

AGREEMENT BETWEEN  
 THE  
 CITY OF SOMERVILLE  
 AND  
 SOMERVILLE POLICE SUPERIOR OFFICER'S ASSOCIATION

July 1, 2000 – June 30, 2004

(updated 2003 by Lt. Charles J. Feringo)

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## ARTICLE III

### EMPLOYEE'S RIGHTS

**Section 1.** Employees have, and shall be protected in the exercise of, the right, without fear of penalty or reprisal, to join and assist the Association.

**Section 2.** Association officers (not to exceed two (2)) shall be granted reasonable time off during working hours without loss of pay or benefits to investigate, process and settle complaints or grievances, provided that they shall request permission from the Chief or his designee.

**Section 3.** The members of the Association Bargaining Committee, not to exceed four (4), who are scheduled to work a day tour of duty during the collective bargaining negotiations or who are on a "short-day" so-called between two night tours of duty, shall be granted leave of absence without loss of pay or benefits for all meetings between the City and the Association for the purpose of negotiating the terms of a contract, or supplements thereto; such members on a "short-day" so-called shall be credited with a tour of duty for each such meeting. Such meetings shall normally be scheduled for the daytime but if such negotiations continue into the evening hours, such members then working a night tour of duty on their "long day" so-called shall similarly be granted leave of absence without loss of pay or benefits for all such meetings.

**Section 4.** Association officers and shift representatives shall be permitted to discuss official Association business (a) with employees during work provided such discussion does not interfere with police business; (b) with the Chief of Police or the Deputy Chief of Police at all mutually convenient times; and (c) with employees prior to on-duty roll call or off-duty roll call.

**Section 5.** Association officers, representatives, and grievance committee members, not to exceed three (3), may while on duty request permission to attend meetings of the Board of Aldermen or other public body without loss of pay or benefits. Said permission shall not be withheld by the Chief when the subject matter on the agenda concerns the Somerville Police Department, except in cases of emergency.

**Section 6.** In lieu of all other Association leave provided in this Article, the Association President shall receive one (1) shift per week without loss of pay or benefits for Association business, provided, however, that any such scheduled leave is subject to approval by the Chief.

## ARTICLE IV

### STABILITY OF AGREEMENT

**Section 1.** No amendment, alteration or variation of the terms of provisions of this Agreement shall bind the parties hereto unless made and executed in writing by said parties.

**Section 2.** The failure of the Municipal Employer or the Association to insist, in any one or more situations, upon performance of any of the terms or provisions of this Agreement shall not be considered as a waiver or relinquishment of the right of the Municipal Employer or the Association to the future performance of any such term or provision and the obligations of the Association and the Municipal Employer to such future performance shall continue in full force and effect.

## ARTICLE V

### COURT TIME

#### Section 1.

(a). An employee on duty at night or on vacation, furlough or on a day-off who attends as a witness or in any other capacity for, or on behalf of the Commonwealth or the City, or as a result of the performance of duty, in a criminal or other matter, including civil, pending in any court of the Commonwealth, or before any Grand Jury proceeding or in conference with a District Attorney or Assistant District Attorney, or at any pre-trial court conference, or any other related hearing or proceeding, or who is required or requested by any City, County, Town, State or the Federal Government or any subdivision or agency of any of the foregoing to attend or appear before any department, agency, board, commission, division, authority, tribunal or official of the State or the Federal Government or subdivision or agency of either such government, or in any other capacity for or on behalf of the government of the United States or the Commonwealth or the City, or as a result of the performance of duty, in a criminal or other matter, including civil, pending in a Federal District Court or before a Federal Grand Jury proceeding or a United States Commissioner, or in conference with the United States Attorney or Assistant United States Attorney, Federal Court pretrial conference or any related hearing or proceeding shall be entitled to, and shall receive, overtime compensation at the time and one-half rate for every hour or fraction thereof, computed to the next hour, during which he was in such attendance or appearance but in no event less than four (4) hours such pay, provided, however, that if any such occasions occurs on a holiday which falls on an employee's day off or during his vacation, the employee shall also receive the pay due or provided for under Holiday and Vacation provisions of this Agreement.

(b) Court Time- Those able to attend court proceedings while receiving 111F (duty injury) benefits will not be paid overtime to do so, as they are already being paid. Doctor's reports will be used to determine when an officer is able to attend court proceedings.

Nothing in this Section shall be interpreted to require the City to pay to an employee who is a defendant in any legal proceeding brought by or on behalf of the City or has been charged with wrongdoing by the City, the compensation provided in this section, regardless of whether said employee otherwise meets the requirements for receiving said compensation.

**Section 2.** An employee performing court-time duty until 12 noon or thereafter after completing a "first-half" tour of duty and scheduled to report for his "first-half" tour of duty (e.g. commencing at 4:00 or 4:30 p.m.) shall, except in cases of emergency, be relieved from duty, without loss of pay, at 8:00 p.m. of said first-half tour of duty.

**Section 3.** An employee who is required to appear for court time during his vacation shall receive, in addition to his regular court-time payment, a compensatory day for each such day of vacation period.

## ARTICLE VI

### PAYING POLICE DETAILS

The following procedure shall be adhered to in the assignment and recording of all paying police details:

**Section 1.** All employees will signify in writing from time to time their desire to accept or not to accept paying police details, and a current file on this subject will be maintained at police headquarters and made available upon request to the Association.

The exchanging of paying details or the use of substitutes between employees is permitted if the officer of rank assigning details as hereinafter mentioned shall make reassignment accordingly.

**Section 2.** All assignments to paying police details shall be made by a superior officer, designated by, and responsible to the Chief of Police for the equitable and fair distribution of such details. All paying police details will be distributed to employees fairly and equitably as to the number of details, type, hour and compensation thereof, and averaged on a continuing monthly basis for the purposes of this subparagraph. Employees shall be given the maximum possible advance notice of paying detail assignments. Any employee who refuses a paying detail shall not be removed from the detail list, but any such refusal shall be recorded for purposes of detail assignment as a detail actually worked under the heading "detail refusal" (DR) with the detail hours thereof noted, in determining the equitable and fair distribution of details of such employee.

**Section 3.** A superior officer shall be responsible for having records of all assigned paying details and shall have such assignments posted daily for the attention of all employees on detail distribution forms acceptable to the parties, and said forms placed on a bulletin board at the station. Said forms placed on a bulletin board at the station. Said forms shall contain sufficient information to determine whether detail assignments are being made in accordance with the provisions of this Article, and shall include, among other information, the employee's name, detail worked, name of person, firm, corporation or entity received per detail, detail refusals and applicable dates.

**Section 4.** Any employee who performs a paying detail not officially assigned by such superior officer and recorded and reported as required by this Agreement will not be protected by the provisions of G.L. (Ter. Ed.) Chapter 41, Section 100, as amended.

**Section 5.** Any employee who knowingly performs a paying detail not officially recorded and reported on such forms within twenty-four (24) hours after performance may be subject to Department disciplinary action. The assignment of such detail by a superior officer may, at the Association's option, constitute a grievance under this Agreement.

**Section 6.** An employee's claim that he has not received his fair share of details pursuant to the provisions of this Article shall constitute a grievance under this Agreement. The Association's claim that paying details are not being distributed fairly and equitably to employees shall similarly constitute a grievance under this Agreement.

**Section 7.** Detail distribution forms shall be official records of the Department and shall be made available to the Association for its inspection and use upon its request when and if removed from the bulletin board or other place of posting.

**Section 8.** No paying detail assignments shall be made until the person, firm, corporation or entity requesting or required to have such detail has agreed to pay the following rates of pay per employee therefore, namely:

A minimum of \$25.00 per hour for the employee detail rate (\$7.75 per hour less for detail work performed for other City departments). Pursuant to the Memorandum of Agreement (M.O.A.) dated November 7, 2001, effective July 1, 2000, the private detail supervisory rate will be increased from the current \$30 per hour to \$36 for a Sergeant, \$39 for a Lieutenant and \$42 for a Captain when these ranks are working in a supervisory capacity only. A Sergeant shall be employed when three or more men are assigned to a given detail; a Lieutenant or Captain when six or more patrolmen are so assigned, with a guarantee of a minimum of four (4) hours' pay per detail for each employee so assigned, provided, however that the applicable detail rate shall be increased by \$1.00 hourly if an employee works from 12 o'clock Midnight to 8:00 A.M., and Sundays and Holidays; provided however, that details performed on the following holidays shall be paid at time and one-half the regular detail rate: New Year's Eve (after 5:00 P.M.), New Year's Day, July 4 (Independence Day), Thanksgiving Day, Christmas Eve and Christmas Day. Employees may not refuse overtime on these dates and work a paid detail.

Pursuant to the M.O.A. dated November 7, 2001, effective July 1, 2000, if a detail has more than twelve patrol officers assigned to more than one location, there shall be one Sergeant, one Lieutenant and one Captain assignments. These rates will become effective upon ratification of the contract by the members and the City.

On or after the date of execution hereof, the Association, at its option, by written notice to the City, attention its Mayor, may increase the applicable hourly detail rate by an amount or amounts not exceeding, in the aggregate, \$5.00 per hour, as its Executive Board shall determine, as follows:

"As of October 1, 2003, the detail rate was raised from \$32.00 per hour to \$35.00 per hour."

It is agreed that the detail rate shall be time and a half the rate for hours in excess of eight (8) hours on a detail.

**Section 9.** A minimum of two (2) officers shall be assigned to each location on strike details. Employees assigned to strike details shall be paid time and one-half their applicable detail rate, as set forth in Section 8, for all such hours worked, with guarantee of a minimum of four (4)

hours' pay per detail for each employee so assigned, and with a guarantee of a minimum of eight (8) hours' pay for road or construction details, but excluding detail work for other City departments, for each employee assigned to a road or construction detail if the detail exceeds four (4) hours.

**Section 10.** The City shall have the option to add a surcharge of up to but not exceeding ten (10%) percent of the applicable paid detail hourly rate to non-cash paid details.

**Section 11.** Parties are in agreement that the current practice with regard to the assignment, distribution and compensation for paying police details all as set out aforesaid will continue in force and effect in accordance with a side letter to be signed by the City, the Associations and the Patrolmen's Association.

**Section 12. Prioritization.** Overtime assignments shall take priority over detail assignments. In the event an employee works the overtime assignment, he shall not be charged with the detail hours offered. If the overtime assignment is unfilled when the overtime list is exhausted, employees who have not reported to an assigned detail shall be offered the overtime assignment, which shall take preference over the assigned detail in such case. If an overtime assignment cannot be filled from the overtime list, then employees working a paid detail can be reassigned to the overtime opportunity with the same number of hours as the detail, and shall not be charged with the detail hours involved.

## ARTICLE VII

### GRIEVANCE AND ARBITRATION PROCEDURE

**Section 1. Definition.** For the purposes of this Agreement a "grievance" shall be defined as a complaint between the Employer and the Association and/or any employee(s) involving an alleged violation of a specific provision of this Agreement.

**Section 2.** Grievances shall be processed as follows:

**Step 1.** The grievance may first be presented by the employee and/or the Association by reducing it to writing and presenting it to the Chief of Police. The Chief shall meet with the Association's Grievance Committee and/or the employee(s) involved within five (5) days from the time the grievance is presented to him to discuss and attempt to adjust the grievance, and he shall answer the grievance within eight (8) days after the meeting in writing.

**Step 2.** If the grievance is not resolved at Step 1, or answered by the Chief of Police within the time limit set forth above, the written grievance shall be submitted to the Mayor by the Grievance Committee within ten (10) calendar days after the last aforementioned eight (8) day period. The Mayor or his designee shall meet with the Grievance Committee within seven (7) days after receipt of the written grievance to discuss and attempt to adjust the grievance and will answer the grievance in writing within fourteen (14) days after the meeting.

