manner provided in the Detective Superior's contract. Hopefully all the City unions will agree to similar language.

#### Fixed Shifts by Seniority

The Federation proposal for a change in Article VIII, "Hours of Work" would call for the conversion of the present system of rotating shifts to a system of fixed shifts by seniority. The City agrees with the concept of fixed shifts, but seeks to have them assigned at the discretion of management rather than chosen by employees based on seniority. The City believes that the use of fixed shifts provides a continuity of supervision

which in turn would provide accountability for all levels of the department. Currently patrol officers work fixed shifts, but the superiors rotate. This means that patrolmen are supervised by at least two different superior officers in any given week and in many cases they may be supervised by three different officers. The Federation modified its proposal during the hearings to say that it was not requesting that captains be assigned by seniority. As a practical matter most captains work the day shift.

### Discussion

Without detailing all of the arguments advanced by the parties, this arbitrator is persuaded that the City must have the right to assign its supervisors, meaning sergeants, lieutenants and captains, in a manner which the department believes best serves its needs. There is reason to believe that the department will consider seniority in assignments. However many specialties e.g. foreign language and bomb experts, and differences in training and personality, experience, talent, and individual abilities of the superior officer affect assignments. Therefore the Department should be able to evaluate all of its needs as compared to the available personnel in making assignments and they should not be based solely on seniority. Therefore, while seniority can be a factor in assignments, the Department's needs should come first. Accordingly the Federation's proposal on fixed shifts is rejected.

### Paid Details

The Federation has proposed an amendment to the contract calling for the centralization of all superior officer paid details. Details are paid by vendors, which are typically stores, contractors or banks. The present system of distributing details is through the district in which they occur. The Federation charges that has resulted in uneven opportunities for detail work with officers in the busier districts garnering substantially more detail opportunities than officers working in districts where detail work is limited. Next the Federation seeks an opportunity to fill patrol officer details if such details have not been claimed by patrol officers by 10 PM on the evening before the detail is to be

worked. Presently such details are available to superior officers, but only after 7:30 AM on the day of the detail. The lack of advance notice complicates the ability of the superior officers to accept the details should they become available.

The Federation also proposes that members of the bargaining unit have the right of first refusal for all uniformed superior officer's details. It recognizes that this proposal would create a preference for Superior Officers over Detective Superior officers for uniform details which have not previously existed. That preference is justified, the Federation asserts based on simple equity. The Federation states that the Detective Superior officers have historically shared in both overtime work and paid details requiring uniformed supervisory personnel, but the detectives have had an exclusive right to all supervisory overtime for detectives. This system creates an unfair imbalance in opportunities for compensation outside of the regular annual salary in favor of Detective Superiors. Therefore the Federation seeks to balance this by giving it's members preference for uniformed details before detectives.

Lastly the Federation also proposes that the City provide a detail supervisor from the Federation's bargaining unit on the day and first half tours for each district. The supervisor would be paid on a detail basis rather than from City funds. The Federation would do this by increasing the detail rate for all detail hours worked by police officers by either a dollar or a dollar and a half an hour.

Superior officers are offered details according to their rank and based on the number of patrol officers on detail. Superior officers may accept available patrol officer details after all patrol officers and detectives have refused the detail.

The City objects to the Federation's proposals because they would adversely affect the relationship between one or more of the parties of the detail system. For example, the Federation's proposal requiring that unfilled patrol details be available at 10 PM on the evening before the detail instead of 7:30 AM on the day of the detail significantly reduces the amount of time patrol officers, detectives, and detective superiors have to accept or

deny the detail. Any change in this condition would require a discussion with the affected groups and the City cannot contract with one group which would place it in conflict with the contract that is made with the other group.

The bargaining history also shows that the City has seriously addressed the issue of details, because as late as July 16, 1993 it entered into an agreement with the Federation and the other police unions providing for a significant increase in the detail rates. For example commencing on July 31, 1993 the sergeants, who previously were paid \$24.00 for an inside detail are now to receive \$29.00 and \$30.00 for an outside detail. Lieutenants, who had received \$26.00 for an inside detail are now to be paid \$31.00 for an inside and \$32.00 for outside. Captains, who had received \$29.00 for an inside detail are now to receive \$34.00 for an inside detail and \$35.00 for an outside detail.

As for the issue of centralization, the City accepts the notion that it would be desirable and has entered into the following provisions with the Detective Superiors: "The parties agree to discuss that the issue of details, including centralization of the detail system during the life of this agreement." They have made the same proposal to the other remaining police groups, meaning the detectives, the patrolmen as well as the Federation.

#### Discussion

The arbitrator rejects the Federation's proposal. While understanding the Federation's desire to have a centralized system, that can only be achieved by participation of all of the unions involved, a position which the City recognizes. Furthermore the significant change which has already occurred in the detailed rate for Superiors would preclude the system from making still an additional charge to vendors for a police supervisor. Accordingly the Federation's proposals are denied. However the arbitrator will adopt the following language from the Detective Superior's contract: "The parties agree to discuss the issue of details, including the centralization of the detail system during the life of this contract."

