

**COMMONWEALTH OF MASSACHUSETTS
JOINT LABOR-MANAGEMENT COMMITTEE FOR POLICE AND FIRE
Case No.: JLMC 23-10055**

**Before the Tripart Arbitration Panel of:
James S. Cooper, Neutral Chair
Hon. Dean Mazzarella, Management Representative
Officer Alan Andrews (retired), Union Representative**

In the Matter of Arbitration between:

**NEWTON POLICE ASSOCIATION,
Union**

-and-

**CITY OF NEWTON,
City**

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DECISION AND AWARD

Procedural History

The Massachusetts Joint Labor Management Committee for Police and Fire (“JLMC”) appointed this Tripart Arbitration Panel (“Panel”) to hear this matter as authorized and in accordance with Chapter 589 of the Acts of 1987.¹ On November 18, 2024 the JLMC notified the Panel to hear and decide the following issues “as more particularly described in the written submissions of the Parties:”

UNION: Wages, Duration, POST Certification Differential, Step Adjustment, Grievance Procedure, Hazardous Duty Pay, Equalization of Steps.

¹ Chapter 589 of the Acts of 1987 authorizes the JLMC (“the Committee”) to assert jurisdiction as follows:

If the committee, after a full hearing finds there is an apparent exhaustion of the processes of collective bargaining which constitutes a potential threat to public welfare, it shall so notify the parties of its findings.

Within ten days of such notification, the committee shall also notify the parties of its intent to invoke such procedures and mechanisms as it deems appropriate for the resolution of the collective bargaining negotiations. Such procedures and mechanisms may include, but need not be limited to:

(1) any form of arbitration, including, but not limited to, conventional arbitration, issue-by-issue or last best offer:

* * *

(4) an arbitration board, which may include labor and public management representatives as voting or non-voting members;

CITY: Wages, Duration, Special Leave (section 4.03 [of parties most recent Agreement]), Special Leave (section 4.12 [of the parties most recent Agreement]), Body Worn Cameras, Tools, Attendance Software.

On January 13, 2025 and January 31, 2025, the Newton Police Association (“Union”), represented by attorney John O. Killian, and the City of Newton (“City”), represented by attorney Michael J. Maccaro, presented evidence including documents and testimony in support of their respective positions on the JLMC’s specified issues which were to be decided on an issue by issue basis using the factors specified in Chapter 589 of the Acts of 1987.² Following the hearing, counsel filed

² Chapter 589 of the Acts of 1987 specifies:

The factors to be given weight in any decision or determination resulting from the mechanism or procedures determined by the committee to be followed by the parties in order to reach final agreement pursuant to this section shall include, but not be limited to:

- (1) Such award shall be consistent with: (i) section twenty-one C of chapter fifty-nine of the General Laws, and (ii) any appropriation for that fiscal year from the fund established in section two D of chapter twenty-nine of the General Laws.
- (2) The financial ability of the municipality to meet costs. The commissioner of revenue shall assist the committee in determining such financial ability. Such factors which shall be taken into consideration shall include but not be limited to: (i) the city, town or district’s state reimbursements and assessments; (ii) the city, town or district’s long and short term bond indebtedness; (iii)) the city, town or district’s estimated share in the metropolitan district commission’s deficit; (iv)) the city, town or district’s estimated share in the Massachusetts Bay Transportation Authority’s deficit; and (v) consideration of the average per capita property tax burden, average annual income of members of the community, the effect any accord might have on the respective property tax rates on the city or town.
- (3) The interests and welfare of the public.
- (4) The hazards of employment, physical, educational and mental qualifications, job training and skills involved.
- (5) A comparison of wages, hours and conditions of employment of the employees involved in the arbitration proceedings with 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.
- (6) The decisions and recommendations of the fact-finder, if any.
- (7) The average consumer prices for goods and services, commonly known as the cost of living.
- (8) The overall compensation presently received by the employees, including direct wages and fringe benefits.
- (9) Changes in any of the foregoing circumstances during the pendency of the dispute.
- (10) Such other factors, not confined to the foregoing, which are normally or traditionally taken into consideration in the determination of wages, hours and conditions of employment through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise between parties, in the public services or in private employment.
- (11) The stipulation of the parties.

extensive post-hearing Briefs setting forth their arguments in support of their client's respective positions on the issues.

Issues, Positions, Arguments and Decision

The issues shall be considered in the order in which the parties have reached agreement or have negotiated very close to an agreement followed by those issues requiring further analysis, a decision and award by the panel.

1. Duration

The Union and the City agree that the duration of the contract shall be for a three-year period from the expiration of the parties prior Agreement, July 21, 2021 to June 30, 2024.

1. Panel Award: The term of the Agreement shall be July 21, 2021 to June 30, 2024.

2. Grievance Procedure

The Union proposes modification of Article XI, Section 11.02, Step 3 of the Agreement as follows:

Step 3 – If the grievance is not resolved at STEP 2 within the time prescribed, the UNION may submit the grievance to the Mayor. Such submission ~~must~~ **may** be made in writing within five **Business** (5) days after the expiration of the time set forth for a written answer from the Chief of Police, **but must be made no later than ten (10) days business days from the date of the Mayor's [sic]³ answer.** Said submission shall be submitted in writing to the Mayor by the employee and the UNION. A meeting between the Mayor and/or designated representative and the Grievance Committee of the UNION shall be held within ten (10) days after referral to the Mayor to discuss the grievance.

11.02 Arbitration – If the grievance is not resolved at STEP 3, the UNION or the CITY, may submit the grievance to Arbitration. Such submission must be made within thirty (30) calendar days after **the Mayor's answer is due.** ~~the expiration of the seven days referred to in STEP 2.~~ Said submission shall be made to the American Arbitration Association in accordance with its rules and regulations and a copy thereof shall be given to the CITY by delivery in hand or by mail, postage prepaid, addressed to the Chief of Police or the UNION.