**Step 3.** If the grievance is not satisfactorily adjusted at Step 2, or answered by the Mayor within the time limit set forth above, it may thereafter be submitted by the Association, and only by the Association, except as herein after set forth in Section 3, to arbitration, by written notice to the Mayor within forty (40) days after the answer of the Mayor is due. The arbitrator shall



be selected by mutual agreement of the parties; the parties may also agree to submit the grievance to the State Board of Conciliation and Arbitration for arbitration in accordance with its procedures. If the parties are unable to agree on an arbitrator or said State Board, the Association, within thirty (30) days said written notice to the Mayor, may request the American Arbitration Association to provide a panel of arbitrators from which from which a selection of a single arbitrator shall be made in accordance with its voluntary arbitration rules. The fees and expenses of the arbitrator, if any, shall be shared equally by the parties.

Notwithstanding anything to the contrary, no dispute or controversy shall be subject for arbitration unless it involved an alleged violation of a specific provision of this Agreement. The parties agree that no restrictions are intended on the rights and powers of the Employer except those specifically and directly set forth in specific provisions of this Agreement. The arbitrator shall arrive at his decision solely upon facts, evidence, and contentions, as presented by the parties during the arbitration proceedings.

The decision of the arbitrator shall be final and binding upon the parties, except that the arbitrator shall make no decision which alters, amends, adds to or detracts from this Agreement, or which recommends a right or relief for any period of time prior to the effective date of this Agreement.

**Section 3:** Employees shall not be disciplined or discharged except for just cause. Any dispute relative to discipline or discharge or to matters heretofore within the jurisdiction of any Retirement Board established by law or of the Civil Service Commission may be a subject of grievance and arbitration under the terms of this Agreement, with the option in any employee to proceed at Step 3 or Step 4 of the grievance procedure; or may be processed respectively before a Retirement Board and/or the Civil Service Commission; provided further that the termination of an employee during his probationary period may be grieved but not arbitrated.

**Section 4:** An employee may present a grievance directly to the City, provided that in such event the City shall immediately notify the President or Vice President of the Association of the initiation of and of the proposed disposition of such individual grievance. Association representatives shall be afforded the opportunity to be present at any conference between the aggrieved employee and the City relative to such grievance and shall also be given the opportunity to confer with the City relative to such grievance. Any adjustment of the individual employee grievance must be consistent with the terms of this Agreement.

**Section 5:** The employee(s) involved, and the members of the Association's Grievance Committee, not to exceed three (3) in number, shall be in a pay status when processing a grievance, complaint or arbitration, or when acting as a witness when doing it during duty hours.

**Section 6:** An employee shall have the right to have an Association officer present at any meeting between an employee or group of employees and any City representative outside of the unit concerning the employee's or employee's employment relationship with the City.

**Section 7:** The limit established by this Article may be extended by mutual consent of those parties participating at each Step in the grievance and arbitration procedure.

**Section 8:** Any grievance of a general nature affecting a group or class of employees or of a policy nature may, at the option of the Association, be filed at Step 2 of the grievance procedure.

## ARTICLE VIII

### HOURS OF WORK AND OVERTIME

**Section 1. Work Week:** The regular workweek of employees shall consist of not more than forty (40) hours, and the regular workday shall consist of not more than eight (8) hours, except that the hours of work of employees working a permanent first half shift shall not exceed eight and one-half (8-1/2) hours both inclusive of dinner. Employees shall be scheduled to work on regular work shifts or tours of duty and each work shift or tour of duty shall have the following regular starting time and quitting time. Work schedules shall be posted on the Department bulletin board and a copy shall be given to Association.

(a). The work shifts and hours of work of the Day and the two alternating Night Divisions are as follows:

The hours of the Day Division are from 8:00 a.m. to 4:00 p.m. The hours of the Night Division are, for the first half division, from 4:00 p.m. to 12 midnight, and for the last half division, from 12 midnight to 8:00 a.m. The Night Divisions shall alternate between first and last half tours of duty in accordance with present practice.

(b) An employee may not work more than sixteen (16) hours in a twenty-four (24) hour period except as may be required by the needs of the Department as determined by the Chief of Police or his designee.

An employee who is assigned a detail, and then is requested and takes an overtime shift, shall not be charged the detail hours.

An employee who is assigned a detail, and then is requested but passes to work overtime, will be charged the overtime hours.

### Section 2. Work Schedules, Day-off or Squad Schedules.

(a) All employees shall receive not less than one hundred twenty-one and one third (121 1/3) regular days off annually, and not less than two (2) consecutive regular days off weekly, in accordance with and characteristic of the four-and-two schedule so-called, or the modified four-and-two work schedule set forth in subparagraph (b) of this Section.

All employees, under such four-and-two work week so-called, the four-on, two-off work schedule, shall receive fourteen (14) regular days-off in each six week period; within each six week period, the work cycle for the four-and-two work week shall be completed. An employee's days off, except as hereinafter provided in subparagraph (b) of this Section, shall drop back one (1) day every week. Employees working days or the permanent first half shift shall work four (4) consecutive days

and then receive two (2) consecutive regular days off. Employees working the two alternating night shifts, and employees in the Detective Bureau working the alternating night shifts for such Bureau, shall alternate between first and last half tours of duty and shall go on days off after a first and last half tour of duty; as example, a night man working said alternating shifts shall commence work on a last half tour of duty, then work a first half tour of duty the same day, then return to work for a last half tour of duty, then work a first half tour of duty the same day, and then go on his two (2) consecutive regular days off, then return to work the same cycle.

(b) Excepted from the regular four-and-two work schedule so called, set forth in subparagraph (a) above shall be employees assigned as follows, each of whom shall work five (5) consecutive days on, Monday-Friday, and receive two (2) days off, Saturday-Sunday, weekly:

- (1) Traffic Bureau
- (2) Detective Bureau (Days)
- (3) Prosecuting Officers/ Court Personnel
- (4) Superior Officers training at a Police Academy or training facility
- (5) Employees attending school, training or courses on assignment by the Chief of Police
- (6) Employees assigned to specialized duty of an administrative nature on order of the Chief of Police
- (7) Domestic Violence Unit
- (8) Captains

Under the five (5) day work week above-mentioned, each of such employees so assigned shall be entitled to and shall receive, in addition to two (2) consecutive regular days off weekly, seventeen and one-third (17 1/3) additional regular days off annually, so that each such employee so assigned shall receive the same number of days annually as will employees working the regular four and two work schedule described in subparagraph (a) of this Section. These seventeen and one-third (17 1/3) additional days off be taken one (1) each three (3) weeks, or otherwise, in accordance with a schedule that shall be determined by the Chief of Police.

**Section 3. Overtime Service.** All assigned, authorized or approved service outside or out-of-tour of an employee's regularly scheduled tour of duty or work shift (other than paying police details), including service on an employee's scheduled day off, or during his vacation, and service performed subsequent to the scheduled time for conclusion of his regular tour of duty, shall be deemed overtime service and paid for as such. Pursuant to M.G.A. of 2000-2004, dated November 7, 2001, effective January 1, 2002, the Quinn Bill will be included in overtime rates.

(a) Overtime service shall not include:

- (1) An out-of-tour work shift or tour of duty which is substituted for a regularly scheduled work shift or tour of duty at the request of an employee (subject to Department approval); or
- (2) Swapped work shifts(s) or tour(s) of duty between individual employees by their mutual agreement, provided prior notice is given to the Shift Commander; or
- (3) A change in the schedule of an employee who is shifted from one Division to another Division or from one shift (tour) to another shift (tour) for a period of forty-two (42) or more consecutive calendar days, or for a period of less than forty-two (42) calendar days if for the purpose of in-service training or courses or to bring prisoners back into the City's jurisdiction.
- (4) Roll-call immediately prior to the commencement of each work shift or tour of duty, not to exceed fifteen (15) minutes.

(b) **Recall.** If an employee who has left his last place of employment or last duty assignment after having completed work on his regular work shift or tour of duty or his assigned shift or tour is recalled to Police Headquarters or to any other place, or is placed on a stand-by basis, or of an employee is so recalled or placed on stand-by basis on a scheduled day off or during his vacation, he shall be paid on an overtime basis for all such time and shall be guaranteed a minimum of four (4) hours of overtime recall pay therefore.

**Section 4. Scheduling of Overtime.** Except in the event of an emergency, no employee shall be required to work overtime. All employees shall be given as much advance notice as possible of overtime work opportunities. Scheduled overtime shall be posted and distributed to all employees on an equitable and fair basis, commensurate with their rank. An overtime roster shall be established and kept on a current monthly basis. The employee with the lowest number of overtime hours worked on a monthly basis shall always be given first choice of work. In the event of a tie, seniority shall prevail.

Employees other than those who work beyond their normal work shift or tour of duty due to the exigencies of their workday (such as a late ambulance run, an accident, an investigation, etc.) shall have the option of declining offered overtime, in which event they shall be charged with the overtime opportunity as overtime actually worked, marked in red as refusal, in determining the equitable and fair distribution of overtime to employees. In the event of an emergency, whether time is of the essence is executing the overtime job, such additional personnel as are deemed necessary by the City may be required to work overtime on an assigned basis.

All employees shall be afforded the opportunity to accept overtime service, but there shall be no discrimination against any employee who declines to work overtime on a voluntary basis.

Pursuant to M.G.A. of 2000-2004, dated November 7, 2001, effective July 1, 2004, an employee returning to duty from absence on sick leave or excused sick leave and who has been absent on sick leave on more than seven (7) sick days since January 1 of each year, shall not be eligible to work or receive a detail or overtime assignment until after the employee has actually worked three consecutive shifts, except in the case of an emergency to be determined by the Chief or his designee.

The employee shall be charged with such detail or overtime opportunity as if he/she had worked it, each time he/she calls in sick again during that calendar year. It is understood that the employee shall not be charged with both the next paid detail and the next overtime opportunity on each such occasion, but solely with the first work opportunity, whether paid detail or overtime, to which he/she is entitled.

**Section 5: Method of Overtime Compensation.** An employee who performs overtime service in accordance with the provisions of this Agreement shall receive, in addition to his regular weekly compensation, time and one-half his straight-time hourly rate of pay for each hour of overtime service or fraction thereof, computed to the next hour. The straight-time hourly rate shall be computed to the next hour. The straight-time hourly rate shall be computed as one-fortieth of an employee's regular weekly compensation.

A. Employees shall not be required to accept compensatory time-off in lieu of monetary compensation for overtime service. Pursuant to M.O.A. of 2000-2004 dated November 7, 2001, effective July 1, 2001, officers may accrue compensatory time at 1 1/2 time (not four hour minimum) in lieu of overtime, the time earned must be used within 30 days if possible but no later than six months from time earned. Time should be used when it does not create an overtime situation unless approved by the Chief of Police or his designee. In no case may anyone accrue more compensatory time than the amount allowed under the FLSA.

B. Pay for overtime service (including court-time) shall be in addition to and not in lieu of vacation and holiday pay, and shall be remitted to employees on a weekly basis.

C. The scheduled work shifts or tours of duty and day off schedules of individual employees or groups of employees shall not be changed to avoid the payment of overtime.

**Section 6: Detective's Overtime.** Overtime worked by Detectives in the Detective Bureau shall be entered into the regular overtime record sheet.

**Section 7: Vacation Overtime.** An employee required to work or attend court during his vacation period shall receive, in addition to his overtime compensation, an additional vacation day for each vacation day or fraction thereof of such work or court attendance, added onto his vacation period.

**Section 8: Lunch and Dinner Reliefs:** Lunch and dinner reliefs shall follow present practice. Meals on all shifts shall not exceed thirty minutes.

**Section 9: Swapping of Shifts.** Employees, within ranks, may swap shifts with each other, on prior notice to the Shift Commander, provided swapping shall not become a regular practice on the part of any one individual employee. If an employee makes a swap and the employee who is to work the shift does not report for duty and work the shift, the employee who was originally scheduled to work the shift must make up the shift at a time designated by the Chief of Police or his designee.

## ARTICLE IX

### HOLIDAYS

**Section 1.** The following days shall be considered to be paid holidays for the Somerville Police Department:

New Year's Day	Independence Day
Martin Luther King Day	Labor Day
Washington's Birthday	Columbus Day
Patriot's Day	Veteran's Day
Memorial Day	Thanksgiving Day
Bunker Hill Day	Christmas Day
Employee's Birthday	Evacuation Day (1999)

or, the day of celebration thereof.

