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By Facsimile No. 978-281-9738 and Mail

October 23, 2006

John Bell, Mayor
City of Gloucester
City Hall
Dale Avenue
Gloucester, MA 01930

RE: Gloucester Police Patrolmen's Association, MCOP Local 344, AFL-CIO –
Artspace Detail Assignments

Dear Mayor Bell:

The GPPA hereby serves notice of its submission to arbitration of the above grievance, in accordance with Article XXII, Step 4, of the collective bargaining agreement.

The Union also wishes to inform you that some of the statements made in the enclosed Final Step Grievance response do not accurately state the facts of this case. The following statements in the grievance response are factually incorrect:

1. *"At issue was the Union's claim that those grant-funded details outside of Artspace...that had been granted to detectives should have been distributed exclusively to patrol officers through a detail rotation list."* [Page 1, ¶ 1].

The Union never argued that the Artspace details should have been distributed exclusively either to detectives or to non-detectives. The Union argued only that all of these details should have been distributed under the ordinary equitable distribution system, which entitles both detectives and non-detectives to equal access to them, based on an equitable distribution formula.

2. *"This arrangement had been made by Operations Commander Lt. Joseph Aiello, who had sought and received approval in advance from Union steward and officer James Officer."* [Page 1, ¶ 2].

James Officer is the Union Treasurer. He does not have authority, on his own, to approve a deviation from the detail distribution methodology set out in the collective bargaining agreement. The Union has never indicated to Lt. Aiello that he possesses such authority.

3. *"Patrol officers do not customarily work plain clothes assignments or investigate illegal use of drugs and alcohol."* [Page 2, top of page].

There are situations where patrol officers do and have worn plain clothes. Patrol officers regularly investigate illegal drug and alcohol use in their assigned sectors and throughout the City. Once particular crimes have been committed, they are generally assigned to detectives for follow-up investigation. The Artspace details involved patrolling an area to prevent criminal behavior and to take appropriate action, including arrest, in the event crimes were committed. It did not involve follow-up investigation of already committed crimes.

4. *"It appears that the initial decision to split the grant-funded assignments between detectives and patrol officers was an attempt by Department management to forge harmony and understanding between two traditional rival branches of the Police Department. ...the resulting grievance claiming 100% rights of all patrol officers for the Artspace details."* [Page 2, Finding #2].

Detectives are patrol officers. The Union represents both plain clothes detectives and uniformed patrol officers. These are not "rival branches of the Police Department." The Union claimed that all patrol officers – detectives and non-detectives – should share equally in these details based on the usual equitable distribution formula set out in the contract. Any disharmony between these divisions has been created by Police Department management, which first unilaterally assigns certain patrol officers as detectives (an assignment over which the Union has no say), and then attempts, as it did here, to give them disproportionate economic benefits.

Due to the fact that the underlying dispute in this case – both the detail distribution and the retaliation aspect – have already been submitted to the Massachusetts Labor Relations Commission for adjudication, I would suggest that we agree to place this grievance in abeyance before subjecting both parties to the unnecessary and duplicative expense of filing and litigation with the American Arbitration Association.

Thank you for your careful attention to this matter.

Very truly yours,



Alan H. Shapiro

Enc.

cc:	John Foote	[Via Email]
	Shawn Bouchie	"
	James Officer	"
	Donna Leete	"
	Linda Lowe, Esq.	"

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CITY OF GLOUCESTER
PERSONNEL OFFICE

To: Jack Foote, President GPPA
From: Donna Leete, Personnel Director
Date: October 5, 2006
RE: Final Step Grievance Response – Artspace Detail Assignments

On August 11, 2006, I was designated by Mayor Bell to serve as hearing officer for a grievance originally filed last Feb. 21, 2006 by the Gloucester Police Patrolmen's Association. At issue was the Union's claim that those grant-funded details outside of Artspace on Maplewood Avenue that had been granted to detectives should have been distributed exclusively to patrol officers through a detail rotation list. As a remedy, the Union sought pay for patrol officers for the equivalent of 15 details worked by detectives.

It was established at the hearing that the assignments of Feb. 10, 17, and 18, 2006 were originally made with one detective and one patrol officer, who was hired off the D list. This arrangement had been made by Operations Commander Lt. Joseph Aiello, who had sought and received approval in advance from Union steward and officer James Officer. Only after such assignments had been made, on Feb. 18, did Union President Jack Foote voice concern over this arrangement. The Union then adopted the position that all details should have been assigned to patrol officers, as there was no special need for the skills and training of detectives. They alleged the work assignments were crime prevention and not investigatory in nature.

Chief Beaudette maintained that it was his managerial right as Chief to make assignments. Surveillance was required at this location because of reports received regarding the use of drugs and alcohol by young people outside the music and art establishment. After the City Council had directed this investigation, the Chief stated he had tried to be fair by voluntarily splitting the assignments between one detective and one patrol officer, who was granted the unusual ability to work in plain clothes, for each detail. The Chief contended, however, that the nature of the work assignment was

always a detective job. Patrol officers do not customarily work plain clothes assignments or investigate illegal use of drugs and alcohol.

Following the hearing, Union Vice-President Shawn Bouchie delivered a CD-Rom identifying 15 different detail assignments at the Artspace location that had been granted to detectives. The grievance then expanded from the original 3 disputed shifts to a total of 15. The disc also contained an e-mail communication from former GPPA Union President Kevin Mackey to the Union's attorney, Alan Shapiro, Esq. This communication alleged an unfair labor practice in which Lt. Aiello was reported to have said that since the Union filed a grievance, all Artspace detail assignments would now be given to detectives.

FINDINGS:

As hearing officer, I have found the following:

- 1.) It is a core management prerogative of the Police Chief to make assignments, considering the skills required in each public safety situation (see prior GPPA grievance response re: The Perfect Storm). This right extends to the decision as to when and where detectives are required vs. patrol officers. Further, no written policies or procedures establishing guidelines for detail assignments have been produced for consideration. The Chief's assertion that these assignments were best suited for detectives is supported by the plain clothes requirement and the need to investigate alleged illegal drug and alcohol activity.
- 2.) It appears that the initial decision to split the grant-funded assignments between detectives and patrol officers was an attempt by Department management to forge harmony and understanding between two traditional rival branches of the Police Department. This objective has not been met, as demonstrated by the resulting grievance claiming 100% rights of all patrol officers for the Artspace details. Department management and the Union are encouraged to renew mutual efforts to promote greater understanding and cooperation between the two branches.
- 3.) Department management sought and received approval from a union officer before implementing the split assignments.

Therefore the Union should honor this agreement prior to filing a grievance.

- 4.) For the above reasons, the City denies this grievance and the remedy sought.
- 5.) The Union's claim of retaliation by Lt. Aiello in disallowing the split assignments after the Union filed a grievance is a charge of prohibited practice. As such, it stands as a charge separate and distinct from the original grievance and will not be addressed in this forum. The City hereby notes its long-standing commitment to fair labor practices, however, and will not condone comments or practices that could be construed as retaliatory against protected Union activity.

cc: Mayor John Bell

Steve Magoon, Chief Administrative Officer

Police Chief John Beaudette

Linda Lowe, General counsel

Alan Shapiro, GPPA Attorney