

DC 37, 7 OCB2d 1 (BOC 2014)

(Rep) (Docket Nos. RE-178-07, RU-1249-05, RU-1250-05, RU-1255-08, and AC-36-07).

Summary of Decision: In light of amendments to the NYCCBL made by Local Law 56, the Board removed uniformed and similar-to-uniformed titles from bargaining units containing titles that participate in Citywide bargaining and found appropriate unit placements for these titles. Fire Protection Inspectors were added to the EMS unit. The Board found a traffic enforcement unit appropriate and ordered an election. Sanitation Enforcement titles were combined into a unit represented by CWA. The Board certified Local 237 to represent a unit of School Safety Agents and certified DC 37 to represent a unit of Urban Park Rangers. The Board found appropriate a unit of Taxi and Limousine Inspectors and Special Officers and afforded LEEBA the opportunity submit a sufficient showing of interest in this unit. The Board made no changes to units represented by OSA, the UFT, and the Deputy Sheriffs' Association. (*Official decision follows.*)

**OFFICE OF COLLECTIVE BARGAINING
BOARD OF CERTIFICATION**

In the Matter of the Certification Proceeding

-between-

THE CITY OF NEW YORK,

Petitioner,

-and-

**DISTRICT COUNCIL 37;
CIVIL SERVICE TECHNICAL GUILD, LOCAL 375, DISTRICT COUNCIL 37;
ORGANIZATION OF STAFF ANALYSTS;
UNITED FEDERATION OF TEACHERS;
COMMUNICATIONS WORKERS OF AMERICA;
INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL 237;
NEW YORK CITY DEPUTY SHERIFFS' ASSOCIATION;**

Respondents,

-and-

LAW ENFORCEMENT EMPLOYEES BENEVOLENT ASSOCIATION,

Intervenor.

DECISION AND ORDER

On March 9, 2007, the City of New York (“City”) filed a petition, docketed as RE-178-07, seeking to consolidate into a single bargaining unit 26 titles (“Local Law 56 titles”), currently represented by seven unions in ten bargaining units. Enacted on May 25, 2005, Local Law 56 of 2005 (“Local Law 56”) amended the New York City Collective Bargaining Law (New York City Administrative Code, Title 12, Chapter 3) (“NYCCBL”) by adding titles to the uniformed level of bargaining and to a newly created level of bargaining. The appropriate unit placement of seven of the Local Law 56 titles is also at issue in four other petitions, filed by two unions, RU-1249-05, RU-1250-05, RU-1255-08, and AC-36-07, which are described below. All of these petitions were consolidated. The unions oppose the City’s petition on the basis that the titles are appropriately placed in their current bargaining units or in separate bargaining units.

After a hearing, the Board removes uniformed and similar-to-uniformed titles from bargaining units containing titles that participate in Citywide bargaining and finds appropriate unit placements for these titles. Fire Protection Inspector titles are added to the EMS unit represented by District Council 37, AFSCME (“DC 37”). The Board finds appropriate a traffic enforcement unit that includes Traffic Enforcement Agent Levels I, II, III, and IV, Associate Traffic Enforcement Agent, and the Parking Control Specialist titles. The Board orders an election to determine whether employees in these titles wish to be represented by DC 37; Communications Workers of America (“CWA”); or the International Brotherhood of Teamsters, Local 237 (“Local 237”). Sanitation Enforcement Agent titles are combined in a unit represented by CWA. The Board certifies Local 237 to represent a unit of School Safety Agents and certifies DC 37 to

represent a unit of Urban Park Ranger titles. The Board finds appropriate a unit of Taxi and Limousine Inspector titles and employees at certain agencies in Special Officer titles and affords the Law Enforcement Employees Benevolent Association (“LEEBA”) the opportunity to submit a 30% showing of interest in this unit. No changes are made to the units represented by the Organization of Staff Analysts (“OSA”), the United Federation of Teachers (“UFT”), and the New York City Deputy Sheriffs’ Association (“Deputy Sheriffs’ Association”).

BACKGROUND

Petitions Concerning Unit Placement of Local Law 56 Titles

The five representation petitions at issue were filed after the enactment of Local Law 56 and raise questions concerning representation, namely, the appropriate bargaining unit placement of the titles affected by the amendment. These petitions are:

RU-1249-05 – filed on September 22, 2005, by DC 37. This petition seeks to remove the titles Urban Park Ranger and Associate Urban Park Ranger from Cert. Nos. 38B-78 and 38A-78, respectively, and create a separate bargaining unit for these titles.

RU-1250-05 – filed on September 29, 2005, by DC 37. This petition seeks to remove Traffic Enforcement Agent Levels III and IV from Cert. No. 46L-75 and create a separate bargaining unit for the title.

RE-178-07 – filed on March 9, 2007, by the City. This petition seeks to consolidate all the Local Law 56 titles into a single bargaining unit.

AC-36-07 – filed on August 15, 2007, by DC 37. This petition seeks to remove the Fire Protection Inspector and Associate Fire Inspector titles from Local 375, Civil Service Technical Guild, District Council 37, AFSME’s (“CSTG”) Cert. No. 26-78 because of the changes enacted by Local Law 56 and to add those titles to DC 37’s Cert. No. 4-2003, a bargaining unit of Emergency Medical Services (“EMS”) titles added to the uniformed fire service by Local Law 19.

RU-1255-08 – filed on April 14, 2008, by LEEBA. This petition seeks to remove the Taxi and Limousine Inspector and Associate Taxi and Limousine Inspector titles from Local 237’s Cert. No. 67-78 and requests certification of LEEBA to represent those two titles in a separate bargaining unit.¹

In *DC 37*, 2 OCB2d 14 (BOC 2009), the Board issued an interim order in this matter finding that the above-named petitions raised questions concerning representation, granting LEEBA’s motion to intervene in the City’s petition, and consolidating the City’s petition with the union-filed petitions in RE-178-07, RU-1249-05, RU-1250-05, RU-1255-08, and AC-36-07. In addition, the Board ordered a hearing be held to determine the appropriate unit placement of all the Local Law 56 titles.

A hearing was conducted in this matter over 26 days during which time all the parties were given an opportunity to present testimony and evidence concerning the unit placement issues. The findings of fact are summarized below in sections by the level of bargaining and Local Law 56 titles.

Local Law 56’s Amendment of the NYCCBL

The NYCCBL provides for different levels of bargaining. The “Citywide” level of bargaining, set forth in NYCCBL § 12-307(a)(2), provides that “matters which must be uniform for all employees subject to the career and salary plan, such as overtime and time and leave rules, shall be negotiated only with . . . the certified representative or representatives of bargaining units which include more than fifty percent of all such employees.” In contrast, the “uniformed” level of bargaining, set forth in NYCCBL § 12-307(a)(4), provides that “all matters, including but not limited to pensions, overtime and time and leave rules which affect employees in the uniformed police, fire, sanitation

¹ LEEBA does not seek to represent the titles Senior Taxi and Limousine Inspector and Supervising Taxi and Limousine Inspector, also included in Local Law 56.

and correction services . . . shall be negotiated with the certified employee organizations representing the employees involved.”

Local Law 56 amended NYCCBL § 12-307(a)(4) to add certain titles to the uniformed level of bargaining:

(i) employees of the uniformed fire service shall also include persons employed *at any level of position or service* by the fire department of the city of New York as fire alarm dispatchers and supervisors of fire alarm dispatchers, ***fire protection inspectors and supervisors of fire protection inspectors***, emergency medical technicians and advanced emergency medical technicians, as those terms are defined in section three thousand one of the public health law, and supervisors of emergency medical technicians or advanced emergency medical technicians;

(ii) employees of the uniformed police service shall also include persons employed *at any level of position or service* by the police department of the city of New York ***as traffic enforcement agents and supervisors of traffic enforcement agents, and school safety agents and supervisors of school safety agents***; and

(iii) employees of the uniformed sanitation service shall also include persons employed *at any level of position or service* by the sanitation department of the city of New York ***as sanitation enforcement agents and supervisors of sanitation enforcement agents***;

(Italics in original, bold face added).

In addition, Local Law 56 created a new (“similar-to-uniformed”) level of bargaining in NYCCBL § 12-307(a)(5)² for “employees working in various departments and agencies in the City of New York [who] have certain job characteristics similar to those of employees working in the City’s uniformed services, such as police, fire, sanitation and correction services,” and who “should be afforded the same unique bargaining rights as those afforded to individuals working in such services”:

(5) all matters, including but not limited to pensions, overtime and time and leave rules which affect the following employees at any level of

² Pursuant to Local Law 56, the former NYCCBL § 12-307(a)(5) was renumbered NYCCBL § 12-307(a)(6).

position or service in the following agencies shall be negotiated with the certified employee organization representing the employees involved:

(i) persons employed by the department of homeless services of the city of New York as special officers, senior special officers, supervising special officers and principal special officers;

(ii) persons employed by the department of health and mental hygiene of the city of New York as special officers, senior special officers, supervising special officers and principal special officers;

(iii) persons employed by the department of juvenile justice of the city of New York as special officers, senior special officers, supervising special officers and principal special officers;

(iv) persons employed by the human resources administration of the city of New York as special officers, senior special officers, supervising special officers and principal special officers;

(v) persons employed by the administration for children's services of the city of New York as special officers, senior special officers, supervising special officers and principal special officers;

(vi) persons employed by the taxi and limousine commission of the city of New York as taxi and limousine inspectors, supervising taxi and limousine inspectors, senior taxi and limousine inspectors and associate taxi and limousine inspectors;

(vii) persons employed by the department of transportation of the city of New York as parking control specialists and associate parking control specialists;

(viii) persons employed by the department of parks and recreation of the city of New York as urban park rangers and associate urban park rangers; and

(ix) persons employed by the department of finance of the city of New York as deputy sheriffs, supervising deputy sheriffs and administrative sheriffs.

(Emphasis omitted).

Employees holding Local Law 56 titles are currently represented by seven unions in ten bargaining units. As a result of Local Law 56, two of those bargaining units contain titles in the uniformed and Citywide levels of bargaining; another two bargaining units include titles in the similar-to-uniformed and Citywide levels of bargaining; and one bargaining unit is a mix of titles in the uniformed, similar-to-uniformed, and Citywide

levels of bargaining.¹ A description of each of these affected bargaining units, the duties of the affected titles and other related titles and bargaining unit follows:

I. Titles Added to the Uniformed Level of Bargaining

Local Law 56 added the following titles to the uniformed level of bargaining:

Fire Protection Inspector (Title Code No. 31661)
 Associate Fire Protection Inspector (Title Code No. 31662)
 Traffic Enforcement Agent, Levels I, II, III, and IV (Title Code Nos. 71651, 7165A, 7165B)
 Associate Traffic Enforcement Agent (Title Code No. 71652)
 Administrative Traffic Enforcement Agent (Title Code No. 10042)
 Sanitation Enforcement Agent (Title Code No. 71681)
 Associate Sanitation Enforcement Agent (Title Code No. 71682)
 Associate Supervisor of School Security (Title Code No. 60821)
 Administrative School Safety Manager (Title Code No. 10083)
 Supervisor of School Security (Title Code No. 60820)
 School Safety Agent (Title Code No. 60817)

These titles fall within seven existing bargaining units represented by six different unions or locals.

