

**COMMONWEALTH OF MASSACHUSETTS**  
**JOINT LABOR MANAGEMENT COMMITTEE FOR MUNICIPAL POLICE**  
**AND FIRE**  
**JLMC-16-5553**

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**IN THE MATTER OF ARBITRATION BETWEEN:**

TOWN OF BURLINGTON

&

BURLINGTON POLICE PATROLMEN'S ASSOCIATION

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**AWARD AND DECISION BY THE ARBITRATION PANEL**

**Background**

The Town of Burlington ("Town" or "Employer") and the Burlington Police Patrolmen's Association ("Union") are parties to a Collective Bargaining Agreement ("Agreement") that expired June 30, 2015. The parties engaged in direct negotiations but were unable to reach a successor Agreement. A petition was filed for the Massachusetts Joint Labor Management Committee ("JLMC") to exercise jurisdiction, and the JLMC exercised formal jurisdiction of the ongoing dispute between the City and the Union. Arbitration hearings commenced on November 14, 2017 in Burlington, Massachusetts before the Tri-partite panel consisting of Gary D. Altman, Esq., Andrew Flanagan, Management Panel Member, and Michael Perreira, Union Panel Member. Tim D. Norris, Esq., represented the Town of Barnstable, and Susan Horwitz, Esq., represented the Union. 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 Town of Burlington is located north of Boston, and spans 12 square miles. It has a population of approximately 26,000 residents. The Town has a Board of Selectmen. The Patrol Officers bargaining unit is composed of forty-three officers. In addition, the Burlington Police Command Officers Union (Command Staff), represents sergeant, lieutenants and the captain in the Police Department. The Police Department also employs a number of civilian employees, who are represented by the Burlington Municipal Employees Association (BMEA).

#### **Issues**

The unresolved issues are as follows:

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**1. Wage Increases**

The current wage schedule, which has been in effect since July 1, 2014 is as follows:

Step	Year	Annual	% Between Steps
1	1	\$46,801.21	
2	2	\$51,392.85	9.81%
3	3	\$56,269.37	9.49%
4	4	\$58,361.28	3.72%
5	10	\$59,999.66	2.81%
6	15	\$60,519.86	0.87%
7	20	\$61,040.06	0.86%
8	25	\$62,260.87	2.00%

**UNION PROPOSAL**

The Union proposes that the wage schedule be increased by 3% each year of the three-year agreement. In addition, the Union also proposes to restructure the wage schedule when officers advance a step. Specifically in the present Agreement Steps, 5, 6, 7, and 8, are attained at 10, 15, 20, and 25 years of service. Under the Union's proposal officers would now receive the steps at 5, 10, 15, and 20 years of service. The Union also proposes to establish a 2% differential between Steps 5, 6, 7, and 8.

The Union maintains that its 3% annual wage proposal is justified, and that the fact that other non-public safety bargaining units agreed to lower amounts is not relevant when considering wage rates for Burlington Patrol Officers. The Union states that previously there was a parity relationship in wage increases for Patrol Officers and the Command Officers' bargaining units. The Union states that this relationship was altered by the Command

Officers most recent Agreement, in which Command Officers received higher wage increases than the Patrol Officers.

The Union contends that the Town and the Command Staff agreed to reconfigure the Command Staff wage schedule, in which Command Staff employees received significantly larger pay increases than the Patrol Officers, and the Command Staff received these higher increases even though they did not roll into their base salary the clothing allowance, as the patrol officers agreed to do. The Union states that a review of the wage rates in the Command Staff Agreement shows that the Town and the Union agreed to a 20% differential between the Sergeant's base and step seven patrolmen, 15% between the Sergeant's and Lieutenant's base rate and 20% differential between Lieutenant's base rate and the Captain's base rate. The Union states that these increases resulted in increases for Command Officers that were more than 10% in Fiscal Year 2014, and that Command Officers were still paid for their clothing allowance.

The Union maintains that its proposal of 3% each year, and reconfiguring the steps by increasing the differential between steps, and lowering the years necessary to receive steps five through eight, would make up for the fact that Command Staff Officers received significantly higher increases than the Patrol Officers did in their last agreement. The Union also states that the current differential for firefighters between steps 5, 6, 7, and 8 is set at 2%, thus there is ample justification to increase the differential to 2% between these steps for Patrol Officers. The Union also states that not all Town employees received the same wage increases as the Animal Control Officer, a civilian employee of the Police Department, who received increases well above the pattern.

