

COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF LABOR RELATIONS

In the Matter of:

COMMONWEALTH OF  
MASSACHUSETTS/SECRETARY OF  
ADMINISTRATION AND FINANCE

and

COALITION OF PUBLIC SAFETY

Case Number: SUP-19-7421

Date Issued: November 18, 2022

Hearing Officer:

James Sunkenberg, Esq.

Appearances:

Melissa A. Thomson, Esq. - Representing Commonwealth of Massachusetts

Daniel Fogarty, Esq. - Representing Coalition of Public Safety  
Peter J. Perroni, Esq.

HEARING OFFICER'S DECISION

SUMMARY

1           The issue is whether the Commonwealth of Massachusetts, acting through the  
2 Secretary of Administration and Finance (Commonwealth), violated Section 10(a)(5) and,  
3 derivatively, Section 10(a)(1) of Massachusetts General Laws, Chapter 150E (the Law)  
4 by implementing a GPS program for environmental police officers (EPOs) without giving  
5 the Coalition of Public Safety (Union or COPS) prior notice and an opportunity to bargain  
6 to resolution or impasse. Based on the record, and for the reasons explained below, I  
7 find that the Commonwealth violated the Law by refusing to bargain over the impacts of  
8 the GPS program that it installed.

STATEMENT OF CASE

1  
2 On July 2, 2019, the Union filed a charge of prohibited practice (Charge) with the  
3 Department of Labor Relations (DLR) alleging that the Commonwealth had violated  
4 Section 10(a)(5) and, derivatively, Section 10(a)(1) of the Law by implementing a GPS  
5 program for EPOs. On January 17, 2020, a DLR investigator investigated the charge.  
6 On January 31, 2020, the investigator issued a Complaint of Prohibited Practice  
7 (Complaint) alleging that the Commonwealth violated the Law by installing and  
8 implementing GPS tracking devices in EPOs' work vehicles without bargaining to  
9 resolution or impasse with the Union over the decision and the impacts of that decision.  
10 On February 3, 2020, the Commonwealth filed its Answer. On June 24, 2021, I conducted  
11 a remote hearing via WebEx, during which the parties received a full opportunity to be  
12 heard, to examine and cross-examine witnesses, and to present evidence. On  
13 September 21, 2021, the parties filed post-hearing briefs.

STIPULATIONS OF FACT

- 14
- 15 1. The Commonwealth of Massachusetts, acting through the Secretary of  
16 Administration and Finance, is a public employer within the meaning of Section  
17 1 of the Law.  
18
  - 19 2. The Coalition of Public Safety (Union) is an employee organization within the  
20 meaning of Section 1 of the Law.  
21
  - 22 3. The Union is the exclusive bargaining representative of certain employees of  
23 the Commonwealth in statewide bargaining unit 5, including Environmental  
24 Police Officers (EPOs) in the ranks of Officer, Sergeant, and Lieutenant.  
25

FINDINGS OF FACTGeneral Background

26

27 The Office of Law Enforcement, Massachusetts Environmental Police (OLE or  
28 MEP) operates within the Commonwealth's Executive Office of Energy and  
29

1 Environmental Affairs (EEA). The MEP has responsibility for enforcing conservation laws  
2 and patrolling inland and coastal waterways, beaches, and state parks. EPOs work 8.5  
3 hour shifts on a rotating, 4x2 schedule.

4 MEP operates a fleet of approximately 136 vehicles, including marked and  
5 unmarked cruisers, ATVs, and trailers. MEP usually assigns EPOs a marked cruiser, but  
6 may assign some EPOs, such as detective sergeants, an unmarked cruiser. In some  
7 instances, EPOs also have access to spare cruisers that are assigned to a region within  
8 MEP's jurisdiction. Captain Robert Forsythe (Forsythe), a 27-year veteran of the MEP,  
9 has overseen fleet operations for all MEP vehicles for more than 10 years.

