

**BEFORE THE BOARD OF INTEREST ARBITRATION**

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In the Matter of: )  
 )  
UNITED STATES POSTAL SERVICE )  
 )  
and ) 2017 National Agreement  
 )  
POSTAL POLICE OFFICERS )  
ASSOCIATION )  
\_\_\_\_\_ )

**AWARD**

**BOARD OF ARBITRATION**

**DAVID M. GABA, Impartial Chair**  
**FRANK N. ALBERGO, PPOA Member**  
**ROBERT A. DUFEK, USPS Member**

**AWARD DATE: January 8, 2021**

**APPEARANCES FOR THE PARTIES**

**PPOA**

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**Roseann R. Romano, Esq., Murphy Anderson PLLC**  
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**USPS**

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## BACKGROUND

Pursuant to Section 1207(c) of Title 39 of the U.S. Code, the Postal Reorganization Act, P.L. 91-373, 39 U.S.C. Section 101 et seq. (“Act” or “PRA”), the Federal Mediation and Conciliation Service (“FMCS”) has designated the undersigned as an Arbitration Board for the purpose of resolving the present dispute arising from an impasse in negotiations between the United States Postal Service (“USPS” or “Postal Service”), and the Postal Police Officers Association (“PPOA”) over a successor agreement to the Collective Bargaining Agreement between the parties in effect from April 5, 2014 through April 15, 2017 (the Agreement). The Act provides that following collective bargaining, all unresolved disputes between the parties are to be resolved through mediation and arbitration unless other procedures are adopted by the parties.

The USPS is an independent establishment of the Executive Branch of the Government of the United States, authorized to provide mail services to the American public. 39 U.S.C. Sections 101 and 201. The Postal Service was created by the PRA, as subsequently amended by the Postal Enhancement and Accountability Act (PAEA) in 2006. It is the successor to the former Post Office Department.

The PPOA is a national labor organization which represents approximately 465 Postal Police Officers (PPOs) at twenty-one postal locations across the United States.

This proceeding is to establish a successor to the 2012 National Agreement between the parties, which expired on April 15, 2017. During the 90-day period prior to the expiration of the 2012 Agreement, the parties’ representatives engaged in collective bargaining with respect to proposals for a new agreement. The parties were ultimately unable to reach agreement and declared impasse.

The parties proceeded to interest arbitration. The Director of the Federal Mediation and Conciliation Service selected Arbitrator David M. Gaba to be the Impartial Neutral Chair of the Arbitration Panel.

The parties submitted Pre-Hearing Briefs to the Board on January 29, 2020. In accordance with the Ground Rules signed by the parties, the interest arbitration hearing on this matter was held before the Board on February 3, 2020, February 4, 2020, February 5, 2020, February 6, 2020, February 7, 2020, February 25, 2020, February 26, 2020, February 27, 2020 and February 28, 2020. The parties had the opportunity to make opening statements, examine and cross-examine witnesses, introduce exhibits and fully argue all of the issues in dispute. A transcript of the proceedings was provided. The parties submitted post-hearing briefs to the Board on June 26, 2020. The Board met separately with the parties on July 23, 2020. Subsequently, the Board exchanged preliminary drafts and held a final executive session. This 2017 National Agreement Opinion and Award is timely issued.

### OVERVIEW OF THE PARTIES' POSITIONS

The issues addressed and the testimony and evidence submitted in this case were extensive. We have attempted to summarize some of the parties' principal positions below.

#### USPS Proposals

The USPS proposed the following:

1. Duration of the Agreement. For Article 37 - Duration, the USPS proposes a three (3)-year Agreement.

2. Wages. For Article 9 – Salary and Wages, for the proposed three (3)-year Agreement, the USPS proposes an annual wage increase of Employment Cost Index (ECI) minus one percent (1%) over the term of the agreement as follows:

- Effective May 13, 2017, the basic salary for each step shall be increased by 1.6% (the percentage change in the March 2017 ECI over the March 2016 ECI minus 1%).
- Effective May 12, 2018, the basic salary for each step shall be increased by 1.9% (the percentage change in the March 2018 ECI over the March 2017 ECI minus 1%).
- Effective May 25, 2019, the basic salary for each step shall be increased by 2.0% (the percentage change in the March 2019 ECI over the March 2018 ECI minus 1%).

If the Board awards an Agreement that is longer in duration than three (3) years, the USPS proposes general increases based on ECI minus one percent (1%) in the remaining years of the Agreement. The USPS proposes that all general increases are applied to the pay table in effect on May 14, 2016, consistent with the methodology of prior agreements.

The USPS urges the Board to adopt its wage proposal based on precedential and historical contractual provisions and the PPOs' comparability to private sector armed security guards and campus police officers pursuant to 39 U.S.C. § 1003(a).

3. Health Benefits. For Article 21 – Benefit Plans, the USPS proposes that the bi-weekly employer contribution for self only, self plus one, and family plans should be adjusted to the following percentages of the weighted average bi-weekly premiums under

the Federal Employees Health Benefits (FEHB): Seventy-two percent (72%) in plan year 2021, not to exceed seventy-five percent (75%) for any individual plan.

This is a proposed reduction from a seventy-six percent (76%) employer contribution in plan year 2017. The USPS proposes that the employer contribution should remain at seventy-two percent (72%) for any remaining plan years during the life of the Agreement.

4. Uniform Allowance. For Article 26 – Uniforms, the USPS proposes to increase the current Uniform Allowance by five percent (5%) for PPOs, effective on the date the Agreement is implemented, resulting in the following:

- Newly eligible PPOs will receive an annual credit of \$784.
- All other eligible PPOs will receive an annual allowance of \$416.

5. Layoff Protection. For Article 33 – Reassignments, the USPS proposes to delete the layoff protection clause in Section 33.08 and the related Memorandum of Understanding, which is tied to the duration of the Agreement. The USPS interest behind this proposal is the need to layoff PPOs for lack of work or for other non-disciplinary reasons.

#### PPOA Proposals

The Union's proposals for change were focused on wages. For Article 9 – Salary and Wages, the Union proposes:

- Top-step salary increase of twenty-five percent (25%), starting on Day One of the 2017 Agreement.
- The Union proposes that lower-steps should be similarly increased to alleviate hiring problems;

- Maintain straight-ECI for annual wage increases (the proxy for negotiated annual increases and COLA); and
- Implement locality-pay adjustments equivalent to those applied to other Inspection Service employees (based on the General Schedule (GS) scale).

The Union urges the Board to use the federal-sector comparability standard, which requires examining “the compensation and benefits paid for comparable levels of work in the executive branch.” 39 U.S.C. § 1003(c). The Union also asserts that its proposed across-the-board wage increase will address the disparity in wage increases “for the majority-non-[W]hite complement of PPOs” and to address proven pay inequity amongst Union-represented employees of the USPS.

#### STATUTORY STANDARD

The Board is obligated to determine the wages, benefits, and work rules for Postal Police Officers for the term of the next contract after giving the parties “a full and fair hearing, including an opportunity to present evidence in support of their claims, and an opportunity to present their case in person, by counsel, or by other representatives as they may elect.” 39 U.S.C. §1207. In addition, the Board must consider the following statutory provisions.

Thirty-nine U.S.C. § 101(c) provides:

As an employer, the Postal Service shall achieve and maintain compensation for its officers and employees comparable to the rates and types of compensation paid in the private sector of the economy of the United States. It shall place particular emphasis upon opportunities for career advancements of all officers and employees and the achievement of worthwhile and satisfying careers in the service of the United States.

Thirty-nine U.S.C. § 1003(a) provides in part:

It shall be the policy of the Postal Service to maintain compensation and benefits for all officers and employees on a standard of comparability to the

compensation and benefits paid for comparable levels of work in the private sector of the economy....

Thirty-nine U.S.C. § 1003(c) provides in part:

Compensation and benefits for all Postal Inspectors shall be maintained on a standard of comparability to the compensation and benefits paid for comparable levels of work in the executive branch of the Government outside of the Postal Service. As used in this subsection, the term "Postal Inspector" included [sic] any agent to whom any investigative powers are granted under section 3061 of title 18.

The Award as set forth below is consistent with these provisions.