## TOWN PROPOSAL

The Town proposes that the wage schedule be increased by 2% effective July 1, 2015, 2.5% effective July 1, 2016, and 2.5% effective July 1, 2017. The Town opposes the Union's proposal to modify the differential between the steps, and the years in which officers would receive their step increments.

The Town maintains that its wage proposal is fair and appropriate based on wage increases provided to other Town employees and also based on wage rates provided to patrol officers in other comparable communities. The Town states that for the first year of the proposed three-year agreement (July 1, 2015) its proposed 2% increase is the same increase provided to the Command Staff, and is actually a higher increase than provided to other Town groups; Firefighters received a 1.5% increase, the DPW and BMEA employees received a 1% increase, and the Administrative and Professional Employees received a 1.5% increase. The Town further contends that the 2.5% increase for the second and third year is the same increase agreed to by other Town employees, who have already reached agreements for the same time period. The Town further maintains that the Command Officer's most recent Agreement should not be controlling in this proceeding, as the Town and Command Staff agreed to restructure their wage schedule to ensure that the Command Staff was paid a rate commensurate with their rank, and also agreed to a lower starting rate for those hired into superior officer positions.

The Town further maintains that the pay and benefits provided to Burlington Patrol Officers compares very favorably when compared to the pay and benefits provided to

police officers working in comparable communities. Moreover, the Town states that a review of pay increases provided to patrol officers in these comparable communities for the time period at issue, shows that the Town's proposed wage increases are within the norm agreed to in these other communities.

The Town argues that the wage increases proposed by the Union are exorbitant and not justified by either internal or external comparisons. The Town contends that the Union's 3% annual wage proposal, as well as changing the years when officers receive step increases and increasing the differential between steps, would amount to a 13.3% total increase over the three year period, and this increase does not include the Union's other cost proposals for clothing, an increase in educational incentive pay, and other economic changes.

### **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.

	FY-13	FY-14	FY-15	FY-16	FY-17	FY-18	FY-19
Fire	1.5%	2%	1.5%	1.5%	2.5%		
BMEA	1.5%	2%	1.5%	1%	2.5%	2.5%	2.5%
DPW	1.5%	2%	1.5%	1%	2.5%	2.5%	2.5%
A&P	1.5%	2%	2%	1.5%	2.5%	2.5%	

Teachers	1.5%	2%	2%	2%	2%	1.5%	1.5%
Command	1.5%	2%	2%	2%			
Patrol	1.5%	2%	2%				

As the Union points out, the actual cost of living adjustments are not necessarily reflective of the costs of actual increases provided to employees. A review of the Firefighters Agreement shows that in addition to the cost of living increase they adjusted their wage schedule. This is also true for both the Patrol Officers and the Command Offices, as Patrol Officers included into the base salary the clothing allowance, and added two new steps to the salary schedule. Even though there was no written rank differential set forth in the Command Officers' Agreement, effective October 1, 2013, the starting wage rates for Sergeants was set at 20% above the Step 7 Patrol Officers rate. There can be no question that the result of the Town and the Command Officers agreeing to this rank differential resulted in increases above the annual cost of living, and overall wage increases for that year that surpassed the patrol officers' wage increase.

The fact that existing Command Officers received these higher increases based on their rank, cannot justify the Union's wage proposal for this contract period. A review of the Command Officers' Agreement shows that the parties, in that Agreement, established a new wage schedule, in which the parties agreed to a lower rate for new employees who enter the Command unit, and also established new steps for these new employees. Moreover, the fact the Town and Command Staff Unit agreed to increase the differential for superior officers does not obligate the Town to provide the same increases to the Patrol Officers.

Wage increases in neighboring communities over the relevant time frame are as follows:

Community	FY 14	FY 15	FY 16	FY 17	FY 18
Andover	1.50%	1.50%	1.75%		
Arlington	2.75%	2.75%	2.00%	2.00%	2.00%
Bedford	2%*	2%*	3%*	2%*	
Billerica					
Chelmsford	2.00%	2.00%	2.00%		
Concord	2.00%	2.50%	2.50%		
Lexington	2.00%	2.5%*	2.50%	2.00%	2%*
Reading			2.00%	2.00%	
Stoneham	1.50%	2%*	1.75%*	1.50%	
Tewksbury	2.00%	2.00%	2.50%	2.50%	2.50%
Wilmington		3.00%	3.00%		
Winchester	2.00%	2%*	2%*	2.00%	2.5%*
Woburn	0.00%	2.00%	2.00%	3.00%	3.5%*
Burlington Command	2.00%	2.00%	2.00%		
Burlington Patrol	2.00%	2.00%			