The City did not oppose the Union's proposal.

³This is a quote from Union Exhibit 3, the Union's September 1, 2024 submission to the JLMC as part of the JLMC's 3(a) process. The word "Mayor" makes no sense and should be replaced by "Chief of Police."

2. Panel Award: The Panel Awards the Union's proposal as if such were stipulated.

3. Training for less-than-lethal weapons

The City proposed a new article entitled "Tools" as follows:

- (a) The City will provide members of the NPA [Union] no less than the manufacturer's minimum recommended training in the introduction, certification and use of conducted energy weapons and other less-than-lethal options.
- (b) Consistent with 501 CMR 8.00, *et seq.* and any and all other applicable laws and/or regulations, officers shall complete initial training for the use of conducted energy weapons using a curriculum in compliance with Municipal Police Training Committee. Said initial training will include instruction on the mechanics of the weapon, medical issues, and weapons proficiency, and shall take place during an officer's regular shift, when possible, for no less than eight (8) hours. When not possible, officers will receive training on overtime. All training instructors must have undergone manufacturer's instruction on training in the use of conducted energy weapons. All instructors shall also complete training in compliance with Municipal Police Training Committee.
- (c) Initial training on use of all other less-lethal options shall take place during an officer's regular shift, when possible, whereupon members of the NPA in designated assignments will carry such tools in their performance as police officers. When not possible, officers will receive training on overtime.
- (d) The City will also provide refresher training/recertification on said tools at appropriate intervals as determined by the Chief of Police or designee.
- (e) In agreeing to this proposal, neither party waives any rights it held prior to this agreement.

The Union opposed the City's proposal because it was overbroad in its statement of intent, namely covering all "less-than-lethal weapons." Without any specification, the Union asserts it is impossible for the Union to foresee what the City proposes in its "energy conducted weapons and other less-than-lethal options." The Union does not oppose the City's proposal if such were limited to a known weapon system, such as tasers. With respect to other unknown equipment, the Union argues that the officers whose obligation is to use such less-than-lethal weaponry should have some say and bargain over training and using less-than-lethal weapons.

Discussion

Less-than-lethal weapons is a vague terms. The City should offer less-than-lethal weapons training and use only with the agreement of the Union. The language of paragraph (c) shall be revised to require the City to reach agreement with the Union on whatever less-than-lethal weapons it intends to deploy other than conducted energy weapons (tasers).

3. Panel Award: The Panel awards the City's proposal but revises paragraph (c) to read:

(c) Upon agreement with the Union, initial training on use of all other less-than-lethal options shall take place during an officer's regular shift, when possible, whereupon members of the NPA in designated assignments will carry such tools in their performance as police officers. When not possible, officers will receive training on overtime.

4. Body Worn Cameras

The City proposed a new article as follows:

The Police Chief shall have the discretion to issue to twelve (12) patrol officers body-worn cameras, four [officers] from each platoon.

There shall be a Body-Worn Camera Pilot Program to be operated as follows:

- i. The Pilot Program shall be of a one (1) year duration, to commence upon notification by the Chief of Police.
- ii. Body cameras shall be worn by twelve (12) patrol officers during the Pilot Program.
- iii. Prior to the initial use of body cameras:
 - (a) All officers shall receive training during their regular shift, when possible. When not possible, officers will receive on overtime.
 - (b) There shall be a committee on purchasing body-worn cameras, which shall consist of three (3) representatives of the union and representatives of the NPD administrative team, as constituted by the Chief of Police, to determine which body-worn cameras will be used during the Pilot Program.
- iv. The NPD General Order setting forth the Body-Worn Cameras Policy is attached hereto as Addendum A. The parties to this Agreement recognize that the policy of the Commonwealth, as the same is set forth in St.2022, c.254, §104, and the Law Enforcement Body Camera Task Force, and their interpretation, in relation to body-worn cameras are evolving. The parties shall take all necessary actions to be in conformity with applicable federal, state and local laws and regulations.
- v. One month after the execution of this Agreement, or as soon as practicable thereafter, the Chief of Police will meet with all twelve (12) patrol officers who will be wearing the body-worn cameras during the Pilot Program and discuss the goals of the program and address any concerns of these personnel.
- vi. No less than two (2) representatives of the union agree to meet with representatives of the NPD administrative team, as constituted by the Chief of Police, every two (2) months to review the program; meetings shall include patrol officers who are participating in the Pilot Program to express recommendations and concerns.

- vii. Body-worn cameras shall not be used while a patrol officer is working a paid roadway detail, or while participating in any union activity.

Neither party waives any rights it held prior to this agreement.

The Union does not object to the City's proposal so long as the officers designated to participate in the Police Department's Pilot Program but argues that the City and the Department's Superior Officer's Union agreed to a pilot program and provided a stipend of \$2500 for officers participating in the pilot program.

4. Panel Award: The Panel Awards the City's proposed Body-Worn Pilot Program but adds the following: paragraph viii.: "Officers selected for participation in the Pilot Program shall each receive a one-time stipend of \$2500 upon completion of their participation."

5. Wages

The City proposes a general increase in wages of 1% per year for each of the years:

July 1, 2021 to June 30, 2022

July 1, 2022 to June 30, 2023

July 1, 2022 to June 30, 2024

The Union proposes a general increase in wages of 3% per year for each of the same years.

The City argues that it has settled the City's other union contracts for 3% per year or less for each of the years in question. The City would increase its general wage increase to the Union's demand of three (3%) percent per year provided that none of the Union's remaining cost items were included in the Award. If the Award includes such additional sums, the Union's overall compensation would far exceed what should be rightfully paid. The Union argues that the general increase in wages is a baseline for which there should be no restriction on other cost items as awarded on the basis of the statutory criteria and such compensation should be considered by the Panel completely independent of the basic increase in wages.