### COMMENTS AND DECISION OF THE BOARD

This Board of Arbitration recognizes the precarious financial situation faced by the Postal Service. As noted by other interest arbitration Boards, this financial crisis is due in large part to factors outside of the Postal Service's control—loss of mail volume, a change in the mail mix, an unprecedented retiree health benefits pre-funding obligation, and the fixed costs associated with universal service at a CPI-U cap for First-Class mail and other market dominant products. This Board joins previous interest arbitration panels in recognizing that action from Congress on regulatory and legacy cost issues is absolutely essential to the long-term health and viability of the Postal Service.

Throughout the interest arbitration hearings, the parties expressed fundamental, longstanding disagreements about the nature of PPO work, the proper role of PPOs in the structure of the Postal Inspection Service, and the appropriate comparison(s) to be made when setting PPO compensation levels.

The parties' disagreements about the proper comparables for PPOs have resulted in the parties being continually unable to negotiate successor collective bargaining agreements for many years, including in this round of bargaining. Furthermore, the parties' disagreements about the evolution of the position have led to several contract

grievances being filed, including one alleging that USPS improperly did not comply with internal regulations concerning job ranking (the comparison of the PPO position to other positions in the Postal Service).

Because of the importance of this issue, the Panel has made it a focus of its decision.

**Are PPOs “Police Officers,” “Security Guards,”  
or a Combination Thereof?**

The first major issue to address is whether PPOs are actually police officers, with police officer duties, or whether they are more akin to security guards, or perhaps a combination thereof. A previous Fact-Finding Panel, chaired by Phyllis E. Florman, found that PPOs are “neither fish nor [fowl]” and that the position “is a hybrid composed of some guard duties and some police officer duties.”<sup>1</sup> Indeed, both parties focused on the history of PPOs’ duties, with the USPS strenuously arguing that PPOs have historically performed a hybrid of security and police officer duties,<sup>2</sup> while the PPOA argued that the vast majority of duties PPOs now perform are police officer duties.<sup>3</sup>

While history has its place, what matters to *this* Board for purposes of *this* Award are the duties that PPOs *currently* perform. Based strictly on the record created at the hearing, this Board finds that PPOs are currently and since 2017 have been “police officers,” with duties that are comparable to police patrol officers or sheriff’s patrol officers.

According to the U.S. Department of Labor, Bureau of Labor Statistics (BLS), police patrol officer duties consist of the following:

Maintain order and protect life and property by enforcing local, tribal, State, or Federal laws and ordinances. Perform a combination of the following duties: patrol a specific area; direct traffic; issue traffic

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<sup>1</sup> 1994 Florman Fact-Finding Report, page 9.

<sup>2</sup> See USPS post-hearing brief at pages 2-9.

<sup>3</sup> See Union’s post-hearing brief at pages 28-33.



summonses; investigate accidents; apprehend and arrest suspects or serve legal processes of courts.<sup>4</sup>

While PPOs do not serve legal process and the parties disagree about the extent to which PPOs “investigate,” PPOs’ primary duties are *very similar* to the vast majority of patrol police officers’ duties.

This has been true since at least 2006, when the PAEA was amended to create a permanent provision for the law enforcement authority of postal “police officers,” codified in subsection (c) of 18 U.S.C. § 3061. In accordance with this amendment, PPOs “enforce Federal laws.” 18 U.S.C. § 3061(c)(1).

PPOs’ Job Description echoes the statute when it states that the “functional purpose” of a PPO is to “enforce Federal laws and regulations....” PPOs’ “Duties and Responsibilities” listed in their Job Description make it plain that the majority of duties performed are “police officer” duties:

1. Carries a firearm and other law enforcement equipment while on duty; uses reasonable force when necessary.
2. Maintains a log of all incidents reported and completes reports as needed.
3. *Performs patrol duty*, as assigned, on foot or by motor vehicle within jurisdictional authority in connection with property owned or occupied by the Postal Service (emphasis added).
4. Responds to emergency situations (e.g., burglaries, natural disasters, medical emergencies, Postal Service vehicle accidents); assists with evacuating employees in the facility during emergencies and drills.
5. Controls access to property owned or occupied by the Postal Service including direction of vehicle traffic; enforces the regulations for conduct on Postal Service property, and where authorized, writes

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<sup>4</sup> Bureau of Labor Statistics, U.S. Department of Labor, *Occupational Outlook Handbook*, Police and Sheriff's Patrol Officers, Last Updated March 29, 2019.

citations for violations of these regulations; ensures compliance with security and safety policies and procedures.

6. Makes arrests in accordance with jurisdictional authority.
7. Testifies in court proceedings or at administrative hearings.
8. Makes contact with postal managers and other employees to enhance Postal Inspection Service community policing, crime prevention, and security efforts. Reports threats against employees and security breaches. Acts as a visible deterrent to criminal attack.
9. Conducts preliminary fact finding in connection with emergency response.
10. Utilizes accepted law enforcement tactics to respond to active shooter incidents on property owned or occupied by the Postal Service.
11. Performs other job related tasks in support of the primary duties.

At the hearing, the USPS offered extensive testimony that armed private security guards can perform many of the same functions that PPOs do; the Board does not dispute the USPS' credible evidence in that regard. Indeed, if one were to draw a Venn diagram of the job duties performed by both PPOs and private armed security guards, there would definitely be an overlap of job functions. However, a Venn diagram would also show police patrol officers in other jurisdictions having the same overlap in duties.

Significantly, unlike PPOs, private security guards have *no authority* to enforce Federal laws; indeed, the record establishes that private security guards *call the police* when a crime occurs, because they simply do not have the authority to enforce the law. The USPS' own witness, Dane Dodd, corroborated the PPOs' evidence in that regard when he testified that "the only thing in there that private security would not do is enforce federal laws." Tr. 831.

True, it is axiomatic that both security guards and PPOs perform patrol duty, and both security guards and PPOs stand around or walk the perimeter of their assigned areas; however, PPOs and police patrol officers *also* have almost identical overlapping duties. Most importantly, PPOs are more akin to police patrol officers, *because their primary function is to enforce the law*. The very title of their position, “police officer,” denotes that PPOs are not mere security guards or even a “hybrid” of security guard and police officer.

As an example, the Bureau of Labor Statistics (BLS) defines “police officers” as follows: “Police officers protect lives and property.”<sup>5</sup> Put simply, that is exactly what PPOs do; they protect the lives of postal employees and the property of the USPS by enforcing Federal law. See, e.g., 29 CFR § 232.1, Conduct on Postal Property, which provides at subpart (q)(1): “Members of the U.S. Postal Service security force *shall* exercise the powers provided by 18 U.S.C. 3061(c)(2) and *shall* be responsible for enforcing the regulations in this section in a manner that will protect Postal Service property and persons thereon.” (emphasis added).

Additionally, unlike security guards, PPOs are identified by their superiors as “police officers.” As testified to by USPS witness Jennifer McDaniel, Inspector in charge of the Career Development Unit: “We call them police officers.” Tr. 543.

PPOs identify themselves as police officers and display their USPS-issued badges. As Professor Stephen Saltzburg credibly testified:

Postal police officers identify themselves as police. The Postal Service issued police badges to the postal police, much like the badges that law enforcement officers carry throughout the United States. Postal police display those badges and identify themselves to

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<sup>5</sup> Bureau of Labor Statistics, U.S. Department of Labor, *Occupational Outlook Handbook*, Police and Detectives, Last Updated April 10, 2020.

suspects and individuals as police officers. And it would be illegal in just about every jurisdiction in the United States for postal police to identify themselves as police officers if they were not actually police. It would be misleading. It would be fraudulent.

Tr. 1429. Put simply, nothing in the record suggests that security guards are *ever* identified as “police officers,” and, based on Professor Saltzburg’s credible testimony, it would actually be *illegal* for security guards to identify themselves as a “police officer.”

Additionally, unlike private security guards, PPOs receive extensive police training that has been accredited by the Federal Law Enforcement Training Accreditation body (FLETA). The program provides instruction in LEO topics including crime prevention and community policing, report writing, critical incidents, dangerous mail response, interview skills, firearms, legal issues, threat management, handling evidence and blood-borne pathogens, agency policies and procedures, and defensive tactics. At the time of the hearing, PPOs received eight (8) weeks’ and two-hundred ninety (290) hours’ of FLETA-accredited training. However, the parties provided credible testimony that the USPS planned to extend FLETA-accredited training to twelve (12) weeks by June 2020.