\* wage splits

Billerica added as step in FY 14 and F15 which was 1% the prior step

The wage adjustments in surrounding communities for the relevant time period show that the wage increases proposed by the Town are in line with the wage increases agreed to in these surrounding communities. Moreover, the evidence also demonstrates that the overall compensation (including wages and benefits) provided to Burlington Patrol Officers, is comparable to what is provided to police officers in these other communities. There is, therefore, no justification for any large-scale equity adjustments for the Burlington Patrol Officers for this contract period.

There is justification to modify the differential between the top steps for the patrol officers wage schedule. Specifically, step 6 is only .87% above step 5, step 7 is only .86% above step 6, and step 8 is now 2%



above step 7. The dollar increase between steps 5 and 6 and step 6 and 7 is insignificant when considering the difference in all other step increments, and that officer has to complete five years of service to advance to the next step. At the present time the Firefighters Agreement provides 2% increments for the final four steps of their agreement. Accordingly, the wage schedule for patrol officers should be modified to provide for a 2% increment for an officer advancing to step 6 from step 5 and an officer advancing to step 7 from step 6. This change in the index shall be effective July 1, 2017.

#### **AWARD - WAGE INCREASES**

There shall be a 2% increase to base salary effective July 1, 2015, there shall be a 2.5% increase effective July 1, 2016, and there shall be a 2.5% increase effective July 1, 2017. In addition, effective July 1, 2017, the wage schedule for patrol officers should be modified to provide for a 2% increment for an officer advancing to step 6 from step 5, and for a 2% increment for an officer advancing to step 7 from step 6.

#### **2. Article 19 - Non-Occupational Sick Leave**

There is no provision in the current Agreement for annual buy-back of unused sick leave.

#### **UNION PROPOSAL**

The Union proposes the following provision be added to the Agreement.

Effective July 1, 2017 officers who have accumulated a minimum of 120 sick days may buy back up to five (5) days each fiscal year. To participate in this program, an officer must notify the Chief in writing by August 1st. The five (5) days of pay shall be deducted from an officer's accumulated sick leave upon notice to the

Chief of their participation, which in no case shall be allowed to go below 120 days.

The Union maintains that its proposal is the same language that the Command Staff agreed to with the Town in their last contract negotiations, and that the Town was not opposed to adding this language for the patrol officers.

#### TOWN PROPOSAL

The Town agrees to the concept of annual buy back of up to five unused sick days. The Town maintains that because of the overall size of the Patrol Officers bargaining unit, which results in the total cost being higher, the Town would set the rate for buy-back at \$150.00 per day for Patrol Officers.

#### Discussion

The Town and the Command staff agreed to add annual buy-back of up to five sick days in their most recent contract. There is no dollar limit for the days bought-back by the Command Staff; they receive their per diem rate, and since their salary is higher, their per-diem rate is higher than the patrol officers. Accordingly, there is no good reason not to award the same language to the Patrol Officers as was agreed to by the Command Staff, and not to have a flat dollar rate for Patrol Officers.

#### AWARD - NON-OCCUPATIONAL SICK LEAVE

The Union's proposal is awarded, and the following provision shall be added to the parties' Agreement.

Effective July 1, 2017 officers who have accumulated a minimum of 120 sick days may buy back up to five (5) days each fiscal year. To participate in this program, an officer must notify the Chief in writing by August 1st. The five (5) days of pay shall be deducted from an officer's accumulated sick leave upon notice to the

Chief of their participation, which in no case shall be allowed to go below 120 days.

### **3. Article 23 - Clothing Allowance**

There is no provision in the current Agreement for clothing allowance for patrol officers. In the prior Agreement the parties agreed to roll the \$1,350 clothing allowance into the base pay for patrol officers, and the contract provision providing for clothing allowance was deleted from the Agreement.

#### **UNION PROPOSAL**

The Union proposes to add back into the Agreement a provision providing an annual clothing allowance. The Union's proposal would provide bargaining unit employees with a clothing allowance of \$1,350.00 effective July 1, 2015, and would increase the amount to \$1,620.00 effective July 1, 2016.