The Panel awards the nearly City-wide general wage package and will consider all further wage claims independently of the general wage increase

5. Panel Award: The Panel awards a general increase in wages of 3% per year for each of the three years from July 1, 2021 to June 30, 2024. The wage increase will go into effect on July 1st of the years 2021, 2022 and 2023 and shall be paid retroactively.

6. System for Accounting Attendance

The City proposes a new article entitled "Attendance Software" which provides as follows:

The Police Chief shall have the discretion to adopt a new attendance system. The department [City] will impact bargain the implementation of the new attendance system, such impact bargaining to conclude no later than six months following the Chief's implementation of the new attendance system.

The City argues that the dispatch supervisors, timekeepers and Police Superior Officers have all agreed to electronic attendance software which is easier and more accurate. The system will prevent errors in record keeping currently being done via paper logs. The electronic attendance software allows officers to request time off remotely from cell phones or personal computers. It will also prevent inadvertent errors such as double bookings and erroneous compensatory time off.

The Union opposes the adoption of attendance software because such software may also present problems of misuse error which lead to discipline. In addition, the City compensated the superior officers \$539 in wages for accepting this software but has not offered compensation to the Union.

The Panel Awards the adoption of the City's proposal. No compensation is awarded for a process that will benefit the officers as much as the City.

6. Panel Award: The Panel Awards the City's proposal on Attendance Software.

7. Daily Notice of Leave for Attendance

The City proposes to amend Agreement, Article IV, Special Leave, §4.03 as indicated by the italics below:

4.03 Use of Special Leave for Personal Illness

An employee shall be entitled to use Special Leave to the full extent of the employee's accumulation during absence from work because of sickness or injury of the employee in

accordance with this Article. *The employee shall give notice to the Department of their need for leave for each and every shift to be missed due to injury or illness.*

The City argues that currently officers on special leave call dispatch on the first day of their leave and remain out on leave without further notice to dispatch until that officer is returning to duty. The difficulty, as recounted by the Chief, is that the dispatcher writes on a slip of paper about the officer's absence and provides the absence slip to the Officer-in-Charge. As the Chief explained, when there is a personnel change in the Officer-in-Charge during a patrolman's multi-day absence "the Union member's special leave absence on the first day's slip of paper will occasionally get missed, causing staffing shortages and last-minute scrambling to ensure proper coverage." Requiring officers to call in each day of absence will solve the problem of the missed leave slip and that is the basis for the City's proposal.

The Union argues "That the supervisors are not able to keep record of who has called out is not the fault of the patrol officers." The Union points out that the current single call out system is a benefit to officers "because it alleviates some stress and worry that an officer goes through when he is out sick or dealing with a personal matter."

Discussion

The Panel rejects the City's proposal. If the problem is tracking time off within the Department's bureaucratic paper-driven procedures, the electronic attendance system as awarded above should fix the problem.

<p>7. <u>Panel Award:</u> The Panel rejects the City's requested amendment of Article IV, Section 4.03.</p>
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8. Special Leave for Overtime Prohibition

The City proposes adding a new section to Article IV of the Agreement:

New § 4.12:

Any officer using special leave shall not be allowed to voluntarily accept an overtime shift or detail until such time that they have worked a regularly scheduled tour of duty, absent approval from the Chief and/or designee.

The City presented this proposal as a means of preventing officers from "gaming" the system to avoid forced overtime. Officers volunteer for details or accept overtime shifts during their non-working shifts and use vacation or personal days for their regularly scheduled shifts and thereby avoid being

compelled to work on uncovered shifts when the City is short manpower. The City presented the work schedule of one officer for the month of January 2024 which showed that through this manipulation of working details and overtime, while taking sick leave, vacation leave and personal leave, the officer worked a mere two of his regularly scheduled shifts during the entire month. The Chief admitted that this was “an extreme” situation, but that there were many less extreme examples of what he considered as “gaming” the attendance system and leaving the Department short manpower.

The Union argues that the City’s proposal is illogical and that the real culprit in this situation is that the City is short manpower and needs to hire more officers. The City’s backward logic is that by preventing officers from working overtime and details “officers will work more if they are prevented from working more.” As Union President John Panica testified an officer assigned to work Monday to Friday, could not take a sick day or personal day on a Friday because the officer would have to sacrifice any opportunity to work a detail over the weekend. Officers working a regular 4 and 2 schedule would be similarly handicapped.

Discussion

The Panel rejects the City’s proposal. The officer whose work schedule for January 2024 was admittedly an extreme example and his use of vacation time, sick leave and personal days along with specific intermittent work on details cannot become the basis for changing the policy for the entire bargaining unit. If the Chief believes the officer is “gaming” the system, the City should address the legitimacy of the officer’s various claims, rather than placing restrictions on all officers.

<p><u>8. Panel Award:</u> The Panel rejects the City’s proposal to add Article IV, §4.13.</p>
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9. Hazardous Duty Pay

The Union proposes:

Effective July 1, 2022 Article XX, Wages be amended by adding a new Section 20.13, entitled , First Responder/Hazardous Duty Pay, for all officers equal to five percent (5%) of regular compensation annually, to be paid in equal amounts in each pay period. It shall be deemed regular compensation for purposes of state retirement law and shall be added to the list of wage augments identified in Article 23.02 as inclusions in regular compensation.

The Union argues that police today face far more risk of losing their lives on the job. The COVID 19 pandemic spiked the risk of an officer's life and that risk continues and should be compensated beyond the basic general salary. The City's argument that every aspect of policing is hazardous and therefore the general salary compensation includes the hazardous nature of the job. The Union points out that the legislature in enacting the JLMC's statutory charter included in the list of factors for this panel to consider in rendering awards: "(4) The hazards of employment ...". With that in mind, the Union argues it is simplistic to claim that "hazards" are built into an officer's salary. The Union notes that many other communities have adopted stipends or wage differentials based on this factor in their police departments.⁴

Discussion

The Panel rejects the Union's proposal. The fundamental assumption for anyone entering the profession of law enforcement knows and understands that it is a serious commitment to service with a risk of injury or death. Why else would an employer arm everyone with a weapon (indeed, many kinds of weapons) and provide training and re-training as to how to handle serious confrontations which always have an associated risk of injury or death. It may be simplistic, as the Union claims, but the base wage and benefits paid an officer is in exchange for taking the risk of "the hazards of employment."