Fire Protection Inspector and Associate Fire Protection Inspector

CSTG was certified to represent Fire Protection Inspectors (“FPI”) and Associate Fire Protection Inspectors (“AFPI”) (collectively, “Fire Protection Inspectors”) in Cert. No. 26-78.² At the time of the hearing, there were approximately 287 employees in these titles at the Fire Department (“FDNY”). This bargaining unit also includes engineering

¹ DC 37’s Cert. No. 46L-75 and CSTG’s Cert. No. 26-78 include titles in the uniformed and Citywide levels of bargaining. DC 37’s Cert. Nos. 38B-78 and 38A-78 include titles in the similar-to-uniformed and Citywide levels of bargaining. Local 237’s Cert. No. 67-78 includes titles in the uniformed, similar-to-uniformed, and Citywide levels of bargaining.

² In 2007, AFSCME changed the internal jurisdiction of DC 37, Local 2507 (“Local 2507”) to include the FPI and AFPI titles. Prior to that time, the union had authorized CSTG to represent these titles. Since 2007, Local 2507 has been involved in negotiating or discussing with FDNY management such issues as uniforms, use of hand-held computers, and creation of a new unit for FPIs and AFPIs.

and scientific titles that are in the career and salary plan and participate in the Citywide level of bargaining, such as Air Pollution Inspector, Architect, Chemist, Electrical Engineer, and Traffic Control Inspector. By its petition in AC-36-07, DC 37 seeks the accretion of the FPI and AFPI titles to its EMS unit, Cert. No. 4-2003, represented by Local 2507. Cert. No. 4-2003 is a bargaining unit that currently contains the following titles: EMS Specialist, EMS Cadet Trainee, Emergency Medical Specialist Trainee, Emergency Medical Specialist – Paramedic, Emergency Medical Specialist – EMT, Supervising Emergency Medical Specialist.

FPIs work in District Offices or other units: High Rise, Public Communication, Public Safety, Fire Suppression, Tank and Cargo, LPPA, Explosives Monitoring/Blasting, Sprinkler/Standpipe, Construction, Demolition and Abatement (“CDA”), and Bulk Fuel Safety. Also FPIs are sometimes assigned to participate in Multi-Agency Response to Community Hotspots program.³ Generally, FPIs work a Monday through Friday schedule from 8:30 am to 4:30 p.m. or 8:00 a.m. to 4:00 p.m. However, some work from 9:00 a.m. to 4:30 p.m. Additionally, some assignments require different hours and/or days. Firefighters assigned to the Fire Suppression and the CDA units wear some protective equipment such as a coat, hard hats, goggles, dust masks, gloves, safety vests, and steel toe boots

The job specifications for FPIs and AFPIs provide that the duties and responsibilities of these positions include supervision of and “conduct of inspections to detect violations of laws, rules and regulations which are intended to reduce or eliminate fire hazards or assist in extinguishing fires; performs related work.” (DC 37 Ex. 19; DC

³ This is a joint initiative between the Police Department, Department of Buildings, Department of Health and Mental Hygiene, and the FDNY.

37, Ex. 20, City Ex. 26.) At least nine witnesses testified concerning FPI and/or AFPI duties. Generally, FPIs conduct inspections and issue violation orders, notices of violation, and criminal summonses in order to enforce fire and safety codes and regulations.⁴ FPIs work in the field and inspect for fire hazards, such as blocked exits, and proper fire protection equipment, such as sprinklers and standpipes. Level II inspectors also review field inspection reports for accuracy and completeness. Level III inspectors supervise the staff assigned to the District Offices.

In the District Offices, Fire Protection Inspectors monitor and approve the storage of flammable and combustible materials in government, commercial properties, and residences. They also inspect for violations of the Fire and Building Code and the Rules of the City of New York. Special assignments include inspections at street fairs and festivals and are usually group assignments that occur outside regular work hours.

The Field Public Communications unit advises firefighters on situations in the field including buildings where vacate orders have been issued. The Public Safety unit has three divisions: High Rise, Public Assembly, and Public Buildings. Fire Protection Inspectors assigned to the High-Rise division conduct annual inspections of high-rise office buildings, hotels, and motels. In the Public Assembly division, FPIs examine fire suppression equipment, floor plans, and fire alarms in order to approve the renewal of public assembly permits. Certain Public Assembly FPIs work weekend evenings, from 2 p.m. to 2 a.m. on Thursday, Friday, and Saturday. In the Public Buildings division, there are three FPIs who review inspections done by firefighters in hospitals, day care

⁴ FPIs determine the type of violation to issue depending on the level of danger associated with the misconduct. Vacate or shutdown orders are issued by uniformed fire personnel. FPIs and/or AFPIs may be involved to initiate or assist other FDNY and/or Police Department personnel in executing the vacate order.

facilities, homeless shelters, and schools and may conduct re-inspections and/or issue orders or violations.

FPIs assigned to the Fire Suppression unit primarily work in sub-units in the field where they observe sprinkler, standpipe, and chemical or alternate agent suppression systems. FPIs assigned to the Tank Truck division of the Fire Suppression Unit visually inspect petroleum-carrying trucks annually in order to insure that the seals and locking mechanisms are operational, and they issue permits to these vehicles to indicate compliance with the law and rules.

FPIs in the Bulk Fuel unit monitor the installation and testing of underground motor vehicle fuel storage tanks and fire protection tests at bulk fuel terminals. They issue annual permits for bulk oil terminals, power plants, natural gas and motor fuel facilities, and methane recovery plants. Laboratory unit FPIs review all the laboratories in the city including those located in high schools, universities, private facilities, and public facilities such as DEP.

The Blasting or Explosives unit issues permits for firework displays, but there are no AFPIs or FPIs permanently assigned to the unit. Employees in the title Supervisor Blasting Inspector, who are represented by IBT Local 237, staff this unit. FPIs from other units, including Fire Suppression, are assigned to monitor fireworks displays. There are approximately 75-85 displays each year. FPIs work within the safety zone of the display to ensure that pyro-technicians are properly handling the fireworks.

AFPIs generally assign and review the work of FPIs. They may also provide training and respond to public inquiries. Additionally, AFPIs in the Fire Suppression Unit supervise field operations, evaluate the performance of the FPIs, and participate in

testing and audit inspections. AFPI Level IIIs in this unit are responsible for borough-wide operations and supervision. AFPIs in the CDA unit inspect fire protection systems, worker safety, and combustible storage practices on certain-sized construction or demolition projects. Sometimes these inspections are conducted jointly with the assigned fire company.

Qualifications for the FPI position include 3 years' experience performing certain duties full time, 30 college credits in certain subject areas, a certificate of completion of a plumbing inspection program, or equivalent experience. Qualification for the AFPI position include, but is not limited to, five years of full-time experience handling or storing explosives, developing safety standards, and/or inspecting such materials. Both positions require a valid drivers' license. FPIs and AFPIs are required to be peace officers, but do not require special patrolmen certification.⁵ FPI's must complete five weeks of basic training on fire codes, fire hazards, Rules of the City of New York, National Fire Protection Association standards, and building codes. The training is held at the FDNY Fort Totten training facility where firefighters, EMTs, and paramedics also receive training. A written examination is given at the conclusion of the training. FPIs also receive one week of peace officer training. Other specialized training may be required depending on where the FPI is assigned. For example, FPIs in charge of Emergency Action Plans must complete additional training to certify fire safety directors. Additional on-the-job training may be required based on the unit that FPIs are assigned to work.

⁵ Under New York State ("NYS") law, peace officer certification requires completion of training and a test.

FPIs interact with EMTs and Paramedics when planning for and participating in special events such as firework displays for New Year's Eve and the Fourth of July. There was also testimony that FPIs have contact with clerical support staff, EMTs, Paramedics, and Firefighters on a daily basis. FPIs do not regularly interact with employees in any of the other Local Law 56 titles.

Most civilians (or more specifically, non-firefighters) employed by FDNY are subject to the same manuals, procedures, work rules, and/or terms and conditions of employment. Therefore, AFPIs, FPIs, EMTs, and Paramedics share many of the same terms and conditions of employment. These manuals or policies governing many FDNY employees include: an Absence Control Policy, the Civilian Non-Managerial Evaluation Booklet, FDNY Time and Leave Manual, Smoking Policy, Policy on Limited Use of Office Technology and Resources, Sensitive but Unclassified Information Policy, Legal Appearances of Fire Department Employees, Emergency Action Plan for All FDNY Facilities, FDNY Civilian Code of Conduct, Request for Reasonable Accommodation for Disability, Request for Reasonable Accommodation for Victims of Domestic Violence, Sex Offenses or Stalking, and the EEO Complaint Form. None of these manuals or policies governs any Local Law 56 titles other than AFPI and FPI, although some may be Citywide policies and/or City agencies other than FDNY may have similar policies or manuals.

AFPIs and FPIs participate in the NYCERS pension system and have supplemental welfare benefits through the DC 37 Welfare Fund. FPIs, AFPIs, EMTs, and Paramedics all receive some type of line-of-duty injury benefits, although the amount

of benefit each receives is different. No other FDNY employees receive this type of benefit.

The record is not clear as to whether FPIs and AFPIs are subject to the FDNY's Command Discipline policy for informal discipline. DC 37 asserted that an EMSC Operating Guide governing Command Discipline is applicable to AFPI and FPIs. However, at least one City witness [Barracato] denied that FPI and AFPI titles are subject to the Command Discipline process. EMTs and Paramedics are subject to the EMS Command Discipline procedure.

Traffic Enforcement Agent Levels I and II and Sanitation Enforcement Agent

Traffic Enforcement Agent ("TEA") Levels I and II and Sanitation Enforcement Agent ("SEA") are represented by CWA in Cert. No. 25-74. There are no other active titles in this unit.⁶ However, historically CWA has bargained for these employees in conjunction with the employees it represents in Cert. No. 26-74, which is discussed on page 20.

Traffic Enforcement Agents Levels I and II

The Police Department ("NYPD") Parking Enforcement District employs TEAs. TEA was created in 1978 (with only two levels) as a result of broad-banding and replaced titles in the Parking Meter Enforcement and Traffic Control Occupational Groups. *See CWA, 30 OCB 1 (BOC 1982)*. The Parking Enforcement District is divided into several divisions: Borough Enforcement, Intersection Control, Tow Operations, and Traffic Intelligence. In 2011, there were approximately 1305 TEA Level Is and 928 TEA Level

⁶ The title Parking Enforcement Agent remains in this bargaining unit. However, in 1988 the title was deleted from the Classified Service of the City of New York and earmarked for present incumbents only. At the time of the hearing, there were no incumbents in the title.

IIs. The Traffic Enforcement operation is a 24 hour per day, 7 day per week operation. Most TEAs work five-eight hour tours per week; but some work four-ten hour tours.

TEA is a competitive title, and employees hired into Level I are selected from a civil service list. Prior to 1996, all employees in the traffic enforcement titles were employed by the Department of Transportation (“DOT”). In August 1996, the traffic enforcement operation was transferred from DOT to the NYPD, and employees in the traffic enforcement titles were also moved to the NYPD.