In addition to the FLETA-accredited training, PPOs also go through a six (6)-month probationary period where they are provided additional “on-the-job training.” As Ms. McDaniel testified, because of their extensive training, PPOs are considered an “elite police force.” Tr. 544.

According to the BLS, sheriff’s patrol officers:

Maintain order and protect life and property by enforcing local, tribal, state, or federal laws and ordinances. Perform a combination of the following duties: patrol a specific area; direct traffic; issue traffic summonses; investigate accidents; apprehend and arrest suspects, or serve legal processes of courts. Includes police officers working at

educational institutions.<sup>6</sup>

Again, although PPOs do not serve legal process and the parties disagree about the extent of their investigative duties, PPOs perform similar duties as sheriff patrol officers.

Lastly, the testimony at both the instant hearing and the 2014 interest hearing overwhelmingly convinces this Board that PPOs' job duties are substantially similar to those of a police patrol officer or a sheriff patrol officer. For example, during the 2014 interest arbitration hearing, Officer Shawn Fletcher testified that during his overnight shift, "a lot of time is spent responding to burglary alarms." He also testified that PPOs patrol in high-crime areas to "display that the carriers aren't alone . . . [and] find out if [letter carriers] know if there's any . . . imminent threats from block to block."

Officer Ben Lomasang, who works in Newark, New Jersey, corroborated this testimony at the 2020 hearing, when he testified:

Basically, the carrier patrol program consisted of -- of me and my partner visiting different stations on every -- on any given day. Every day it was a different station. Most days, there were multiple stations you would check on. You would actually go to that station, talk to the postmaster or manager in charge, find out any -- any kind of issues they were having with security, any issues they were having with their carriers, whether it be the carrier being harassed -- package thefts happened all the time -- any reports of package thefts, anything that had to do with a carrier on their route, any issues they were having, whether it be dogs or people following them or customers threatening them, different things like that.

Tr. 1090-91. Lomasang testified these kinds of scenarios happened frequently. Tr. 1091. He testified the carrier-protection patrols occurred in high-crime neighborhoods: "I would say predominant -- most of the areas we're patrolling have high crime rates. They're

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<sup>6</sup> Bureau of Labor Statistics, U.S. Department of Labor, *Occupational Outlook Handbook*, Police and Sheriff's Patrol Officers, Last Updated July 6, 2020.

probably the worst parts of Jersey City, the worst parts of Newark that we patrol. I would say they're very high crime rate, a lot of drugs, a lot of gang violence in these areas." *Id.*

As another example that PPOs routinely perform police patrol officer and sheriff patrol officer duties, PPOs in Chicago "were directed to hot spots that were -- they were directed to hot spots that came from a joint effort with Chicago Police to identify areas where gang activity, gang retaliation shootings, mail theft, assaults on carriers, robberies of carriers, were flourishing." Tr. 1065.

In Miami, PPOs spend their "entire workday" on mobile patrol to protect carriers. Union Ex. C31A at U02870. Newark PPOs go on mobile patrols to "meet with carriers, speak to them, make sure they're okay in the bad parts of town." Union Ex. 31A at U02891. Moreover, Officer Edna Sepulveda credibly testified that PPOs perform "Terry stops"—which she is authorized to do—and arrest individuals who are suspected of committing a crime. Furthermore, Officer Lomasang performs airport patrols at Newark International Airport; similarly, Officer Sepulveda performs airport patrols at the Miami International Airport "to see if there's any mail lost in transportation or there's any mail that was found."

Similarly, former PPO James Bjork, who retired on December 31, 2017, credibly testified about the duties he performed as a PPO at the 2020 hearing:

And I prepared this just to make sure I didn't overlook something that may be -- postal police de-escalate conflicts. They respond to disruptive employees. They -- they engage in dispute resolution, respond to disorderly conduct, respond to trespassing, both criminal and vagrant type of issues, respond to carrier robberies and assaults.

They respond to thefts on and off property, alarmed responses, burglary responses, medical emergencies, vehicle accidents, both on and off property, medical responses, including CPR, AED, Heimlich and first aid. PPOs are oftentimes flagged down off property while on patrols for assistance in various -- in various matters.

PPOs respond to protests and crowd control issues. PPOs primarily respond to suspicious people and activities, traffic control, citation issuance. PPOs testify in court. PPOs make arrests, respond to mail theft, respond to people passing counterfeit money orders.

PPOs respond to calls from inspectors for assistance or backup. We interview victims and witnesses. We take written statements, photograph crime scenes. We assist other law enforcement in various matters, and we collect and preserve evidence, among many other things.

Tr. 1140-41.

Based on the overall record, this Board finds that PPOs' job duties are similar to the job duties that police patrol officers and sheriff patrol officers routinely perform. In sum, we agree with the Union that "the multitude of duties that PPOs perform makes clear that PPOs are police officers actively engaged in law enforcement activities."<sup>7</sup>

### **What is the Proper Statutory Criteria to Set Appropriate Compensation and Benefits for PPOs?**

The second important issue at the interest arbitration hearing was answering the question: What is the proper statutory criteria for comparability to set compensation and benefits for PPOs? Here, yet again, the parties have a long-standing disagreement; the USPS argues that "it is clear that 39 U.S.C. § 1003(a) of the PRA, the private sector comparability mandate, is the applicable standard for establishing the wages and benefits of PPOs,"<sup>8</sup> while the PPOA argues that PPOs "plainly fall within the language of 39 U.S.C. § 1003(c)."<sup>9</sup>

39 U.S.C. § 1003(a) provides:

Except as provided under chapters 2 and 12 of this title, section 8G of the Inspector General Act of 1978, or other provision of law, the Postal Service shall classify and fix the compensation and benefits of all

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<sup>7</sup> Union post-hearing brief at 40.

<sup>8</sup> USPS post-hearing brief at page 30.

<sup>9</sup> Union's post-hearing brief at page 76.

officers and employees in the Postal Service. It shall be the policy of the Postal Service to maintain compensation and benefits for all officers and employees on a standard of comparability to the compensation and benefits paid for comparable levels of work in the private sector of the economy. No officer or employee shall be paid compensation at a rate in excess of the rate for level I of the Executive Schedule under section 5312 of title 5 (emphasis added).

Whereas, 39 U.S.C. § 1003(c) provides:

Compensation and benefits for all Postal Inspectors shall be maintained on a standard of comparability to the compensation and benefits paid for comparable levels of work in the executive branch of the Government outside of the Postal Service. As used in this subsection, the term "Postal Inspector" included [sic] any *agent to whom any **investigative** powers are granted* under section 3061 of title 18 (emphasis added).

For the reasons set forth below, the Board agrees with the USPS that 39 U.S.C. § 1003(a) is the applicable standard for comparability for setting compensation and benefits for PPOs; we also agree that subsection (c) of 39 U.S.C. § 1003 does not currently apply to PPOs.

First, we begin with the rules of federal statutory interpretation. The United States Supreme Court has held: "When interpreting a statute, we look first and foremost to its text."<sup>10</sup>

Further, in *Chevron U.S.A. Inc. v. National Resources Defense Council, Inc.* the Supreme Court specified:

If the intent of Congress is clear, that is the end of the matter; for the court, as well as the agency, must give effect to the unambiguously expressed intent of Congress. If, however, the court determines Congress has not directly addressed the precise question at issue, the court does not simply impose its own construction on the statute, as would be necessary in the absence of an administrative interpretation. Rather, if the statute is silent or ambiguous with respect to the specific

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<sup>10</sup> *United States v. Alvarez-Sanchez*, 511 U.S. 350, 356, 114 S. Ct. 1599, 1603, 128 L. Ed. 2d 319 (1994).



issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.<sup>11</sup>

The above holding is commonly known as the “*Chevron* deference”<sup>12</sup> rule. It is important to note that *Chevron* deference is limited to agencies’ interpretations of statutes they administer.<sup>13</sup> A crucial inquiry, referred often as *Chevron* “step zero,”<sup>14</sup> is whether Congress has delegated authority to the agency to speak with the force of the law.<sup>15</sup>

Turning next to the parties’ arguments, the PPOA convincingly argues that the 39 U.S.C. § 1003(c) mandate for comparable levels of work in the executive branch of the Government:

....extends to “**any**” agent who is granted “**any**” investigative powers under 18 U.S.C. § 3061.<sup>16</sup>

This argument intuitively makes sense to this Board. Unfortunately, while this is a very good legal argument, the record does not establish by a preponderance of the evidence that PPOs have *specifically* been granted “investigative powers” under 18 U.S.C. § 3061 by the Postal Service.