9. Panel Award: The Panel rejects the Union's proposal to add Section 23.13 to Article XX.

10. Step Adjustment, 11. Equalization of Steps and 12. POST Certification Differential⁵

The Union proposes to amend Appendix A of the Agreement as follows:

Effective January 1, 2022, Steps 1 and 2 shall be eliminated, the remaining steps will be renumbered 1 through 6, and new Steps 7 and 8 shall be created, each five (5) per cent higher than the immediately preceding step [hereinafter referred to as "Step Adjustment"].

⁴These stipends or differentials, the Union points out, should be awarded pursuant to factor 5, because such stipends have been included in comparable communities.

⁵The Union's three proposals are grouped together for ease of analysis. The Union's proposals are each directed at a different issue facing the City and the officers, but together they amount to a wage increase above the general increase in wages. The Union presents arguments in support of each proposal on the basis of the eleven statutory factors as set forth in footnote 2. The City opposes these three proposals on the basis of the eleven statutory factors. For ease of discussion these proposals will be considered individually (as the Union proposes) and collectively (as the City proposes).

Effective January 1, 2023, the increase between each step in the salary scale shall be increased to five percent (5%) [hereinafter referred to as “Step Equalization”].

The Union proposes a new article POST Certification Differential as follows:

In recognition of the significant new obligations and other changes in the terms and conditions of employment for bargaining unit officers under the Police Reform Act of 2020 (See Chapter 253 of the Acts of 2020), and to ensure that the City can continue to recruit and retain quality police officers, the City shall pay each bargaining unit officer a differential of regular weekly compensation payable in installments of two percent (2%) on July 1, 2021, an additional two percent (2%) on July 1, 2022, and an additional two percent (2%) on July 1, 2023. The differential will be paid in each pay period and is deemed to be regular compensation for purposes of calculating and officer’s retirement benefit [hereinafter referred to as POST differential” or “POST”].

For its Step Adjustment proposal the Union argues that factor (4) as contained in the JLMC’s enabling statute (see footnote 2), the “interests and welfare of the public,” support the Union’s proposal by raising the starting salary for new officers and doing the same for officers at the top of the wage scale. The Union points out that the City readily acknowledges that the City is one of the safest cities in the country and that a properly staffed and fully trained police force is paramount for the residents and visitors. Yet despite this lofty claim, the Union’s presentation notes that the City admittedly faces extreme recruitment and retention issues.⁶ The Union presented evidence that as of January 2025 the Department had nine vacancies in the patrol division and has lost more officers than it has hired since 2020. The loss of officers, the Union points out, is not due to retirements but due to lateral transfers out of the City to another police force or who left the field entirely. No patrolman has moved laterally from another department since 2010. A lateral transfer presents the City with a fully trained police officer at no cost to the City to train. The Union argues that higher compensation and benefits are needed to attract the best officers from other departments. Exacerbating this recruitment of new patrolmen is the

⁶The City of Newton, Massachusetts, Mayor Ruthanne Fuller’s Proposed Budget, Fiscal Year 2025, dated April 16, 2024 at page 24 states:

Consistent with local and national trends, the Newton Police Department continues to face challenges with recruiting sufficient staffing of new officers. We will focus strongly on reaching our full complement of officers while seeking to create a more diverse police department that is representative of the community we serve. We will pursue innovative ways to attract police and dispatcher candidates to the Department and alleviate the need to force personnel on shifts and assignments. This outcome will remain a top priority for the Department.

diminished number of applications for positions and the vetting process further diminishes the number of applicants who make it through the process.

The net effect of the inability to recruit new officers is that policy changes have been made by the Chief, including a June 29, 2022 policy change reducing the number officers on first half shifts and pulling specialists to serve on patrol (officers assigned to the Traffic Division first, followed by Detectives, if needed). If reassigned, the specialty assignment remains unstaffed, such as a School Resource Officer who has worked less than 30% of worktime in any school. The upshot of the George Floyd incident has resulted in greater public scrutiny of officers and lessened public sentiment for police officers in general.⁷ Turning next to the Union's arguments for the Equalization of Steps and POST, the Union argues that its proposals are warranted based on factors (3), (5), (7), (8) and (9) (see footnote 2) as specified in the JLMC statute. The Union argues that the City has conceded that factor (2), the financial ability of the municipality to meet costs, is not an issue in this arbitration.

The City examines the same factors and claims that its police officers are more than adequately compensated, and that notwithstanding current resources, the City should not be forced to overpay police officers. The City argues that the data show that the police officers remain among the highest compensated police officers in the comparable communities based on a 3% general wage increase *without* including the Union's add-ons for POST, Step Adjustment or Step Equalization.

The appropriate JLMC factors will be considered examining the Union's and City's position on each. The most extensive and time-consuming factor for the Panel, factor (5), a comparison of wages paid to police officers in other communities will be examined first followed by each of the other factors and, at the City's urging, factor (2), the ability to pay factor will be carefully examined.

Factor (5), a comparison of Newton's compensation of police officers at comparable communities

The parties disagree on what communities are comparable. The Union urges the panel to utilize Boston, Brookline, Cambridge, Medford, Needham, Quincy, Somerville and Waltham. The Union also considers the State Police and the Massachusetts Bay Transit Authority ("MBTA") as non-municipality comparators because these employers compete with the City for police talent. The Union added to its presentation the panel five other communities, although not contending full comparability: Arlington,

⁷The Union points out that the City had budgeted for 24 Dispatchers but only has 16 fully trained a year or so ago and in response the City increased the dispatchers' salary twenty (20%) percent to recruit dispatchers.