The Union contends that the Patrol Officers have had a clothing allowance since 2006, and the Union, during the last round of contract negotiations agreed to roll the clothing allowance into officer base pay. The Union maintains that the Town represented to the Union that the same proposal was being offered to the Command Staff. The Union states that the Command Staff ended up keeping the clothing allowance. Moreover, the Town and Command staff then agreed to provide for a 20% differential based on the Patrol Officers step 7 base pay.

The Union thus maintains that not only did the Command staff get to keep their \$1,350 clothing differential, but in essence the Command Staff received the benefit of the patrol officers having rolled into their base pay the clothing allowance, since the Command Staff differential

was based on the higher base rate due to the fact that \$1,350 was added to Patrol Officer's base pay. The Union argues that there is no justifiable reason for the Command Staff to retain the clothing allowance, and not provide the same benefit to Burlington Patrol Officers.

The Union further argues that the clothing allowance should be increased to \$1,620.00 effective July 1, 2016. The Union maintains that the Animal Control Officer, a civilian employee of the Police Department, had his clothing allowance increased from \$550.00 to \$1,620.00 effective July 1, 2016, and there is no basis not to provide sworn Patrol Officers the same clothing allowance as provided to a civilian employee of the Police Department.

#### TOWN PROPOSAL

The Town opposes the Union's proposal. The Town contends that the parties, in their last contract, agreed to roll the clothing allowance into the Patrol Officer's base pay; this change resulted in an increase in the officers' hourly overtime rate, and this increase in base pay also became pensionable. Thus, the Town states that this impact will continue through the Officers' careers and even in their retirement. The Town states that it unreasonable to now provide Patrol Officers with a new benefit for a clothing allowance, when they intentionally agreed to forego this benefit, especially when the Union has not proposed that the clothing allowance now be subtracted from the Officers' base pay.

The Town states that to provide this new benefit would add another 2% cost increase. The Town acknowledges that the Command Staff did not delete clothing allowance, but the Town states that this fact does not mean that Patrol

Officers should now receive a new clothing benefit, when they intentionally agreed to forgo the clothing allowance in the last agreement, and the amount to their base pay.

#### **Discussion**

In the most recent contract negotiations the Town and the Union agreed to fold the \$1,350 clothing allowance into the Officers' base pay. There is no doubt that this was significant benefit for officers; hourly overtime rates were increased, and this resulted in a higher base salary for their pensions. It is also true, as the Union points out, that the Command Officers did not roll the clothing allowance into their base pay, and the base rate was increased on what appears to be an unwritten agreement to establish a 20% differential between rates of pay for step 7 Patrol Officers and Sergeants.

Even though the Command Officers continue to receive a clothing allowance, this Arbitration Panel cannot give back a clothing allowance to Patrol Officers. The roll in of the clothing allowance was just agreed to by the parties in the most recent agreement. Moreover, the cost of this "new benefit" would be the equivalent of a 2% wage increase.

#### **AWARD - CLOTHING ALLOWANCE**

The Union's proposal to add a new clothing allowance is not awarded.

#### **4. Article 13 Details**

The current detail rate negotiated for the last Agreement provides for a detail rate of \$49.00, which was effective July 15, 2014. The parties also agreed that for Town details the rate is \$35.00, which was also effective January 15, 2015.

## UNION PROPOSAL

The Union proposes the following:

Increase the private detail rates to:

\$52.00/hour 30 days after ratification, \$53.00/hour  
July 1, 2017, \$54.00/hour June 30, 2018

Eliminate the Town detail rate effective upon  
ratification

The Union states that for many years the detail rate for Patrol Officers and the Command Officers has been the same for non-supervisory details. In those instances in which there are four or more patrol officers the detail rate for the Command Staff or the Senior Patrol Officer is \$3.00 above the regular detail rate. The Union states that in the last Command Officers' Agreement the Town and the Union agreed to increase the detail rate and ended up at \$50.00 an hour effective July 1, 2015, and effective July 1, 2015 the Command Officers and Town agreed to eliminate the lower rate for Town details.

The Union contends that the historical relationship of providing the same detail rate for Patrol Officers and Command Officers should be reinstated. The Union further states that since detail rates cannot be retroactive the detail rates should be increased to \$53.00, 30 days after the issuance of this Award, and effective June 30, 2018 the rate should be increased to \$54.00.