Applying the rules of statutory construction to this case, first, as discussed earlier, 18 U.S.C. § 3061(c)(1) was amended by Congress in 1996 to apply *explicitly* to PPOs. It provides:

(c) (1) The Postal Service may employ *police officers* for duty in connection with the protection of property owned or occupied by the Postal Service or under the charge and control of the Postal Service, and persons on that property, including duty in areas outside the

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<sup>11</sup> 467 U.S. 837, 842–43, 104 S.Ct. 2778, 2781, 81 L.Ed.2d 694 (1984).

<sup>12</sup> Jonathan Kim, Cornell Law School, Legal Information Institute, *Chevron* Deference (December 2017).

<sup>13</sup> *Adams Fruit Co. v. Barrett*, 494 U.S. 638, 649 (1990) (“A precondition to deference under *Chevron* is a congressional delegation of administrative authority.”)

<sup>14</sup> Thomas W. Merrill & Kristin E. Hickman, *Chevron’s* Domain, 89 GEO. L.J. 833, 836 (2001).

<sup>15</sup> Cass R. Sunstein, *Interpreting Statutes in the Regulatory State*, 103 HARV. L. REV. 405, note 29 at 191 (1989).

<sup>16</sup> Union’s post-hearing brief at page 76 (emphasis in original).

property to the extent necessary to protect the property and persons on the property.

(2) With respect to such property, such officers *shall* have the power to—

(A) enforce Federal laws and regulations for the protection of persons and property;

(B) carry firearms; and

(C) make arrests without a warrant for any offense against the United States committed in the presence of the officer or for any felony cognizable under the laws of the United States if the officer has reasonable grounds to believe that the person to be arrested has committed or is committing a felony.

(3) With respect to such property, such officers *may* have, *to such extent as the Postal Service may by regulations prescribe*, the power to—

(A) serve warrants and subpoenas issued under the authority of the United States; and

(B) conduct investigations, on and off the property in question, of offenses that may have been committed against property owned or occupied by the Postal Service or persons on the property.

(4) (A) As to such property, the Postmaster General may prescribe regulations necessary for the protection and administration of property owned or occupied by the Postal Service and persons on the property. The regulations may include reasonable penalties, within the limits prescribed in subparagraph (B), for violations of the regulations. The regulations shall be posted and remain posted in a conspicuous place on the property.

(B) A person violating a regulation prescribed under this subsection shall be fined under this title, imprisoned for not more than 30 days, or both (emphasis added).

Again, applying the *Chevron* deference rule, “[i]f the intent of Congress is clear, that is the end of the matter; for the court, as well as the agency, must give effect to the unambiguously expressed intent of Congress.”<sup>17</sup>

Specifically, the language in subpart (c)(3)(B) is key here. It says that *officers* (not agents) “*may* have, to such extent as the *Postal Service may* by regulations prescribe, the power to...conduct investigations.” By using the word, “*may*” in subpart (3), Congress’ clear and unambiguous intent was to allow the *Postal Service* to determine

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<sup>17</sup> 467 U.S. 837, 842–43, 104 S.Ct. 2778, 2781, 81 L.Ed.2d 694 (1984).

whether PPOs have the power to conduct investigations. In contrast, the language in subpart (2) makes it clear that it is Congressional intent that PPOs *shall* have the powers listed in (A), (B) and (C).

Based on the overall record, the Postal Service has currently authorized PPOs to conduct “preliminary fact-findings” only; it has not authorized PPOs to conduct “investigations” as the term is normally used.

Again, based on the *Chevron* deference rule (i.e., “if the intent of Congress is clear, that is the end of the matter”<sup>18</sup>), Congress has clearly delegated sole authority to the Postal Service to determine who will conduct investigations. Equally clear is the fact that the USPS has delegated authority to conduct investigations to Postal Inspectors but *not* made the same delegation to PPOs. That could change in the future, but, for now, the Board finds that PPOs do *not* have the authority to “investigate.”

The Union’s argument that the proper comparators for PPOs are federal sector uniformed law enforcement officers who perform the same or similar patrol officer duties intuitively makes sense. Unfortunately, this Board is bound by the United States Supreme Court’s statutory interpretation directions and, ultimately, Congress’ clear directive in this matter. Therefore, the Board has no choice but to conclude that PPOs do not fall within the definition of an “agent” who is granted “any” investigative powers under 18 U.S.C. § 3061. It follows, then, that the proper statutory criteria for establishing compensation and benefits for PPOs are private sector comparators, as provided for in 39 U.S.C. § 1003(a).<sup>19</sup>

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<sup>18</sup> *Chevron U.S.A. Inc. v. National Resources Defense Council, Inc.*, 467 U.S. 837, 842–43, 104 S.Ct. 2778, 2781, 81 L.Ed.2d 694 (1984).

<sup>19</sup> See also, 39 U.S.C. § 101(c), which is in accord with 39 U.S.C. § 1003(a). It provides:

## DISCUSSION

The Board awards the following changes to the successor CBA:

### **A. Wages**

Any discussion of wages must necessarily involve the appropriate private sector comparator for determining the appropriate total compensation for PPOs. This issue has been a conundrum for the parties as well as the panels whom the parties have appeared before since 1994. Indeed, none of the panels who have determined the terms and conditions for each contract since 1994 have ever been able to ascertain who the proper comparators for PPOs are (including the most recent 2014 Oldham Interest Arbitration Board). This is unfortunately understandable. As the United States District Court for the District of Columbia recently held in *Nat'l Ass'n of Postal Supervisors v. United States Postal Serv.*:

39 U.S.C. 101 and § 1003 provide a broad directive to USPS to establish a policy for providing compensation commensurate with the private sector. Congress did *not* dictate how USPS should create such a policy or what metrics to use.<sup>20</sup>

Put simply, with no real guidance from Congress, this issue is difficult to determine.

As stated, the Board has determined that PPOs are clearly police officers and are properly compared to other police officers for comparability purposes. Accordingly, that is the comparison this Board will make.

The parties focused their presentations on the question of what PPOs are, what they do, and to whom they should be compared. The Postal Service focused much of its testimony on private sector armed security guards, while the PPOA focused primarily on

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As an employer, the Postal Service *shall* achieve and maintain compensation for its *officers* and employees comparable to the rates and types of compensation *paid in the private sector of the economy* of the United States (emphasis added).

<sup>20</sup> No. 1:19-CV-2236-RCL, 2020 WL 4039177, at \*7 (D.D.C. July 17, 2020) (emphasis added).

public sector police officers. The parties did not present the Board with much useful evidence on the question of how PPOs should be compensated if they are compared to other police officers in the private sector of the economy.

The Board has elected to rely on certain data provided by Professor Michael Bognanno, a labor economist at Temple University. Professor Bognanno produced evidence from the Bureau of Labor Statistics as to the pay of privately-employed police patrol officers. According to him, the mean (average) pay of Postal Police Officers (\$53,901) lagged behind the mean pay of privately employed Police and Sheriff's Patrol Officers (\$55,600) by 3.2% at a national level.

The Union argued that this measure was inapt, and that the pay gap was much larger. For example, it argued that a simple national number was inappropriate because it did not take proper account of the fact that PPOs are disproportionately employed in expensive metropolitan areas rather than spread more evenly across the country. It also argued that using a simple mean was improper because the PPO workforce is much older than average, with the bulk of the force older and at the top pay step. And it argued that a 3.2% increase may be insufficient at the lower steps to attract quality applicants to become PPOs.

