

Police Detail Meeting
Section 10 of Chapter 86 of the Acts of 2008
Executive Office of Transportation and Public Works
State Transportation Building
Conference Room 1

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I am offering these comments in connection with the meeting today on the matter of police details. I am Chairman and Professor of Economics at Suffolk University, where I also serve as Executive Director of the Beacon Hill Institute. I will address my comments to that portion of Section 10 of Chapter 86 according to which “the secretary of transportation and public works, in conjunction with the secretary of public safety may promulgate regulations and recommend guidelines for the use of police details at works sites.”

I will offer five recommendations to the secretary for formulating his recommended guidelines.

Let me begin my comments by pointing out the underlying motivation for this legislation – that it is far more economical to use civilian flaggers than it is to use uniformed police to direct traffic at work sites. In a study conducted by the Beacon Hill Institute in 2004, we used data from the U.S. Department of Labor Statistics to estimate the cost difference. We found that the average pay for a uniformed police officer was \$34.70 per hour, while the average pay for civilian flaggers ranged from \$9.96 to \$21.11 per hour. This would have translated into a saving of \$36 million to \$66 million per year from using flaggers rather than police officers. The estimate does not account for the cost of using state police for detail work.

In fact, this estimated saving is conservative. It does not take into account the 10% “administrative fee” routinely paid police departments or the featherbedding that takes place in the assignment of details.

To get an idea of how wasteful it is to use police details, we might consider the fact that school crossing guards get far less to protect their precious charges from oncoming traffic. In 2007, the pay for school crossing guards in Boston was \$12.83 per hour, about 1/3 of what uniformed officers are currently paid.

Yet, it remains devilishly hard to make inroads on this costly practice. The police unions put up many arguments in defense of police details, all of them self-serving and most of them without merit. It is significant, on this matter, that our research also shows that police details apparently do little to improve safety. Massachusetts drivers have been number one or two among all drivers in property damage and bodily injury claims.

The argument that uniformed police officers often spot and stop crimes while working details is equally unpersuasive. If we’re going to pay officers to stand around somewhere and wait for a crime to happen, there are better places to put them than at work sites. Nor are police details costless when employed by private-sector utilities. The costs simply show up in our utility bills. In fact, the practice of requiring private-sector entities to hire and pay for police details is just a way of imposing an implicit tax on private consumers. If we need to augment police pay – and perhaps we do – then the augmented pay is a matter to be decided as part of the budgetary process, not hidden in our utility bills.

But all of this is self-evident. It is generally understood that the practice, unique to Massachusetts, of using police details exclusively at work sites represents the triumph of union clout over common sense. It is, to be sure, the duty of the secretary to provide guidelines for determining the circumstances under which the public safety would require the use of uniformed police officers rather than civilian flaggers. But the fact that other states generally use flaggers rather police officers is proof enough that, in most

circumstances, civilian flaggers would be perfectly capable of doing the job and at a considerable saving in cost. Which leads to my first recommendation:

- (1) **The secretary should recommend the use of police details only in those circumstances where the traffic and road conditions indicate the need for a police presence. Civilian flaggers should be used in all other circumstances.**

This means that it would be necessary to have a police officer present only when there is a high probability that it will be necessary to make arrests or when there is a need for skills that only police officers have. But it would, to repeat, be *only* under such circumstances that the project would require the use of a police officer rather than a civilian flagger. In particular, there should be no guideline requiring the use of a uniformed police officer out of consideration for circumstances extraneous to the job of directing traffic. The goal is to direct traffic, not to fight crime or pad police pay.

A second recommendation pertains to the likelihood that the police unions would attempt to use the state prevailing wage law to frustrate the cost savings made possible by the use of civilian details. The prevailing wage law essentially forces contractors to pay the union-negotiated wage to workers employed on a public works project. The prevailing wage would not, by any stretch of the imagination, apply to civilian flaggers working for Verizon or some other utility at one of its work sites. But the police unions can be expected to claim, as they already have, that it would be necessary to pay the prevailing wage to civilian flaggers working at government-funded road and bridge construction projects.

It is hardly a forgone conclusion that the prevailing wage law applies even here. The architects of that law had in mind actual construction workers – carpenters, plumbers, and bricklayers, but not police officers – when they wrote the law. And, even if the police union succeeded in forcing state and local government to apply the prevailing wage law, it would be worth hiring flaggers, if only to breathe a modicum of competition into the process.

The core problem, however, is that the very purpose of the prevailing wage law is eliminate competition from the provision of labor in public works projects. The law makes the state beholden to a union monopoly in contracting for construction labor. And, predictably, the law is immensely costly to state taxpayers. Our research shows that the law increases state construction costs by more than a third. So the entire goal of reducing the cost of public works projects would be frustrated by letting the police unions use the prevailing wage for this purpose. Which leads to my second recommendation:

- (2) The secretary should recommend that the state legislature specifically exempt flaggers, whether civilian or not, from the state prevailing wage law.**

Another problem arises over the fact that the officers who work police details are drawn mainly from local police departments. The state legislature can determine directly the degree to which flaggers may replace state police in staffing work sites, but it does not currently exercise authority over the cities and towns with regard to this matter. At the same time, the state has a strong interest in local government policy respecting the use of police details. Because police details are more costly than flaggers, they raise the cost of local government public works projects. And, because they raise the cost of these projects, police details increase the burden on the state of providing local aid.

The new state law specifies that the state cannot mandate the use of flaggers on public works projects when detail pay and other matters relating to details are determined as part of the collective bargaining process. This provision essentially gives the police unions the same monopoly power they have had all along and eliminates any real hope of bringing about the cost savings for which Section 10 was intended. The law therefore needs to be changed so that the matter of staffing work sites is taken out of the collective bargaining process as it relates to police contracts. And this leads to my third recommendation:

- (3) The secretary should recommend that the state legislature require local government to eliminate the practice of staffing work sites exclusively with uniformed police officers. Both state and local government and private-sector utilities should have, and should be expected to exercise, the option of**

contracting with civilian flaggers or with the police unions, should they so choose. The police union should be compelled to compete with civilian flaggers for detail work.

Next there is the need to compile data so that the state can evaluate the performance of civilian flaggers vis a vis police details, once the use of civilian flaggers becomes commonplace. We can expect a round of “I-told-you-so’s” from the police unions after the first accident at a site staffed by a civilian flagger. To insulate ourselves against this charge, we need data to determine whether accidents have really increased or not with civilian flaggers on the job. My next recommendation therefore is as follows:

- (4) The secretary should obtain data on the frequency and severity of accidents at work sites currently staffed by police details and then compile similar data for civilian flaggers once they are put on the job.**

Finally, and in a similar spirit,

- (5) I recommend the formation of a bi-partisan panel consisting of state and local officials, police officials and experts from academe, business and labor to perform a thorough study of the procedures employed elsewhere in the country in formulating the guidelines requested of the secretary.**

In order for the process begun today to have a successful outcome, it will be necessary to draw on the experience of other states in making a determination of how best to implement the necessary changes.

The overarching goal here should be use Section 10 of the new law as an opportunity to end the costly practice of relying exclusively on police details to staff work sites. Given the intense fiscal pressures now faced by the state and by the cities and towns, the time to act is now.

Those are my recommendations. I will be happy to answer questions that you might have.

Thank you.