Holiday pay shall be paid to each employee in two lump sums, one, for 7 holidays, no later than the second payday in May, the other for 7 holidays, no later than the second payday in November, so long as the Department has provided the necessary information to the Treasurer's office sufficiently in advance of those dates.

**Section 2.** For the purpose of this Article, the holiday is the twenty-four (24) hour period commencing at 8:00 a.m. of each day listed above.

**Section 3.** When any of the aforementioned holidays falls on an employee's scheduled workday, on an employee's scheduled day off, during his vacation, or during any period of an employee's paid injured leave he shall receive, for each such holiday, in addition to his regular weekly compensation, in accordance with the provisions of Section 1,

## ARTICLE X

### VACATIONS

**Section 1.** Paid vacation for employees of the Somerville Police Department shall be as follows:

<u>Length of Service</u>	<u>Length of Vacation</u>
up to 10 years	3 calendar weeks
beginning 10 <sup>th</sup> year	4 calendar weeks
beginning 20 <sup>th</sup> year	5 calendar weeks
beginning 30 <sup>th</sup> year	6 calendar weeks
<b><u>Effective January 1, 1992,</u></b>	
Beginning 18 <sup>th</sup> year	5 calendar weeks
Beginning 25 <sup>th</sup> year	6 calendar weeks



**Section 2.** Vacation choices shall be made by seniority, in accordance with present practice no later than March 1<sup>st</sup> of each year, from a vacation list establishing the summer vacation period which shall be posted at least three weeks prior to February first.

**Section 3.** Each employee shall have the option of requesting that he be paid his full vacation pay in advance; by eleven (11) days written notice to the City to such effect.

**Section 4.** An employee on injured leave or on sick leave, which sick leave or injured leave was in existence prior to the commencement of his vacation and which sick leave or injured leave precludes an employee from the use of his vacation shall not have his vacation period credited against him but shall be granted his full vacation upon return to work provided, however, that in no twelve month period shall that employee receive or accrue more than twelve months injured and/or vacation pay. Provided further that an employee who exercises his right to the sick leave provision as set out aforesaid, must provide the Police Department with a Doctor's certificated verifying his condition and disability and further he agrees that during the period of time that he claims sick leave rather than vacation leave, he will remain at his home, and provided, further, it shall be the responsibility of such employee to provide the Police Department fourteen (14) days notice, to the extent practicable, of his/her intention not to take the vacation leave that he/she has previously chosen in accordance with this Article, because of injured or sick leave which was in existence prior to the commencement of his/her vacation, as aforesaid.

**Section 5.** Each employee shall be scheduled for a three (3) week vacation during the period June 1<sup>st</sup> to October 30<sup>th</sup>, but may split such three-week vacation at his/her option.

**Section 6.** Each employee shall receive no less than five (5) vacation days for each week off of entitled vacation, in addition to regularly scheduled day off.

**Section 7.** Vacations shall commence on a Sunday.

**Section 8.**

(a). An employee who picks his/her vacation in accordance with Section 2 and later bids out of his/her seniority shift pick voluntarily, may pick a different vacation on the new shift but may not bump other employees out of their vacations that they picked in accordance with Section 2.

(b). An employee who voluntarily changes his/her work shift or tour of duty, after having picked his/her vacation on his/her former work shift or tour of duty, may be required to pick a new vacation on the new work shift or tour of duty; if he/she is required to pick a different vacation, his/her original vacation slot shall be made available to employees on the work shift or tour of duty that he/she moved from.

**Section 9.** Pursuant to M.O.A. of 2000-2004 dated November 7, 2001, effective July 1, 2001, each employee who has not been absent due to illness or non job related injury for more than seven days is allowed to use one-week vacation (five days) individually in a calendar year. Vacation time may now be carried over until March 1<sup>st</sup> of the following year.

**ARTICLE XI**

**CLOTHING ALLOWANCE AND EQUIPMENT**

**Section 1.** The City, at its sole cost and expense, shall furnish each employee with all necessary equipment needed for the performance of police duties, including by way of example but not by way of limitation, pistols, handcuffs, holsters, belts, ammunition, night sticks, flashlights, batteries, badges, but excluding shoes.

**Section 2.** The City agrees to pay for the initial change of any uniform item so ordered by the City, provided, however, employees in the ranks of Sergeants, and Lieutenants and Captains when assigned to street duty, shall be entitled to wear blue-back shirts, the cost of same to be charged to their annual clothing allowance as provided by Section 1 of this Article, notwithstanding the foregoing provisions of this Section.

**ARTICLE XII**

**BEREAVEMENT LEAVE**

**Section 1.** Absence from work with pay shall be granted in case of the death of an immediate member of an employee's family for a period of five (5) consecutive calendar days commencing the day after the day of death. "Immediate family" means a parent, child, spouse, or other individual who is an actual member of the employee's household. Absence from work with pay shall be granted in case of death of other members of the employee's family for a period of four (4) consecutive calendar days commencing the day after the date of death. Those other members of the employee's family shall mean sister, brother, grandparent, and parents-in-law.

**Section 2.** An absence of two (2) consecutive days with pay shall be granted in the case of the death of an employee's brother-in-law or sister-in-law in order that he may attend the funeral and/or wake of any such deceased person. An absence of one (1) day with pay shall be granted in case of the death of an employee's aunt/uncle, niece/nephew, or spouse's grandparents, in order that he may attend the funeral and/or the wake of any such deceased person.

**Section 3.** Leave without loss of pay as provided in Section 1 and 2 of this Article shall not be charged to sick leave or vacation leave.

**Section 4.** If an employee entitled to leave without loss of pay or benefits under this Article requires additional leave for such purpose, or in the event of a death in the immediate family of an employee not entitled to leave without loss of pay or benefits hereunder, leave for such purpose may be permitted without loss of pay or benefits in the discretion of the Chief of Police.



## ARTICLE XIII

### OTHER LEAVES OF ABSENCE

**Section 1.** Subject to the operating needs of the Department, determined by the Chief of Police, leave of absence without loss of pay or benefits will be permitted for the following reasons:

(a) attendance by an employee who is a veteran, as defined in Section 21, Chapter 31 of the General Laws, as a pallbearer, escort, bugler or member of a firing squad or color detail at the funeral or memorial services of a veteran, as so defined, or of any person who dies under other than dishonorable circumstances while serving in the armed services of the United States in time of war or insurrection;

(b) attendance by an employee who is a veteran, as defined in Section 21, Chapter 31 of the General Laws, as a delegate or alternate to state or national conventions of certain veterans' organizations as designated from time to time, during the life of this Agreement, by the Mayor of the City;

(c) inoculation required by the Municipal Employer;

(d) Red Cross blood donations authorized by the Department;

(e) Promotional examinations conducted under Civil Service Law and rules for promotion to any position in the service of Department;

(f) medical examinations for retirement purposes;

(g) attendance at educational programs required or authorized by the City or the Department.

**Section 2. Military Leave.** Every employee covered by this Agreement who is a member of a reserve component of the armed forces of the United States shall be granted, in accordance with Section 59 of Chapter 33 of the General Laws, leave of absence with pay, during the time of his annual tour of duty as a member of such reserve component; provided, however, that such leave shall not exceed seventeen (17) calendar days.

**Section 3. Personal Days.** Employees shall be entitled to one (2) days of personal leave per year. Scheduling for personal leave shall be subject to the approval of the Chief of Police. Unused personal leave may be accumulated and carried over for use in subsequent years. Requests for personal leave must be submitted at least twenty-four (24) hours in advance, except in the case of an emergency.

**Section 4.** Each employee shall be entitled to two (2) weeks leave of absence with pay upon the birth or adoption of a child. The provision shall not affect Maternity Leave.

**Section 5. Family and Medical Leave.** An employee who has been employed by the City for twelve (12) months and has worked at least 1,250 hours in the twelve months preceding a request for a leave of absence, may be eligible for up to twelve weeks annually of unpaid family and medical leave as required by the Family and Medical Leave Act of 1993 ("FMLA"), and as further required by this section.

If an employee on a leave of absence provides information to the Chief sufficient for him that the need for leave is due to a qualifying event under the FMLA (e.g., a serious health condition, the birth or adoption of a child, or for the care of a family member with a serious health condition) the Chief shall have the right to designate such leave as leave under the FMLA Act and this section, and such leave will be charged against the employee's annual FMLA entitlement.

Further, where an employee on a leave of absence under this section also is eligible for leave under another law or article of this Agreement (such as maternity leave or injury leave), such leaves shall run concurrently.

An employee taking leave under this section will be required to provide to the Chief certification of his or her need for leave at least thirty (30) days in advance of the need for leave, unless the need for leave is due to unforeseen circumstances. The Chief may delay the request for leave if the employee fails to give the required notice. An employee returning from leave under this section may be required to present a certification from a health care provider of his or her fitness for duty.

The Chief reserves the right to have the employee examined by a health care provider designated by the City if he has reason to question the opinion of the employee's own health care provider. In the event that the City's health care provider and the employee's health care provider disagree as to the employee's need for leave, the Chief shall have the right to have the employee examined by a third health care provider. The opinion of the third doctor shall be binding on the City, the Union and the employee.

Nothing in this section shall be interpreted to diminish the rights any employee may have under the Massachusetts Maternity Leave Law, M.G.L. c. 149, § 105D.

## ARTICLE XIV

### PERSONNEL INTERROGATION PROCEDURE

No member of the Police Department shall be required or requested, directly or indirectly, to submit to interrogation which could lead to disciplinary action, except in accordance with the following rules:

1. The interrogation of a member of the Department shall be at a reasonable hour, preferably when a member is on duty unless the exigencies of the investigation dictate otherwise. Where practicable, interrogations should be scheduled for the daytime, and reassignment of the member to a day tour of duty in lieu of his next regularly scheduled tour of duty may be employed, or said member shall be compensated on an overtime service basis. No member shall suffer loss of pay for time spent under interrogation.

2. The interrogation shall take place at the Police Station.

3. Said member shall be informed of the rank, name and command of the officer in charge of the investigation, as well as the rank, name and command of the interrogating officer and all persons present during the investigation.

4. Said member shall be informed of the nature of the investigation before any interrogation commences, including the name of complainant(s). The address of the complainant(s) and/or witnesses need not be disclosed; however, sufficient information to reasonably apprise the member of the allegations should be provided. If the complaint is filed in writing or has been or can be reduced to writing by the Department, a copy shall be furnished to said member. If it is known that the member being interrogated is a witness only, he should be so informed at the initial stage; and no statements, oral or written, given or requested of him, may at any later point or stage, be used as a basis of any misconduct or other charges against him. If such statements or any information thereby imported is used in any way against said member, any disciplinary charge emanating therefrom shall forthwith be dismissed and quashed.

The parties agree that these provisions of the contract will be amended to provide for those employee rights set forth in the case of Carnes vs. City of Springfield, which language to be agreed upon within ninety (90) days after the execution of this agreement.

5. The interrogation shall be completed with reasonable dispatch. Reasonable respite shall be allowed. Time shall also be provided for personal necessities, meals, telephone calls, and rest periods as are reasonably necessary. Said member shall be afforded full time and opportunity to have access to his notes and any witnesses to refresh his recollection as to the alleged charges of misconduct and/or incident in question, prior to any interrogation.

6. Said member shall not be subjected, during said interrogation, or at any time prior thereto, to any offensive language, nor shall he be threatened with transfer, dismissal, reassignment or other disciplinary punishment. No promises or reward shall be made as an inducement to answering questions, except that this shall not preclude an offer of immunity from disciplinary action.

7. The complete interrogation of member of the force shall be recorded mechanically or electronically or by a department stenographer. Said member shall be given an exact copy of any written statement he may execute, and if formal charges are preferred against him, he shall, at his request, be given an exact copy of said interrogation, at no cost to him.