The Union offered evidence from the Office of Personnel Management (OPM) regarding locality pay for federal sector law enforcement officers in support of its proposal for locality pay adjustments equivalent to those applied to other Inspection Service employees. In this regard, the USPS argues:

No negotiated postal contract or interest arbitration award has ever imposed such radical compensation adjustments, and the PPOA has offered no compelling justification for doing so in the midst of a financial maelstrom unrivaled in our lifetimes, during which private sector employers are

slashing wages and benefits and laying off large segments of their workforces.<sup>21</sup>

Here, the Union failed to offer sufficient evidence to establish the amount of locality pay PPOs should receive, if any, in comparison to their private sector counterparts. Put simply, in order to determine whether locality pay is appropriate, we need to have evidence of locality pay for the PPOs' private sector comparables. Without additional information in the record, the Board declines to award the PPOA's locality pay proposal.

Accordingly, the Board adopts the 3.2% number for the purpose of determining comparability and for adjusting the wage scale for this CBA. The Union's arguments, and USPS's similar arguments, may be further explored by them and developed for future bargaining. For this Agreement, the pay scale will be adjusted up by 3.2% effective April 15, 2017 (the first pay period of the new Agreement).

The Board further awards yearly wage increases based on the increase in the Bureau of Labor Statistics' Employment Cost Index (ECI) for the wages and salaries of private industry for each year of the Agreement. This wage package is set forth in more detail on page twenty-four (24) of this Award.

#### **B. Resolution of Grievance**

As stated, the parties have had an ongoing dispute about how to classify the PPO position in light of an asserted change in duties and functions over time. As of 1990, the PPO position was ranked at Level 6.

The Board heard evidence about the change in PPOs' duties over the years, especially since 2006. As of the early 2000s, many PPOs still largely performed more traditional security functions, often from a fixed post. By 2014, however, that was no

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<sup>21</sup> USPS post-hearing brief at page 44.

longer true. As Inspection Service managers testified in 2016, PPOs had ceased to perform those more-basic security functions and were instead performing much more dangerous and demanding tasks that were explicitly police-type activities.

The phrase “paradigm shift” has been used to describe the magnitude of the dramatic change in PPOs’ duties and expectations over this time period. The Board finds that this description is apt in describing the change to the PPO position over the time period.

In 2017, the Postal Service undertook an internal examination of the PPO position. After completing its review, it concluded that there had been some changes to the position since 1990. Nevertheless, it did not change the job ranking of the PPO position.

The Union disagreed with the Postal Service’s failure to properly recognize the significant changes to the PPO position by adjusting the job ranking or otherwise. The Union filed a grievance over this issue. The Postal Service denies that it violated any aspect of the Agreement, the Employee and Labor Relations Manual (ELM), or any other rule or regulation.

With the benefit of the evidentiary record created in the hearing, the Board agrees that the significant changes to the PPO position should be acknowledged and reflected. To that end, and in connection with the pay increase described above, an increase in grade of the PPO position is warranted; the PPO position will hereafter be recognized as a Grade 8 position. While no additional pay is awarded beyond the 3.2% described above, the Board believes this change serves as an appropriate acknowledgement of the change in duties for PPOs over the past several years.

In light of this grade increase, the aforementioned grievance will be deemed settled and resolved.

### **C. Health Benefit Contributions**

The Board heard testimony from the Postal Service to the effect that the Postal Service has reduced its contribution toward health benefits for the members of the four major bargaining units as well as non-bargaining employees to 72 percent.

The Postal Service argues that it is appropriate for it to treat PPOs in a comparable manner to how it treats these other postal employees.

The Board awards the Postal Service's proposal for a reduction of the employer health benefit contribution to 72% of the weighted average bi-weekly premiums under the Federal Employees Health Benefits (FEHB), starting in Plan Year 2022.

### **D. Job Security**

The Board is aware of the oversight that the Postal Service receives from entities such as the Office of the Inspector General (OIG) and the Government Accountability Office (GAO). The Board recognizes that in its June 14, 2011 report, OIG recommended sweeping changes such as absorbing the Postal Inspection Service within OIG and contracting out the entire PPO security function to outside contractors. The Board agrees with the USPS, in theory, that eliminating the layoff protection for PPOs is a far less drastic step than replacing them with security guards who have no authority to enforce Federal law.

However, the Board also recognizes that employment protection is an important goal for the PPOA, just as it is for the four large bargaining units. The Board thus awards continuation of the MOU regarding layoffs for the duration of the 2017 Agreement.

All other provisions of the current contract not modified or deleted in this Award remain.



## THE AWARD

The following is the Award of the Board of Arbitration. The Board awards a contract of five years' duration, beginning April 15, 2017 and expiring at 12 midnight, April 15, 2022. Except as otherwise provided, the terms are effective on April 15, 2017.

The Award below has three component parts: I.) the wage and benefit package for employees; II.) Memoranda of Understanding that are continued and/or amended from the prior contract, or which require further negotiation between the parties; and III.) Other provisions that are changed by the Award.

All other provisions of the current contract not modified or deleted in this Award remain.

### I. WAGES AND BENEFITS

The parties shall make the following changes to Articles 9, 21, 26, and 37:

#### **ARTICLE 9 SALARY AND WAGES**

##### **Section 9.01. Basic Annual Salary.**

For those grades and steps in effect during the term of the **2017** Agreement, the basic annual salary schedules, with proportional application to hourly rate PPOs, for those PPOs covered under the terms and conditions of this Agreement shall be increased as described in Sections 9.02 and 9.03.

##### **Section 9.02. Salary Schedules.**

Employees with career appointments before April 5, 2014 shall be paid and earn step increases according to the rates and waiting periods outlined in Table One.

Employees appointed to career positions on or after April 5, 2014 shall be paid and earn step increases according to the rates and waiting periods outlined in Table Two.

##### **Section 9.03. General Wage Increase.**

**Effective April 15, 2017, the basic annual salary for each grade and step shall be increased by an amount equal to 3.2% of the basic annual salary for the grades and steps in effect on May 14, 2016.**

#### **Section 9.04. Employment Cost Index Periodic Adjustments.**

**9.04(a).** As used herein, the Employment Cost Index (ECI) is a measure of the change in the cost of labor for private industry workers (wages and salaries index) as published by the United States Department of Labor's Bureau of Labor Statistics (December 2005 = 100).

**9.04(b).** Effective **May 13, 2017** (the second full pay period after the release of the March 2017 ECI), the basic annual salary for each step shall be increased by an amount equal to **2.6%** of the basic annual salary for the grades and steps in effect on **May 14, 2016**.

**9.04(c).** Effective **May 12, 2018** (the second full pay period after the release of the March 2018 ECI), the basic annual salary for each step shall be increased by an amount equal to **2.9%** of the basic annual salary for the grades and steps in effect on **May 14, 2016**.

**9.04(d).** Effective **May 25, 2019** (the second full pay period after the release of the March 2019 ECI), the basic annual salary for each step shall be increased by an amount equal to **3.0%** of the basic annual salary for the grades and steps in effect on **May 14, 2016**.

**9.04(e).** Effective **May 23, 2020** (the second full pay period after the release of the March 2020 ECI), the basic annual salary for each step shall be increased by an amount equal to **3.3%** of the basic annual salary for the grades and steps in effect on **May 14, 2016**.

**9.04(f).** Effective the second full pay period after the release of the March 2021 ECI, each PPO covered by this Agreement shall receive an Employment Cost Index (ECI) derived adjustment to basic wages. The basic annual salary for each step shall be increased by a percentage amount equal to the percentage change in the March 2021 ECI over the March 2020 ECI. The resulting percentage will be the basic wage increase applied to the salary in effect on **May 14, 2016**.

#### **9.05. Application of Salary Rates.**

Except as provided in this Article, the Employer shall continue the current application of salary rates for the duration of this Agreement.

#### **9.06. Granting Step Increases.**

Except as provided in this Article, the Employer will continue the program on granting step increases for the duration of this Agreement.

#### **Section 9.07. Protected Salary Rates.**

The Employer shall continue the current salary rate protection program for the duration of this Agreement.