10 The Massachusetts Environmental Police Officers Association (EPOA) is a  
11 constituent organization within COPS that represents EPOs. Arthur E. O'Connell  
12 (O'Connell) has worked for MEP for approximately 11 years. In or around 2014 – 2016,  
13 O'Connell was President of the EPOA. As of the date of the hearing, he was the COPS  
14 delegate representative.<sup>1</sup> O'Connell is assigned to the Chapter 5 District, which is in  
15 central Massachusetts. O'Connell typically starts his shift from his home, where he signs  
16 on to his department-issued laptop and checks his email.<sup>2</sup> He spends the bulk of his shift  
17 in his cruiser and keeps his cruiser at his house when he is off duty.<sup>3</sup> When he reports to  
18 an office, he reports to either headquarters, in Westborough, or a location in Braintree.

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<sup>1</sup>O'Connell described the EPOA as "our own branch" of COPS, which he described as the "main" or "big" union.

<sup>2</sup>In addition to cruisers and laptops, MEP also issues EPOs additional equipment, such as portable radios.

<sup>3</sup>O'Connell testified that his cruiser is "like my office."

1           Detective Sergeant Thomas Conners (Conners) has been an EPO for more than  
2 six years. Conners was a COPS delegate from in or around 2017 through 2018. Since in  
3 or around January 2019, he has been the President of the EPOA. Conners works in the  
4 Romeo Bureau, which is the boating safety bureau.

5 Settlement of SUP-13-3057 and MOU on GPS

6           On or around June 26, 2014, the “Commonwealth of Massachusetts, Office of Law  
7 Enforcement, Environmental Police” and COPS executed a Settlement Agreement for  
8 DLR case number SUP-13-3057. As part of the Settlement Agreement, the parties  
9 “executed the Memorandum of Understanding (“MOU”) appended hereto as Attachment  
10 A.” The Settlement Agreement provides that, “This settlement agreement and MOU may  
11 not be modified, amended or otherwise affected except by a writing signed by all parties  
12 hereto.” Representatives of COPS, the EPOA, and MEP signed the Settlement  
13 Agreement.

14           Previously, on June 5, 2014, representatives of MEP, COPS/EPOA, and the  
15 Commonwealth’s Human Resources Division (HRD) signed the referenced MOU.<sup>4</sup> The  
16 MOU contains the heading “GPS – Fleet Management” and states that its Purpose is, “To  
17 establish general guidelines for the use of GPS/fleet management devices.” The MOU  
18 contains the following Definitions:

19           GPS: Global Positioning System.  
20

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<sup>4</sup>Article I Recognition, Section 1.1 of the parties’ Collective Bargaining Agreement provides that: “It is understood that the Human Resources Division... has been designated by the Commissioner of Administration to represent the Commonwealth in collective bargaining and that all collective bargaining on behalf of the Commonwealth shall be conducted solely by the Human Resources Division.”

1            GPS/fleet management device (GPS device): term used for the electronic device  
2 transmitting the vehicle's position and vehicle's data collected through the on-  
3 board computer system including speed, fault codes, mileage, and sensors.  
4

5            Device information: any and all information gathered, transmitted and/or stored by  
6 the GPS device.  
7

8 The MOU also states the following Policy:  
9

10            The Massachusetts Environmental Police (MEP/OLE) recognize that GPS/fleet  
11 management technology is a valuable tool for effectively dispatching on-duty  
12 cruisers to nearby calls for service, for fleet management and analysis, and as a  
13 means for providing additional officer safety.  
14

15 Additionally, the MOU contains the following Procedure:  
16

- 17            1) Installation: All MEP cruisers/vehicles will have its GPS device installed unless  
18 its removal is authorized by the Director or his/her designee.  
19
- 20            2) Access/Training: Access and access levels will be set and authorized by the  
21 Director or his/her designee. Only the following civilian employees will have  
22 authorized access: OLE Dispatchers and the Fleet Manager. Training will be  
23 provided to the necessary personnel and will be based on access levels.  
24
- 25            3) Use: Devices and vehicle location will be used primarily for:  
26
  - 27            1. Fleet management and maintenance monitoring.
  - 28            2. Dispatching; to include dispatching the closest on-duty cruiser to high  
29 priority calls.
  - 30            3. Routing and patrol analysis.  
31
- 32            4) Information: Information obtained from the devices will be stored in compliance  
33 with state records retention policies. Device information shall be deemed to be  
34 exempt from public record disclosure to the extent allowed by law and will be  
35 treated as "law enforcement sensitive." M.G.L. c.4, 7(26) (b,c,f,o)[.] To the  
36 extent permitted by law, upon a valid public request for GPS data, OLE shall  
37 promptly notify the Union and officer(s) involved and provide them with a copy  
38 of the requested data.  
39
- 40            5) No member of the Department will conduct routine searches or "trolling" or go  
41 on a "fishing expedition" of the database for violations. The data will be  
42 accessed only for cause (e.g. citizen complaint, cruiser accident).  
43
- 44            6) Location/Dispatching: The GPS device location is approximate and should not  
45 be solely relied on as a means of notifying Dispatch of your vehicle's position.  
46 In the event that assistance must be routed to you, Dispatch will be able to