### Rule 102

Rule 102 deals with reporting and fitness for duty and specifically the number of hours of work that an officer may work in any given work week. Presently officers are permitted to work 112 hours in the week including their regular shift. The City proposes to limit that to 96 hours in a week. The hours of work to include regularly scheduled tours of duty, court time, overtime and paid details. Any tour of duty missed due to illness or injury would be included in the total of hours worked for a week under the City proposal. The Federation is willing to accept the City's proposal for a cap on the total number of hours a superior officer may work in a week at 96, but resists the inclusion of sick and/or paid time in that computation.

### Discussion

The arbitrator accepts the City's proposal and rejects that Federation's request to exclude sick or other paid time from the computation. Such an exclusion would only be an invitation to abuse sick leave. Furthermore the hours permitted, 96, are very long.

### Temporary Service in a Higher Rank

The present contract requires that payment for service in a higher rank be made at the rate of such higher rank after the fifth day so worked. The Federation has proposed that the pay at the higher rank be paid for each tour in which a superior officer has so worked. In support of its claim the Federation notes that City's contract with the Firefighters Union provides such compensation. The City opposes the Union's proposal on the basis of cost, and because the present five days affords the City flexibility in scheduling, and eliminates overtime costs and replacement costs for superior officers who are absent up to five days. The City states that short term vacancies are often created by work related injuries and the use of other contractual time off. The City argues to eliminate the Department's ability to cover short time off, absences for the first five days creates an unreasonable limitation on scheduling. The City also notes that the five day provision has been retained by the Detective Superiors.



### Discussion

The arbitrator finds in favor of the Union and will award the provision now contained in the Firefighters contract with the appropriate limitations in that contract providing that it shall not apply to officers of one tour or less attributable to union business, training and staff meetings. Similar appropriate definitions for the police should be in the contract. The arbitrator does not understand the City's argument that the proposal is an unreasonable limitation on scheduling. The issue is whether the persons are paid when they are asked to assume the higher rank. If they are not asked to assume the higher rank, they are not paid. Accordingly he finds that the Federation's proposal is reasonable and it is awarded.

### Vacation Leave

The present vacation schedule provides a maximum vacation benefit of five weeks upon the commencement of the 20th day of service. The Federation seeks a reduction in service to the 15th year for entitlement of the fifth week of vacation and the introduction of the sixth week of vacation at the commencement of the 20th year of service. The City objects to the Union's proposal as unreasonable and unfounded. It asserts that the fifth week after 20 years of service is comparable to all other public safety groups and that no other City public safety group receives six weeks of vacation. Furthermore the Federation members may elect to redeem up to two weeks of their vacation in cash which is computed at the rate of 1/4 of their weekly compensation. Additionally those employees entitled to the extra fifth week may elect to redeem it in cash. Over 50% of the bargaining unit's members redeems part or all of their redeemable vacation in cash.

### Discussion

The arbitrator is persuaded that the Federation's proposal is unwarranted and it is rejected because the employees have a generous vacation schedule and because of the expense.

### Sick Leave

The Federation seeks to improve the annual redemption schedule for unused sick days by increasing the limit on eligibility from fewer than five days used to fewer than ten days used. The maximum number of days which could be redeemed would remain at ten. The Federation would also seek to improve the sick leave buy back upon retirement by increasing the percentage payment for each day from 15% to 50% by removing the cap on the number of days which can be redeemed and by providing a payment rate of 1/4 instead of 1/5. The Federation argues that the proposal is similar to that used by the Boston School system. The City rejects the Union's proposal as expensive and unwarranted, and states it would create an incentive to use five more sick days without the added penalty. In essence the proposal would add a weeks pay for each officer annually.

### Discussion

The arbitrator rejects the Union's proposal as unwarranted, because of the incentive to use sick days and because of the expense.

### Patrol Supervisors

The Federation proposes that a patrol supervisor be placed on duty with each district. The Federation relies on the St. Clair Commission report, which found the staffing of patrol supervisors to be dangerously low and expressly advised the Department to "increase the number of patrol supervisors and reduce the span of control in high crime areas." The Federation also points to the Mollen Commission report in New York on the need for greater supervision to eliminate corruption. The City rejects the Federation's proposal first of all, because it is outside of the scope of bargaining, and therefore, it argues it is outside of the scope of arbitration, because it includes a matter of inherent managerial policy.

### Discussion

The arbitrator rejects the Federation's proposal and agrees with the City's characterization that the issue is beyond the scope of arbitration. Arguably, if an

unreasonable burden on health and safety were demonstrated, the matter might become bargainable, but that would be a matter for determination either by the Joint Labor Management Committee or by the courts. In any event this arbitrator has concluded that the issue is not before him.