The Union also states that in their most recent Agreement to the Command Officers and Town agreed that effective July 1, 2015 the lower rate paid for Town related details would be eliminated. The Union states that Command Officers are now paid the same detail rate whether the detail is for a private company or for Town of Burlington,

and there is no good reason that this should not be the practice for Burlington Patrol Officers.

#### TOWN PROPOSAL

The Town states that the current detail rate for Burlington Patrol Officers is close to the average rate provided in other comparable communities and there is no justification to increase the current rate. The Town maintains that in the most recent Agreement the parties agreed to a significant increase, raising the detail rate from \$42 to \$49.00 and no further increase is justified at the present time. The Town also contends that the increased rates proposed by the Union are excessive, and that increasing the rate to \$54.00 would be among the highest in the neighboring communities, and is not warranted. The Town also opposes the Union's proposal to eliminate the provision for providing a lower rate for Town details.

#### Discussion

The Detail rate in the neighboring communities is as follows:

	FY 15	FY16	FY17
Andover	\$50.00	\$50.00	\$50.00
Arlington	\$43.50	\$43.50	\$43.50
Bedford	\$47.00	\$48.00	\$49.00
Billerica	\$50.00	\$50.00	
Chelmsford	\$52.13	\$53.17	
Concord	\$50.27	\$50.27	
Lexington	\$50.00	\$50.00	
Reading	\$48.00	\$49.00	\$50.00
Stoneham	\$46.98	\$47.80	\$55.00
Tewksbury	\$40.00	\$48.00	\$48.00
Wilmington	\$40.00	\$41.00	\$42.00
Winchester	\$49.00	\$50.00	\$51.25
Woburn	\$44.00	\$44.00	
Burlington Command	\$50.00		
Burlington Patrol	\$49.00		

There is certainly justification to increase the rate above the \$49.00 rate currently paid. The Command Officers have been receiving \$50.00 since July 1, 2015. The Union's proposal to raise the rate to \$54.00 effective June 30, 2018 would result in Burlington Patrol Officers having one of the highest detail rate in the surrounding communities, and accordingly is not warranted.

The Town also agreed with the Command Officers to eliminate the provision providing for a lesser amount for Town details; for all details Command Officers receive the same flat dollar amount. There is no justifiable reason to continue the language providing for a lower detail rate for Town details for Patrol Officers, since this language has been deleted from the Command Officer's Agreement.

#### **AWARD - DETAILS**

The detail rate shall be increased to \$52.50 effective thirty (30) days after implementation of this Award. The language providing for a lower detail rate for Town details shall be eliminated from the parties' Agreement thirty (30) days after implementation of the Award.

#### **5. Article 22 - Education Incentive Pay**

Section 22.01 of the current contract provides that officers hired before July 1, 2009 who had been receiving Quinn Education Incentives continue to receive full Quinn Educational Incentives, which is 10% for those officers who have an Associate's Degree, 20% for those officers who have a Bachelor's degree and 25% for those officers who have a Master's Degree. Officers hired after July 1, 2009, receive educational incentive pay based on flat dollar amount. As of July 1, 2013, those officers who were hired after 2009 and have an Associate's Degree receive \$2,500 per year,



those officers who have a Bachelor's degree receive \$7,500 per year, and those officers who have a Master's Degree receive \$10,000.

The parties also agreed to a side letter on educational incentive that provided:

Current employees employed prior to July 1, 2009 may start or return to school and complete degrees until the end of the contract (June 30, 2015) and shall be entitled to the Education Pay Incentive under Section 22:01. Any member hired after July 1, 2009 will continue to be eligible for Education Incentive Pay under Section 22:02. A joint labor/management team will meet to discuss a potential extension two months prior to the end of the contract for members that have demonstrated commitment to finishing their degrees.

#### UNION PROPOSAL

The Union proposal is as follows:

For Officer who do not receive Quinn incentive, amend Section 22:02 to increase all degrees to the equivalent of the Quinn Bill payments of 10%, 20% and 25% retroactive to July 1, 2015.

Remove the June 30, 2015 date from the Appendix A Side Letter #2 so that all members of the Burlington Police Department are eligible for the Post Quinn Educational Incentive under Section 22:02

The Union maintains that it is necessary and appropriate that all Burlington Patrol Officers, who have earned the appropriate educational degrees, should receive the full Quinn Educational Incentive. The Union states that in 2009 the Commonwealth stopped funding half of the costs of the Quinn incentive, and that although Burlington continued to provide full Quinn incentive payments to those Officers who had earned degrees, new officers hired since 2009 receive substantially less than their colleagues hired

before July 1, 2009. The Union states that this has now created a bifurcated pay structure, with those Officers with degrees, hired before 2009, being paid significantly higher amounts than officers hired after 2009, even though they have the same education, and perform the same duties.