- 1 access the last transmitted position of your vehicle and will be able to direct  
2 help to that location. You must notify Dispatch of your position relative to your  
3 vehicle, if you are away from your vehicle and require assistance.  
4
- 5 7) OLE shall immediately request that the vendor take all appropriate steps,  
6 including the shutdown of the system, if the system is "hacked" or  
7 compromised.  
8
- 9 8) OLE and the Union agree to meet on a quarterly basis, or sooner if requested,  
10 to meet and discuss the effectiveness of this program.  
11
- 12 9) The "shelter period" will end on August 30, 2014. There will be no daily  
13 narratives after June 28, 2014. There may be exceptions after this date that  
14 temporarily prevents the capturing or transmittal of information to or from the  
15 CAD system (e.g. a natural disaster, catastrophic cyber-attack). In those  
16 instances, Officers may be required to fill out a daily narrative, but only until the  
17 system is fixed, and for no more than a week, unless agreed to otherwise by  
18 the union.  
19

20 OPS 030, GPS/Fleet Management Policy and Implementation of GPS

21 MEP subsequently issued, effective June 28, 2014, OPS 030, GPS/Fleet  
22 Management Policy (OPS 030), and installed GPS in all MEP cruisers. OPS 030 tracks  
23 the MOU. Its Purpose, Definitions, and Policy mirror the MOU. The Procedure section,  
24 however, contained three minor deviations. At Paragraph 2, Access/Training, OPS 030  
25 omitted the second sentence from the MOU: "Only the following civilian employees will  
26 have authorized access: OLE Dispatchers and the Fleet Manager." At Paragraph 4,  
27 Information, OPS 030 modified the first sentence to state: "Information obtained from the  
28 devices will be stored for the duration of the vendor contract and/or in compliance with  
29 state record retention policies." Finally, OPS 030 omitted Paragraph 9, which contained  
30 a "shelter period" that, as of June 28, 2014, had not yet expired.<sup>5</sup>

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<sup>5</sup>The record contains no evidence that the Union objected to these minor deviations. Neither party produced any testimony regarding the "shelter period."

1           As implemented, GPS monitored information such as location, speed, mileage, oil  
2 pressure, battery life, and seat belt engagement; and it could be used for dispatch.  
3 Forsythe was required to have a reason to access this information, but he had direct  
4 access to it. For example, he would receive direct alerts of airbag deployments and  
5 potentially problematic “patterns of operation.” Additionally, at the hearing, Forsythe  
6 identified an incident, after installation, where MEP used real-time location to locate an  
7 officer who had been involved in a serious highway accident but was unaware of his  
8 precise location.

9 GPS Removed

10           By letter dated May 22, 2015, O’Connell wrote to MEP Colonel James McGinn  
11 (McGinn) that:

12           I write to you in regards to the Global Position Satellite (GPS) systems that are a  
13 part of the Computer Aided Dispatch (CAD) which are currently installed in the  
14 cruisers of our members. The system has been a source of dispute and liability for  
15 the State, the Union, and its members. As the President of the Union, I am  
16 requesting that you take out the systems from all cruisers.<sup>6</sup>

17

18 By email on July 10, 2015, Lt. Colonel Brian J. Perrin wrote to all Officers that:

19

20           Effective Friday July 17, 2015 the GEO Tab tracking service devices in all law  
21 enforcement vehicles are being discontinued department wide.<sup>7</sup> Further  
22 information on processing the removal of this equipment will be sent under a

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<sup>6</sup>O’Connell testified that the Union asked management to remove GPS because “we felt that...the GPS itself wasn’t reliable.” According to O’Connell, the GPS failed to correctly identify location in some instances. The only example O’Connell identified was an incident where the GPS registered an officer as being “in the middle of the ocean.” O’Connell did not provide further details about the incident, including the actual location of the officer – for example, whether he was on the coast, an island off the coast, or inland. Accordingly, although I credit O’Connell’s testimony that the Union took issue with the GPS as unreliable, I do not credit his testimony that the GPS was, in fact, unreliable.