He does observe, however, that both the St. Clair Commission and the Mollen Commission stressed the need for greater supervision in the Department as one of the ways to bring about public safety and to minimize corruption. The arbitrator endorses that view. However that is a policy matter for the City of Boston and not for this arbitration.

Education Task Force

The Federation proposes the creation of a task force to develop and implement a specialized degree program in "Public safety supervision" with a selected university for tuition free participation by eligible Union members. The City has agreed to the Federation's proposal to create a joint committee to explore and develop such a program with outside funding and to advise its members on educational programs designed to establish an advanced degree in public safety supervision.

#### Discussion

The arbitrator endorses the Federation's proposal.

Thus for the reasons stated above the arbitrator makes the following award:

1. That the City will pay to all officers who served from July 1, 1990 to June 30, 1993 or any part thereof, \$1,500.00 in lieu of a retroactive wage increase.
2. That the City will pay a 4% base salary increase effective July 1, 1993.
3. That the City will pay a 5% base salary increase effective July 1, 1994.
4. That the City will pay a 6% base salary increase effective January 1, 1996.
5. That the City's residency policy is adopted namely "All members of the bargaining unit shall be residents of the City of Boston and subject to the terms of the City of Boston Ordinance (Ord. 1976 C 9). All bargaining unit members who are on the Department payroll as of the date of the execution of this agreement

shall not be subject to the terms of the City residency ordinance during their employment with the Boston Police Department.

6. The City may implement its December 1993 Substance Abuse Policy as described herein.
7. That the health insurance provision shall read as follows: "The City's contribution to all group hospitalization insurance premiums shall be as follows:
  - a. 75% of total monthly premiums for the indemnity plan selected by the employer, including Master Medical or the equivalent coverage and benefits;
  - b. 90% of the total monthly premium for all approved and authorized health maintenance organizations

Should the City develop an RFP for an indemnity plan other than BC/BS Master Medical, it shall meet with the Union in advance of the advertisement of said RFP. The meetings shall be for the purpose of soliciting comments and suggestions from the Union prior to finalizing the RFP. The Union shall be furnished a copy of the finalized RFP.

The parties agree to meet and negotiate over the impact, if any, of national health care reform should legislation pass during the life of this Agreement.

8. That the Federation's proposal on fixed shifts by seniority is rejected.
9. That the contract shall include the following language on Paid Details: "The parties agree to discuss the issue of details, including the centralization of the detail system during the life of this agreement."
10. The contract shall contain the following provision regarding Rule 102: "No officer shall work more than ninety-six (96) hours in one (1) week, from 8:00 A.M. Wednesday until 8:00 A.M. the following Wednesday. These hours shall include regularly scheduled tours of duty, court time, overtime, and paid details

Any tour of duty missed due to illness or injury shall be included in the total of hours worked for a week."

11. That the contract shall include a provision on "Temporary Service in Higher Rank" similar to that now in effect for the fire service with appropriate limitations on union business, training, and staff meetings.

12. That the Federation's request for increases in vacation and sick leave benefits are denied.

13. That the Federation's proposal for patrol supervisors is rejected.

14. That the City and the Federation shall create a task force to develop and implement a specialized degree program with a selected university for a degree in "Public Safety Supervision."

15. That this agreement shall be effective from July 1, 1993 until June 30, 1996



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Arvid Anderson

April 29, 1994

**SIDE LETTER OF AGREEMENT BETWEEN  
CITY OF BOSTON  
AND  
BOSTON POLICE SUPERIOR OFFICERS FEDERATION**

Effective no later than Saturday, July 31, 1993 at 12:01AM, the current language of Article XIV of the Collective Bargaining Agreement between the above parties shall be amended to reflect the following paying detail hourly rates:

	<u>Inside</u>	<u>Outside</u>
Sergeant	\$29.00	\$30.00
Lieutenant	\$31.00	\$32.00
Captain	\$34.00	\$35.00

The language of Article XIV of the Collective Bargaining Agreement between the above parties shall be amended deleting the language providing for a \$3.00/hour premium for outside construction details.

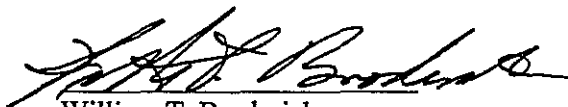
The parties agree that Special Order 83-47 relative to strike detail rates at the Boston Garden is hereby rescinded. Article XIV shall apply to all paying details performed at the Boston Garden rock concerts.



William J. Bratton  
Police Commissioner

Date:

7/16/93



William T. Broderick  
President, BPSOF

Date:

7/16/93



Cynthia S. Denehy, Supervisor  
Office of Labor Relations  
City of Boston

Date:

July 16, 1993