Everett, Lexington, Watertown and Wellesley. The City proposes the following ten communities for comparison purposes: Arlington, Belmont, Brookline, Framingham, Lexington, Natick, Needham, Waltham, Watertown and Wellesley. Each party attempts to stack the deck with its selected comparable communities, but for the purposes of this award, the panel will limit its consideration to those communities that appear in both lists: Arlington, Brookline, Lexington, Needham, Waltham, Watertown and Wellesley, plus the City of Cambridge and the State Police and the MBTA's patrol officers. The communities share similar population size, proximity to Newton and police budgets. The State entities compete with Newton for the same recruits. They differ in many respects but are sufficiently similar for the Panel's purposes.

Comparison of Total Compensation of a 10-year officer with a Bachelors Degree Over the Term of Agreement ⁸				
	FY 2021	FY 2024	Total Increase	Average Increase % Over Term
Newton ⁹ @ 3%	\$105,970.	\$115,586.	\$9,616.	9.074
Newton with Union Proposed POST ¹⁰	\$105,970.	\$122,841.	\$16,871	15.9
Newton with Union Proposed	\$105,970.	\$127,945.	\$21,975	20.7

⁸ The parties agreed to use such an officer for comparative purposes.

⁹ City offer of 3% per annum.

¹⁰ POST = 2% of total weekly compensation, payable effective July 1, 2021. July 1, 2022 and July 1, 2023.

Step Adj ¹¹				
Newton with Proposed Step Eq ¹²	\$105,970.	\$123,938.	\$17,968	16.95
Newton with Proposed POST, Step Adj and Step Eq	\$105,970.	\$143,552.	\$37,582	35.46
Newton with Step Adj and Step Eq	\$105,970.	\$136,290.	\$30,320	28.6
Arlington	\$90,499.	<u>Union data¹³</u> \$112,178 Avg.=\$110,248 <u>City data</u> \$108,318	\$19,749	21.8
Brookline	\$87,352.	<u>Union data</u> \$109,105. Avg.=\$110,011 <u>City data</u> \$110,917.	\$22,659	25.94

¹¹ Step Adj = Elimination of bottom two steps and addition of two top steps effective January 1, 2022.

¹² Step Eq = Equalization of payments between steps to 5% effective January 1, 2023.

¹³ The Union data (Union Ex. 9) and the City data (City Ex. 7) reported slightly different numbers. The panel averaged the parties' numbers.

Lexington	\$90,194.	<u>Union data</u> \$104,101. Avg.=\$103,902 <u>City data</u> \$103,703.	\$13,708	15.2
Needham	\$98,245.	<u>Union data</u> \$111,554. Avg.=\$111,668 <u>City data</u> \$111,781.	\$13,423	13.6
Waltham	\$95,264.	<u>Union data</u> \$113,487. Avg.=\$108,522 <u>City data</u> \$103,556.	\$13,258	13.9
Wellesley	\$87,482.	<u>Union data</u> \$97,481. Avg.=\$98,402 <u>City data</u> \$99,323	\$10,920.	12.48

If, as the Union urges, the Panel should consider the City of Cambridge and two state agencies with whom the City competes for police officers, the data is reveals as follows:

	FY 21	FY 24	Total Increase	Average Increase %
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Cambridge	\$119,609.	\$135,690.	\$16,081.	13.4
State Police	\$105,676.	\$114,619.	\$8,943.	8.46
MBTA Police	\$92,996.	\$113,249.	\$20,253	21.8

Based on this external comparison data, it shows that with the 3% per year annual increase and no other enhancements, the Newton police would be ahead of the six agreed upon comparable communities (Arlington, Brookline, Lexington, Needham, Waltham and Wellesley), essentially the same as the State and MBTA Police and significantly behind Cambridge police. In terms of percentage increases, at the 9% total compensation, the percentage increase to the patrol officer's base would be substantially behind the average percentage increase of the six agreed upon communities which is 17.15%.¹⁴ The Panel could not award all of the Union's proposed wage enhancements. By doing so, the Panel would award a percentage increase in excess of thirty five percent over the term of the Agreement, far in excess of all of the comparable communities and entities. The City argues that the data provides a basis for the Panel to award a three (3%) general wage increase without any further increases for POST, Step Adjustment or Step Equalization. Without that stipend, the City will remain a leader among the comparable communities in total compensation and remain competitive for the purpose of attracting applicants to the Department.

Factor (8) the overall compensation presently received by the [municipality's] employees including direct wages and fringe benefits

The Panel must also consider whether other factors should, as the Union argues, support a further increase in compensation. The Panel now turns to factor (8), a comparison of the compensation granted to Newton's other employees. The City has maintained throughout that it has negotiated agreements with

¹⁴Arlington: 21.8%, Brookline 25.9%, Lexington 15.2%, Needham 13.6%, Waltham 13.9%, Wellesley 12.48%. Total = 102.88%/6 = 17.1%. If the calculations included Cambridge 13.4%, State Police 8.46%, MBTA Police 21.8%, the average increase in compensation over the three years decreases to 16.28%.

its other bargaining units granting a general wage increase of three percent and that patrol officers should fall into line with that pattern of compensation. The Union takes the City to task by pointing to compensation in addition to the three percent granted to others and provided a laundry list of compensation enhancements outside of the three percent general wage increase. The Union's evidence includes the following items:

- Firefighters received increases in weekly longevity payments, a night differential of 1% and an increase for maintaining EMT certification and an increase in paid details.
- The City's dispatchers obtained wage adjustments far in excess of 3% including a 5% increase in the starting wage and a 10% wage increase for current dispatchers among other benefits.
- The City restructured the Teamster represented DPW employees' salary schedule eliminating the lowest grades and the first two steps for all remaining grades. Snow operation compensation increased by \$1.50 per hour, CDL licensees got an upgrade as well as an increase in the CDL stipend. Some employees got increases in the 13% to 14.5% range over a three-year contract.
- The City's AFSCME represented DPW employees received similar raises as the Teamsters including elimination of the first two steps of each grade as well as an increase in the snow pay, \$1.50 per hour. DPW supervisors received increases ranging from 23% to 33% over the course of a three-year agreement.
- The police superior officers negotiated a night differential (1%), an additional holiday and an Administrative Stipend (\$500).