<sup>7</sup>GEO Tab was the name of the company that initially provided GPS service.

1 separate email. The colonel would like to thank the union for their input and  
2 discussions leading to this decision.

3  
4 The MEP subsequently removed GPS from all department vehicles. After the  
5 removal, MEP and the Union did not hold quarterly meetings as provided for in the MOU  
6 and OPS-030. MEP, HRD, and COPS also did not modify the MOU in writing, and OPS  
7 030 was not rescinded. After removal, MEP tracked vehicle mileage by relying on the  
8 operator of each vehicle to enter the mileage on his or her laptop when refueling the  
9 vehicle.

#### 10 OPS-025

11 Effective March 1, 2018, McGinn promulgated General Order OPS-025 (OPS-  
12 025), regarding “GPS/Fleet Management.” This order, a revision of OPS 030, states that  
13 its Purpose is to “establish a policy for the use of GPS/fleet management devices.” OPS-  
14 025 contains the same Definitions, Policy, and Procedure as OPS 030.<sup>8</sup> The Union  
15 received a copy of OPS-025 in the spring of 2018, when Conners, who was the COPS  
16 delegate at the time, picked up a thumb drive containing numerous policies.<sup>9</sup>

#### 17 Department Announces Reinstallation of GPS

18 By letter to the Union, dated September 10, 2018, regarding “GPS Installation,”  
19 Thomas Costello (Costello), Director of Labor Relations for EEA, wrote:

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<sup>8</sup>OPS-025 contains updated, general numbering. The order of the Definitions also differs from OPS 030. Additionally, the order of the Procedure section slightly differs from OPS 030 and “MEP” replaces references to “OLE.” Conners testified that beyond these minor revisions, he “found no real difference” from OPS 030. OPS 030 and OPS-025 do not materially differ.

<sup>9</sup>Conners testified that he never really went through the thumb drive to review it. Nevertheless, the Union received a copy of OPS-025.

1 Enclosed please find a Settlement Agreement between the Massachusetts  
2 Coalition of Public Safety and the Massachusetts Environmental Police. The  
3 Settlement Agreement represents the resolution of a Department of Labor  
4 Relations case (SUP-13-3057) between the parties. Paragraph one (1) of the  
5 Agreement references a Memorandum of Understanding (MOU) between the  
6 parties attached to the Settlement Agreement as Attachment A. The purpose of  
7 the MOU was to establish “general guidelines for the use of GPS/fleet  
8 management devices.” The parties executed the MOU on or about June 5, 2014.  
9

10 As you know, as of this date the Department is not utilizing GPS. On July 20, 2018,  
11 during our Labor Management meeting, I mentioned that the Department would be  
12 reinstating GPS, pursuant to the MOU of June 5, 2014. We again discussed the  
13 matter on September 7, 2018, during a Labor Management meeting. As I stated  
14 during our September 7 meeting, the Department will be equipping all Department  
15 issued vehicles with GPS devices.<sup>10</sup> We anticipate beginning the installation  
16 process within the next forty-five (45) days.  
17

18 Upon receiving this letter, the Union demanded to bargain what it considered a  
19 change in working conditions. At this time, the parties were in successor negotiations,  
20 and the Union opined that bargaining over GPS must occur within those negotiations. The  
21 Union ultimately tabled the issue and continued to take a wait and see approach to re-  
22 installation.<sup>11</sup>

### 23 Department Implements Reinstallation of GPS

24 By email on January 10, 2019, regarding “Vehicle GPS Install,” Forsythe wrote to  
25 all staff that:

26 The Executive Office of Environmental Affairs has contracted a company (GPS  
27 Insight) to track our issued state vehicles. A private company will be performing

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<sup>10</sup>Conners was present at the referenced meeting. He testified that the Union immediately objected because “we have individuals on the job that have never had that device in their vehicles.” Conners testified that GPS had been removed through mutual agreement, and that the parties had “effectively rescinded” the MOU. As discussed more fully in the Opinion, *infra*, I do not credit Conners’ testimony that the parties “effectively rescinded” the MOU. By the terms of the Settlement Agreement and the MOU, the MOU remained in effect upon the removal of GPS from the vehicles.