The job specification for TEA Level I states that employees in this position “patrol an assigned area to enforce laws, rules and regulations relating to” the operation and parking of vehicles. (DC 37 Ex. 18.) TEA Level I duties include issuing summonses, testifying in court, and reporting parking meter conditions. In the event of an emergency, a TEA Level I may be assigned to temporarily direct traffic or close a street. TEA Level IIs are primarily assigned to direct traffic, but may also work in Borough Enforcement. TEA Level IIs are authorized in some instances to issue moving violations and parking summonses. Levels I and II sometimes work together on special events or details. TEAs Levels I and II wear a uniform: light blue shirt, dark blue pants, hat, and a shield that states they are a NYPD Traffic Enforcement Agent.

The current qualifications for all levels of the TEA position include a high school diploma or the equivalent; and a medical, psychological, and drug screening; and a valid drivers’ license. Level I TEAs receive approximately ten weeks of formal training on interpreting street signs, issuing summonses, rules and regulations, operation of hand-held devices, driving and safety, and sensitivity. Level II TEAs must have served a least one year as a Level I. Level IIs assigned to the Traffic division or commands receive an

additional five days of training on traffic control. After one year at Level II, TEAs are eligible for promotion to Level III. Occasionally, there are special events or situations when TEAs Level I and/or II ride with a TEA Level III in a tow truck. TEAs Levels I and II are not required to obtain peace officer or special patrolmen status.⁷ During the performance of their job duties, TEA Levels I and II do not regularly interact with Deputy City Sheriffs, school safety personnel, Taxi and Limousine Inspectors, Urban Park Rangers, or Fire Protection Inspectors.

Sanitation Enforcement Agent

SEAs are employed in the Enforcement Division of the Department of Sanitation (“DSNY”), and their main function is to enforce the NYC Administrative Code as it pertains to sanitation, recycling, graffiti, and some health code violations. The Enforcement Division has borough-based units and a night work unit, and SEAs work in all the units. Generally, the Enforcement Division has two eight-hour tours that operate Monday through Saturday, and a small patrol that is paid overtime to work on Sunday. At the time of the hearing, there were approximately 175 SEAs.

The SEA title has two assignment levels. In addition to their general law and rule enforcement duties, SEAs write summonses using handheld computers and may perform security or traffic control duties at DSNY facilities. Occasionally, they must testify in court concerning a summons. According to the job specification, Level IIs may also investigate, research, and write reports. Within each borough, SEAs at both assignment levels are assigned to regular or specialized patrols that include the Derelict Vehicle Office, K-9, and illegal postings. Occasionally, after snow storms, SEAs are assigned to

⁷ To obtain Special Patrolman status, an individual must be a United States citizen, pass a background investigation, take a 35-hour NYS peace officer course, and a pass test.

direct traffic where large amounts of snow have been piled and may impede safe traffic flow. Level II SEAs can fill in for or assist their superiors. During the performance of their duties, SEAs do not regularly interact with TEAs.

Qualifications required for the SEA position is a high school diploma and valid NYS driver's license. SEAs are not required to have peace officer or special patrolman certification. SEAs are initially given six weeks training on summonses, time and leave rules, recognizing violations, communication and verbal judo, and safe driving. At the end of the training, employees must take a written examination and will receive additional training if the exam results show a deficiency in a particular area. The uniform SEAs wear has dark blue pants, a light blue shirt, and a DSNY Sanitation Enforcement patch on the shirt and jacket. Higher levels in the title are indicated by stripes on the sleeves or a white shirt. Some SEAs in specialty units wear blue cargo pants and knit shirts with the DSNY logo on the back. All SEAs carry radios.

Traffic Enforcement Agent Levels III and IV

TEA Levels III and IV are represented by DC 37 in Cert. No. 46L-75, a unit that also includes motor vehicle operator titles subject to the Citywide level of bargaining. Prior to the creation of Level III, towing functions had been performed by motor vehicle operators at NYPD who were represented by DC 37. The towing operation moved to DOT in 1979. *See CWA, 30 OCB 1 (BOC 1982)*. Level III of the TEA title was created in 1980. At that time, both CWA, who represents TEA Levels I and II, and DC 37, who represents motor vehicle operators, filed petitions to represent TEA Level III. After considering many factors, the Board certified DC 37 as the bargaining representative of TEA Level III because the majority of their time was spent on towing, and therefore the

interests of the employees were more closely aligned with motor vehicle operators than with TEA Levels I and II, who had summons and ticketing duties. In addition, the Board noted that a towing license was required for the Level III position, the employees had been represented by DC 37 for over 20 years (as motor vehicle operators), and there was no ill effect on labor relations or the efficient operation of public service by splitting the title. *See CWA, 30 OCB 1.*

The TEA Level IV position was not created until around 1991. This level was created for TEA Level IIIs who had been assigned to a Special Compliance unit and who were working in the Transportation Intelligence unit of DOT. After the level was created, it was added to DC 37's unit without opposition from CWA, the City, or another union. *See DC 37, 52 OCB 14 (BOC 1993).* In 1996, all employees at all levels of the TEA title were functionally transferred from DOT to the NYPD. At the time of the hearing, there were approximately 323 TEA Levels III and IV.

The job specification for TEA Level III provides that employees in this position work under general supervision and "remove[] or immobilize[] illegally parked vehicles," and typical tasks include operation of a tow truck and affixing or removing restraining devices (boots) to scofflaw-owned vehicles. (DC 37 Ex. 18.) The witnesses' testimony demonstrates that the primary duty of TEA Level III is to drive and operate a tow truck and issue parking summonses. TEA Level IIIs may also relocate vehicles by towing them to a new location. They issue parking summonses and vehicle release agreements. When needed, Level IIIs will be assigned to direct traffic. Generally, TEA Level IIIs operate from four main locations and are assigned geographic areas to patrol. However, they may also perform special assignments or be assigned to the tow pound or Boot

Team. At the tow pound, the TEA Level III must enter data on each arriving vehicle into the computer. TEA Level IIIs on the Boot Team work in pairs and affix and detach boots on vehicle tires. Level IIIs may interact with Levels I and II when responding to an incident, emergency, or dispatched call or when on a special assignment. Also, some Level Is and IIs are assigned to the tow pounds from which the Level IIIs dispatch.⁸

When a TEA Level II is promoted to Level III, they receive additional training on driving and operation of a tow truck, vehicle access and entry, preparing a voucher, and safety. The formal training lasts about three to four weeks, with on-the-job training that follows. The qualifications for TEA Level III are the same as for Levels I and II, except a driver's license with commercial towing endorsement and successful completion of a medical screening are also required. TEA Level IIIs wear dark pants, shirt and a jacket, which is a different uniform than Levels I, II, and IV.

The TEA Level IV job specification provides that employees in that position work under direction and "monitor traffic flow and impediments." Typical tasks of the TEA Level IV include ensuring that on-street construction does not impede traffic by issuing summonses, reporting illegally parked vehicles, and monitoring emergency road service permittees and vehicles to make sure that they comply with legal weight and size regulations. TEA Level IVs write tickets and summonses for traffic, permit, public access, and/or environmental control board violations that may require a court appearance.

TEA Level IVs are assigned to the Traffic Intelligence Unit and the Parking Enforcement Division. The Traffic Intelligence Unit has three divisions: Compliance,

⁸ These are not regular assignments for TEA Levels I and II, but may be a result of a reasonable accommodation.

Highway Emergency Local Patrol, and Truck Enforcement. TEAs Level IVs in the Compliance Unit enforce traffic rules and regulations relating to construction sites by inspecting sidewalks and roadways and checking job permits. In the Highway Emergency Local Patrol Unit, TEA Level IVs patrol Interstate Highways 95 and 495 in utility vehicles and provide roadside assistance to motorists who are having mechanical problems. TEAs ensure the vehicle and driver are safe, provide minor road service repairs (jumper cables, etc.), and call for road assistance when needed. In the Truck Enforcement Unit, teams with a minimum of two TEA Level IVs are assigned to weigh commercial trucks to make sure they do not exceed permissible weight limits and enforce designated truck routes and other traffic rules such as height, lights, mud flaps, and vehicle registration. They use both portable scales to weigh trucks when they exit the highways and larger scales that are transported to bridges and toll plazas. TEAs in Traffic Enforcement may be assigned to control traffic in emergency situations.

TEA Levels III and IV work together on special events, assignments, or emergencies. TEA Level IVs may have to call for a tow truck if they come upon a vehicle that is unsafe to be on the road. They also have some interaction with other TEA Levels during special assignments. Some TEA Level I and IIs are assigned to commands that work out of the same Manhattan facility as TEAs Level IV. Most TEA Level IVs wear the same uniform as Level Is; a few in Truck Enforcement wear a dark shirt and pants. TEA Levels III and IV, like all other NYPD employees, are subject to Command Discipline. All TEAs work five 8-hour tours per week.

Qualifications for TEA Level IV are the same as for Levels I and II, but require that the candidate be qualified as a Special Patrolman.⁹ TEA Level IVs have the authority to effectuate an arrest. However, the NYPD authorizes them to do so only when a supervisor or NYPD patrol unit is present. They do not transport anyone who is arrested. Generally, TEA Level IIs promote to TEA Level IV.

In RU-1250-05, DC 37 seeks the creation of a separate bargaining unit for TEA Levels III and IV. DC 37's witness, local president Mark Rosenthal, testified that TEA Levels III and IV have issues that are different from other titles in their existing DC 37 bargaining unit because they work for NYPD. Some of these issues include uniforms, emergency response work, pension, assault pay, safety, training, sick pay.

Associate Traffic Enforcement Agent and Associate Sanitation Enforcement Agent

Cert. No. 26-74 is a bargaining unit of two titles: Associate Traffic Enforcement Agent ("ATEA") and Associate Sanitation Enforcement Agent ("ASEA"), represented by CWA.¹⁰ As stated earlier, historically CWA has bargained for the employees in this bargaining unit with the employees in Cert. No. 25-74. At the time of the hearing, there were approximately 411 ATEAs and 46 ASEAs.

Associate Traffic Enforcement Agent

The ATEA title is competitive and has three levels. Like TEA Levels I and II, this title was created in 1978 as a result of broad-banding and replaced titles in the

⁹ Upon promotion to TEA Level IV, the candidate is sent to the Police Training Academy for one additional week of training.

¹⁰ The title Senior Parking Enforcement Agent remains in this bargaining unit. However, in 1988 the title was deleted from the Classified Service of the City of New York and earmarked for present incumbents only. At the time of the hearing, there were no incumbents in the title.

Parking Meter Enforcement and Traffic Control Occupational Groups. *See CWA*, 30 OCB 1. Employees in this title are responsible for supervision of TEAs. ATEA Level I's supervise a squad of TEAs and/or Parking Control Specialists directly. They assign work, review and evaluate performance, impose discipline, and assist higher ATEA levels. ATEA Level II's supervise the operation of a group of squads or a district office and can be assigned to attend Community Board or Council meetings. They may also be called upon to go into the field to deal with hostile motorists or other difficulties that TEAs may encounter. ATEA Level III's are responsible for an entire command or precinct. Their duties include the supervision of lower level ATEAs and Associate Parking Control Specialist Levels I and II. ATEA Level III's also review traffic accidents, take disciplinary action, and oversee the daily operation of a command.