8. In all cases wherein a member is to be interrogated he shall be afforded, if he so requests, an opportunity and facilities to contact and consult privately with counsel and/or representative of the Association before being interrogated, provided the interrogation is not unduly delayed. In such event, the interrogation may not be postponed for purpose of counsel and a representative of the Association past 10:00 a.m. of the day following the scheduled day for the interrogation, unless a later date is mutually agreed upon. Counsel, if available, and said Association representatives may be present during the interrogation of said member, and counsel at all times may be a participant in such proceedings.

9. If a member of the Department is under arrest, or is likely to be, that is, if he is a suspect or the target of a criminal investigation, he shall be given his rights pursuant to the Miranda decision.

10. The refusal by an officer to answer questions as permitted by applicable law may result in disciplinary action.

## ARTICLE XV

### SICK LEAVE

Pursuant to M.O.A. of 2000-2004 dated November 7, 2001, effective January 1, 2002, a new sick leave accrual system will replace the current ordinance system as follows:

- a. Employees will accrue 15 days per year to be credited on January 2<sup>nd</sup> for the prior year. Employees absent for illness or injury of longer than one month will not earn sick leave but will be credited with 1.25 days per month for each month worked. In the event that an employee retires, resigns, or is terminated from the department, he or she will be credited for 1.25 days per month for every full month of active service up to the date his or her service ends.
- b. To implement this accrual system, members will be credited with 100 (one hundred) sick days effective 1/1/02. The first annual crediting of accrued time will be January 2, 2003.
- c. The maximum accrual of sick days will be 150 (one hundred and fifty) days.
- d. For absence due to sickness or injury, the Chief or his designee or the appointing authority may require evidence in the form of a physician's certificate for the necessity of such absence; such certificate will indicate the nature of the illness or injury and the expected duration.
- e. Union Members who retire shall be entitled to "buyback" 25% of their unused sick time accrual (maximum of 150 sick days) at their current salary at the time of retirement.
- f. Effective calendar year 2004 Union Members will be eligible to earn an annual perfect attendance bonus of \$500, or \$400 for near perfect attendance of two days absence or less, or \$300 for a near perfect attendance of three days absence or less, in a calendar year. Said bonus to be paid in January 2005 for the prior calendar year and annually in January thereafter for the prior year.
- g. Members will be covered for catastrophic, life threatening illness and injury, as listed below, once they have expended all of their sick, vacation, personal, and 5 & 2 days.

In the event an employee is on long-term leave and has used all accumulated or credited sick leave, all vacation and personal leave, and any compensable leave, and suffers from a catastrophic, long term or prolonged illness, sickness, or disability (non service connected), as hereinafter defined, the employee shall receive extended sick leave benefits until he or she has



the ability to return to work, per his/her doctor, or per the medical opinion of the City's designated physician. In the event of disagreement between them, a neutral third doctor's opinion as to ability to return to work shall be final and binding, and not subject to grievance or arbitration.

The following are the catastrophic, long-term or prolonged illness, sickness or disability above referred to:

1. Cancer
2. Disabling paralysis caused by brain or spinal tumors, polio, or multiple sclerosis;
3. Addison's disease
4. Coronary or cerebral thrombosis;
5. Cystic fibrosis;
6. Disabling limb amputations;
7. Chronic tuberculosis;
8. Chronic congestive heart failure;
9. Chronic rheumatic fever; and
10. Major fractures of the pelvis, spine, neck, or skull

\*\* The Mayor, upon recommendation by the Chief of Police, may grant this extended sick leave benefit for any life threatening illness or injury not specifically listed above.

- h. The parties have agreed that a committee will be formed to review and discuss the establishment of a Sick Leave Bank. The Committee will consist of up to four Union members and the Chief and/or his designee and the Personnel Director and/or his designee. The purpose of the Sick Leave Bank is to afford the Union the opportunity to grant members, on a case by case basis, who have utilized all of their paid time off and are not covered by the catastrophic provision, additional paid time off.

**Section 1.** There shall be a Sick Leave Committee composed of three (3) members of the Executive Board appointed by the President of the Association, and of the Chief of Police and/or his designee. The Committee shall review sick leave usage and make recommendations with a view towards reducing sick leave usage. The Committee shall meet as needed, but not less than a quarterly basis each calendar year.

**Section 2.** Employees shall not work more than sixteen (16) hours in any twenty-four (24) hour period, except in an emergency as determined by the Chief of Police or his designee.

**Section 3.** An employee reporting out sick or returning from sick or injured leave must speak directly to the Commanding Officer. In the event such employee does not or is unable to speak directly to the Commanding Officer, the Commanding Officer shall call such employee at his/her home to verify the illness or his/her return to duty. An employee who reports out sick must do so at least one (1) hour before his/her next tour of duty, except in cases of emergency.

An employee who reports out sick, injured or excused must report his or her status daily to the Chief, or the Commanding Officer if the Chief is unavailable. An employee reporting out sick and injured for his or her shift must, to the extent practicable, do so at least four (4) hours before his or her next tour of duty. An employee who has notified the Chief that he or she will be absent due to

sickness or injury on a long-term basis (i.e., in excess of ten (10) working days) is not required to call in his or her sickness or injury on a daily basis, as otherwise required under this paragraph.

**Section 4.** Employees shall submit sick certificates to the Chief's Office no later than five (5) days after returning to duty. The sick certificate shall apply to sick absences of three (3) consecutive days or less. For sick absences of more than three (3) consecutive days, the sick certificate is to be signed by a doctor, in lieu thereof; employees may provide other documentation signed by a doctor as to employee's status. An employee who fails to submit a completed sick leave certificate without a reasonable explanation will have his/her pay for the period of his/her absence or any part thereof withheld until the sick certificate is received by the Chief's office.

**Section 5.** If an employee is identified as a sick leave abuser after 10 occurrences or has an identifiable pattern, the Chief of Police or his designee shall provide such employee a letter identifying the problem. Such identification shall not be arbitrary, capricious or discriminatory.

Employees who have received such letter shall be required to be off duty (including details and overtime) for at least twenty-four (24) consecutive hours in a seven (7) day period for the next ninety (90) days after receiving said letter, except in an emergency determined by the Chief of Police or his designee. The twenty-four (24) hour period does not include sick leave, injured leave, or other compensable leave.

Such employee may challenge his or her letter by requesting a meeting with the Executive Officer to discuss the letter, and may be accompanied to such meeting by an Association representative(s) who may participate in such discussion.

Once an employee has received this letter, on the next occasion of his/her calling in sick, his/her Commanding Officer will call the employee at home during his/her scheduled shift; if the employee cannot be reached at his/her home, a supervisor may be sent to the employee's home to verify his/her status. In each such instance, the employee will be required to file a station report (as to why he/she could not be reached at home).

If the employee is at home when the Commanding Officer calls, there will be no need for a supervisor to make a home visit. If the employee is at a location other than his/her own, it is their responsibility to so inform the Commanding Officer when he/she reports out sick.

These foregoing procedures shall apply only to employees who have received a letter concerning sick leave usage. On January 1<sup>st</sup> of each calendar year, this letter shall be withdrawn from the employee's file, and his/her sick days, for purposes of this Section shall be rolled back to "0". The provisions of this Section shall not be construed to limit rights and responsibilities with the respect to disciplinary actions.

**Section 6. Sick Leave Visitation.** Routine visitations to employees on sick leave are hereby terminated. The City, however, reserves the right to visit employees having a chronic pattern of non-hospital sick leave; this right shall not be used to discriminate against employees.

**ARTICLE XVI**  
**NO STRIKE CLAUSE**

Neither the Association nor any employees covered by this Agreement shall engage in, induce or encourage any strike, work stoppage, slow-down or withholding of services.

The Association agrees that neither it nor any of its officers or agents will call, institute, participate in, sanction or ratify any such strike, work-stoppage, slow-down or withholding of services.

**ARTICLE XVII**  
**SENIORITY**

**Section 1.** Seniority of Sergeant, Lieutenant and Captain employees shall run from the date of their certification and promotion as such in the classified civil service. Those employees of the same rank so appointed on the same day shall have their relative seniority vis-à-vis each other determined on the basis of their civil service mark in their respective examination; if the mark of two or more of said employees of the same rank is the same, the seniority of said employees in the next preceding rank shall govern.

If an employee retires and returns to the police department from the retirement, whether voluntary or involuntary, his date of permanent, original appointment for the purpose of this section shall be deemed to be the date of his reappointment or reinstatement.

An employee who takes a leave of absence for more than six (6) months shall have the amount of time beyond six (6) months added to the employee's date of original permanent appointment; (e.g. an employee who is appointed July 10<sup>th</sup> takes an 8 month leave of absence; the new date of original permanent appointment date would be September 10<sup>th</sup>).

**Section 2.** Employees within ranks shall have the right and option to pick their shift by seniority, with preference given to employees in the order of their seniority, subject to the provisions of Section 5. A seniority pick shall be posted and made annually, on or about January 5<sup>th</sup>. Each seniority pick shall remain in force for a one year period, except as hereinafter set forth. At the end of such one-year period, and at the end of every consecutive annual year period thereafter, there shall be a new pick. All employees shall be required to make their pick within ten (10) days of notice thereof. The pick shall be completed within one month after the pick is required to be first posted and made.

When a shift opening becomes available because of a transfer or leave of absence, retirement, death, resignation or because of a newly authorized or created position(s), or for any other reason, it shall be posted for fifteen (15) days thereafter, and a seniority pick for the shift opening shall be made, notwithstanding the provisions aforementioned that seniority picks shall be made every two years. In the event of a shift opening occurring between picks, shall be made and completed within fifteen (15) days after the first posting thereof.

The Chief of Police shall assign employees to shifts in accordance with their pick forthwith after the pick is completed.

**Section 3.** Employees, within ranks, shall have the right and option to pick their job assignment in the following jobs by seniority with preference given to such employees in the order of seniority, on the shift they have chosen in accordance with the provisions of Section 3 hereof:

Lieutenant, or Sergeant assigned as (a) detail officer, (b) traffic bureau, (c) court house, (d) warrant section (sergeant) are subject to the terms and conditions of Memorandum 91-56 dated June 27, 1991 from Captain Robert Bradley.

A seniority pick shall be posted annually, on or about January 5<sup>th</sup>. Each seniority pick shall remain in force for a one-year period, and at the end of each year period thereafter, there shall be a new pick. All employees shall be required to make their pick within ten (10) days of notice thereof. The pick shall be completed within one month after the pick is required to be first posted and made.

When a job opening becomes available because of a transfer or leave of absence, retirement, death, resignation or because of a newly authorized or created position(s), or for any other reason, it shall be posted for fifteen (15) days thereafter, and a seniority pick for the job opening shall thereupon be made, notwithstanding the provisions aforementioned that seniority picks shall be made every two years. In the event of job opening occurring between picks, the pick shall be made and completed within fifteen (15) days after the first posting thereof.

The Chief of Police shall assign employees to jobs in accordance with their pick forthwith after the pick is completed.

**Section 3(b).**

The City agrees to maintain six (6) detective job assignments (including two (2) sergeants) which were part of the January, 1978 pick, as night detectives. The City reserves, however, the right to assign all six (6) detectives to the First Half, or three (3) of the six (6), including one (1) Sergeant, to the Day Shift in the Detective Bureau.