<sup>11</sup>According to Conners, Costello told the Union to wait and see what happens.

1 the installation to all of our department vehicles. The first two days of installation  
2 will be on Jan. 16<sup>th</sup> (Westborough) and Jan 17<sup>th</sup> (Hewitt's). The vendor indicates  
3 that they will install two units per hour on these days from 0800 to 1500 Hrs.  
4

5 Supervisors, please see that officers sign up to an open slot time and schedule  
6 their day accordingly.  
7

8 A schedule (as attached) is going to be held with dispatch. The slots will be filled  
9 on a first come first serve basis. Please sign up allowing this installation to fit into  
10 your busy schedules.  
11

12 As this is a mandatory installation, vacant slots will be filled as directed with on  
13 duty personnel.  
14

15 Additional days will be posted soon.  
16

17 After this email issued, MEP reinstalled GPS in every department vehicle.<sup>12</sup> As of  
18 the date of the hearing, MEP utilizes GPS Insight only to determine mileage for purposes  
19 of vehicle maintenance and replacement; it does not utilize GPS for other analysis or for  
20 dispatching purposes.<sup>13</sup> Additionally, Forsythe no longer has personal access to the GPS  
21 system.<sup>14</sup> Finally, for officers who do have access to GPS Insight, it tracks "who looked  
22 at what" to prevent "trolling."

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<sup>12</sup>Forsythe testified that MEP, upon direction from the governor's office, reinstalled GPS due to "an issue that happened with another police agency."

<sup>13</sup>Forsythe testified that, in his opinion, GPS is "vastly underutilized." GPS Insight has the additional capabilities that GEO Tab had, but MEP is not utilizing these additional capabilities. According to Forsythe, real-time location is "not being looked at by anybody."

<sup>14</sup>Forsythe does not have a "direct interaction" with GPS Insight. Forsythe requests "mileage runs" from an IT employee if he needs GPS mileage information. Forsythe testified, "The only time that I ask for information from the unit is when I need to determine mileage." Additionally, Forsythe testified that if MEP needed to use GPS to track real-time location in an emergency, "they would have to go through all kinds of phone calls and authorization to get the GPS information as to where the vehicle was." Further, under the current system, Forsythe would not be alerted as a matter of course to an airbag deploying in a cruiser. Forsythe testified that he believed that not tracking real-time location negatively impacts officers' safety.



1 parties did not “consciously consider” in 2014 that GEO Tab would be removed in 2015;  
2 there would be no discussion of GPS for almost four years; and that the Commonwealth  
3 would “install an entirely new GPS system that employs virtually none of the safety  
4 features inherent in the discarded GEOTAB system.” For the following reasons, I find  
5 neither position fully persuasive.

6 As part of their settlement of SUP-13-3057, the parties bargained an MOU,  
7 captioned “GPS – Fleet Management,” that expressly identified its purpose as  
8 “establish[ing] general guidelines for the use of GPS/fleet management.”<sup>15</sup> This MOU  
9 contained a bargained procedure for using and implementing GPS that resulted in OPS  
10 030 and, later, OPS-025. Contrary to the Union’s argument that the parties did not  
11 “consciously consider” removal of GPS, the MOU contains language in the section of the  
12 Procedure devoted to “Installation” that provides for “removal” of GPS as “authorized by  
13 the Director.” Moreover, the parties included in the Settlement Agreement a clause  
14 providing that the Settlement Agreement and MOU “may not be modified, amended or  
15 otherwise affected except by a writing signed by all parties hereto.” Thus, by the terms of  
16 the Settlement Agreement and MOU, the MOU remains in effect upon removal of GPS,  
17 unless the parties who executed the MOU sign a writing changing its terms. That condition  
18 precedent to modifying the MOU did not here occur, and I therefore find that the MOU  
19 survived the removal of GPS.<sup>16</sup> The Union’s argument that the parties mutually  
20 abandoned the MOU ignores the fact that the Union bargained a GPS policy that, under

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<sup>15</sup>The MOU did not identify a specific GPS system that MEP would use.

<sup>16</sup>That the parties did not meet quarterly to discuss GPS does not bear on whether the MOU, by its terms, survived the removal of GPS.