All ATEA candidates must have served as a TEA for a least one year before taking the ATEA test. Qualifications for ATEA are a driver's license, high school degree or the equivalent, and one to two years of administrative or supervisory experience or the equivalent. ATEAs are not required to maintain peace officer or special patrolmen status. ATEAs receive one week of formal training as well as on-the-job training throughout their employment. They wear the same type of uniform as TEAs, but their shield shows their ATEA title, and they wear sergeant stripes on their shoulders or lieutenant or captain bars on their collars. When promoted to Level II, ATEAs receive an additional week of formal training. When promoted to Level III, ATEAs receive three additional days of formal training. ATEAs have little or no contact during the course of their work with Associate SEAs, Deputy City Sheriffs, school safety personnel, Taxi and Limousine Inspectors, Urban Park Rangers, or Fire Protection Inspectors.

Associate Sanitation Enforcement Agents

The ASEA title has three assignment levels. Like SEAs, ASEAs are employed in the Enforcement Division of DSNY. They are assigned to either boroughs or a night post. They issue summonses for sanitation violations at private residences and businesses for harassment, disorderly conduct, or obstruction of governmental administration. ASEA Level Is may directly supervise SEAs, make assignments, and issue equipment. ASEA Level IIs oversee a larger group than Level Is, and they evaluate performance, investigate and prepare reports, and may review and assist in case preparation for summons-related trials. ASEA Level IIIs coordinate the activities of all special operations units. They schedule activities and tours, monitor performance, and investigate and prepare reports. They may also attend meetings at the borough halls and are responsible for training.

Qualification for ASEA includes a high school diploma plus some additional experience, a valid driver's license, and a notary public license. Although ASEAs Level III are also required to obtain and maintain special patrolmen status, they do not commonly make arrests. When promoted from SEA to ASEA, an individual receives an additional three days of computer training relating to the issuance of summonses and reports.

ASEAs wear navy blue pants. Level Is wear light blue shirts, and Levels II and III wear white shirts. ASEAs have a gold badge and may have stripes on their collars depending on their rank. ASEAs have little or no contact during the course of their work with ATEAs, Deputy City Sheriffs, school safety personnel, Taxi and Limousine Inspectors, Urban Park Rangers, or Fire Protection Inspectors.

School Safety Agent

School Safety Agent (“SSA”) is a competitive title with three assignment levels and is represented by Local 237 in Cert. No. 67-78. That bargaining unit includes other titles that are subject to the Citywide level of bargaining, such as Asbestos Handler, Elevator Mechanic, Hospital Security Officer, Maintenance Man, Pipe Laying Inspector, and Water Use Inspector. Prior to the transfer of the school safety operations from the Board of Education to the NYPD in 1998, employees performing school safety functions were in the title School Guard. In August 2006, the SSA title was created, and in April 2007 employees serving in the School Guard title were transferred into the SSA title. At the time of the hearing, there were approximately 4,900 employees in this title.

The SSA job specification states that employees holding this position are responsible for school security and safety. Typical tasks include monitoring ingress and egress from a school, which may include the operation of metal detectors, patrolling areas inside and outside school buildings, identifying and directing visitors, responding to altercations, and assisting emergency personnel. The SSAs interact regularly with the school personnel and administration. SSAs may be assigned to either a fixed or patrol post. They enforce penal laws and NYPD’s regulations within the school. SSAs are authorized to make arrests, including booking and vouchering property, and they may testify in court. However, they do not issue summonses. SSAs may also be assigned to the Special Services Unit. This unit includes a mobile task force that responds to emergencies, performs random screenings, patrols corridors between schools and nearby transportation hubs, and may be assigned to special events at schools or other locations. These SSAs perform their patrols by car, van, scooter, or bicycle.

Some SSAs are assigned to the Metal Detection Unit, which maintains scanning equipment throughout the City and conducts assessments of scanning operation needs, or the Radio Communications Unit, which is responsible for the assignment and monitoring of portable radios. Some SSAs are assigned to the Operations Unit, where they take calls, monitor alarms, and dispatch patrols.

An SSA Level III is responsible for making assignments, conducting roll call, and monitoring about eight to ten SSAs' time and performance. Level IIIs evaluate work performance, respond to incidents, start the discipline process, and participate in the School Safety Planning Committee at their assigned school. SSA Level IIIs may also be assigned more broad operational duties such as scheduling, monitoring overtime, or radio and other equipment issues.

SSAs carry flashlights, handcuffs, gloves, memo books, and handheld radios. SSAs must follow the NYPD's Patrol Guide and well as all other NYPD regulations and procedures. They are regularly assigned to 8.5 hour tours between 6:00 a.m. and 11:00 p.m. However, there are some 24-hour operations. SSAs wear uniforms: dark blue pants and light blue shirts with insignia that identifies them as school safety personnel. SSA Level IIIs wear chevrons.

Qualifications for the SSA title include a high school diploma or the equivalent. Certain assignments require a valid driver's license. After initial hire, SSAs receive 14-16 weeks of training at the Police Academy and must qualify as Special Patrolman within three months of appointment. At the end of the initial training, each recruit must pass a written examination. Physical, psychological, and drug screenings are also mandatory. Thereafter, SSAs receive various types of in-service training each year. Additional

training is provided with each level of promotion and for certain assignments, such as the mobile task force.

Supervisor of School Security

The title Supervisor of School Security (“SS Supervisor”) is a competitive title employed at NYPD and represented by the UFT in Cert. No. VR-3-98. At the time of the hearing there were approximately 118 employees in this title.¹¹ This bargaining unit contains only this title. The UFT became the certified bargaining representative of the SS Supervisors in 1974, when employees in the title were employed by the Board of Education.¹² The SS Supervisor title was functionally transferred to the NYPD on December 20, 1998, and the City voluntarily recognized the UFT as the certified representative of the unit shortly thereafter. Accordingly, this unit was subject to the Citywide Agreement from early 1999 until the enactment of Local Law 56 on May 25, 2005. However, during that period of time, the UFT and the City negotiated terms and conditions for the title outside the Citywide Agreement. They agreed to annual leave benefits different from those set forth in the Citywide Agreement and, in accordance with NYCCBL § 12-207(a)(2)’s provision for special and unique considerations, negotiated a variance to the holiday schedules provided in the Citywide Agreement.¹³ In addition to non-economic terms, the UFT and the City agreed, “to resolve the economic terms

¹¹ There are a few employees in this title that are employed at the DOE.

¹² In 1998, the title was “Supervisor of School Safety.” Sometime thereafter, the title was changed to SS Supervisor, without any change to the certification or bargaining representative.

¹³ In *UFT, 67 OCB 28* (BCB 2001), the Board held that holidays are ordinarily a mandatory subject of bargaining at the Citywide level. However, it granted the UFT’s request to bargain holidays at the unit level because the functional transfer of the school safety titles from the Board of Education to the NYPD created unique circumstances that necessitated the bargaining of this subject at the unit level.

applicable to all the UFT bargaining units, including the Supervisor of School Security unit agreement, at the same time.” (UFT Ex. 1.) Accordingly, the economic agreement reached by these parties covering other UFT represented employees has always been uniformly applied to this bargaining unit.

The SS Supervisor job specification provides that employees holding this title are “responsible for maintaining the school security system in an assigned area.” (City Ex. 25.) SS Supervisors work out of the borough command offices and are responsible for the supervision of all SSAs. SS Supervisors regularly visit school safety officers, monitor attendance and staffing, respond to incidents within their precinct, attend safety meetings and community board meetings, and interact with personnel involved in the school community. They must “verify” or supervise all arrests within their command. (Tr. 2106.) They may initiate Command Discipline, coordinate personnel and resources, assess schools’ needs, monitor and evaluate performance, and monitor overtime. SS Supervisors also work in the Safety Plans Unit, where they are responsible for reviewing the school safety plans. SS Supervisors assigned as administrative supervisors oversee command office operations. SS Supervisors are also assigned to special events where SSAs are assigned, such as sports. Currently, SS Supervisors are not assigned to issue summonses.

SS Supervisors work 40 hours per week on tours between 6:00 a.m. and 11:00 p.m., and there are some evening and weekend tours in addition to weekday tours. SS Supervisors wear the same blue pants as SSAs, but have white shirts and silver lieutenant’s bars and/or stripes. They carry handcuffs, radios, and flashlights. SS Supervisors receive initial formal training that includes child abuse, counter-terrorism,

and personnel issues such as absence and discipline. They are required to maintain Special Patrolman status.

Administrative Traffic Enforcement Agent, Associate Supervisor of School Security, Administrative School Safety Manager

Administrative Traffic Enforcement Agent (“Admin TEA”), Associate Supervisor of School Security (“ASSS”), and Administrative School Safety Manager (“Admin SSM”) are all represented by OSA in Cert. No. 9-2001, and these are the only titles in this bargaining unit. Employees holding these three titles are employed by the NYPD. At the time of the hearing, there were about 18 Admin TEAs, 27 ASSS, and less than 12 Admin SSMs. OSA witnesses testified that in its first three rounds of bargaining concerning these titles, there were some unique issues they sought to address: uniform allowance and insignia, advancing the pay rate above the subordinate titles, and establishing Admin TEA Levels.

Administrative Traffic Enforcement Agent

The title Admin TEA is a competitive title with three assignment Levels. At the time of the hearing, only Levels I and II had present incumbents. Admin TEAs are also referred to as traffic managers. The Admin TEA job specification states that employees in the title are responsible for the operation of a borough or field command or a major portion of the traffic enforcement program. They review and evaluate actions of subordinates, direct and assign district commanders, and confer with the general public and other City agencies. For the most part, Admin TEAs Level I are responsible for a command and report to Level IIs, who are borough Commanders. One Admin TEA Level I reports to a Deputy Director, and all Level IIs report to Deputy Directors. Admin TEAs review and approve formal discipline, initiate and adjudicate Command Discipline,

and review performance appraisal appeals. Level IIs are responsible for borough-wide performance statistics, such as monitoring summons projections and reducing traffic accidents.

Admin TEAs wear the same uniform as ATEAs except they have a larger braid on their pants, they wear a blue hat, and their shields indicate their title. Upon promotion into the Admin TEA title, employees receive a two-day orientation and are eligible to take executive training classes on a voluntary basis. They also receive continuous on-the-job training as needed. Admin TEAs are not required to maintain Special Patrolman status. Admin TEAs work seven and a half hour tours and are on call during the night, but are not regularly assigned to overnight tours. Admin TEAs can determine what tours they work based on operational needs.

Associate Supervisor of School Security

The ASSS title is competitive with two assignment levels. At the time of the hearing, there were about 27 employees holding this title. The job specification states that employees in the title are generally responsible for the supervision of “school security operations within a major geographic area.” (OSA Ex. 1.) Level Is are executive officers with responsibilities for the field patrols of all the precincts within a command. They assist the Level IIs in drafting discipline, monitoring attendance, assigning work, and supervising and reviewing the performance of SSAs.

ASSS Level IIs function as commanding officers of a borough and are responsible for maintaining order within the schools and precincts under their jurisdiction. They supervise all the school safety personnel within a geographic area and are responsible for staffing, monitoring overtime, job evaluations, reviewing and adjudicating discipline, and

training. They may respond to incidents in a school and also regularly visit schools where scanners are placed. Level IIs act as liaisons with the school community and principals and attend COMPSTAT meetings. In small commands, the Level I and II duties may be performed by a single ASSS Level I.

Employees in the ASSSs title must have a high school diploma and at least five years' experience and possess a valid driver's license. Level IIs must also have a year of supervisory experience. Since at least 2006, all ASSS are required to be qualified as special patrolmen. ASSSs work eight hour tours between the hours of 6:00 a.m. and 5:00 p.m. They wear the same uniforms as SSAs, but also wear silver or gold clovers or bars that designate rank.