**TABLE ONE**

Postal Police Officers' (PPO) Schedule																								
Full-Time Annual Basic Rates																								
Effective May 14, 2016 (PP 11-2016)																								
RSC Y (FOP) For career employees with a career appointment date prior to April 5, 2014.																								
PPO	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	MPS
Grade 6	36,886	41,697	44,188	45,865	49,310	49,751	50,190	50,635	51,075	51,517	51,960	52,398	52,840	53,285	53,723	54,166	54,606	55,049	55,491	55,933	56,816	57,700	58,140	442
Part-Time Employees - Hourly Basic Rates																								
6	18.44	20.85	22.09	22.93	24.66	24.88	25.10	25.32	25.54	25.76	25.98	26.20	26.42	26.64	26.86	27.08	27.30	27.52	27.75	27.97	28.41	28.85	29.07	
Step Increase Waiting Periods (In Weeks)																								
Steps (From-To)	1-2	2-3	3-4	4-5	5-6	6-7	7-8	8-9	9-10	10-11	11-12	12-13	13-14	14-15	15-16	16-17	17-18	18-19	19-20	20-21	21-22	22-23	Years	
Grade 6	78	42	34	34	34	34	34	34	34	34	26	26	26	26	26	26	26	26	26	52	52	26	14.5	

**TABLE TWO**

<b>Postal Police Officers' (PPO) Schedule</b> <b>Full-Time Annual Basic Rates</b> <b>Effective May 14, 2016 (PP 11-2016)</b>																
<b>RSC Y7 (FOP) For career employees with a career appointment date on or after April 5, 2014.</b>																
PPO																
Grade	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	MPS
6	34,038	35,760	37,482	39,203	40,925	42,647	44,368	46,090	47,811	49,532	51,254	52,975	54,697	56,419	58,140	1,722
<b>Part-Time Employees - Hourly Basic Rates</b>																
6	17.02	17.88	18.74	19.60	20.46	21.32	22.18	23.05	23.91	24.77	25.63	26.49	27.35	28.21	29.07	
<b>Step Increase Waiting Periods (In Weeks)</b>																
<b>Steps (From-To)</b>	1-2	2-3	3-4	4-5	5-6	6-7	7-8	8-9	9-10	10-11	11-12	12-13	13-14	14-15	Years	
<b>Grade 6</b>	52	52	52	52	52	52	52	52	52	52	52	52	52	52	14.0	

**ARTICLE 21  
BENEFIT PLANS**

**Section 21.01. Health Benefits**

The method for determining the Employer bi-weekly contributions to the cost of employee health insurance programs under the Federal Employees Health Benefits Program (FEHBP) will be as follows:

- A. The Office of Personnel Management shall calculate the subscription charges under the FEHBP that will be in effect the following January with respect to self only enrollments and self and family enrollments.
- B. For **all** career employees, the bi-weekly Employer contribution for self only and self and family plans is adjusted to an amount equal to **76% in 2018, 2019, 2020, and 2021, and 72% in 2022** of the weighted average bi-weekly premiums under the FEHBP as determined by the Office of Personnel Management. The adjustment begins on the effective date determined by the Office of Personnel Management in January 2018, January 2019, January 2020, January 2021, and January 2022.
- C. The weight to be given to a particular subscription charge for each FEHB plan and option will be based on the number of enrollees in each such plan and option for whom contributions have been received from employers covered by the FEHBP as determined by the Office of Personnel Management.
- D. The amount necessary to pay the total charge for enrollment after the Employer's contribution is deducted shall be withheld from the pay of each enrolled employee. To the extent permitted by law, the Employer shall permit employees covered by this Agreement to make their premium contributions to the cost of each plan on a pre-tax basis, and shall extend eligibility to such employees for the U.S. Postal Service's flexible spending account plans for unreimbursed health care expenses and work-related dependent child care and elder care expenses as authorized under Section 125 of the Internal Revenue Code.
- E. For **all** career employees, the limitation upon the Employer's contribution toward any individual employee shall be **79.25% in 2018, 2019, 2020 and 2021 and 75% in 2022** of the subscription charge under the FEHBP in 2018, 2019, 2020, 2021, and 2022.

\* \* \* \* \*

## **ARTICLE 26 UNIFORMS**

### **Section 26.01. Uniform Allowance.**

**26.01(a). New Eligible PPOs.** Effective **May 21, 2021** a new eligible PPO entering the Uniform Program will receive a credit to the PPO's allowance in the amount of **\$784**.

**26.01(b). All Other PPOs.** Effective **May 21, 2021** the annual allowance for all other eligible PPOs shall be in the amount of **\$416** per annum.

### **Section 26.02. Uniform Program.**

The administration of the uniform program will be continued. The Union may make recommendations concerning uniforms only at regularly scheduled national level labor-management meetings. The Employer will take such recommendations into consideration when making changes to the uniforms.

### **Section 26.03. Postal Police Retired Credentials.**

Upon the retirement of a PPO with a minimum of five years in the PPO craft, in recognition of service provided to the Postal Service, the PPO shall be provided with the identification portion of his/her credentials with the word "RETIRED" perforated or otherwise marked on the identification portion of the credentials.

## **ARTICLE 37 DURATION**

### **Section 37.01. Effective Date and Duration**

The Agreement, effective **April 15, 2017**, unless otherwise provided in the **January 8, 2021** interest arbitration award referenced in the Preamble to this Agreement, shall remain in full force and effect to and including 0000 hours (midnight), **April 15, 2022**, and unless either party desires to terminate or modify this Agreement, for successive annual periods. The party demanding termination or modification of this Agreement must serve written notice of such intent to the other party not less than ninety (90) nor more than one hundred twenty (120) days before the expiration of this Agreement.

## II. OTHER PROVISIONS

The following Articles shall be **updated**:

Preamble  
Article 10  
Article 11  
Article 12  
Article 15  
Article 19

### **PREAMBLE**

This Agreement referred to as the **2017-2022 USPS-PPOA National Agreement** is entered into by and between the United States Postal Service (hereinafter referred to as “Employer”) and the Postal Police Officers Association (hereinafter referred to as the “Union”) with respect to the bargaining unit of postal police officers represented by the Union and employed by the United States Postal Service, pursuant to an arbitration award issued **January 8, 2021**. The term “Area” as used in this Agreement means that area that was formerly defined a “Region” for purposes of this Agreement (see 52 Fed. Reg. 47002) and not what the term “Area” means concerning current organization of Postal Service field management. The terms of this Agreement are effective **April 15, 2017**, unless otherwise provided in the aforementioned arbitration award of **January 8, 2021**.

### **ARTICLE 10 LEAVE**

#### **Section 10.03. Vacation Planning.**

The following rules will be observed in implementing the vacation planning program:

**10.03(a). Leave Year.** The employer will, no later than November 1, publicize on bulletin boards and by other appropriate means the beginning date of the new leave year, which will begin with the first day of the first full pay period of the new calendar year.

**10.03(a)(1) Selection During Choice Period.** Choice vacation selections will be made from November 1 through November 30, inclusive. Choice vacation selections will be made by seniority and by tour. The Manager, Postal Police Division, will designate a manager or supervisor at each work facility to coordinate choice vacation selections. Management will record on a calendar the number of choice vacation selections available during each week of the choice period. Starting with the senior PPO on the tour and proceeding through the tour in seniority order, PPOs will each be given an opportunity to make their selections as provided in Subsection 10.03(a)(2).



**10.03(a)(2) Annual Leave Options.** Subject to the provisions above, annual leave during the choice vacation period will be granted in accordance with one (1) of the options listed below:

a. PPOs who earn thirteen (13) days annual leave per year will be granted leave as follows:

Option 1. A single selection of up to ten (10) days of continuous annual leave (two consecutive weeks). The number of days of annual leave, not to exceed ten (10), will be at the option of the PPO; or

Option 2. Two selections of five (5) days of continuous annual leave (each of one week).

b. PPOs who earn twenty (20) or twenty-six (26) days of annual leave per year will be granted leave as follows:

Option 1. A single selection of up to fifteen (15) days of continuous annual leave (three consecutive weeks). The number of days of annual leave, not to exceed fifteen (15), will be at the option of the PPO; or

Option 2. One selection of five (5) days of continuous annual leave and an additional selection of either five (5) or ten (10) days of continuous annual leave (two consecutive weeks); or

Option 3. Three selections of five (5) days of continuous annual leave (any available three weeks during choice period).