The Union further asserts that in a number of communities, the municipalities have continued to pay all their police officers the full educational incentive no matter what year they were hired. The Union argues that even in those communities that pay flat dollar amounts, the amounts paid in other communities is considerably higher than the amount paid in Burlington. The Union maintains that the Town should encourage its officers to be better educated, to be able to address the more complex and legalistic policing environment and not continue the disparity in this important benefit for its Patrol Officers.

#### TOWN PROPOSAL

The Town opposes the Union's proposal. The Town maintains that in prior negotiations the parties agreed to continue providing full Quinn incentive for those Officers hired prior to 2009, and since the State no longer funded its half share, the Town had to pay the full amount. The Town states that the parties then agreed that for new employees the Town would provide a flat dollar amount towards education that does not compound as the percentage based Quinn incentive. The Town states that it is not unusual for communities to provide flat dollar amounts for educational incentives. Moreover, the Town states that officers hired after 2009 knew that they would not be receiving the same educational benefit as those officers

who were hired before 2009. The Town concludes that there is insufficient justification to alter the status quo.

### **Discussion**

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

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

Faced with what would have amounted to significant pay cuts to officers' wages, many communities, including Burlington, decided to provide the full educational incentive to those officers who were eligible, and had been receiving the benefit. For those Burlington officers who were hired after 2009 the Town pays flat dollar amounts of \$2,500 per year for those officers with an Associate's Degree, \$7,500 for those who have a Bachelor's degree and \$10,000 for those officers who have a Master's Degree.

There is no question that the Legislature's and Governor's decision to not fund the Commonwealth's fifty

percent share of Quinn benefits has altered what communities have paid for police officers' educational incentives. In most communities, like Burlington, the parties agreed to fully fund Quinn benefits for those officers already hired, and receiving the benefit. With respect to new hires, as the chart shows, there is wide variation with respect to payment of educational incentives:

<u>Community</u>	<u>Full Quinn Benefits</u>	<u>Non Quinn</u>		
		<u>Assoc's</u>	<u>Non-Quinn BA</u>	<u>Non-Quinn MA</u>
Andover	Hired prior 2011	\$5,500	\$8,000	\$10,500
Arlington	Hired prior 2015	None	after 8 yrs 20%	after 8 yrs 25%
Bedford	Hired prior 2009	\$5,000	\$7,500	\$10,000
Billerica	Hired prior 2009	8%	10%	15%
Chelmsford	NO	5%	10%	12.5%
Concord	Hired prior 2010	None	\$6,000	\$9,000
Lexington	Hired prior 2009	\$5,000	\$10,000	\$12,000
Reading	Hired prior 2010	10%	20%	25%
Stoneham	Hired prior 2011	None	None	None
Tewksbury	Hired prior 2009	10%	20%	20%
Wilmington	Hired prior 2009	None	None	None
Winchester	Hired prior 2009	5 yrs 10%	5 yrs 20%	5 yrs 25%
Woburn	Hired prior 2009	\$3,000	\$6,000	\$7,500
Burlington	Hired prior 2009	\$2,500	\$7,500	\$10,000

At the present time it is not a prevalent practice to provide full Quinn benefits to officers hired after 2009. Some communities provide benefits on a percentage basis but at a lesser amount, and others, like Burlington, provide flat dollar incentives. Some other communities, like Arlington, provide full Quinn Benefits after officers have worked for the community for a certain number of years. Other communities have not provided any education incentive for newly hired employees. It is not an insignificant cost to provide full Quinn benefits to those Burlington Patrol Officers who do not now receive the payment. Burlington and

the Patrol Union agreed to provide flat dollar amounts to those officers hired after 2009, and this practice should continue for at least this contract, which will expire at the end of June of this year.

On the other hand, it must be remembered that those officers who continue to receive Quinn benefits receive an increase in their educational incentive every time there is a base wage increase. At this time there are nine officers who receive flat dollar amounts for having attained a degree. There should be an increase in their educational incentive in this contract period.