Administrative School Security Manager

In 2001, the Board certified OSA as the exclusive bargaining representative of the competitive title Administrative School Security Manager ("Admin SSM") Level I only. Thereafter, Admin SSM Level IIs remained designated as managers by DCAS. In November 2006, DCAS earmarked the Admin SSM title for present incumbents only and added a Level II to the ASSS title. In January 2009, the City reported that there were 11 incumbents in the Admin SSM title. It is not clear from the record whether any incumbents currently remain. It was undisputed that Admin SSMs perform the same job duties and wear the same uniforms as employees in the ASSS Level II title.

II. Similar-to-Uniformed Level of Bargaining

Local Law 56 created a new level of bargaining that did not previously exist. The amendment included the following titles in this level of bargaining:

Special Officer (Title Code No. 70810)¹⁰
 Senior Special Officer (Title Code No. 70815)
 Supervising Special Officer (Title Code No. 70817)
 Principal Special Officer (Title Code No. 70820)

Taxi and Limousine Inspector (Title Code No. 35116)
 Supervising Taxi and Limousine Inspector (Title Code No. 35142)
 Senior Taxi and Limousine Inspector (Title Code No. 35136)
 Associate Taxi and Limousine Inspector (Title Code No. 35143)

Parking Control Specialist (Title Code No. 41120)
 Associate Parking Control Specialist (Title Code No. 41122)

Urban Park Ranger (Title Code No. 60421)
 Associate Urban Park Ranger (Title Code No. 60422)

Deputy City Sheriff (Title Code No. 30312)
 Supervising Deputy Sheriff (Title Code No. 30315)
 Administrative Sheriff (Title Code No. 10060)

These titles fall within three existing bargaining units represented by three different unions.

Special Officer, Senior Special Officer, Supervising Special Officer, Principal Special Officer, Taxi and Limousine Inspector, Supervising Taxi and Limousine Inspector, Senior Taxi and Limousine Inspector, Associate Taxi and Limousine Inspector, Parking Control Specialist, and Associate Parking Control Specialist

Special Officer, Senior Special Officer, Supervising Special Officer, Principal Special Officer, Taxi and Limousine Inspector, Supervising Taxi and Limousine Inspector, Senior Taxi and Limousine Inspector, Associate Taxi and Limousine Inspector, Parking Control Specialist, and Associate Parking Control Specialist are all titles represented by Local 237 in Cert. No. 67-78. This unit also includes titles subject to

¹⁰ Only those Special Officers, Senior Special Officers, Supervising Special Officers, and Principal Special Officers employed at the Administration for Children's Services ("ACS"), the Department of Health and Mental Hygiene ("DOHMH"), the Department of Homeless Services ("DHS"), the Department of Juvenile Justice ("DJJ"), and the Human Resources Administration ("HRA") are covered by Local Law 56. Therefore, employees in the Special Officer titles at the New York City Health and Hospitals Corporation and other City agencies remain in the Citywide level of bargaining.

the Citywide level of bargaining, such as Asbestos Handler, Elevator Mechanic, Hospital Security Officer, Maintenance Man, Pipe Laying Inspector, and Water Use Inspector.

Special Officer, Senior Special Officer, Supervising Special Officer, Principal Special Officer

Special Officer and Supervising Special Officer, referred to collectively as officers, are competitive titles.¹⁴ At the time of the hearing, there were approximately 457 Special Officers and 142 Supervising Special Officers. Thirteen witnesses testified concerning the officer titles and their responsibilities at the ACS, DOHMH, DHS, DJJ, and HRA. Below are a summary of the duties that are common among the titles and a brief description of any duties unique to officers at individual agencies.

The Special Officer job specification states that they are responsible to maintain the safety and security of City facilities, property, the public, and clients/occupants. They are assigned to fixed or patrol posts, and typical tasks may include monitoring ingress and egress; screening facility entrants; responding to incidents; and searching, inspecting, and vouchering property.

Special Officers can write summonses concerning criminal, parking, or agency rule violations and make arrests. If they effectuate an arrest, they are responsible for transporting, fingerprinting, processing, and booking the defendant. Some agencies require Special Officers to obtain supervisory approval or assistance when effectuating an arrest. Special Officers may be required to testify in court. They carry batons, handcuffs, gloves, and flashlights.

¹⁴ The titles Principal Special Officer and Senior Special Officer were deleted from the Classified Service of New York in May 2010, and three assignment levels were added to the title Supervising Special Officer. At the time of the hearing, there were no employees serving in the deleted titles. Accordingly, the deleted titles will not be discussed further.

Qualifications for the Special Officer title include a high school diploma. Upon hiring, all Special Officers receive 35 hours of peace officer training and must pass a state administered test. In addition, they must obtain and maintain baton certification. Special Officers work eight-hour tours, but their schedules vary based on the location and agency where they are assigned. Many of the locations where they work are 24 hour-7days per week operations.

Supervising Special Officers can perform Special Officer duties but can also direct or supervise a unit or larger area. There are three assignment levels in the Supervising Special Officer title. Level Is are directly responsible for supervision of Special Officers. They assign posts, patrol, evaluate performance, coordinate contracted security guards, and respond to emergencies.¹⁵ Level IIs supervise a broader area; are responsible for security arrangements and procedures; conduct regular inspections, in-service training, and special studies; and serve as liaisons with law enforcement agencies. Level IIIs perform many of the same tasks as Level IIs but are involved in a higher level of administration for a larger area or operation. Level IIIs also direct investigations and supervise the maintenance of security records.

Qualifications for the Supervising Special Officer title are the same as the Special Officer title. Additionally, certain positions require a valid driver's license or NYS Fire Safety/Emergency Action Plan certification. To advance between levels, one or two years of experience in the prior level is required.

Special Officer uniforms are blue, like police officers, but have a patch and shield that reflects their employing agency and title. Supervising Special Officers wear white

¹⁵ In addition to Special Officers, DHS, DOHMH, and ACS all use security guards employed by private agencies.

shirts, instead of blue, and have insignia such as brass bars on their sleeve or collar to indicate their rank.

Local Law 56 Special Officers and Supervising Special Officers

Special Officers at HRA are responsible for safety and security at seventy facilities. One witness, then a Principal Special Officer, estimated that there were about 25-30 arrests by Special Officers annually at HRA's facilities. At HRA, Supervising Special Officers have administrative or field assignments and have supervisory authority over multiple locations. Certain Supervising Special Officers have a larger scope of authority, such as for a borough or Citywide operations. One Supervising Special Officer in charge of Citywide operations at HRA supervises a 24-hour police desk at HRA headquarters, reviews assignments, responds to incidents and emergencies, and processes incident reports. He also reviews HRA's version of COMPSTAT, an incident tracking system. All Special Officers at HRA receive 40 hours of in-service training. No additional training is provided for advancement between Special Officer titles.

Special Officers at DHS are assigned to seven City homeless shelters, utilized by homeless families and single adults, or to one of two special units that respond citywide. The Special Officers at DHS operate x-ray screening machines and magnetometers that screen for weapons. When effectuating an arrest, a DHS Special Officer must first obtain permission for the arrest from a Supervising Special Officer. DHS Supervising Special Officers attend weekly COMPSTAT meetings to review data on incidents in the facilities and discuss areas and methods for improvement. They carry pepper spray or mace, and some carry radios. Some DHS Supervising Special Officers are site commanders with responsibility for the security operation of a particular facility. Others are assigned as

either patrol supervisors, in charge of operations, as the Inspector, Deputy Chief, or Deputy Inspector in charge of the Charles Gay Men's Shelter. The Supervising Special Officer in charge of operations is responsible for an information unit and 311 calls. The Inspector oversees the entire operation, including transportation and training. The Deputy Chief supervises special units such as an emergency task force and the client relations team. All DHS Special Officers receive five weeks of training, including peace officer, Criminal Procedure Law, fireguard, verbal judo, and how to work with emotionally disturbed persons training. Annually, DHS Special Officers receive two days of recertification training.

DOHMH Special Officers work at its clinics and administrative offices throughout the City, its central office, and the Bureau of Laboratories in Manhattan. In addition to their general duties, DOHMH Special Officers may process access cards for DOHMH personnel. At the Bureau of Laboratories, Special Officers receive samples for the BIOWATCH program labs and are fourth level responders for certain hazardous emergencies. DOHMH Special Officers do not effectuate arrests as often as they issue summonses for desk appearances.

Upon hire, DOHMH Special Officers receive a two-week orientation program in addition to peace officer training with the Department of Corrections. The orientation topics include: penal law, parking violations, writing summonses, first responder protocols, interviewing, and taking witness statements.¹⁶ New hires must pass a test upon the completion of training. DOHMH in-service training follows completion of formal training. Certain DOHMH Special Officers assigned to mobile units have also received

¹⁶ Per year there are about five to ten arrests made for theft or disorderly conduct, and about five to ten criminal summonses in lieu of arrest for lower level offenses.

some counter-terrorism and bio-hazard training and are equipped with masks, gloves, and outer protective gear. Supervising Special Officers receive two weeks of orientation that includes training in supervision, performance evaluation, communication, and reports. DOHMH Supervising Special Officers receive on-the-job training on statistical and incident reports, supervision, and security equipment.

At ACS, Special Officers work at the Children's Center/Command Center in Manhattan or at another ACS facility in the five boroughs. At the Children's Center, in addition to their general duties, the Special Officers monitor a closed circuit TV, resolve disputes between clients, and voucher client property and contraband such as drugs or weapons. ACS Special Officers are authorized to make arrests, with the approval of a Supervising Special Officer. ACS Supervising Special Officers are four supervisors, and some supervise at more than one location. One Supervising Special Officer supervises the entire security operation for the agency.

ACS Officers at the Children's Center wear blue uniform pants and a royal blue knit shirt, instead of the customary stiff-collared shirts. ACS Special Officers are issued a bullet-proof vest. In addition to peace officer training, upon hire ACS Special Officers receive training in the penal law, criminal procedures, use of force, drug awareness, Homeland security and anti-terrorism preparedness, handcuffing, expandable baton use, summonses and reports, verbal judo, and Equal Employment policies. If promoted to Supervising Special Officer, the officer receives supervisory training.

Special Officers are assigned to three DJJ facilities, two in the Bronx and one in Brooklyn.¹⁷ These are secure facilities that house juvenile criminal offenders. These

¹⁷ DJJ has merged with ACS, so ACS now employs Special Officers previously employed by DJJ. At the time of the hearing, there were no Supervising Special Officers assigned

Special Officers may also effectuate arrests with approval of the facilities' executive director, unless they have witnessed the criminal action and then they can arrest with their supervisor's approval. They do not regularly issue summonses. All DJJ Special Officers assist with fire evacuations. Upon hire, DJJ Special Officers receive six weeks of training in addition to peace officer training. After that, they receive one week of on-the-job training.