1 the terms of the Settlement Agreement that produced it, cannot be changed without  
2 executing a writing that includes HRD.<sup>17</sup> Additionally, the reissuing of the GPS policy in  
3 2018 as OPS-025, which the Union did not object to at that time, suggests that MEP did  
4 not treat the MOU as mutually abandoned. Accordingly, I agree with the Commonwealth  
5 that the MOU, which clearly, specifically, and unequivocally allows for “the use of  
6 GPS/fleet management,” is still in effect, and the Union has therefore waived by  
7 agreement the right to bargain over the decision to use GPS in MEP vehicles.

8 This finding does not, however, end the inquiry because the MOU does not clearly,  
9 specifically, and unequivocally authorize the action here at issue: the installation of GPS  
10 for a purpose that partially, but not fully, aligns with the bargained-for uses contained in  
11 the MOU and the Policy that the MOU itself articulates. Accordingly, although I find that  
12 the Union has waived bargaining over the decision to use GPS in MEP vehicles, the Union  
13 has not waived its right to bargain over the impacts arising from the decision to install a  
14 modified GPS system, where that system [GPS Insight] performs more limited functions  
15 than the initial system [GEO Tab]. Accordingly, I address whether the Union has identified  
16 any impacts arising from the reinstallation that obligated the Commonwealth to bargain.

#### 17 Impact Bargaining

18 Even in situations where an employer may make certain types of decisions without  
19 prior bargaining, if a managerial decision impacts a mandatory subject of bargaining, then  
20 bargaining over the impacts is required. City of Somerville, 42 MLC 170, 171, MUP-13-

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<sup>17</sup>At the hearing, the Union argued that the email from management confirming removal of GPS “memorialized” the parties’ agreement. Even if one assumes that this email constituted a signed writing by MEP, a signed writing from HRD would still be necessary to abandon the MOU.

1 2977 (December 30, 2015). Employee safety is a mandatory subject of bargaining. City  
2 of Newton, 4 MLC 1282, 1284, MUPL-2035 (September 8, 1977).

3 Here, the reinstallation has changed the way that MEP uses GPS under the  
4 bargained policy. The MOU articulates a Policy that GPS is a valuable tool “for effectively  
5 dispatching on-duty cruisers to nearby calls for service, for fleet management and  
6 analysis, and as a means for providing additional officer safety.” Further, the MOU  
7 contemplates GPS being used primarily for fleet management and maintenance,  
8 dispatching, and routing and patrol analysis. The testimony of Forsythe, a  
9 Commonwealth witness, credibly established that by implementing a more limited GPS  
10 system, MEP has impacted officer safety vis-à-vis the original GPS program that the  
11 parties bargained. Specifically, it reinstalled GPS without an important feature that the  
12 parties agreed to include in the initial GPS system: real-time tracking and diagnostic  
13 information that can be quickly utilized to assist an officer in need during an accident or  
14 other emergency. The uses that the Commonwealth unilaterally jettisoned were part of  
15 the bargained-for agreement. Because the installation of GPS impacted officer safety,  
16 MEP was obligated to bargain this impact to resolution or impasse. Its failure to do so  
17 violated the Law. Cf. Town of Marshfield, 30 MLC 164, MUP-02-3327 (June 2, 2004) (no  
18 impact bargaining obligation where record did not establish that decision to deploy a new  
19 fire apparatus impacted firefighter safety).

## 20 Remedy

21 Where an employer’s bargaining obligation involves only the impact of a decision,  
22 the appropriate remedy is a bargaining order restoring the economic equivalent of the  
23 status quo ante during impact bargaining. This remedy attempts to place the parties in

1 the position they would have been in absent the employer's unlawful conduct. City of  
2 Malden, 20 MLC 1400, 1406, MUP-7998 (February 23, 1994). Here, the record does not  
3 establish that there is an economic equivalent of the status quo to restore. The parties  
4 bargained an MOU that covered GPS use. The Commonwealth was obligated to bargain  
5 prior to installing a limited GPS system that deviated from the MOU. The MOU, however,  
6 expressly includes mileage as data to be collected under the definition of GPS device.  
7 Because the Union has already agreed to mileage-tracking as an acceptable use, I find it  
8 unnecessary to order the Commonwealth to suspend its modified GPS system while it  
9 bargains to resolution or impasse over the safety impacts of that modified, mileage-  
10 tracking-only GPS system.<sup>18</sup>

#### 11 CONCLUSION

12 The MOU that the parties bargained survived the removal of GPS from MEP  
13 vehicles in 2015, and the Union therefore waived its right to bargain over the decision to  
14 install GPS in MEP vehicles. The Union did not, however, waive bargaining over the  
15 impacts of MEP's installation of a limited GPS system. Because the reinstallation  
16 impacted employee safety, the Commonwealth was obligated to bargain with the Union  
17 over these impacts. The Commonwealth's refusal to do so violated the Law.