While it is unclear exactly how much these benefits added to the City's budget or how much it amounted in take home pay for these employees, it undercut to a degree that the City's 3% salary cap was universally accepted by the other City bargaining units. Exactly what the additional compensation amounted to in terms of a percentage increase is impossible to determine from the data.

Factor (7) the average consumer prices for goods and services, commonly known as the consumer price index

The Panel would be remiss if it did not consider the cost-of-living increase during the period the Agreement will cover retroactively. According to the U.S. Bureau of Labor Statistics during the time period from July 1, 2021 to June 30, 2024, the Boston-Cambridge-Newton, MA-NH consumer price

index (“CPI”) increased for each twelve month period 7%, 2.8% and 3.5% for a total 13.3%. The City argues that if you extend the time frame for considering the CPI backward ten years, from June 2014 to June 2024, the CPI increased 25.43%. If the City provided the Union zero increases for the duration, the patrol salaries have increased over 32% during the same period. Thus, the City argues the changes in the CPI, as claimed by the Union, represents a reason to award the City’s agreed upon maximum compensation of 3% per annum. The Union counters the City’s claim arguing that it is the duration of the Agreement that should govern the use of CPI data, otherwise, why go back ten years, recount the last fifty years or to the beginning of the Bureau of Labor Statistics calculation of the CPI.

On this issue the Panel interprets factor (7) of the JLMC statute as intending the Panel measure the CPI for the duration of the contract under dispute. Evidence of the legislative intent is found in factor (9) which mandates the Panel consider “[c]hanges in any of the foregoing circumstances *during the pendency of the dispute.*” (italics added). One of the foregoing circumstances is the “cost of living” as set forth in factor (7). On the basis of this language, the Panel interprets its obligation to consider the cost of living as limited to the period of the contract in dispute.

Factor (2) the financial ability of the municipality to meet costs

While the City has not contested its “ability... to meet costs” the City argues that such a concession does not excuse the Panel from failing to examine what an arbitration award means to the City. This is particularly true, the City argues, if the Panel awards the Union a dime over the three percent per year threshold the Union has already squeezed out of City which historically counts its pennies and carefully manages its fiscal affairs. Chief McMains explained the City’s efforts to improve policing including adding officers, installing state-of-the-art communications systems in police vehicles and making improvements in the Department’s physical structure (new firing range, new roof, installation of bullet proof glass, etc.). Chief Financial Officer Maureen Lemieux described the City’s historical commitment to improving police salaries through wage adjustments rather than, as with firefighters, stipends for specific special skills. The City however is boxed in by Proposition 2½ which limits the City’s tax revenue on property and the absence of new construction which would allow the City to increase its tax base. The City has many, many financial obligations including funding its pension and retiree health insurance obligations as well as funding the Newton Public Schools, a very much cherished and nationally recognized asset. The gap between the City’s revenues and its looming obligations will be nearly \$7.5 million in less than five years. During fiscal years 2022 to 2024 the City

received a windfall payment from a litigated tax abatement matter that netted the City sufficient funds to reduce debt obligations and enable the City to fund current operations. However, the CFO explained the City must not overextend its current ability to pay when there is a long-range financial gap looming in the near future. CFO Lemieux testified that she understands and appreciates the work done by the City's police force but increasing wages to most of the force by 22.9% over the life of this contract (that includes implementing the Union's wage proposals including a step increases) is simply not in the "interests and welfare of the public" [factor (3)] or the "financial ability of the municipality" [factor (2)]. The present ability of the City to meet costs must be discounted when the future of the City's ability to do the same is considered. Chief Financial Officer Lemieux testified that she fully supports reasonable and fair compensation to the City's hard-working and well-deserved police officers, but she considers excessive or unreasonable increases in compensation to be unwarranted from the City as imposed by the statutory power granted to an unelected and State government-appointed private panel.

Factor (9) Changes in the foregoing circumstances during the pendency of the dispute

The City argues that during the three years under consideration there has been a small but steady drumbeat of unions and municipalities dealing with the issue of whether and how much police officers should be compensated for legislatively-imposed obligations under the new statute, as now nicknamed POST. Eight municipalities employing a total of 560 police officers out of approximately 20,000 police officers state-wide) have negotiated stipends based on POST:

Municipality	# of Officers	% Based On	FY 22	FY23	FY24	Total
Dartmouth	68	Regular weekly compensation		2%	2%	4%
Lawrence	165	Base salary			1.75%	1.75%
Lexington	43	Regular Weekly Compensation	1%	1%	1%	3%
Mansfield	48				1.5%	1.5%
Needham	47	Regular Weekly Compensation		2%	1%	3%

Wakefield	49	Increase to base pay			1.5%	1.5%
Yarmouth	57	Increase to base pay			2%	2%
Norwood	83	One-time payment				\$1500

On the basis of the above, the City argues that of the comparable communities (Lexington and Needham), the POST stipends are 3% per year, far less than the 6% sought by the Union. Furthermore police officers in Lexington and Needham, with the 3% stipend per year enjoy far lower total compensation than the City's patrol with a 3% general increase (Newton: \$115,586; Lexington: \$103,902; Needham: \$111,668). The other communities who have *negotiated* POST have limited such payments to 2% or less.