Special Officers at Other Agencies

Although not covered by Local Law 56, there are agencies and employers, other than those listed above, that also employ employees in the Special Officer title series. These employees hold the same civil service title and are subject to the same job specifications as the Local Law 56 Special Officers and Supervising Special Officers. There are employees in the Special Officers title series employed at NYPD, the Department of Citywide Administrative Services, the Department of Finance, Department of Environmental Protection ("DEP"), the NYC Housing Authority, and the Bronx District Attorney's Office. In addition, the Health and Hospitals Corporation ("HHC") employs Special Officers who function as hospital police to ensure the safety of patients, staff, visitors, and property within HHC's facilities. Similar to other Special Officers, HHC Special Officers are assigned either a fixed or patrol post, monitor ingress and egress, conduct searches, and respond to and investigate incidents. They wear uniforms like the other non-HHC Special Officers, carry batons, are certified as special patrolmen, issue summonses, and make arrests. All of the HHC employees in the Special

to DJJ facilities. When there was a Supervising Special Officer assigned to DJJ, the person was responsible for the overall security operation including scheduling.

Officer title series are represented by IBT Local 237 in the same bargaining unit as the other Special Officers discussed above.

Parking Control Specialist and Associate Parking Control Specialist

Employees in title Parking Control Specialist (“PCS”) and Associate Parking Control Specialist (“APCS”) titles are employed by the NYPD. Prior to 2006, employees in the PCS and APCS titles were employed by DOT. After that, they were functionally transferred to the NYPD. Since 2006, there have been no new hires into these titles.¹⁸ At the time of the hearing, there were approximately 27 employees remaining in the PCS title, and 11 in the APCS title. PCSs are employed in various traffic enforcement commands throughout the City, but there are no more than 4 PCSs assigned to any command. There is no dispute that PCSs and APCSs work interchangeably with TEAs and ATEAs.

The PCS job description states that PCSs work under supervision, inspect traffic conditions, and regulate and control parking. Currently, PCSs enforce the parking code by issuing parking summonses and enforcing traffic rules and regulations. These are the same duties that TEA Level I perform. PCSs are assigned to patrol a specific geographic area either on foot or with a vehicle and may be assigned alone or with another PCS or TEA Level I or II.

The APCS job specification states that employees in this title supervise a squad (Level I) or a large office (Level II) of employees who issue summonses. In practice,

¹⁸ The entry level salary for a PCS is about \$8,000 more than the entry level salary for a TEA. The entry level salary for an APCS is about \$7,000 more than an ATEA Level I, and equivalent to the entry level salary for an ATEA Level II.

their job duties are the same as those in the ATEA title job description.¹⁹ Witnesses testified that the APCS Level Is supervise PCSs and TEA Level Is. They plan and schedule the assignments for PCSs and TEAs, respond to incidents, and prepare reports and performance evaluations. APCS Level Is are mostly assigned to Enforcement commands and can be assigned to work with and/or supervise ATEA Level Is and IIs. A few are assigned to the Intersection command where they supervise TEA Level IIs.

Like ATEA Level IIs, APCS Level IIs are assigned to a group of subordinate personnel as large as a platoon command, and they report to an Admin TEA. APCS Level IIs may interpret policies, monitor performance and productivity, implement discipline, coordinate use of equipment and vehicles, make regular field inspections, respond to incidents in the field, evaluate performance, review reports and recommendations, and attend community board and other meetings.²⁰

PCSs and APCSs work eight and a half hour tours. They wear the same uniform as ATEAS and TEAs. Like other titles, APCSs' higher rank is shown by stripes or bars on their shirt sleeves or collars. However, their badges indicate their PCS or APCS title. PCSs and APCSs carry handcuffs, but have been instructed to call for police assistance to

¹⁹ Both the PCS and APCS job specifications specify duties that employees in these titles are not assigned currently to perform, including testing and making minor repairs to parking control devices and meters. Since 2006, meter inspection and repair functions have been performed by employees at DOT.

²⁰ According to the job specification, persons holding the PCS and APCS titles must maintain Special Patrolman status and therefore, have the legal authority to make arrests. TEA Levels I, II and IV as well as ATEA titles are not required to obtain or maintain such status. However, the record does not establish that the NYPD has regularly assigned persons in the PCS and/or APCS titles to effectuate arrests.

effectuate an arrest.²¹ Qualifications for PCS and APCS include a valid driver's license, related job experience, and a high school diploma. PCSs and APCSs received a few days of general training at the Police Academy when they were transferred to the NYPD in 1990 and now receive the same on-the-job training regularly as other TEA and ATEAs. Employees in the PCS title can promote to APCS.

Taxi and Limousine Inspector, Supervising Taxi and Limousine Inspector, Senior Taxi and Limousine Inspector, Associate Taxi and Limousine Inspector

All employees in the Taxi and Limousine Inspector title series are competitive titles employed by the Taxi and Limousine Commission ("TLC"). At the time of the hearing, there were approximately 124 Taxi and Limousine Inspectors ("TLIs") and 43 Associate Taxi and Limousine Inspectors ("ATLIs") (collectively, "TLC Inspectors"). In 1994, the titles Supervising Taxi and Limousine Inspector and Senior Taxi and Limousine Inspector were deleted from the Classified Service of New York and replaced by ATLI, which has two levels.²² No incumbents remain in the old titles.

The job specification for TLI provides that employees holding this title perform "regulatory, enforcement, investigatory, and inspectional duties required in the regulation of the taxi and limousine industry." (DC 37 Ex. 13.) TLIs issue summonses for failing inspections and expired licenses, etc. ATLIs may perform the duties of TLIs and also supervise. Employees in both titles sometimes testify in court in regard to the summonses they issue. TLC Inspectors are assigned to two divisions in the Uniform Service Bureau: Enforcement, and Safety and Emissions. The Safety and Emissions unit

²¹ Prior to 1996 when they were employed at DOT, PCSs and APCSs made arrests either alone or with police assistance. For example, both of these titles participated in DOT's Operation Meter Shield, a program to survey and apprehend parking meter vandals.

²² Accordingly, the two deleted titles are not discussed further.

is a NYS Department of Motor Vehicles certified inspection facility and is responsible for inspecting City-licensed vehicles. Inspectors assigned to this facility inspect TLC-licensed vehicles for compliance with NYS and NYC rules and regulations. In each inspection lane, an ATLI Level I supervises the TLIs assigned to the lane. An ATLI Level II has supervisory responsibilities broader than one lane and reports to a Deputy Chief who is in charge of the entire operation. Deputy Chiefs, who are also ATLI Level IIs, review consumer complaints and review and collect data on inspections. TLC Inspectors work four days per week on tours between 5:30 a.m. and 6:00 p.m., Monday through Friday. Inspectors in this division may also be sent into the field to inspect shops that install taxi meters. TLC Inspectors assigned to this division wear a blue shirt and pants or a blue jumpsuit all bearing a TLC patch.

The Enforcement division is responsible for inspecting vehicles in the field. It is in operation twenty four hours per day, Monday through Sunday morning at 5:30 a.m. The TLIs in this division are assigned to work in pairs and use motor vehicles to patrol a specified area to observe code and rule violations. They dispatch from the Woodside Queens facility and are assigned to one of five squads. Often they visit dispatch bases to ensure compliance with TLC rules and regulations. Some TLIs may work in plain clothes and ride in cabs or inspect bases to ensure compliance with the law and rules. There are over 700 TLC rules and regulations that the TLIs enforce, in addition to checking for valid drivers' licenses and writing traffic summonses. Occasionally, TLIs are assigned to work on special assignments with the NYPD, for example to target dollar vans. Often these operations involve other law enforcement employees such as sanitation and traffic enforcement.

Within the enforcement division, ATLIs have supervisory responsibilities. They conduct roll calls and provide guidance and instruction to the TLIs. They also work in the field to review inspector performance. ATLI Level IIs are Deputy Chiefs and are responsible for the operation of an entire tour in the Enforcement Division. They review all operation and arrest reports, evaluate performance, and generally oversee the operation of the unit. There are also three ATLI Level IIs assigned to a Court unit who are responsible for defending summonses issued by TLIs before hearing officers. These ATLIs also assist in preparing for consumer complaint hearings. Enforcement Inspectors wear blue shirts and pants with a TLC patch on the arms.

All TLIs are issued a bullet-proof vest, baton, handcuffs, radios, and pepper spray. TLIs assigned to Safety and Emissions do not carry these items unless they are out in the field. Initially, TLIs receive six days of special patrolmen training and two days of baton training. Thereafter they receive six to nine weeks of in-house training. TLC Inspectors must qualify as special patrolmen and have a high school diploma and a valid NYS driver's license. As a result, they are authorized and permitted to make arrests. If assigned to vehicle inspections, they must also be NYS certified to inspect vehicles.

Urban Park Ranger and Associate Urban Park Ranger

Employees in the titles Urban Park Ranger ("UPR") and Associate Urban Park Ranger ("AUPR") (collectively, "Park Rangers") are employed by the Department of Parks and Recreation ("DPR") and are represented by DC 37 in Cert. Nos. 38B-78 and 38A-78. Cert. No. 38B-78 contains non-supervisory blue collar titles, and Cert. No. 38A-78 contains supervisory blue collar titles, all of which are subject to the Citywide level of bargaining. These units include such titles as City Park Worker, City Security Aide,

Gardener, Park Supervisor, and Supervisor (Watershed Maintenance). At the time of the hearing, there were approximately 168 UPRs and 60 AUPRs. Most UPRs and at least half of the AUPRs are assigned to the Enforcement Division. There are also UPRs and AUPRs assigned to the Communications, Education, and Forestry divisions.

The job specification for UPR states that employees in this title patrol City parks and facilities, perform crowd control, issue summonses to enforce sanitary codes and park rules and regulations, and provide public safety. The job specification for AUPR states that employees in this title supervise UPRs, serve as communications supervisors or program specialists, prepare reports, and participate in procedure formulation and workshop design.

UPRs and AUPRs assigned to Enforcement are responsible for patrolling the parks, beaches, and recreation centers and enforcing all Park rules and regulations. They can also enforce City and NYS laws. Park Rangers in Enforcement patrol on foot, bike, scooter, golf cart, motor vehicles, horse, and boat. They are often assigned to work in pairs. Sometimes they are assigned to special, plain-clothes operations for such purposes as monitoring and apprehending unlicensed vendors during public events or apprehending vandals in the parks. The personnel assigned to Enforcement work one of three eight-hour shifts. In the summertime, the workload increases since UPRs are also responsible for the pools and beaches. UPRs assigned to the Communications division are responsible for gathering information from field-based Park Rangers and dispatching staff or other services as needed. Park Rangers assigned to the Communications, Education, and Forestry divisions are also asked to work certain special events both inside and outside of the parks such as parades.

AUPRs have a variety of supervisory assignments including borough-wide supervisory assignments, and one is assigned as the Citywide vendor sergeant. AUPRs with borough-wide responsibilities assign work, inspect officers, address complaints, and act as community liaisons by attending community board meetings and meeting with local police, city council members, and assemblymen. The Citywide vendor sergeant, an AUPR, is responsible for overseeing the vouchering of all property confiscated in the parks. AUPRs report to captains who hold the title Community Coordinator.

Park Rangers must be qualified as special patrolmen and are authorized to effectuate arrests including handcuffing, transporting, booking, and vouchering property. They issue summonses and testify in court. The summonses they issue concern environmental, parking, moving vehicles, civil, and criminal violations. UPRs must have an associate's degree or the equivalent. They also must have a valid driver's license. AUPRs must have a bachelor's degree or the equivalent and a valid driver's license.