**10.03(a)(3). Based on the annual leave options above, two rounds of selections will be made.** After the above selection process is completed, management will make available, subject to the options above and advance submission of PS Form 3971, on a seniority basis, those choice period selection slots (choice period vacation weeks) that were not taken during the selection process. PPOs who choose successfully from these remaining choice vacation slots must have sufficient annual leave to cover the selection(s) at the time leave is to be used.

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**10.03(b). Meeting with Union Representative.** The designated Inspection Service manager in charge of the Security Force at the work facility will meet with the representatives of the Union to review local service needs as soon after October 15 as practical, but not later than November 1. The designated Inspection Service manager will then:

**10.03 (b)(1).** Determine the amount of annual leave accrued to each PPO's credit including that for the current leave year and the amount the PPO is expected to earn in the next leave year.

**10.03(b)(2).** Provide official notice to each PPO of the Security Force of the vacation schedule approved for that PPO. The leave schedule for the work facility will be posted as soon as possible but not later than December 15.

**10.03(c). Selection of Annual Leave other than during the Choice Period.** A procedure in each office for submission of applications for annual leave periods other than the choice period may be established pursuant to the implementation procedures established in the work facility.

**10.03 (d). Advance Leave Commitment.** All advance commitments for granted annual leave must be honored except in serious emergency situations.

**10.03(e). Completion of Probationary Period.** After the completion of the probationary period, a PPO will be given an opportunity to make a vacation selection in accordance with Section 10.03

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## **ARTICLE 11 HOLIDAYS**

### **Section 11.06. Holiday Schedule.**

The Employer will determine the need for holiday coverage and shall post a schedule as of the Tuesday preceding the service week in which the holiday falls. To the extent special qualifications are not needed to meet service needs, PPOs **will be scheduled according to the pecking order below:**

- 1. All PPOs who have volunteered to work the holiday or the day designated as their holiday on what would ordinarily be their regularly scheduled day of work, by seniority.**
- 2. All PPOs who have volunteered to work the holiday on what would otherwise be their non-scheduled day, by seniority.**
- 3. PPOs who do not volunteer on what would otherwise be their holiday or designated holiday, by inverse seniority.**
- 4. All PPOs who have not volunteered to work the holiday on what would otherwise be their non-scheduled day, by inverse seniority.**

A PPO scheduled to work on a holiday who does not work shall not receive holiday leave pay, unless such absence is based on an extreme emergency situation and is excused by the Employer.

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## ARTICLE 12 PROBATIONARY PERIOD AND SENIORITY

### Section 12.01. Probationary Period.

**12.01(a). Length of Probationary Period.** The probationary period for a PPO shall begin on the PPO's PS Form 50, *Notification of Personnel Actions* effective date and continue for one hundred eighty (180) calendar days after the successful completion-of the Postal Police Officer Basic Training Course. The probationary period shall be extended by one work day for each work day the PPO is absent from work due to illness, injury, or other causes. The Employer shall have the right to separate from its employ any probationary PPO at any time during the probationary period and those probationary PPOs shall not be granted access to the grievance procedure in relation thereto.

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## ARTICLE 15 GRIEVANCE-ARBITRATION PROCEDURE

### Section 15.03. Grievance Procedure.

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#### Step 2:

**15.03(b)(1).** The Inspection Service designated manager will meet with the steward designated in writing pursuant to Article 17.02 or a union representative, as expeditiously as possible, but not later than seven (7) calendar days after receipt of the appeal.

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### Section 15.05. Arbitration.

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**15.05(c).** All costs, fees and expenses charged by the arbitrator, including the cost of a transcript if requested by the arbitrator, will be borne by the party whose position is not sustained by the arbitrator. In those cases of compromise where neither party's position is clearly sustained, the costs, fees, and expenses will be shared equally. This applies solely to regional arbitrations. For national level cases, all costs, fees, and expenses charged by the arbitrator, including the cost of a transcript if requested by the arbitrator, will be shared equally by the parties.

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## ARTICLE 19 HANDBOOKS AND MANUALS

### Section 19.02. Union Notification.

Notice of such proposed changes that directly relate to wages, hours or working conditions shall be furnished to the Union at the national level at least sixty (60) days prior to issuance. Such proposed changes will be furnished to the Union in hard copy. At the request of the Union, the parties shall meet concerning such changes. Such a meeting may include management representative(s) knowledgeable about the proposed change(s) and possible impact(s) on the PPOs. If the Union, after the meeting, believes the proposed changes violate this Agreement, it may then submit the issue to arbitration in accordance with the arbitration procedure within sixty (60) days after receipt of the notice of proposed change or changes.

### III. AWARDED MEMORANDA OF UNDERSTANDING

The following MOUs included in the 2012 USPS/PPOA National Agreement will be **revised** and **continue** in the successor National Agreement:

MOU: Re: Overtime Assignments  
MOU: Re: Bargaining Information  
MOU: Re: Security Force Facilities and Worksites  
MOU: Re: Employment Protection  
MOU: Re: Leave for Bereavement

The following MOUs included in the 2012 USPS/PPOA National Agreement will **have their dates updated** and **continue** in the successor National Agreement:

MOU: Re: Schedule Changes  
MOU: Re: Leave Carryover  
MOU: Re : Leave Sharing  
MOU: Re : Annual Leave Exchange Option  
MOU: Re: Sick Leave for Dependent Care  
MOU: Re: Detail to Nonbargaining Unit Assignments Due to Temporary Nonoccupational Illness or Injury  
MOU: Re: Safety and Health  
LOI: Re: Contract Administration  
LOI: Re: Grievance Time Extensions  
MOU: Re: Discipline Records  
MOU: Re: Purge of Warning Letters  
MOU: Re: Corrective Action  
MOU: Re: Interest on Back Pay  
MOU : Re : Labor-Management in the Inspection Service

MOU: Re: New York Security Force Facility Work Rules  
MOU: Re: Bulletin Boards; File Cabinets; Telephone Policy  
LOI: Re: Office Space  
LOI: Re: Access to and Use of Physical Fitness Equipment  
MOU: Re: Union Notification

The following MOUs included in the 2012 USPS/PPOA National Agreement will **continue** in the successor National Agreement:

MOU: Re: Exercise of Authority  
MOU: Re: Alternative Work Schedules  
MOU: Re: Rules for National Days of Observance  
MOU: Re: Michael Healy  
Release Statement for the Use of Inspection Service Fitness Facilities  
MOU: Re: Time Limitations Concerning Bone Marrow, Stem Cell, Blood Platelet, and Organ Donations  
MOU: Re: BDU Style Uniform Apparel  
MOU: Re: Corporal Stripes

The following MOUs included in the 2012 USPS/PPOA National Agreement are **not continued** in the successor National Agreement:

MOU: Re: Committee for the Transformation of the Postal Security Force

**MEMORANDUM OF UNDERSTANDING  
BETWEEN THE  
UNITED STATES POSTAL SERVICE  
AND  
POSTAL POLICE OFFICERS ASSOCIATION**

**Re: Overtime Assignments**

Overtime shall be scheduled as needed by the Employer based on operational needs. Where the operational needs require special qualifications, the Employer reserves the right to select and assign those individuals with the required knowledge, skills and abilities, notwithstanding the procedures set forth below. Special qualifications include an officer needing time to finish an assignment.

Overtime Desired List. PPOs will have an opportunity to indicate their desire to work overtime on a quarterly basis. Overtime desired lists will be established by tours. Management in each work facility will make the overtime- desired list (ODL) available for PPOs who wish to sign the list and indicate their desire to work overtime during the next quarter. This sign-up opportunity will be available during a two- week period immediately preceding the start of each calendar quarter. PPOs will provide a current telephone number on each quarterly list. New PPOs may sign-up on the ODL when they report for duty at their work facility after completion of basic PPO training.

PPOs may remove their name from the ODL by submitting written notification to their supervisor. Removal from the ODL will be effective the day after the supervisor receives such notification, provided a notice does not relieve an officer from previously assigned overtime.