The City, through counsel, further argues that for fiscal years in question, 2021 to 2024, there have been two JLMC Arbitration Awards, *Town of Brookline and Brookline Police Union*, JLMC 22-9158 ("*Brookline Award*") and *Town of Westport and Westport Police Association* JLMC 21-8983 ("*Westport Award*"). The Brookline Award issued on April 25, 2023 was negotiated out of existence eleven months later and the compensation awarded therein renamed as "Hazardous Duty/Regional Tactical Response Stipend." Accordingly the 4% stipend, the City argues, cannot stand as a reasonable means of applying such a stipend to POST. The City, again through counsel, also argues that the *Westport Award* issued on March 20, 2023 was an unfortunate and distinguishable "outlier" of an Award and may be distinguished on its merits because the Town was continuing to stonewall compensation packages in light of its ability to pay and hide wage increases from bargaining units under the guise of a POST stipend. The 6% awarded therein, the City urges, should be discounted by 2.25% because that was a POST stipend rather than a wage increase the Town could agree upon and would not upset the apple cart of what other employees would expect from the Town. The City further argues that even with the additional 3.75%, the *Westport Award* remains an outlier amount based on what other communities have *agreed* to pay as a POST Certification stipend (see chart above). In short, the City urges the Panel

to recognize that the wages cities and towns pay police officers more than adequately covers the miniscule incursion of their work life attributable to POST. It should be no more of a guide than a train whistle passing by in the middle of the night. Ignore it, the City argues and urges the Panel to reject the Union's demand for a 6% POST stipend.

Union counsel anticipated City counsel's punches and argued the Legislature's enactment substantially changed the nature of police work in Massachusetts. No longer could a Police Chief "have your back" and protect his or her police officers who face unknown and unknowable situations where instantaneous judgments about a life-threatening human interaction must be made but will be endlessly reviewed by the inevitable cell phone and, perhaps, a body camera video. Instead the Legislature created Police Officers Standards and Training Commission ("Training Commission"), a nine-member body which cannot have trained police officers as a majority of the Training Commission and employees of the Training Commission are prohibited from having a law enforcement background. The Training Commission must certify police officers every three years and can revoke certification any time, thereby ending an officer's career. The Training Commission may conduct "adjudicatory proceedings" separate, apart and independent of any employee rights under a collective bargaining agreement or a civil service commission. The Training Commission is authorized to suspend the certification of a police officer if the officer is *charged* with a felony or *believes* the officer committed a felony or *is the best interests of the public* (a completely undefined standard). The Training Commission may also suspend certification *inter alia* for committing a misdemeanor, a pattern of unprofessional conduct, a town or city issued suspension or repeated internal affairs complaints regardless of the merits of such complaints. The Legislature also created a Massachusetts Police Training Committee which can override collective bargaining agreements or police department regulations with respect to hiring standards and fitness standards. In sum, POST has completely altered police officer's duties and responsibilities in the way they are judged, controlled and evaluated. A six (6%) percent stipend, the Union claims, is minimal compensation for undergoing this radical change in working conditions.

Discussion

Based on the statutory factors, the Panel rejects the Union's proposals for elimination of steps and the equalization of steps and awards a POST stipend in the amount of 1.5% effective July 1, 2022 and 1.5% effective July 1, 2023. The rationale for this award is that the City deserves to be a leader among its comparable communities, but it does not need to play or pay out of its league. The three percent general wage increase will bring the City into the range of the comparable communities

mutually recognized by the parties as comparable. The operation of the POST Certification differential will make Newton the clear leader of the pack, a position it should welcome because this will make it a “go to” community rather than a “go from” community in terms of recruiting new officers. It is also consistent with the range of differentials negotiated by other communities. It is the willingness of other communities to acknowledge the change in police officer duties and liabilities that is influential in giving the Panel the guidance it needs in making this decision. JLMC arbitration should not be a guaranteed increase in what has generally been negotiated between police unions and their employers. The JLMC process should be viewed as a last resort and a risky one. The *Westport Award* was issued without the general experience of other communities having negotiated a differential which aligns with the realities of what POST requires as a premium. The 3% premium over two years is consistent with the relevant JLMC factors. It should be noted that the Panel engaged in fair give and take among the issues designated for resolution.¹⁵ This Award should not be taken as a floor or a ceiling for appropriate adjustments to police salaries based on POST. It attempts to reconcile the differing interests. It clearly provides a significant boost to the Newton Police officers’ salaries and will continue to maintain Newton’s position as a significant leader in police officer total compensation.

10. The Panel Award: The Panel rejects the Union’s proposal for elimination of lowest steps and adding two steps to the top of the pay scale.

11. The Panel Award: The Panel rejects the Union’s proposal for equalization of steps.

12. The Panel Award: The Panel awards the Union a 1.5% wage increase beginning on July 1, 2022 and a 1.5% wage increase beginning on July 1, 2023 as POST Certification Differential.

The above provisions are hereby unanimously awarded.

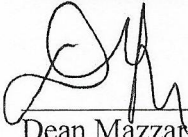

James S. Cooper, Chair

Date: April 22, 2025

¹⁵The Panel did not award the Union’s requested wage increases for Hazardous Duty, Step Elimination or Step Equalization. The Panel awarded the City’s request to add a body camera pilot program, a training program for energy conducted weapons and implementation of a new attendance program. The Panel’s goal is to issue an award that is fair and reasonable to the parties and consistent with the eleven JLMC factors.

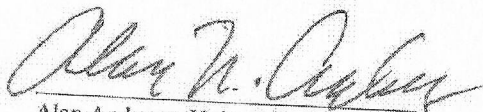
Alan Andrews, Union Member

Date: April _____, 2025

A handwritten signature in black ink, appearing to read 'DM', is written over a horizontal line.