Park Rangers wear uniforms and bullet-proof vests and carry batons, radios, handcuffs, pepper spray, whistles, and flashlights. The uniform has green pants, shirt, and Stetson hat; supervisors wear white shirts. Newly-hired UPRs must complete ten weeks of training on such topics as baton, first aid, CPR, summonses, arrests, vouchering, and communication or verbal judo. At the end of the ten week training, recruits must pass a written examination, a physical fitness test, and medical and psychological examinations. In addition, they receive annual refresher training in several subjects. When a UPR is promoted to AUPR, they receive an additional week of training.

The Vice-President of Local 983, which is assigned to represent the Park Rangers, described certain issues that are unique to these titles, such as shorter pension eligibility

due the physical nature of the job, specialized safety equipment, workplace safety, and adequate staffing in the parks.

Deputy City Sheriff, Supervising Deputy Sheriff, and Administrative Sheriff

Deputy City Sheriff, Supervising Deputy Sheriff, and Administrative Sheriffs are employed by the Department of Finance (“DOF”). These titles are represented by the Deputy Sheriffs’ Association in Cert. No. 94-73. There are no other titles in this bargaining unit. The Administrative Sheriff title was deleted from the Classified Service of the City of New York in 2006, and simultaneously, Level II of the Supervising Deputy Sheriff title was created. In 2006, all incumbent Administrative Sheriffs were moved into the title Supervising Deputy Sheriff Level II. Employees holding titles in this title series are assigned to work in one of the five county offices, the executive office in Manhattan, or the Long Island City office. Historically, the titles in this bargaining unit were covered by the Citywide agreement. However, the uniformed pattern of economic increases has been consistently applied to this unit. At the time of the hearing, there were approximately 103 Deputy City Sheriffs and about 14 Supervising Deputy Sheriffs.

The job specification for Deputy City Sheriff provides that employees in this title are law enforcement officers who execute civil mandates and orders, seize property, safeguard and sell seized property, serve civil processes, apprehend persons pursuant to civil arrests, and are responsible for their safe and secure transport. Supervising Deputy Sheriffs are responsible for supervisory and administrative work relating to the performance of those duties.

There are several units where Deputy City Sheriffs are assigned. In the security unit, they provide security at the DOF business centers and perform money transport

from the business centers to the bank. They must testify in court concerning these assignments. One or two Deputy City Sheriffs are assigned to the Office of Emergency Management. In the Warrants division, Deputy City Sheriffs serve summonses and subpoenas and execute arrests for HRA exclusively. Deputy City Sheriffs assigned to the Kendra's Law unit operate out of Long Island City and are responsible for the safe transport of persons who, pursuant to a court order, must attend a treatment program, usually at an emergency psychiatric facility. In the county law enforcement bureaus, Deputy City Sheriffs handle all summonses and warrants for civil matters. Deputy City Sheriffs assigned to the Firearms and Tactics unit provide training. In the Marshal Support unit, they seize vehicles for outstanding parking violation judgments, and in the Family Law unit, they serve summonses and warrants for parents to attend child support hearings. Occasionally, Deputy City Sheriffs are assigned to special operations with the NYPD such as counterfeit cigarette seizures or enforcing stop work orders for the Department of Buildings.

Deputy City Sheriff Level IIs supervise Level Is. Supervising Deputy Sheriffs supervise all Deputy City Sheriffs and have a broader scope of supervision and authority than Deputy City Sheriff Level IIs, such as an entire unit or office.

Deputy City Sheriffs and Supervising Deputy Sheriffs work 35 or 40 hours per week on tours during the operation hours of 5:00 a.m. to 11 p.m. Monday through Thursday and 5:00 a.m. to 7:30 p.m. on Friday. Some Deputy City Sheriffs, unless assigned to work in plain clothes, wear a uniform similar to the police uniforms, but with DOF patches on the sleeves. They carry a radio, baton, pepper spray, and a nine millimeter Glock or another firearm.

Deputy City Sheriffs and Supervising Deputy Sheriffs must have a bachelor's degree or the equivalent. They must be certified as peace officers and possess a valid driver's license. Deputy City Sheriffs must complete initial training that includes 35 hours of peace officer training, 47 hours of firearms training, baton and pepper spray training, emergency vehicle operation, tactical communications, and civil and situational training. Every two years they must pass a firearms requalification. When Deputy City Sheriffs are promoted to supervisory titles, they receive on-the-job training.

Related Titles Not Covered by Local Law 56

There was evidence presented to show that employees in titles that were not encompassed by Local Law 56 perform similar duties, or have similar qualifications, to employees in Local Law 56 titles. Specifically, the titles Air Pollution Inspector, Associate Air Pollution Inspector, Public Health Sanitarian, Associate Public Health Sanitarian, Market Agent, Inspector (Consumer Affairs), and Associate Inspector (Consumer Affairs) are titles used at DEP, DOHMH, the Department of Consumer Affairs, the Business Integrity Commission, the Department of Information Technology and Telecommunications, and the Department of Corrections. These titles are represented by DC 37 and its locals. One DC 37 witness testified that many, if not all, of these titles wear uniforms and engage in code, rule, or law enforcement duties similar to TEA Levels III and IV and Park Rangers. All of these titles remain in the Citywide level of bargaining.

The Public Health Sanitarian titles are in the Health Services bargaining unit (Cert. No. 28-78) and are employed by DOHMH. Employees in these titles are responsible for inspecting businesses, markets, schools, institutions, and other areas for

food and general sanitation, safety, and health. Typical tasks include enforcing laws, rules, and regulations; investigating complaints and applications for permits; collecting samples; issuing summonses for non-compliance with the NYC Health and Sanitary Codes; testifying in court; and the supervision of these duties. Special Patrolman status is not a requirement for these titles.

Market Agent and Inspector (Consumer Affairs) are both in the Social Services Bargaining Unit (Cert. No. 37-78). The Market Agent title has three assignment levels. Employees in this title are responsible for inspecting or supervising the inspection of wholesale markets and the surrounding areas. Among other things, they issue summonses and notices of violation, enforce building and sanitary ordinances, inspect premises, and investigate complaints. This title requires the holder to maintain Special Patrolman status.

The Inspector (Consumer Affairs) title and its related supervisory title are employed at the Department of Consumer Affairs. Employees in these titles are responsible for the inspection, investigation, survey, and analysis of the licensing of businesses and occupations. They enforce laws and regulations related to weights and measures and adulterated products, investigate trade practices, prepare complaints, testify in court, and supervise the performance of these duties. Special patrolman status is not a requirement for this title.

In addition, evidence was presented to show that FPIs and AFPIs share a community of interest with employees in the EMS titles because they are all employed by the FDNY and have common terms and conditions of employment. Like FPIs and AFPIs, Emergency Medical Technicians (“EMTs”) and Paramedics are employed by the

FDNY. Paramedics and EMTs work 37.5 hours per week on a rotating schedule of five days on/two days off and five days on/three days off. Their primary responsibilities are to respond to 911 calls for medical assistance. Paramedics are assigned to ambulances and respond to high priority emergencies providing advanced life support. EMTs and Paramedics work in pairs. They receive formal training at the FDNY training facility at Fort Totten as well as periodic on-the-job training. NYS certification is a qualification for the EMT title. In addition, there are recertification requirements and vehicle operation training requirements. Paramedics are required to have NYS certification and a REMAC certification as well as periodic recertification. Both the Chief of Fire Prevention and the Chief of EMS, the highest-ranking positions in each division, report to the Chief of the FDNY. The Chief of Fire Operations also reports to the Chief of the FDNY.

Similarly, evidence was presented to show that employees in the Blasting Inspector title series, which is used by the FDNY and represented by IBT Local 237, perform inspection and safety duties similar to Special Officers. The Blasting Inspector titles are in the same bargaining unit as Special Officers and remain in the Citywide level of bargaining. Employees in these titles inspect and supervise blasting and demolition operations in the five boroughs and the removal of debris. They also supervise all fireworks displays and theatrical pyrotechnics. They enforce fire codes and regulations, but do not issue summonses.

Like Blasting Inspectors, the Water Use Inspector title series are represented by IBT Local 237 and are also in the same bargaining unit as Special Officers. Employees in these titles are employed by DEP. They are responsible for inspecting water meters

inside residences and commercial buildings and inspecting remote water monitoring devices on the exterior of buildings. They perform minor repairs to meters and issue notices and summonses. They work 8 a.m. to 4 p.m., Monday through Friday.

POSITIONS OF THE PARTIES

City's Position

The City seeks the consolidation of all City titles covered by Local Law 56 into a single "Public Health, Safety, and Enforcement Bargaining Unit." (City Brief at 2) In support of its position, the City maintains that a single bargaining unit is consistent with the Board's policy to avoid the proliferation of bargaining units and encourage sound labor relations. Specifically, a single unit reduces the number of collective bargaining agreements that require negotiation, administration, and enforcement, facilitating the efficient operation of public service and enhancing labor relations. Likewise, a single bargaining unit conforms to the legislative intent of Local Law 56 by allowing the affected employees to bargain all terms and conditions of employment independent of the Citywide Agreement. The size of the unit would also provide the employees with bargaining power and allow them to enjoy the fullest freedom in the exercise of their rights granted under the NYCCBL.

The City contends that consolidation into a single unit is appropriate because all of the titles involved in the instant matter share a community of interest. Indeed, all of the titles are covered by Local Law 56. Although the titles work in different locations and for different agencies, each of the Local Law 56 titles perform public health, safety, and enforcement functions. Specifically all titles enforce agency regulations, City laws, and NYS laws by issuing summonses and effectuating arrests where necessary. Further,

most of the employees are peace officers and/or special patrolmen. The City notes that all except one title (TEA) have similar organizational hierarchies and that virtually all titles wear similar uniforms. Accordingly, the titles have a common interest in negotiating similar terms such as uniform allowance. The City also contends that although NYCCBL § 12-314(b) prohibits members of the police force and non-police force from forming a single bargaining unit, none of the Local Law 56 titles are members of the police force. Therefore, the Local Law 56 titles have a mutuality of interest in their terms and conditions of employment and are sufficiently allied in their skills to warrant inclusion in a single bargaining unit.

The City argues that maintaining the current configuration of bargaining units violates Board precedent and policy. It acknowledges that the Board has consistently prohibited the “mixing” of titles that have different scope or levels of bargaining, especially where a changed circumstance, such as Local Law 56, demonstrates that pre-existing units are no longer appropriate. (City Brief at 46) At a minimum, the City contends that Local Law 56 has created the following mixed units: Cert. No. 46L-75, Cert. No. 38A/B-78, Cert. No. 67-78, and Cert. Nos. 25-74 and 26-74.²³ Further, none of the titles covered by Local Law 56 would have been placed in their respective bargaining unit if, at that time, the titles had not been covered by the Citywide Agreement. Therefore, the current configuration of bargaining units is not appropriate and must be changed.