**Section 4.** Pursuant to M.O.A. of 2000-2004 dated November 7, 2001, effective January 1, 2002, the shift and job assignments of Sergeants and Lieutenants, and the shift assignments of Captains assigned to the Uniformed Division, as set forth in the Department's reorganization plan dated January 6, 2002, shall determine, at a minimum, the job/shift assignments for which employees, within ranks, are entitled to make job/shift picks by seniority in accordance with the foregoing provisions of this Article. These positions are as follows:



### Lieutenants

1.) Day Patrol Commander	(4&2) Days
2.) Division One Commander	(4&2) Days
3.) Division Two Commander	(4&2) Days
4.) Detail Supervisor	(5&2) Days Sat/Sun off
5.) Day Detective Commander	(5&2) Days Sat/Sun off
6.) Night Detective Commander	(4&2) Nights
7.) Family Services Commander	(5&2) Days Sat/Sun off
8.) Traffic Commander	(5&2) Days Sat/Sun off
9.) Public Information Officer**	(5&2) Days Sat/Sun off
10.) Police Academy Director**	(5&2) Days Sat/Sun off
11.) Professional Standards**	(5&2) Days Sat/Sun off

### Sergeants

1.) Day Patrol Supervisor	(4&2) Days
2.) Day Patrol Supervisor	(4&2) Days
3.) Day Patrol Supervisor	(4&2) Days
4.) Division One Supervisor	(4&2) Nights
5.) Division One Supervisor	(4&2) Nights
6.) Division One Supervisor	(4&2) Nights
7.) Division Two Supervisor	(4&2) Nights
8.) Division Two Supervisor	(4&2) Nights
9.) Division Two Supervisor	(4&2) Nights
10.) Traffic Supervisor	(5&2) Days Sat/Sun off
11.) Night Detective Supervisor*	(4&2) Nights
12.) Night Detective Supervisor*	(4&2) Nights
13.) Superior Court/ Evidence	(5&2) Days Sat/Sun off
14.) Community Police Supervisor	(4&2) Nights
15.) Narcotic/ Vice Supervisor**	(5&2) Days Sat/Sun off
16.) Domestic Violence Supervisor**	(5&2) Days Sat/Sun off
17.) Professional Standards**	(5&2) Days Sat/Sun off
18.) City Hall/ License Inspector***	(5&2) Nights Sat/ Sun off

\* Duties to include Supervision of Night Detectives, General Investigations and Family Services Investigations.

\*\* Chief's Pick.

\*\*\* Mayor's Pick.

Effective January, 6, 2002, the following assignments shall be excluded from job/shift assignment picks:

- (i) an employee assigned to the Mayor's office;
- (ii) an employee assigned to the Licensing Board;

- (iii) an employee assigned to the City Solicitor's Office;
- (iv) Domestic Violence Unit, superior officer assigned to Domestic Violence;
- (v) a Lieutenant assigned to the Police Academy;
- (vi) an employee assigned to the Crime Prevention;
- (vii) an employee assigned as the Safety Officer;
- (viii) an employee assigned as Administrative Aid to the Chief of Police;
- (ix) an employee assigned to the Vice Squad, one superior officer;
- (x) captains; provided, however, captains who are assigned to the Uniformed Division shall continue to have the right and option to pick their shift by seniority, in accordance with the provisions of Section 3 hereof; and
- (xi) a Superior Officer assigned as Field Operations Supervisor.
- (xii) a Lieutenant assigned to Professional Standards.
- (xiii) a Lieutenant assigned as Public Information Officer.

This Section shall not prevent department reorganization or abolition of position by the Chief of Police, with the written approval of the Mayor, after discussion and negotiations with the Association.

**Section 5. Specialist Board.** Assignment of employees to the Detective Bureau pursuant to the second paragraph of Section 3(b) of this Article, or on and after July 1, 1987, shall be in accordance with the following procedure:

(a) A Specialist Board composed of two (2) captains designated by the Chief of Police and of two (2) employees designated by the Association's Board of Officers shall be established. The Board shall review the qualifications and experience of employees who may seek assignment as members of the Detective Bureau, and shall interview all such employees. After such interview, the Specialist Board shall make recommendations to the Chief of Police who on the basis of such recommendations shall determine whom of said employees seeking such assignment shall be so assigned by him to the Detective Bureau.

Job assignments subject to this Section, in addition to those in the Detective Bureau, shall be those listed in Section 5(iv) (b) of this Article.

**Section 6.** An employee who swaps with another employee pursuant to the provisions of Article VIII, Section 3(A) shall take the seniority of the employee with whom he swaps for purposes of the daily pick of job assignments.

**Section 7.** Employees on overtime shall pick their job assignments in accordance with the provisions of Section 3 of this Article after employees regularly scheduled to work the shift on which overtime occurs, and after employees on swaps or substituting an out-of-turn work shift or tour-of-duty and their seniority for daily pick of job assignments shall be deemed less than that of all said aforesaid employees.

**Section 8.** Permission to swap bid/pick with an officer of the same rank will not be unreasonably denied in the event of serious documented personal hardship (e.g. grave illness).

**Section 9.** (Language deleted as it pertained to patrol officers only)

**ARTICLE XVI**  
**NO STRIKE CLAUSE**

Neither the Association nor any employees covered by this Agreement shall engage in, induce or encourage any strike, work stoppage, slow-down or withholding of services.

The Association agrees that neither it nor any of its officers or agents will call, institute, participate in, sanction or ratify any such strike, work stoppage, slow-down or withholding of services.

**ARTICLE XVII**  
**SENIORITY**

**Section 1.** Seniority of Sergeant, Lieutenant and Captain employees shall run from the date of their certification and promotion as such in the classified civil service. Those employees of the same rank so appointed on the same day shall have their relative seniority vis-a-vis each other determined on the basis of their civil service mark in their respective examination; if the mark of two or more of said employees of the same rank is the same, the seniority of said employees in the next preceding rank shall govern.

If an employee retires and returns to the police department from the retirement, whether voluntary or involuntary, his date of permanent, original appointment for the purpose of this section shall be deemed to be the date of his reappointment or reinstatement.

An employee who takes a leave of absence for more than six (6) months shall have the amount of time beyond six (6) months added to the employee's date of original permanent appointment; (e.g. an employee who is appointed July 10<sup>th</sup> takes an 8 month leave of absence; the new date of original permanent appointment date would be September 10<sup>th</sup>).

**Section 2.** Employees within ranks shall have the right and option to pick their shift by seniority, with preference given to employees in the order of their seniority, subject to the provisions of Section 5. A seniority pick shall be posted and made annually, on or about January 5<sup>th</sup>. Each seniority pick shall remain in force for a one year period, except as hereinafter set forth. At the end of such one-year period, and at the end of every consecutive annual year period thereafter, there shall be a new pick. All employees shall be required to make their pick within ten (10) days of notice thereof. The pick shall be completed within one month after the pick is required to be first posted and made.

When a shift opening becomes available because of a transfer or leave of absence, retirement, death, resignation or because of a newly authorized or created position(s), or for any other reason, it shall be posted for fifteen (15) days thereafter, and a seniority pick for the shift opening shall be made, notwithstanding the provisions aforementioned that seniority picks shall be made every two years. In the event of a shift opening occurring between picks, shall be made and completed within fifteen (15) days after the first posting thereof.

The Chief of Police shall assign employees to shifts in accordance with their pick forthwith after the pick is completed.

**Section 3.** Employees, within ranks, shall have the right and option to pick their job assignment in the following jobs by seniority with preference given to such employees in the order of seniority, on the shift they have chosen in accordance with the provisions of Section 3 hereof:

Lieutenant, or Sergeant assigned as (a) detail officer, (b) traffic bureau, (c) court house, (d) warrant section (sergeant) are subject to the terms and conditions of Memorandum 91-56 dated June 27, 1991 from Captain Robert Bradley.

A seniority pick shall be posted annually, on or about January 5<sup>th</sup>. Each seniority pick shall remain in force for a one-year period, and at the end of each year period thereafter, there shall be a new pick. All employees shall be required to make their pick within ten (10) days of notice thereof. The pick shall be completed within one month after the pick is required to be first posted and made.

When a job opening becomes available because of a transfer or leave of absence, retirement, death, resignation or because of a newly authorized or created position(s), or for any other reason, it shall be posted for fifteen (15) days thereafter, and a seniority pick for the job opening shall thereupon be made, notwithstanding the provisions aforementioned that seniority picks shall be made every two years. In the event of job opening occurring between picks, the pick shall be made and completed within fifteen (15) days after the first posting thereof.

The Chief of Police shall assign employees to jobs in accordance with their pick forthwith after the pick is completed.

**Section 3(h).**

The City agrees to maintain six (6) detective job assignments (including two (2) sergeants) which were part of the January, 1978 pick, as night detectives. The City reserves, however, the right to assign all six (6) detectives to the First Shift, or three (3) of the six (6), including one (1) Sergeant, to the Day Shift in the Detective Bureau.

**Section 4.** Pursuant to M.O.A. of 2000-2004 dated November 7, 2001, effective January 1, 2002, the shift and job assignments of Sergeants and Lieutenants, and the shift assignments of Captains assigned to the Uniformed Division, as set forth in the Department's reorganization plan dated January 6, 2002, shall determine, at a minimum, the job/shift assignments for which employees, within ranks, are entitled to make job/shift picks by seniority in accordance with the foregoing provisions of this Article. These positions are as follows:

## ARTICLE XVIII

### COMPENSATION

**Section I. Salaries.** Pursuant to M.O.A. of 2000-2004 dated November 7, 2001, effective July 1, 2000, pay raises will be placed into effect as follows: effective 7/1/00-3%; 7/1/01-3%; 7/1/02-2% and 1/1/04-2%. The following salaries shall apply:

Effective July 1, 2000, the following salaries shall be in force and effect:

Captain (LT + 16.5%)	74,400.35
Lieutenant (Sgt. + 16.5%)	63,862.96
Sergeant (max pmt + 21.5%)	64,817.00
Patrolman (step 4)	45,117.69

Effective July 1, 2001, the following salaries shall be in force and effect:

Captain (LT + 17%)	77,609.63
Lieutenant (Sgt. + 17%)	66,333.02
Sergeant (max pmt + 22%)	66,604.89
Patrolman (step 4)	46,471.22

Effective July 1, 2002, the following salaries shall be in force and effect:

Captain	79,937.99
Lieutenant	68,323.01
Sergeant	68,395.74
Patrolman (step 4)	47,865.36

Effective January 1, 2003, the following salaries shall be in force and effect:

Captain (LT + 17.5%)	80,953.04
Lieutenant (Sgt. + 17.5%)	68,896.20
Sergeant (max pmt + 22.5%)	68,615.97
Patrolman (step 4)	47,865.36

Effective July 1, 2003, the following salaries shall be in force and effect:

Captain	82,572.19
Lieutenant	70,274.12
Sergeant	69,807.77
Patrolman (step 4)	48,822.67

Effective January 1, 2004, the following salaries shall be in force and effect:

Captain	84,223.54
Lieutenant	71,679.60
Sergeant	61,003.93

### Section 5. Education Incentive Pay.

(a) Employees who attain an associates degree at an accredited educational institution in other than a law enforcement program, shall be paid yearly, in addition to all other compensation to which they are entitled under this Agreement, the sum of Three Hundred Dollars (\$300) in recognition of the attainment of such academic distinction, payable quarter-annually at the rate of Seventy-Five Dollars (\$75) quarterly. Employees who attain a bachelor's degree at an accredited educational institution in other than a law enforcement program, shall be paid yearly, in addition to all other compensation to which they are entitled under this Agreement, the sum of Five Hundred Dollars (\$500) in recognition of the attainment of such academic distinction, payable quarter-annually at the rate of One Hundred Twenty-Five Dollars (\$125) quarterly.

If such employees also qualify for education incentive pay pursuant to the provisions of paragraph (b) and/or (c) hereof, they shall be entitled to receive such pay pursuant to said paragraphs in lieu of pay under paragraph (a).

(b) Employees who have earned or who after July 1, 1994, shall have earned an associate's degree in law enforcement, or sixty (60) points earned towards a baccalaureate degree in law enforcement, a baccalaureate degree in law enforcement, or a master's degree in law enforcement or a degree in law, shall receive education incentive base salary increases computed as a percentage of their annual salary (set forth in Section 1 of this Article), according to the following schedule:

<u>Education Degrees/ Points Earned</u>	<u>Percentage Payment Based on Annual Salary</u>
Associate Degree or 60 points earned towards a Baccalaureate Degree	Five (5) percent
Baccalaureate Degree	Ten (10) percent
Master's Degree or Law Degree	Twelve and One-Half (12.5) percent

Payments hereunder shall be made weekly, shall be included in base pay for the purpose of computing sick pay, injured pay and vacation pay, and shall be considered regular compensation for pension/ retirement purposes. Pursuant to M.O.A. of 2000-2004 dated November 7, 2001, effective July 1, 2000, the Quinn Bill will be included in overtime rates effective January 1, 2002.