#### 18 ORDER

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<sup>18</sup>In its post-hearing brief, the Union argues that the remedy should require the Commonwealth to propose any changes to GPS "only during main table bargaining for a successor agreement." The Complaint does not expressly allege that the Commonwealth committed a main table bargaining violation, and the Union did not move to amend the Complaint to allege such a bargaining violation. I therefore decline to order the Union's requested remedy.

1 WHEREFORE, based upon the foregoing, IT IS HEREBY ORDERED that the  
2 Commonwealth shall:

3 1. Cease and desist from:

4  
5 a. Failing to bargain in good faith by installing GPS in MEP vehicles without giving  
6 the Union prior notice and an opportunity to bargain to resolution or impasse  
7 over the impact of the installation on officer safety.

8  
9 b. In any like or related manner, interfering with, restraining or coercing  
10 employees in the exercise of their rights guaranteed under the Law.

11  
12 2. Take the following affirmative action that will effectuate the purpose of the Law:

13  
14 a. Upon demand, bargain to resolution or impasse over the safety impacts of GPS  
15 installation on bargaining unit members' terms and conditions of employment.

16  
17 b. Post immediately in all conspicuous places where members of the Union's  
18 bargaining unit usually congregate, or where notices are usually posted,  
19 including electronically if the Commonwealth customarily communicates with  
20 these members via intranet or email, and display for a period of thirty (30) days  
21 thereafter, signed copies of the attached Notice to Employees.

22  
23 c. Notify the DLR in writing of steps taken to comply with this Order within ten (10)  
24 days of receipt.

25  
26 SO ORDERED.

COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF LABOR RELATIONS



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JAMES SUNKENBERG, ESQ.  
HEARING OFFICER

APPEAL RIGHTS

The parties are advised of their right, pursuant to M.G.L. c.150E, Section 11 and 456 CMR 13.19, to request a review of this decision by the Commonwealth Employment Relations Board by filing a Notice of Appeal with the Department of Labor Relations not later than ten days after receiving notice of this decision. If a Notice of Appeal is not filed within ten days, this decision shall become final and binding on the parties.



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2  
3  
4  
5

# NOTICE TO EMPLOYEES

**POSTED BY ORDER OF A HEARING OFFICER OF  
THE MASSACHUSETTS DEPARTMENT OF LABOR RELATIONS  
AN AGENCY OF THE COMMONWEALTH OF MASSACHUSETTS**

A hearing officer of the Massachusetts Department of Labor Relations (DLR) has held that the Commonwealth of Massachusetts (Commonwealth) violated Section 10(a)(5) and, derivatively, Section 10(a)(1) of Massachusetts General Laws, Chapter 150E (the Law) by reinstalling GPS in Massachusetts Environmental Police vehicles without giving the Coalition of Public Safety (Union) prior notice and an opportunity to bargain to resolution or impasse over the impacts of the reinstallation on employee safety.

Section 2 of the Law gives public employees the right to engage in self-organization; to form, join or assist any union; to bargain collectively through representatives of their choosing; to act together for the purpose of collective bargaining or other mutual aid or protection; and to refrain from all the above.

WE WILL NOT fail to bargain in good faith with the Union by refusing to bargain over the impacts of the installation of GPS in MEP vehicles on employee safety.

WE WILL NOT in any like or similar manner interfere with, restrain, or coerce the Union in the exercise of its rights guaranteed under Section 2 of the Law.

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Commonwealth of Massachusetts

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Date

**THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED OR REMOVED**

This notice must remain posted for 30 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Department of Labor Relations, Lafayette City Center, 2 Avenue de Lafayette, Boston, MA 02111 (Telephone: (617) 626-7132).