Dean Mazzarella, Management Member

Date: April 22, 2025


Alan Andrews, Union Member

Date: April 22, 2025

Dean Mazzarella, Management Member

Date: April ___, 2025

Award Summary

A summary of the Award as the issues are numbered above is:

1. **Panel Award:** The term of the Agreement shall be July 21, 2021 to June 30, 2024.
2. **Panel Award:** The Panel Awards the Union's proposal on modification of Article XI as if such were stipulated. See below.

Article XI, Section 11.02, Step 3 of the Agreement shall state as follows:

Step 3 – If the grievance is not resolved at STEP 2 within the time prescribed, the UNION may submit the grievance to the Mayor. Such submission may be made in writing within five Business (5) days after the expiration of the time set forth for a written answer from the Chief of Police, but must be made no later than ten (10) days business days from the date of the Chief of Police's answer. Said submission shall be submitted in writing to the Mayor by the employee and the UNION. A meeting between the Mayor and/or designated representative and the Grievance Committee of the UNION shall be held within ten (10) days after referral to the Mayor to discuss the grievance.

11.02 Arbitration – If the grievance is not resolved at STEP 3, the UNION or the CITY, may submit the grievance to Arbitration. Such submission must be made within thirty (30) calendar days after the Mayor's answer is due. Said submission shall be made to the American Arbitration Association in accordance with its rules and regulations and a copy thereof shall be given to the CITY by delivery in hand or by mail, postage prepaid, addressed to the Chief of Police or the UNION.

3. **Panel Award:** The Panel awards the City's proposal but requires Union agreement on using less-than-lethal weapons other than conducted energy weapons (tasers). See below.
 - (a) The City will provide members of the NPA [Union] no less than the manufacturer's minimum recommended training in the introduction, certification and use of conducted energy weapons.
 - (b) Consistent with 501 CMR 8.00, *et seq.* and any and all other applicable laws and/or regulations, officers shall complete initial training for the use of conducted energy weapons using a curriculum in compliance with Municipal Police Training Committee. Said initial training will include instruction on the mechanics of the weapon, medical issues, and weapons proficiency, and shall take place during an officer's regular shift, when possible, for no less than eight (8) hours. When not possible, officers will receive training on overtime. All training instructors must have undergone manufacturer's

- instruction on training in the use of conducted energy weapons. All instructors shall also complete training in compliance with Municipal Police Training Committee.
- (c) Upon agreement with the Union, initial training on use of all other less-lethal options shall take place during an officer's regular shift, when possible, whereupon members of the NPA in designated assignments will carry such tools in their performance as police officers. When not possible, officers will receive training on overtime.
 - (d) The City will also provide refresher training/recertification on said tools at appropriate intervals as determined by the Chief of Police or designee.
 - (e) Neither party waives any rights it held prior to including this provision in the agreement.

4. Panel Award: The Panel Awards the City's proposed Body-Worn Pilot Program but adds the following: paragraph viii.: "Officers selected for participation in the Pilot Program shall each receive a one-time stipend of \$2500 upon completion of their participation." See below.

There shall be a Body-Worn Camera Pilot Program to be operated as follows:

- i. The Pilot Program shall be of a one (1) year duration, to commence upon notification by the Chief of Police.
- ii. Body cameras shall be worn by twelve (12) patrol officers during the Pilot Program.
- iii. Prior to the initial use of body cameras:
 - (c) All officers shall receive training during their regular shift, when possible. When not possible, officers will receive on overtime.
 - (d) There shall be a committee on purchasing body-worn cameras, which shall consist of three (3) representatives of the union and representatives of the NPD administrative team, as constituted by the Chief of Police, to determine which body-worn cameras will be used during the Pilot Program.
- iv. The NPD General Order setting forth the Body-Worn Cameras Policy is attached hereto as Addendum A. The parties to this Agreement recognize that the policy of the Commonwealth, as the same is set forth in St.2022, c.254, §104, and the Law Enforcement Body Camera Task Force, and their interpretation, in relation to body-worn cameras are evolving. The parties shall take all necessary actions to be in conformity with applicable federal, state and local laws and regulations.
- v. One month after the execution of this Agreement, or as soon as practicable thereafter, the Chief of Police will meet with all twelve (12) patrol officers who will be wearing the body-worn cameras during the Pilot Program and discuss the goals of the program and address any concerns of these personnel.
- vi. No less than two (2) representatives of the union agree to meet with representatives of the NPD administrative team, as constituted by the Chief of Police, every two (2) months to review the program; meetings shall include patrol officers who are participating in the Pilot Program to express recommendations and concerns.
- vii. Body-worn cameras shall not be used while a patrol officer is working a paid roadway detail, or while participating in any union activity.

viii. Officers selected for participation in the Pilot Program shall each receive a one-time stipend of \$2500 upon completion of their participation.

5. **Panel Award:** The Panel awards a general increase in wages of 3% per year for each of the three years from July 1, 2021 to June 30, 2024. The wage increase will go into effect on July 1st of the years 2021, 2022 and 2023 and shall be paid retroactively. Appendix A shall be modified accordingly.

6. **Panel Award:** The Panel Awards the City's proposal on Attendance Software. See below:

The Police Chief shall have the discretion to adopt a new attendance system. The department [City] will impact bargain the implementation of the new attendance system, such impact bargaining to conclude no later than six months following the Chief's implementation of the new attendance system.

7. **Panel Award:** The Panel rejects the City's requested amendment of Article IV, Section 4.03.

8. **Panel Award:** The Panel rejects the City's proposal to add Article IV, §4.13.

9. **Panel Award:** The Panel rejects the Union's proposal to add Section 23.13 to Article XX.

10. **Panel Award:** The Panel rejects the Union's proposal for elimination of lowest two steps and adding two steps to the top of the pay scale.

11. **Panel Award:** The Panel rejects the Union's proposal for equalization of steps.

12. **Panel Award:** The Panel awards the Union a 1.5% POST Certification Differential in wages effective on July 1, 2022 and an additional 1.5% as POST Certification Differential on July 1, 2023. All to be paid retroactively.