

MCOPA Flagmen Editorial

10-17-08

As the chief law enforcement officers for our local communities we feel compelled to provide some clarification regarding the emotionally charged detail/flagger issue. First, in the strongest possible terms, we denounce the behavior of those few officers that acted inappropriately and dishonored our proud profession at recent worksites where flaggers were assigned.

We must acknowledge that although many police officers perform their duties admirably while assigned to an outside detail there have also been a number of officers that appeared inattentive, which has exacerbated the public's ire. As public safety managers we are committed to continuing to address these transgressions within each of our agencies to better serve the public.

There are however a number of issues that have been recently discussed that need some clarification:

Myth: *Massachusetts is the only state that uses police officers to control traffic at construction sites.*

Fact: *All New England states, and many states in other regions, use police officers at construction sites, which are occasionally augmented by flaggers.*

Myth: *By removing officers from construction locations and replacing them with flaggers the commonwealth will recognize a significant cost savings.*

Fact: *Flaggers in the Commonwealth must be paid the prevailing wage. The state is broken out by zones for purposes of determining the prevailing wage. In the Metro Boston area the prevailing wage for a flagger is \$34.85 per hour. Flaggers also have minimum hour requirements. In comparison the average detail rate of a police officer in Metro Boston is \$37.00 an hour. When a flagger works beyond 8 hours they are compensated at a time and one half rate. When most police officer work a detail beyond 8 hours the rate remains unchanged.*

Myth: *If the police officer is relieved of the detail assignment they can now patrol and provide necessary police functions like controlling crime and catching criminals.*

Fact: *Police officers working details are on their time off. If they weren't on a detail, they would be at home or working a second job. Rolling back details won't put more officers on the street, it will take many of them off the street.*

Myth: *The money that is earned on a detail is added to the computation for retirement allowances.*

Fact: *Neither overtime nor detail compensation is included in the retirement calculation for any state or municipal police officer.*

There are a number of associated issues that we're concerned with, both as they relate to removing police officers from construction site locations and more importantly, as they relate to local control of construction sites. As the Massachusetts Municipal Association noted in a recent advisory, the recently enacted detail regulations remove the local official's authority to determine whether any traffic control is necessary, to include road closures, detours and/or adjustment to traffic patterns when adjustments are necessary. According to the regulations "The Final Authority" in a Construction Zone is the "Authorized Representative", who by definition is not the Police Chief or local official. In essence they are saying that Police Chiefs and local officials do not have the authority to manage flaggers that are directing traffic, or to alter their methods during traffic congestion or emergencies.

Additionally, if a contractor closes a road with flaggers, that traffic is diverted onto the local streets where the responsibility then falls to the local community. According to the regulations, the community must then be responsible for the cost of any additional officers that are necessary to assist with the traffic conditions.

To rectify the issue of maintaining local authority the Massachusetts Chiefs of Police and Major City Chiefs offered the following language, which was rejected by the Executive Office of Transportation and Public Works.

New 7.06 (4-A) Final Authority. As authorized by the Act, the Authorized Representative shall have the authority to make the final determination on the Setup and the use of Traffic Control Devices within the Construction Zone. However, notwithstanding any section of these regulations, the local Police Chief shall have final authority over any Police Officer assigned to a Police Detail and shall have final authority over any Road Flagger when their performance affects or impacts the area outside the Construction Zone.

Furthermore, the original premise for removing officers from construction locations and replacing them with flaggers was for the potential cost savings. However, as this process has moved forward even the most vocal advocates for the program admit that there will be little or no cost savings.

Regarding the issue of cost the Massachusetts Chiefs of Police and Major City Chiefs offered the following language, which was also rejected by the Executive Office of Transportation and Public Works.

New Section 7.05 - 4, Presumptive use of Police Officers: Notwithstanding any section of these regulations, when the Authorized Representative determines that a Police Officer or Road Flagger is needed, if the wages of a Police Officer are equal to or lower than the total prevailing wage costs of a Road Flagger, a Police Officer shall be assigned to the detail.

There are a number of advantages for the Cities and Towns to continue using sworn police officers on details rather than flaggers:

- Police Officers on detail ensure that traffic flows safely and efficiently in work zones. Their police powers, not possessed by flaggers, insure that their directions will be followed and that traffic passage will be orderly and safe for drivers, passengers, pedestrians and workers.
- Police Officers are trained for and required to provide emergency medical relief to anyone within their area of assignment. Flaggers are not so trained and have no obligation to assist a motorist, passenger, pedestrian or worker in distress.
- Police Officers on detail supplement the police officers on regular assignment. They exponentially expand the number of police officers immediately available to respond to emergencies unrelated to their details. They have communications directly with the police department, fire department and emergency medical services.
- Police Officers on detail provide a police visibility and presence throughout our communities that would be prohibitively expensive to replicate. It is well acknowledged that their mere presence is a deterrent to criminal activities such as bank robberies and shopliftings.
- Police Officers are trained to deescalate tense situations while flaggers are not; all police officers are required to undergo extensive training at the police academy under state guidelines before beginning employment; most of our police officers are better able to analyze and assess potential problems at a detail site and can respond effectively and professionally to situations presented. Typically, flaggers have minimal required training and are therefore less able to deal with a myriad of situations that present themselves at a detail site.
- Our police officers undergo extensive background checks and psychological screening and are not employed by us unless they present themselves professionally with a service-oriented mindset. There are no similar background requirements or psychological requirements for flaggers who would be working in our community and in our neighborhoods.
- As it relates to our authority as the Chiefs of Police, currently we prioritize locations where officers are to be assigned on details based on traffic volume, accident frequency, road conditions and availability of appropriate personnel.

When we have multiple simultaneous work sites, our supervisors are better able to coordinate traffic direction throughout the town. While individual contractors only consider their specific construction site, we must coordinate the effects of one job on numerous other projects in our cities and towns and adjacent communities.

- Additionally, we sincerely believe that eliminating construction detail opportunities for officers will significantly reduce our ability to attract and retain quality officers. In an environment that is already challenging to attract quality police officer candidates this presents yet another hurdle for cities and towns.

Given the current troubled economic climate serious budget cuts are looming. As a result, state aid to cities and towns will be dramatically reduced. This loss of funding is likely to cause a significant reduction in the number of police officers cities or towns can send on patrol. The use of sworn police officers assigned on traffic details appreciably augments the patrol force. In a recent case, an Attleboro police officer, assigned to a road detail, apprehended a kidnapping suspect after he received a police radio broadcast.

This is a period in which cities and towns need to get more for their money not less. Is this really the time to try this experiment if there is going to be little or no cost savings and no other benefit to the cities and towns? We strongly believe that state officials should continue to work with us to find the most efficient, dispassionate and professional approach to this situation.

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