In addition, the parties in their last agreement to a Side Letter provided that officers hired before 2009 would have the opportunity to start or return to school to obtain a degree and then be entitled to full Quinn benefits. Allowing this Side Letter to be amended to delete the cutoff date of June 30 2015, is reasonable, it impacts only a couple of Patrol Officers and is not automatic, as the Officers would have to return to school and obtain their degrees; it would result in little, if any, additional cost.

#### **AWARD - EDUCATIONAL INCENTIVE**

The Educational Incentive for those Officers who do not receive Quinn Benefits shall be increased by \$500.00 for each degree level; Associate's Degree to \$3,000, Bachelor's Degree to \$8,000, and Master's Degree to \$10,500. This increase shall be effective July 1, 2017. In addition the Side Letter providing for a cutoff date of June 30, 2015 for those officers hired before July 1, 2009 shall be deleted.

## **6. Article 21 - Holidays**

Article 21 sets forth the paid holidays for Burlington Patrol Officers.

### **UNION PROPOSAL**

The Union proposes to Amend Article 21 by adding a new Section 21:09, which reads:

Officers working a uniformed shift on either Christmas or Thanksgiving will be paid an additional one-half (1/2) times their hourly rate for the shift (for example, an officer working his/her regular shift will receive time and ½ for the shift; an officer working an overtime shift shall receive 2 times their regular hourly rate). The following shifts shall be eligible for this provision:

Thanksgiving and Christmas:

12:00 am - 8:00 am

8:00 am - 4:00 pm

4:00 pm - 12:00 am

The Union maintains that the Town recently agreed to provide this additional holiday pay for Command Officers in their most recent agreement.

### **TOWN PROPOSAL**

The Town does not oppose the Union's proposal. The Town maintains, however, that it should be remembered that adding this benefit for Command Staff costs considerably less than providing it to the Patrol Officers Unit, which has more members.

### **AWARD - HOLIDAYS**

The Agreement shall be amended to include the additional half time premium for working Thanksgiving and Christmas. The language added to the Patrol Officers Agreement shall be the same as currently exists in the Command Staff Unit.

## 7. Vacation Accrual

In the current agreement Patrol Officers are credited with their annual vacation on January 1 of each calendar year.

### TOWN PROPOSAL

The Town proposes to modify the method of vacation accrual. Under the Town's proposal officers would no longer receive all their vacation at the beginning of the calendar year, instead, vacation would be allocated on a monthly basis.

The Town maintains that the Union's contention that this would alter the amount of an officer's vacation accrual is without merit. The Town states that what changes is that instead of accruing vacation on an annual basis, getting all their vacation upfront in January officers would now receive their accrual on a monthly basis. The Town contends that there is no diminishment of the amount of vacation leave that a Patrol Officer would receive on an annual basis, but this just changes the method by which they accrue vacation leave. The Town states that all the civilian employees of the Town have been accruing vacation on a monthly basis and these other employee groups have not complained that they were short-changed on their vacation entitlement.

The Town states that the one example raised by the Union, when an employee left the Police Department and the calculation of vacation was done incorrectly, is further reason to move to a monthly accrual method, to avoid miscalculations in the future, as the employee payroll record would indicate the actual vacation time accrued by each Patrol Officer. The Town argues that it is reasonable

for the payroll department to administer the same monthly vacation accrual process for all Town employees.

#### UNION PROPOSAL

The Union opposes the Town's proposal. The Union states that all of the other public safety units in the Town receive their vacation at the beginning of the calendar year and none have agreed to change to a monthly accrual basis. The Union maintains that the change will adversely impact Patrol Officers' vacation accrual and use of vacation time in the future. The Union states that Officers who have anniversary dates later in the year, would not have received sufficient vacation to be able to take a meaningful vacation until they reach their anniversary date, whereas under the current system Officers can use their vacation leave anytime during the year.

The Union states that the Town's only justification is administrative convenience, and that this is not sufficient justification to change this long-standing practice. The Union states that if an Officer leaves the employ of the Town, the Town currently prorates vacation time when determining the final payment to the officer. The Union further maintains that a review of surrounding communities shows that the majority of communities still provide vacation on annual basis, as is done in Burlington.

#### Discussion

It would appear that the change from an annual accrual to a monthly accrual would not result in a decline in the amount of vacation that an Officer would be entitled to on a yearly basis. If an officer is entitled to 28 vacation days the officer would still receive 28 days per year albeit on the basis of earning 2.333 vacation days per month instead of receiving 28 days in January.