In the event that Chapter 835 of the Acts of 1970, as amended, which has been accepted by the City and at some later date, is rescinded or repealed by the General Court, then the provisions of this subsection (b) shall thereupon become effective and apply as if it had never been superseded as aforementioned.

(c) Chapter 835 of the Acts of 1970, as amended, having been accepted by the City of Somerville, the provisions of subsection (b) of this Article are superseded, and employees shall be entitled to education incentive base of salary increases as in said Chapter 835 or the Acts of 1970, as

amended (Chapter 41, Section 108L of the General Laws) provided, and otherwise in accordance with said law, if thereunder eligible.

Payments hereunder shall be made weekly, shall be included in base pay for purposes provided by law, and shall be considered regular compensation for pension/retirement purposes. Effective January 1, 2000, such payments shall be included in base pay to compute holiday pay.

(d) In the event that the Commonwealth of Massachusetts reduces its reimbursements to the City below one-half the cost of such education incentive base salary increase payments, then employees hired after July 1, 1994, shall receive one-half such base salary increase payments plus the percents of amount of the reimbursement to the City by the Commonwealth of Massachusetts, as set forth in Chapter 835 of the Acts of 1970, as amended, if any.

If any such employee refuses to accept education pay as so reduced and commences court proceedings claiming one hundred (100%) percent of his/her Chapter 835 entitlement, then his salary and compensation (other than education pay) shall be reduced as to him, in such fiscal year, by the amount of his/her Chapter 835 entitlement not reimbursed by the Commonwealth of Massachusetts to the City. This Agreement may be reopened by the City as to which particular items of salary and compensation (i.e., salary, holiday pay, night differential, etc.) shall be reduced if he/she commences court proceedings as aforesaid, and the parties shall forthwith meet to negotiate how the City shall be reimbursed.

Incumbent employees as of January 1, 1999 who hold a Masters in Public Administration or Public Affairs will receive the Educational Incentive Benefits as provided in the Quinn Bill.

(e) The City agrees that its right to reduce economic benefits in the event the Commonwealth fails to fund its share of Quinn Bill payments (Associates Degree- 10%, Baccalaureate Degree - 20%, Masters Degree or Law Degree-25%) shall not apply to employees in the Bargaining Unit as of June 30, 2000.

**Section 6. Out of Grade Pay.** It is agreed that effective July 1, 1992, Sergeants and Lieutenants who work out of grade for a period in excess of one week, which is not coverage for vacations or holidays, in the position of Lieutenant or Captain wherein they are required to cease performing their duties in the lower rank in order to perform the duties in the higher rank, be compensated at the rate they would have been paid if they had been promoted to that higher rank for the tours of duty worked in the higher rank.

Effective January 1, 1999, a Sergeant who fills in for a Lieutenant as the Shift Commander shall be paid at the higher rate for each shift so worked. Pursuant to M.O.A. of 2000-2004 dated November 7, 2001, effective July 1, 2000, out of grade pay for Sgts. will now include Quinn benefits plus Article 5, section 2 will be amended to reflect that when an Sergeant works out of grade to cover an 8 p.m. release, this portion of the shift will be paid at the out of grade rate.

#### **Section 7. Weapons Pay.**

Each employee in the bargaining unit shall be paid a lump sum differential as follows: July 1, 1997 - \$50.00; July 1, 1998 - \$125.00; July 1, 1999 - \$225.00. Said payments shall be considered regular compensation. Weapons pay shall be paid to employees when they are on sick leave, injured leave, vacation, or other compensable leave, but not if they have an assignment pursuant to the provisions of Article XX Section 26 (209A Order). Weapons pay shall be considered regular compensation for pension/retirement purposes. Payment of weapons pay shall be made annually in the first pay period in December.



## ARTICLE XIX

### MISCELLANEOUS

**Section 1. Seniority List:** The City agrees to post a seniority list, in compliance with the provisions of Article XVII, Sections 1 and 2 in a conspicuous place within the police station showing names and titles of all employees in the Bargaining Unit.

**Section 2. Association Space/Office:** The City agrees to provide space in the Police Station for Association meetings.

**Section 3. Association Bulletin Board:** The City agrees to provide a bulletin board in a suitable space in the Police Station for Association information purposes.

**Section 4. Enforcement of Safety Rules:** Both parties to this Agreement shall co-operate in the enforcement of safety rule and regulations. Complaints with respect to unsafe or unhealthy working conditions shall be brought to the attention of an employee's superior officer or the Chief of Police and shall be subject of grievance or arbitration hereunder.

The City and the Association, in concert with the Patrolmen's Association, shall establish a joint safety committee consisting of representatives of each party for the promotion of sound safety practices and rules.

**Section 5. M.G.L. 150E rule:** As is provided by Chapter 150E of the General Laws, the provisions of this Agreement supersede any conflicting or inconsistent rule, regulation or order promulgated by the Chief of Police or the Police Department or the City.

**Section 6. Remedy for Invalid Provision:** Should any provision of this agreement or any supplement thereto be held invalid by any court or tribunal of competent jurisdiction, or if compliance with or enforcement of any provisions should be restrained by any court, all other provisions of this Agreement and any supplement thereto shall remain in force, and the parties, on thirty (30) days notice to the other, shall meet to negotiate immediately for a satisfactory replacement for any such provision.

**Section 7. Physical Fitness Standards:** The City and the Association, in the concert with the Patrolmen's Association, shall establish a joint committee consisting of representatives of each party, to review and recommend to the parties criteria and standards for annual physical examination of employees.

**Section 8. General Laws.** Criminal statutes shall be made available to employees at Police Headquarters.

**Section 9. Orders.** The Association shall be furnished a copy of each order issued by the Chief of Police.

**Section 10. In-Service Training.** The City agrees to comply with the provisions of Chapter 932 of the Acts of 1977, and to provide \$10,000 yearly in funds for in-service training.

**Section 11. Personnel Files.** Employees shall have the right to inspect their personnel files in the police department at any reasonable time, and to be supplied with copies of documents therein. Nothing negative shall be included in an employee's personnel file without the employee being shown the information and being given an opportunity to respond to it. Employees may inspect their personnel files at City Hall, if they choose.

**Section 12. Promotional Vacancies.** The City agrees to fill all promotional vacancies as soon as practicable. Parties agree that they will create a Labor Management Committee made up of two (2) representatives of the Union and two (2) representatives of the Employer. The purpose of this committee will be to discuss promotion policy and the manner in which vacancies will be filled.

**Section 13.** *Effective as of this update, this section was deleted as duplicative to language written in Article XV (Sick Leave).*  
*Section 6.*

**Section 14. Health Insurance.** The City's Group Insurance plan (health and life insurance) in force on the effective date shall remain in force and effect for the term of this Agreement, unless changed by mutual agreement. The City agrees to pay ninety-nine (99 %) percent of the premium cost for the Blue Cross/Blue Shield indemnity plan (both family and individual), and ninety (90%) percent of the premium cost for the HMO plans (both family and individual). The City may change the individual insurance carrier so long as the benefit coverage is equivalent to or better than the present benefit coverage and so long as the City pays ninety-nine (99%) percent of the total premium cost of any new indemnity insurance policy and ninety (90%) percent of the premium cost of any new HMO insurance plan.

To the extent it continues to have any rights therein, upon the funding of the provisions of this Agreement the Association agrees to withdraw its pending grievance relative to HMO premiums (AAA Case No. 11-390-01620-90), and to dismiss the case of Ribeiro v. Capuano et al, U.S. District Court (MA) No. 91-10220. In the event any Union representing other City employees prevails in a claim for money based on HMO premiums, the Association shall have the right to reopen this Agreement on this issue only.

**Section 15.** The indemnification of police officers for damages or expenses arising out of operation of vehicles or equipment owned by the City shall be in accordance with Chapter 258 of the Massachusetts General Laws.

**Section 16.** No employee shall be required to operate an unsafe piece of equipment of any kind or a motor vehicle which does not comply with state or federal law. The City agrees that the provisions of G.L. c. 89, Section 7B shall not be construed or applied by the City or an official of the City so as to limit, deprive or otherwise abridge the right of covered employees to defense and indemnification by the City of Somerville in any case wherein an employee may or shall possibly be held liable for conduct in the performance of duty. The City agrees, subject to the provisions of G.L. c. 258 to defend, indemnify and hold harmless any employee in and for any situation which may or shall impose liability on the employee for circumstances and conditions or duty. The City further agrees that, in the effectuation of G.L. c. 41, Section 100H and c. 258, the most liberal construction

and application of such statutes in favor of covered employees and parties in interest shall be the rule and standard; and the City agrees, on execution of this Agreement, to submit and bring about, from time to time, appropriations necessary to effectuate indemnification of employees, in accordance with law.

No covered employee shall be obligated to purchase or otherwise be covered at his expense by any insurance policy relating to personal injury or property damage liability as such may arise out of the operation of any piece of equipment of any kind or of a motor vehicle owned by the City or used in its behalf.

#### **Section 17. Residency.**

Pursuant to the Memorandum of Agreement of 2000 - 2004, dated November 7, 2001, effective July 1, 2000, any member of the Association hired after Nov. 1993 must live in the City for five years in order to exempt from the waiver requirement in the ordinance. Failure to comply, subjects members to termination.

**Section 18.** The City agrees to provide office space for the Association in the new public safety building.

**Section 19. Disclosure of Personal Information.** The City agrees that the telephone numbers and home addresses of employees shall not be issued by the Department at the police station, or over the telephone, provided, however, the Chief of Police shall have to discretion of determining to what public official any such telephone number or home address of any employee shall be issued. The City shall require each employee to have a personal telephone, but shall not be obligated to pay the cost of the same.

**Section 20. Bi-Weekly Payment of Wages.** In the event bi-weekly payment of wages is permitted by statute, the City shall have to right to implement bi-weekly payment of wages.

**Section 21. 5 and 2 schedule, buyback of days.** Employees assigned to a Monday-Friday schedule may, at their option, annually elect to buy back up to five (5) of the 17 1/3 additional days off each receives, at their applicable daily rate of pay, by notice to the Police Department, in which event the number of additional days off each receives shall be reduced by the number of buyback days elected and paid for. The annual election and payment for such buyback days shall be made in January of each year for the prior calendar year. Effective January 1, 1999, the buyback election shall be increased from four (4) days to five (5) days.

**Section 22.** The City agrees to take reasonable steps to request a Civil Service Examination for positions in the bargaining unit with the intent that civil service lists shall be continuously in effect.

**Section 23.** The City and the Association agree to form a joint committee for the purpose of discussing training programs for employees in the bargaining unit.

**Section 24. Line of Duty Death.** The City will provide up to \$5,000.00 in financial support or facilities, transportation or other services to assist in post funeral memorial services for Somerville police officers killed in the line of duty as a result of an assault or accident; provided,

however, that none of funds provided by the City shall be used for the purchase of alcoholic beverages.

**Section 25. Drug Testing Program.** The City and the Association recognize that the critical mission of law enforcement justifies the maintenance of a drug free work environment through the use of a reasonable employee drug testing program. Therefore, the City and the Association agree to implement the following drug testing program which shall provide for "reasonable suspicion" drug testing, random testing, post-incident testing and unannounced follow-up testing, and shall also provide for the rehabilitation of any such employee found to be in violation of this program. It is the general intent to create a humanitarian program where treatment and discipline are both important aspects of the program.

#### **I. Drug Testing Based on Reasonable Suspicion**

A. An employee shall be subject to an immediate drug test if the employee's Superior Officer determines reasonable suspicion of drug use.