PPOs who sign-up on the ODL during the two-week opportunity may also indicate their desire to be telephoned if an opportunity to work rest day (non-scheduled day) overtime occurs while the PPO is on annual leave. If the PPO is not reached or chooses not to work this rest day overtime, he/she will be bypassed and will not be assigned overtime.

Overtime opportunities will be distributed to available PPOs as follows:

If a need for overtime is for **more than** four hours see subsection a. If a need for overtime is for four hours **or less**, see subsection b.

- a. When a need for overtime is for **more than** four hours, ODL PPOs from the affected tour will be assigned overtime on a rotating basis from most to least senior. In those situations where overtime needs are not satisfied by available PPOs on the affected tour, overtime will then be assigned to available ODL PPOs from other than the affected tour on a rotating basis from most to least senior. If the ODL does not meet the overtime need, qualified PPOs not on the list may be required to work overtime on a rotating basis with the first opportunity assigned to the junior PPO; or at the option of management, the overtime may be offered to non-ODL PPOs on a rotating basis from most to least senior. Such overtime will first be offered/assigned to the affected tour non-ODL PPOs prior to being offered/ assigned to other than affected tours.
- b. If a need for overtime is four hours **or less** in duration, ODL PPOs from other tours will be assigned overtime on a rotating basis from most to least senior. If the ODL does not meet the overtime need, qualified PPOs not on the list may be required to work overtime on a rotating basis with the first opportunity assigned to the junior PPO; or at the option of management, the overtime may be offered to non-ODL PPOs on a rotating basis from most to least senior. Such overtime will be offered/ assigned to other than affected tours.

The rotations described in these subsections, as to both ODL and non-ODL PPOs, reset each quarter.

If an ODL PPO is not available to work the overtime opportunity, this shall be recorded as an opportunity to work and the next available PPO on the ODL will be assigned the overtime opportunity.

For purposes of this memorandum, "available" means that the PPO is able to be contacted by the supervisor immediately either at work or by telephone. Except as otherwise provided by this memorandum, PPOs who are on annual leave, sick leave, leave without pay, on a non-bargaining unit assignment, in a non-pay status, or that the PPO Supervisor is unable to immediately contact by telephone will be considered not available for overtime opportunities.

For purposes of this memorandum, “affected tour” means the operational duty tour within which hours the overtime will be worked.

If a PPO and/or the Union demonstrate at any step of the grievance procedure that overtime was not distributed to the grievant in a manner pursuant to the procedures contained in Article 8.05 and this Memorandum, the grievant shall be assigned an equal overtime opportunity within 60 days after an appropriate decision in the grievance process. Such an assignment shall not constitute a further violation. If the overtime opportunity is not assigned within 60 days, that PPO shall be paid for the number of hours missed at the overtime rate.

The parties to this Memorandum of Understanding agree that the above procedures shall be implemented as a pilot program during the life of this Agreement as an attempt to simplify the procedures for the assignment of overtime opportunities.

This Memorandum of Understanding expires at 12 midnight on April 15, 2022.

**MEMORANDUM OF UNDERSTANDING  
BETWEEN THE  
UNITED STATES POSTAL SERVICE  
AND  
POSTAL POLICE OFFICERS ASSOCIATION**

**Re: Bargaining Information**

Pursuant to the provisions of Article 31 of the 2017 USPS-PPOA Agreement, and as soon as practicable after the ratification of that Agreement, the Employer shall, **upon request**, provide the Union, **in Microsoft Word or Excel format through the** national Union representative designated by the Union, with the following information on PPOs in the bargaining units:

- |                      |                      |
|----------------------|----------------------|
| 1. SSN or EIN        | 14. Rate Schedule    |
| 2. Last Name         | 15. Nature of        |
| 3. First Name (Full) | 16. Effective Date   |
| 4. Middle Initial    | 17. Pav Grade        |
| 5. Address           | 18. Pav Step         |
| 6. City              | 19. Health Benefit   |
| 7. State             | 20. Designation      |
| 8. ZIP Code          | 21. Enter on Duty    |
| 9. Post Office Name  | 22. Retire on Date   |
| 10. PO State         | 23. Layoff           |
| 11. PO ZIP           | 24. Occupation       |
| 12. PO Finance       | 25. Pav Location     |
| 13. PO CAG           | 26. <b>PPOA Dues</b> |
- Deduction List**

The Postal Service will provide the Union with the information above without charge.

This Memorandum of Understanding expires at 12 midnight on April 15, 2022.

**MEMORANDUM OF UNDERSTANDING  
BETWEEN THE  
UNITED STATES POSTAL SERVICE  
AND  
POSTAL POLICE OFFICERS ASSOCIATION**

**Re: Security Force Facilities and Worksites**

The Employer confirms that there are currently **X** security force facilities and **X** worksites as shown in the attached list:

**[THE LIST OF FACILITIES AND WORKSITES IN THIS MOU SHALL BE UPDATED  
BY THE PARTIES PRIOR TO PUBLICATION OF THE 2017 NATIONAL  
AGREEMENT.]**

**MEMORANDUM OF UNDERSTANDING  
BETWEEN THE  
UNITED STATES POSTAL SERVICE  
AND  
POSTAL POLICE OFFICERS ASSOCIATION**

**Re: Employment Protection**

The parties agree that no full-time non-probationary PPO employed prior to April 15, 2022 who has not acquired the protection provided under Article 33.08, will be involuntarily removed from employment within the Postal Service because of a reduction of security service during the life of this 2017 USPS-PPOA Agreement.

During the life of the 2017 USPS-PPOA Agreement, PPOs afforded the employment protection in Article 33.08 may select from among vacant assignments within the bargaining unit in order to exercise the employment protection provided in Article 33.08 or this MOU. During the life of the 2017 USPS-PPOA Agreement, PPOs excess to the needs of a work facility pursuant to Article 33.02 may select from vacant assignments in the bargaining unit for purposes of voluntary reassignment under Article 33.02. Both of these selection options will be based on relative seniority in the bargaining unit. The Employer will not revert vacancies for the sole purpose of ensuring that such vacancies are not available for PPOs who may select such vacancies pursuant to Article 33.02 or Article 33.08.

This Memorandum of Understanding expires at 12 midnight on April 15, 2022.



**MEMORANDUM OF UNDERSTANDING  
BETWEEN THE  
UNITED STATES POSTAL SERVICE  
AND  
POSTAL POLICE OFFICERS ASSOCIATION**

**Re: Leave for Bereavement**

Employees covered by this agreement may use a total of up to three workdays of annual leave, sick leave or leave without pay, to make arrangements necessitated by the death of a family member or attend the funeral of a family member. Authorization of leave beyond three workdays is subject to the conditions and requirements of Article 10 of the collective bargaining agreement and Subsection 510 of the Employee and Labor Relations Manual.

Definition of Family Member.

“Family member” is defined as a:

- (a) Son or daughter – a biological or adopted child, stepchild, daughter-in-law or son-in-law;
- (b) Spouse;
- (c) Parent – **including father-in-law or mother-in law**;
- (d) Sibling – brother, sister, brother-in-law or sister in-law; or
- (e) Grandparent.

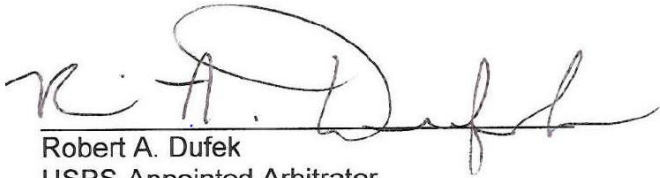
Use of Sick Leave. For employees opting to use available sick leave, the leave will be charged to sick leave for dependent care, if eligible.

Documentation.

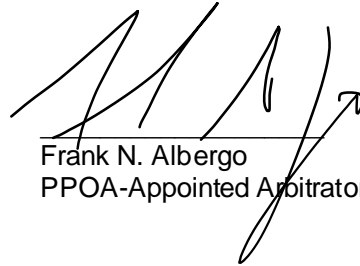
Documentation evidencing the death of the employee’s family member is required only when the supervisor deems documentation desirable for the protection of the interest of the Postal Service.



David M. Gaba  
Impartial Chair



Robert A. Dufek  
USPS-Appointed Arbitrator



Frank N. Albergo  
PPOA-Appointed Arbitrator

**Entered: January 8, 2021**