It would be one thing if Patrol Officers were the last bargaining unit in Town to object to the monthly accrual. At the present time, however, none of the other public safety groups have agreed to change the accrual method. Moreover, any change in vacation accrual should occur with sufficient advance time to allow Officers to plan their yearly vacation. Since there are only three months remaining before the Agreement under consideration expires, it would be unwieldy to make the change in the accrual methodology during the reaming period of this Agreement.

#### **Award - Vacation Accrual**

The Town's proposal to change the method of vacation accrual is not awarded.

#### **8. Tasers, Dashboard Cameras, and Body Cameras**

There is no language in the parties' Agreement that addresses the subject of Tasers, dashboard cameras, or members of the bargaining unit wearing body cameras.

##### **TOWN PROPOSAL**

The Town seeks to add language to the parties' Agreement that the Police Department "shall have the authority without further bargaining to implement terms of policies pertaining to the use of Tasers and Dashboard Cameras". The Town states that Town meeting approved funds to purchase Tasers, and believes that police officers are not opposed to use of Tasers as part of their duties.

The Town maintains that it is willing to discuss and bargain about the impacts of any such changes, but does not believe that the Union should receive extra compensation for discussing or implementing these devices. The Town states that it has no immediate plans to adopt body worn

cameras, but simply seeks language for a "reopener" should it seek to pursue this issue in the future.

#### UNION PROPOSAL

The Union states that the use of Tasers by police officers will have an impact on both the safety and liability for police officers and the Town. The Union contends that adopting the use of Tasers is a matter that should be fully negotiated between the parties before implementation. Similarly, the Union states that use of dashboard cameras would be a change in working conditions that must be fully negotiated. The Union states that it is not opposed to such changes but that the Town should not have the unilateral right to implement these new and important working conditions without fully bargaining with the Union.

The Union maintains that the Town's proposal to add language for a contract reopener for the subject of body worn cameras is not necessary. The Union maintains that there is a legitimate question as to the efficacy of body worn cameras by police officers, and that there are significant costs to adopting body worn cameras. The Union states that the contract under discussion is set to expire in three months, and the Town can certainly raise the issue as a subject matter during the next round of contract negotiations.

#### Discussion

The use of Tasers and dashboard cameras certainly raises issues that impact the Officers overall working conditions. For the time remaining in this contract period, a joint labor management committee should be established to discuss matters relating to the use of Tasers and dashboard cameras. The Committee should then make non-binding

recommendations over which the parties can then fully negotiate during for the next round of contract negotiations.

At the present time, body worn cameras are not a prevailing working condition in the Commonwealth of Massachusetts. Except for Methuen, no other municipal police department has contract language addressing the complexities involving the wearing and use of videos from body worn cameras. The City of Boston agreed to a pilot program, but the results of this pilot program are not yet concluded: thus nothing has been made public with respect to issues that have arisen with the adoption of this program. Therefore, it is too early to assess the success or failure of the program for the City of Boston. As stated above, the contract at issue in this arbitration proceeding will expire in three months. The parties will have ample time to review the results of Boston's pilot program by the time they begin negotiations for a successor Agreement. Accordingly, the Panel will not make any final award on the subject of body worn cameras.

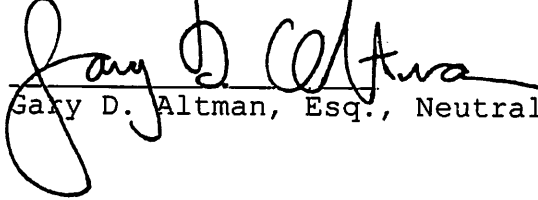
#### **AWARD - TASERS, DASHBOARD CAMERAS, AND BODY CAMERAS**

The parties shall establish a joint labor management committee composed of three bargaining unit members and three members appointed by the Department to review and make non-binding recommendations on the use of Tasers and Dashboard Cameras.

#### **Conclusion**

The Panel has considered the statutory criteria in an effort to balance the interests of the bargaining unit employees, the Town, and the citizens of the Town of

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

A handwritten signature in black ink, appearing to read "Gary D. Altman". The signature is fluid and cursive, with the first name "Gary" being more prominent.

Gary D. Altman, Esq., Neutral Arbitrator

Andrew Flanagan

Andrew Flanagan, Management Panel Member, Concurs in this Award

Michael Perreira

Michael Perreira, Union Panel Member, Concurs in this Award

Dated: March 27, 2018