B. The reasonable suspicion standard for drug testing is based upon a specific objective fact(s) and reasonable inferences drawn from that fact(s), reasonable in light of experience that the individual may be involved in the use of any illegally used controlled substance. Reasonable suspicion may be based upon the following or other, comparable fact patterns:

- (1) Observable phenomena, such as direct observation of illegal use or possession of drugs and/or the physical symptoms of being under the influence of a controlled substance.
- (2) A documented pattern of abnormal conduct or erratic behavior while on duty (i.e. slurred speech, uncoordinated movement, gait stupor, excessive giddiness, unexplained periods of exhilaration and excitement, impaired judgment, deteriorating work performance or frequent accidents not attributable to other factors).
- (3) Arrest, indictment or conviction for a drug related offense or the identification of an employee, through an affidavit, as the focus of a criminal investigation into illegal drug use or trafficking.
- (4) Evidence that an employee has tampered with a previously administered drug test and/or has made false or misleading statements to Department personnel regarding past or present illegal use of drugs.
- (5) A documented, written report of drug use, in affidavit form, provided by reliable and credible sources such as other law enforcement agencies (but not including affidavits by their informants).
- (6) Causing an accident with "accident" being defined as an unplanned, unexpected and unintended event which:

- (a) Occurs on Department property, on Department business or during working hours; and

- (b) Initially appears to have been caused wholly or partially by an employee; and
- (c) Results in either:
  - (i) Fatality;
  - (ii) Any injury requiring medical treatment away from the scene of the event; or
  - (iii) Damage to property in excess of \$5,000.00.

An unplanned, unexpected and unintended discharge of a firearm is also an "accident."

Notwithstanding the foregoing, determination of reasonable suspicion shall comport with the Constitutional guarantees and limits.

C. The Superior Officer shall consult with a second Superior Officer and/or the Chief of Police in determining whether reasonable suspicion exists and if the employee shall be referred for testing. One of the Superior Officers must be above the rank of Sergeant. The Superior Officer shall provide a written report setting forth his/her grounds for determining reasonable suspicion.

D. In those cases where the Superior Officer determines that the employee's condition or behavior causes a potential threat of harm to himself, herself or others, the employee will be immediately escorted to the collection facility and shall be placed on paid administrative leave.

E. Once an employee has been referred for testing based on reasonable suspicion, it will be the responsibility of a Superior Officer to advise the employee of such decision and to escort the employee to the collection facility. The Superior Officer shall remain with the employee at the collection site until testing is concluded. If the employee so desires, an Association representative, if then available, may accompany him/her to the collection facility to act as an observer. Once the collection procedures are over the Superior Officer shall transport the employee to the Police Station and arrange for transportation for the employee to his/her home or residence. The Superior Officer shall also notify the employee that he/she is not to return to work pending receipt of the test results or until a determination is made that reasonable suspicion was not substantiated. The employee shall be in a pay status when referred to and being tested and while awaiting the test results.

#### F. Appeal of Decision to Test Under "Reasonable Suspicion"

1. Should an employee dispute the determination that "reasonable suspicion" exists for requiring his/her submission to a drug test, as discussed in Section I of this Article, the employee shall so notify the City, by filing an appeal with the office of the Chief of Police or the Superior Officer at the time a specimen is provided by the employee. The Superior Officer shall notify the laboratory simultaneously with delivery of the specimen that the test is subject to protest and this. The sample shall be held and no testing done until a determination is made after the appeal process set forth herein.

2. The dispute shall be submitted immediately upon provision of the sample to the City's Personnel Director. The Police Department shall be confined to substantiation of the reasons articulated pursuant to Section I(B) of this Article. The employee and the Department shall be entitled to representation at the hearing, the employee by the Association, the Department by counsel or by the Superior Officer. The employee and the Association shall have the right to refute any of the reasons so articulated.

3. Should the Personnel Director determine that there was "reasonable suspicion," the laboratory shall be instructed to immediately conduct the test on the employee sample. The results of such test shall be forthwith delivered to the Chief of Police, who shall notify the employee in question of the results.

4. Should the Director of Personnel determine that there was not "reasonable suspicion" to test, the employee urine sample and all records associated with the incident shall be destroyed forthwith.

## II. Random Drug Testing

- A. All employees will be subject to random drug testing, which shall be done during an employee's regularly scheduled shift.
- B. Upon notification that an employee is scheduled for random drug testing, such employee will appear as required at the location specified for drug testing.
- C. The random selection process shall be by computer-generated numbers for each sworn officer in the bargaining unit. Such computer-generated program shall be performed by an outside contractor hired by the City after consultation with the Association and which specializes in such function. The parties agree to develop said program mutually, so that the parties and the affected employees fully understand the rationale behind the computer-generated numbers, and the potential application to an individual employee of such program and numbers.
- D. An employee who tests positive after a random drug test shall be subject to the same conditions as those who test positive following a "reasonable suspicion" drug test.

## III. Post-Incident Testing

An employee shall be subject to an immediate post-incident drug test when involved in a "critical incident." A "critical incident" is defined as:

- 1. The action of any on duty employee, which results in injury or death of another person;
- 2. The operation of a vehicle on duty or any time in a department vehicle off duty by an employee which results in a fatal traffic accident or an accident causing any injury or property damage in excess of \$5,000.00;

3. Where the action of an employee causes any physical injury or death to a person by the use of a firearm either on-duty or off-duty.
4. Any other event that may be agreed upon by the City and the Union as constituting a "critical incident."

An employee who tests positive after post-incident drug test shall be subject to the same conditions as those who test positive following a "reasonable suspicion" drug test.

#### IV. Procedure for Drug Testing

A. All urine drug testing will be performed under the Federal Department of Health and Human Services Mandatory Guidelines for federal workplace testing as described in Appendix DT/S-I, "Procedures for Drug Testing." These procedures call for the use of an Immunoassay Screen (i.e. "EMIT") with all positive results tested for confirmation using Gas Chromatography/Mass Spectrometry (GC/MS) technology or more advanced technology agreed to by the City and the Association.

B. In accordance with M.G.L. Chapter 94C, all drug tests will consist of determination of the presence of these five drugs, classes of drugs, or their metabolites: marijuana metabolites, cocaine metabolites, opiate metabolites, phenylcyclidine (PCP) and amphetamines.

The initial test shall use an Immunoassay. The following initial cut-off levels shall be used when screening specimens to determine whether they are negative for these five drugs or classes of drugs:

	Initial Test Cut-Off Levels (ng/ml)
Marijuana metabolites	100
Cocaine metabolites	300
Opiates metabolites (25 ng/ml if Immunoassay specific for morphine)	300
Phenylcyclidine	25
Amphetamines	1000

All specimens identified as positive on the initial test shall be confirmed using gas chromatography/mass spectrometry (GC/MS) techniques at the cutoff levels listed in this paragraph for each drug. All confirmations shall be by quantitative analysis.

#### Confirmatory Test Cut-Off Levels (ng/ml)

Marijuana metabolites	15
Cocaine metabolites	150
Opiates:	
Morphine	300
Cocaine	300
Phenylcyclidine	25
Amphetamines:	
Amphetamine	500
Methamphetamine	500

C. At the time of the drug test, the employee's urine sample will be divided into two collection bottles ("split sampling"). If a specimen is reported as positive, the employee may have the untested specimen independently tested by a laboratory licensed by the Massachusetts Department of Public Health to perform forensic drug testing, upon written application to the Chief of Police within seventy-two (72) hours of the notification of a positive result, consistent with the Health and Human Services Guidelines.

D. At the time that the employee provides a urine sample, the employee shall also provide a confidential, written statement as to whether he/she is using any prescription drugs. If the test is positive, the employee must present evidence of the use of prescription drugs, which may include written confirmation from the employee's prescribing physician and copies of the prescriptions.

E. If an employee tests negative and/or is successful in an appeal of the grounds for a "reasonable suspicion" test, said urine samples shall be destroyed and no material on such test shall be placed or remain in the employee's personnel file and any other City/Department file.

F. The order for test submission and the actual testing process and results shall not be implemented for the purpose of substantiating criminal allegations against the subject employee.

#### V. Refusal To Submit To Testing

An employee's refusal to submit to a test when directed will be deemed to have tested positive and will be immediately placed on leave. Failure or refusal to submit to such tests as directed includes the failure to proceed directly to the testing facility as directed, failure to provide adequate amount of urine for testing, or failure to complete all of the necessary paperwork. Additionally, notwithstanding any other provision of this policy, such employee may be subject to serious disciplinary action, up to and including discharge.



## **VI. Consequences of a Confirmed Positive Test.**

A. An employee who tests positive for use of drugs may be subject to disciplinary action. However, any employee testing positive for the first time shall be allowed to enter a rehabilitation program, in-state or out-of-state, in lieu of discipline with the full support and encouragement of the City, and shall be subject to unannounced testing for a period of twenty-four months following a first positive test. A second positive test will result in disciplinary action. The employee will be allowed to again enter a rehabilitation program and shall be subject to unannounced testing for thirty-six months. A third positive test will result in termination.

B. An employee must provide documentation to the City or its Chief of Police regarding entry into and successful completion of a drug rehabilitation program. Such documentation will indicate that the rehabilitation program is a certified, recognized program by the Massachusetts Department of Public Health. In addition, the employee shall provide the City or its Chief of Police with proof of successful completion of said rehabilitation program.

C. The employee entering a Rehabilitation Program will sign a Rehabilitation Agreement with the Department and abide by its terms and conditions.

D. An employee's contractual seniority will not be interrupted by any in-patient or outpatient participation in a rehabilitation program as provided in this Article.

E. The employee must successfully complete the rehabilitation program before returning to duty. Before being re-instated to duty the employee shall meet with the Chief of Police and the Department's Drug Program Administrator to discuss the rehabilitation program and its completion and to discuss assignment options. Such meeting(s) will be designed to assist the employee's re-entry into the workplace.

F. During any in-patient period of such rehabilitation program(s), an employee can utilize sick, vacation or other leave credits otherwise available to him or her by the Association/City collective bargaining agreement ("CBA") to maintain compensation status. During any out-patient period of such rehabilitation program, he/she may use up to a maximum of ten (10) days sick leave, if needed by him/her while enrolled in such program(s), and can also utilize vacation or other leave credits otherwise so available to him/her, to maintain compensation status.

The City may pay the cost of those items not otherwise covered by the employee's health insurance plan for any rehabilitation program pre-approved by the City or its Chief of Police.

G. An employee's failure to successfully complete the rehabilitation program, where such failure is not based on his/her failure to attend, cooperate with or participate in the rehabilitation program may result in disciplinary action and the employee may be required to undergo further rehabilitation. After a second unsuccessful attempt at rehabilitation, the subject employee may be disciplined, up to and including termination. An employee's failure to successfully complete the rehabilitation program, where such failure is attributable to employee fault regarding attendance at, cooperation with or participation in the rehabilitation program may result in discipline, up to and including termination.

H. Upon return to duty following a first positive test, and after successful completion of the drug rehabilitation program, the employee shall be subject to unannounced, following up drug testing for a period of twenty-four (24) months. Following a second positive test, and after successful completion of the drug rehabilitation program, the employee will be subject to unannounced, follow-up testing for a period of thirty-six (36) months, during which time any positive test results may result in termination. An employee refusing to be administered a drug test during said twenty-four (24) or thirty-six (36) month period, when required by the Chief of Police, shall be terminated.

## **VII. Selection of Laboratory and Medical Review Officer.**

A. The Department shall contract for laboratory services with a laboratory certified by the Federal Department of Health and Human Services under the Mandatory Guidelines for Federal Workplace Drug Testing Programs, and by the Massachusetts Department of Public Health.

B. As set forth in said Mandatory Guidelines, there shall be a Medical Review Officer ("MRO") chosen to fulfill the function of reviewing the results of the tested employee and protecting the confidential nature of the employee's medical information. The qualifications of the MRO, as set forth in said Guidelines, include being a licensed physician, the role of the MRO is to review and interpret confirmed positive test results obtained through the Department's testing program. The MRO shall not be an employee of the City.

## **VII. Confidentiality of Records.**

Test results and other information relating to drug testing of an employee shall be maintained in a confidential file separate from the employee's personnel file.

**Section 26. Carrying of Weapon.** Employees who are precluded from carrying their service weapon due to a G.L. 209A court order/injunction shall be assigned to a position within the Police Station replacing the junior employee assigned as station officer unless a more senior employee agrees to swap his/her assignment. This Station assignment shall terminate when the court order/injunction is lifted. The employee who is subject to such C. 209A order/injunction shall be required to make reasonable efforts to have same lifted and/or modified to permit the employee to carry his/her service weapon while on duty. This Section shall not apply if the City determines that administrative and/or disciplinary action is appropriate.

Pursuant to the Memorandum of Agreement dated November 7, 2001, effective July 1, 2000, and pursuant to the 1997-98 MOA, to provide a twelve-month limit (209A) in which to gain ability to carry a gun. The Chief may extend this period with the permission of the Mayor on unusual circumstances.

**Section 27. Language Proficiency** - Employees hired after July 1, 1998 from a specialized civil service list must maintain their certification and/or proficiency (language, etc.) that applied at the time of their employment. The City agrees that it will provide such employees training materials and appropriate training opportunities in this regard.

**Section 28. Professional Development.** These parties agree to form a bi-lateral committee to study and make recommendations to the Chief and the Mayor relative to professional development activities for members of the bargaining unit. This committee shall issue its report by June 30, 1999.

**Section 29. Stress Support.** The City and the Association recognizing the importance of stress support services and the need to implement a program to provide these services. Accordingly, a committee made up of two representatives of the City and two representatives of the Association shall meet to make recommendations on the establishment of such a program.

**Section 30. Annual Performance Appraisal System.** Pursuant to the 2000-2004 M.O.A. dated November 7, 2001, the parties have agreed that a Committee will be formed to review and discuss an appraisal system. The Committee will consist of up to four Union Representatives and the Chief and/or his designee. The Committee will issue a report of recommendations for implementation to the Mayor and the Personnel Director no later than the last day covered by this memorandum of agreement.

**Section 31: 5 & 2 Day Stipend:** Pursuant to M.O.A. of 2000-2004 dated November 7, 2001, effective January 1, 2002, or upon implementation of the reorganization plan, a weekly stipend of \$20.00 will be paid to Association members who are assigned to the day shift 5 & 2 schedule:

## ARTICLE XX

### DUES AND AGENCY FEE

**Section 1. Dues.** The City agrees to deduct Association dues from the salary of all employees who signed membership Authorization Forms, and to remit said dues with an alphabetical list of names of employees from whom dues have been deducted to:

Somerville Superior Officers Association  
Somerset Savings Bank  
40 Union Square  
Somerville, Massachusetts 02143

or to such other depository as the Association may from time to time designate in writing to the City, attention its Treasurer.

### Section 2. Agency Fee.

(a) Each employee who elects not to join or maintain membership in the Association shall be required to pay as a condition of employment, beginning thirty (30) days following the commencement of his/her employment or the date of execution of this Agreement, whichever is later, a service fee to the Association equivalent to the amount of periodic dues paid by employees who are members of the Association.

(b) The Association agrees to hold the City harmless and to indemnify it from any back pay liability incurred pursuant to a final order or decree of a court or agency of competent jurisdiction with respect to any employee whose employment is unlawfully terminated as a result of the Association's enforcement of the preceding section.

## ARTICLE XXI

### INJURY LEAVE AND INDEMNIFICATION

1. Members of the Bargaining Unit shall be granted leave without loss of pay for the period of any absence from duty resulting from personal injury, sickness or disability arising out of or in the course of their employment.

2. The City shall indemnify the members of the Bargaining Unit for all medical, hospital and related expenses incurred by them as a result of such personal injury, sickness or disability within sixty days after acceptance or establishment of the City's liability for such personal injury, sickness or disability.

3. This Article is intended neither to enlarge nor diminish the statutory rights of the members of the Bargaining Unit with respect to injury leave and indemnification except as provided below.

4. An employee on injury leave shall be entitled to examination and treatment by a physician of his own choice. A doctor designated by the City may examine the employee as to the employee's fitness to resume full police duty or light duty as described herein. The City's doctor shall review the employee's doctor's opinion if the employee or the City requests.

If the employee's doctor and the City's doctor disagree as to the employee's fitness to resume such full police duty or light duty, necessary steps shall be taken to have the employee examined by a third doctor. This third doctor shall be appointed from a clinic, hospital or medical center (after prior consultation with the Association) and shall be qualified to make the necessary determination. Pending receipt of the third doctor's opinion, there shall be no change in the employee's status based on the City doctor's opinion.

If the third doctor determines that the employee is not fit to resume full police duty or light duty as described herein, the employee shall remain on paid injured leave status. If the third doctor determines that the employee is fit to resume full police duty or light duty as described herein, the employee shall be ordered to return to such duty. All costs and expenses of the third doctor's examination shall be borne by the City.

An employee who is on a light duty assignment shall be provided with whatever time off without loss in pay as needed for medical examination and treatment of and rehabilitation from his injury subject to the approval of the Chief after sufficient documentation is provided detailing the necessity of said examination, treatment or rehabilitation; provided the medical examination, treatment or rehabilitation cannot be scheduled during non-working time. The objective of this provision is to enable the injured employee to return to full duty as soon as possible.

While on light duty assignment, an employee shall be entitled to all contractual salary, fringe and other benefits, provided, however, he/she shall not be entitled to work paid details or overtime in accordance with practice.

Pursuant to the Memorandum of Agreement dated November 7, 2001, effective July 1, 2000, Light duties is defined as police duties which the employee is physically capable of performing. The inside Commander (Lieutenant, or one acting in this capacity), will not be considered a light duty position.

The City will certify to the employee's condition while he/she is on a light duty assignment.

## **ARTICLE XXII**

### **DURATION OF THE AGREEMENT**

**Section 1. Term.** This agreement shall be in full force and effect from July 1, 2009, or at such later date, as to certain provisions thereof, as may be specifically referred to in this Agreement, and shall continue in full force and effect (subject to certain reopener agreements) to and including June 30, 2004.

On or after December 1, 2003, either party may notify the other of its first proposals for a new Agreement to be effective on the termination of this Agreement, and the parties shall proceed forthwith the bargain collectively with respect thereto.

If negotiations for a new Agreement to be effective on the termination of this Agreement continue beyond June 30, 2004, this Agreement shall continue in full force and effect until a successor is executed.

This Agreement is subject to funding.

Witness our hands and seal this \_\_\_\_\_ day of (month) year).

**SOMERVILLE POLICE SUPERIOR  
OFFICERS ASSOCIATION**

**CITY OF SOMERVILLE**

By \_\_\_\_\_  
President

By \_\_\_\_\_  
Mayor

\_\_\_\_\_  
Vice President

\_\_\_\_\_  
Treasurer

\_\_\_\_\_  
Secretary

Approved as to form:

\_\_\_\_\_  
City Solicitor

Memorandum of Agreement  
Between City of Somerville and the Somerville Superior Officer's Association  
Contract Date: July 1, 2000 through July 1, 2004

- 1) Residency- anyone hired after Nov. 1993 must live in the City for five years in order to exempt from the waiver requirement in the ordinance. Failure to comply, subjects members to termination.
- 2) Court Time- Those able to attend court proceedings while receiving IIF (duty injury) benefits will not be paid overtime to do so, as they are already being paid. Doctor's reports will be used to determine when an officer is able to attend court proceedings.
- 3) Hours of Work and OT, Sec. 4- amend to read: Effective January 1, 2001 an employee returning to duty from an absence on sick leave and who has taken seven sick days in preceding twelve month period, shall not be eligible to work a detail or overtime assignment until after the employee has actually worked three consecutive shifts, except in the case of an emergency to be determined by the Chief or his designee.
- 4) Miscellaneous- Section 26, Amend, as found in the 1997-98 MOA, to provide a twelve month limit (209A) in which to gain ability to carry a gun. The Chief may extend this period with the permission of the Mayor in unusual circumstances.
- 5) Implementation of Annual Performance Appraisal system. The parties have agreed that a Committee will be formed to review and discuss an appraisal system. The Committee will consist of up to four Union Representatives and the Chief and/or his designee. The Committee will issue a report of recommendations for implementation to the Mayor and the Personnel Director no later than the last day covered by this memorandum of agreement.
- 6) Injury Leave and Indemnification- Article XXI, delete the second to last sentence and insert the following language: Light duty shall be police duties which the employee is physically capable of performing. The inside commander (Lt.) position will not be considered a light duty position.
- 7) Reorganization: per attached (To be Initialed)
- 8) Officers may accrue compensatory time at 1½ time (not four hour minimum) in lieu of overtime, the time earned must be used within 30 days if possible but no later than six months from time earned. Time should be used when it does not create an overtime situation unless OK'd by the Chief. In no case may anyone accrue more compensatory time than the amount allowed under the FLSA.
- 9) Out of Grade pay for Sgts. will now include Quinn benefits plus Article 5, section 2 will be amended to reflect that when an Sgt. Works out of grade to cover an 8 p.m. release, this portion of the shift will be paid at the out of grade rate.

- 10) 5 & 2 Stipend- a weekly stipend of \$20 will be paid to union members who are assigned to the day shift 5 & 2 schedule. Effective upon implementation of reorganization.
- 11) The private detail supervisory rate will be increased from the current \$30 per hour to \$36 for a Sergeant, \$39 for a Lieutenant and \$42 for a Captain when these ranks are working in a supervisory capacity only. A new sentence will be added to Article VI, section 8, paragraph two as follows: If a detail has more than twelve patrol officers assigned to more than one location, there shall be one Sergeant, one Lieutenant and one Captain assignments. These rates will become effective upon ratification of the contract by the members and the City.
- 12) A new sick leave accrual system will replace the current ordinance system effective January 1, 2002 as follows:
  - a. Employees will accrue 15 days per year to be credited on January 2<sup>nd</sup> for the prior year. Employees absent for illness or injury of longer than one month will not earn sick leave but will be credited with 1.25 days per month for each month worked.
  - b. To implement this accrual system, members will be credited with 100 (one hundred) sick days effective 1/1/02. The first annual crediting of accrued time will be January 2, 2003.
  - c. The maximum accrual of sick days will 150 (one hundred and fifty) days.
  - d. For absence due to sickness or injury, the Chief or his designee or the appointing authority may require evidence in the form of a physician's certificate for the necessity of such absence, such certificate will indicate the nature of the illness or injury and the expected duration.
  - e. Union Members who retire shall be entitled to "buyback" 25% of their unused sick time accrual (maximum of 150 sick days) at their current salary at the time of retirement.
  - f. Effective calendar year 2004 Union Members will be eligible to earn an annual perfect attendance bonus of \$500, or \$400 for near perfect attendance of two days absence or less, or \$300 for a near perfect attendance of three days absence or less, in a calendar year. Said bonus to be paid in perfect attendance of three days absence or less, in a calendar year. Said bonus to be paid in January 2005 for the prior calendar year and annually in January thereafter for the prior year.
  - g. Members will be covered for catastrophic, life threatening illness and injury, per the agreed list (to be initialed), once they have expended all of their sick, vacation, personal, and 5 & 2 days.
  - h. The parties have agreed that a committee will be formed to review and discuss the establishment of a Sick Leave Bank. The Committee will consist of up to four Union members and the Chief and/or his designee and the Personnel Director and/or his designee. The purpose of the Sick Leave Bank is to afford the Union the opportunity to grant members, on a case by case basis, who have utilized all of their paid time off and are not covered by the catastrophic provision, additional paid time off.



13) The rank differential spread will be increased by ½ percent on 7/1/00 and ½ percent on 7/1/01 and ½ percent on 1/1/03.

14) Vacations- the practice that each employee who has not been absent due to illness or non-job related injury for more than seven days is allowed to use one-week vacation (five days) individually in a calendar year will be added to the contract. Currently, vacation time may be carried over until February 1<sup>st</sup> of the following year and this carryover period will be increased to March 1<sup>st</sup>.

15) Quinn Bill will be included in overtime rates effective 1/1/02.

16) Wages: Effective 7/1/00 3%; 7/1/01-3%; 7/1/02-2% and 2% on 1/1/04.

17) Duration: Two contracts for a total of 4 yrs.

(Note: Final contract language to be drafted by parties' attorneys)

Charles J. Fazzino, Vice President  
Signed for the Union

Diane Jenkins, Personnel Director  
Signed for the City

Date: November 7, 2001

Date: November 7, 2001