Further, the City asserts that the Board should deny DC 37’s and Local 2507’s petitions. First, the City argues that Local 2507’s proposal to add the titles FPI and AFPI

²³ The City asserts that two of the CWA represented units, Cert. Nos. 25-74 and 26-74, are mixed units because they contain the titles Parking Enforcement Agent and Senior Parking Enforcement Agent.

to Local 2507 should be denied because these titles do not share a community of interest with the Local 2507 titles. Generally, FPIs and AFPIs duties are preventative in nature and require highly technical skill and specialized expertise, whereas EMTs and Paramedics respond to emergency situations. Accordingly, the job duties and working conditions, certification requirements, operating guides, training, and scheduling of FPIs and AFPIs are different from those of EMTs and Paramedics. Instead, the City maintains that FPIs and AFPIs job duties are similar to inspection titles covered under Local Law 56, and thus, these titles should be placed in a single bargaining unit with all Local Law 56 titles. Moreover, the fact that Local 2507 may have represented FPIs and AFPIs at grievance proceedings and at labor-management meetings does not establish that inclusion of these titles in the EMT/Paramedic unit is appropriate because Local 2507 was never certified by the Board as the bargaining representative for that unit. Second, DC 37's petitions to create independent bargaining units for (1) TEAs at Levels III and IV and (2) UPRs and AUPRs is an unnecessary proliferation and, accordingly, should be denied. Contrary to independent units, which would limit the bargaining power and freedom to exercise rights granted these titles pursuant to the NYCCBL, the City maintains that each of these titles has a strong community of interest with other Local Law 56 titles and should be placed with those titles.

Similarly, LEEBA's petition to represent TLC Inspectors should also be denied. A new bargaining unit for these titles would violate the Board's policy against proliferation. LEEBA's proposed alternative — placing these titles in a unit with Environmental Police Officers — is equally inappropriate because the Board has held that Environmental Police Officers are most appropriately placed in their own bargaining

unit because they engage in specialized law enforcement and are considered police officers under the Criminal Law Procedure. TLC Inspectors are not police officers, do not carry firearms, and do not receive training from the Police Academy. Thus, the City argues that these titles are appropriately placed in a single bargaining unit composed of all Local Law 56 titles.

Therefore, the City requests that the Board deny AC-36-07, RU-1249-05, RU-1250-05, and RU-1255-08 and grant the City's request to consolidate all of the titles affected by Local Law 56 into a single bargaining unit. In the event that the Board does not accept the City's proposal, the City urges the Board to create as few bargaining units as possible. The City takes no position as to which union would be the appropriate collecting bargaining representative for any newly-formed unit.

CWA's Position

CWA requests that the Board deny the City's petition. CWA currently represents TEA Levels I and II and SEAs in one bargaining unit and ATEAs and ASEAs in a second unit. It argues that the consolidation of TEAs and SEAs, along with 24 other Local Law 56 titles, into one unit would destroy any community of interest and deprive the employees of any meaningful collective bargaining representation at the unit level. Instead, CWA asserts that its current unit should not be disturbed because the current titles maintain a strong community of interest and the current unit assures its members the fullest freedom in the exercise of the members' rights.

In the event that the Board grants the City's petition, CWA proposes that the City's petition be modified to accrete TEA Levels III and IV and PCS titles to its Cert. No. 25-74 and APCS to its Cert. No. 26-74. (CWA Brief Figure 2) CWA acknowledges

that TEAs III, TEAs IV, PCSs, and APCSs cannot remain in their present units because those units include titles subject to the Citywide Agreement. CWA argues that prior Board decisions have recognized the similarities between TEAs I, II, and III. Although the Board separated TEA IIIs from the other levels in 1990 because TEA III was found to be most similar to Motor Vehicle Operators, TEA IIIs and IVs are no longer covered by the Citywide Agreement and cannot properly remain in that unit. Board policy favors consolidation where, as here, employees engage in closely related occupations and have a community of interest. Therefore, the four levels of the TEA title should not be fragmented into two units, as DC 37 proposes.

Similarly, CWA recommends that the PCS title be accreted to its Cert. No. 25-74 and APCS be added to Cert. No. 26-74 because they are all essentially traffic agents and share a community of interest. All employees in these titles are employed in the same division of the NYPD, share similar job duties, take the same Civil Service examination, possess the same skills, train together, wear the same uniform, and are supervised by the same titles. Therefore, CWA requests that the Board deny the City's petition in its entirety, or in the alternative, modify that petition to incorporate CWA's proposals.

DC 37's Position

DC 37 requests that the Board deny the City's petition and create two new bargaining units. Specifically, DC 37 seeks (1) to remove the titles UPR and AUPR from their current unit and create a separate unit for these titles and (2) to remove TEA Levels III and IV from their current unit and create a separate unit for these titles. In the alternative, DC 37 proposes that the Board create a unit to represent the titles TEA III, TEA IV, UPR, and AUPR.

DC 37 argues that the purposes of the NYCCBL are best served by the creation of two new bargaining units as described above. The creation of two units comports with the NYCCBL's policy of creating new bargaining units where, as here, extraordinary circumstances have changed the level of bargaining for affected titles within existing bargaining units. For example, Fire Alarm Dispatcher, another title in the uniformed level of bargaining, has a separate bargaining unit.

DC 37 contends that the City's proposed single bargaining unit for all Local Law 56 titles is not appropriate. First, contrary to the City's bargaining unit proliferation concerns, only two bargaining units contain titles that participate in different levels of bargaining. Further, no other union has asked for a new unit, therefore only two new units have been requested or are necessary.

Second, the City's claim that Local Law 56 titles share a community of interest lacks merit. Indeed, no community of interest exists among the 26 titles. The titles perform unique functions in various agencies and do not share common goals, working conditions, or salary structure. The City's reliance on Local Law 56 as evidence that all the included titles share a community of interest is unsupported. Further, the City has failed to explain why it is appropriate for some titles, such as Fire Alarm Dispatchers, to have their own bargaining unit, but Park Rangers and TEAs should not have separate units. These small units demonstrate that the City's proposal to group all Local Law 56 titles into one unit is arbitrary. Likewise, although all the Local Law 56 titles may support public health and safety, many other titles subject to the Citywide Agreement also support public health and safety and have separate bargaining units. Thus, this broad generalization of duties does not establish a community of interest or warrant

consolidation. Similarly, TEA Levels III and IV, UPRs, and AUPRs may share some community of interest, such as coverage under the same benefit funds. However, this fact alone is insufficient to find that one bargaining unit is appropriate. The Board has previously acknowledged that separate bargaining units are appropriate even where some community of interest factors are present. Specifically, the Board approved the division of the TEA title into two separate units based on bargaining history and because TEA IIIs had unique towing duties and license requirements.

Moreover, DC 37 asserts that the City's petition to create a monolithic bargaining unit of Local Law 56 titles would deprive employees of bargaining rights granted by Local Law 56, undermine the policies of the NYCCBL, and sever labor relations. A single unit would deny employees the fullest freedom to be members of a separate unit, deny employees representation by the union that they have chosen, and force them into a large bargaining unit where their issues and concerns may be undermined by other titles. It would likewise destroy the long-standing bargaining relationships that have existed for decades. In that manner, the City's proposal contradicts the legislative intent of Local Law 56. The law was drafted to permit "the unions . . . to collectively bargain with the City directly, rather than part of a larger group." (DC 37 Brief at 30 (citing the City Council's March 29, 2005 Civil Service and Labor Committee Report)). The legislature's plural use of the word "unions" suggests that it envisioned granting existing bargaining representatives the ability to bargain directly with the City, and in no way suggests the creation of a single bargaining unit.

Therefore, DC 37 requests that the Board dismiss the City's petition and grant DC 37's petitions to create two new bargaining units: one for TEA Levels III and IV, and one for UPRs and AUPRs.

Local 2507's Position

Local 2507 requests that the Board deny the City's petition and grant its own petition to accrete the titles FPI and AFPI to the existing unit of EMTs and Paramedics.

Local 2507 argues that the factors set forth in the OCB Rules militate against creating a single bargaining unit as proposed by the City. First, placement of FPI titles in a unit with more than two dozen other titles that perform different work for different agencies would submerge the FPIs' interests. This would hinder FPIs ability to negotiate, deny them the freedom to choose a representative, and revert them back to a situation in which they belong to a unit whose members are not exclusive to the FDNY. Likewise, labor negotiations will be less efficient if a single unit is required to negotiate on behalf of 26 titles, each of which has unique interests and bargaining histories. Further, the lack of a community of interest among the Local Law 56 titles weighs against consolidation. Of the 26 titles, FPIs are the only title employed by the FDNY. FPIs possess different skills, have specialized training, have different terms and conditions of employment, and do not share lines of promotion or departmental supervision with any of the other titles. Local 2507 argues that the City's claim that the 26 titles share a community of interest because they all contribute to public health and safety is belied by the testimony elicited during the hearing, which demonstrates that the titles are employed by various agencies and perform vastly different tasks under different working conditions and using different skill sets. Likewise, the City's proposal undermines the legislative intent of Local Law

56 to provide titles greater autonomy to negotiate with the City than they had under the Citywide Agreement.

Instead, Local 2507 contends that the FPI titles should be accreted to the EMS unit. Placement of the FPI titles within the EMS unit will ensure the FPIs the fullest freedom to exercise their rights under the NYCCBL and further the efficient operation of public service and sound labor relations. Accreting the FPI titles to the EMS unit would enable the FDNY to bargain with one unit composed of titles that share the same managerial hierarchy instead of two separate units. Placing FPI titles in the EMS unit will also maintain the units' bargaining history as members of DC 37 and preserve the relationships established by Local 2507 representatives and FDNY personnel. The consolidation would respect the FPI titles' choice of union representative and comply with the Board's policy against proliferation. Further, these titles share a community of interest. For example, the titles share several terms of employment, are bound by the FDNY's personnel rules and regulations, receive training from the same facility, and are included in the same FDNY organizational structure.

Accordingly, Local 2507 requests that the Board deny the City's petition and grant Local 2507's petition to accrete FPIs to the EMS bargaining unit.

OSA's Position

OSA seeks that the OSA School Security/Traffic bargaining unit remain intact and requests that the Board deny the City's petition to consolidate Local Law 56 titles.

OSA contends that the City has failed to show any change in circumstance that would justify the Board altering the School Security/Traffic bargaining unit. Since the enactment of Local Law 56, the job tasks and the structure of the ASSM, ASSS, and

A TEA work units has remained the same, and the City has presented no evidence of any difficulty in bargaining with the School Security/Traffic unit. Where, as here, there is no proof that the pre-existing unit is no longer appropriate, Board policy weighs against disrupting an existing bargaining unit. To do so would limit the affected titles' freedom of choice to maintain OSA as their bargaining representative. Thus, the OSA School Security/Traffic bargaining unit should not be disturbed.

Further, OSA argues that the OSA School Security/Traffic bargaining unit is the only appropriate bargaining unit for employees in the ASSM, ASSS, and ATEA titles. The three titles share a community of interest that does not exist with the other titles involved in the instant proceeding. ASSMs, ASSSs, and ATEAs work in office environments and perform work that is administrative and supervisory in nature. They do not interact with the public at large or regularly work in the field. OSA also has a unique bargaining history that supports leaving the unit intact.

OSA also asserts that the City's proposed bargaining unit should be denied. One unit of all Local Law 56 titles would smother the legitimate interest of employees who embrace a broad spectrum of occupations and skills by depriving them of meaningful representation. The titles covered by Local Law 56 do not share a community of interest: the wide range of titles are employed by different agencies and perform different job duties. In particular, employees in the School Security/Traffic titles wear different uniforms, receive different training, perform different duties, work in different environments, and interact with a different population than other Local Law 56 titles. Although the City asserts that its concern over the proliferation of bargaining units warrants the creation of a single bargaining unit, this argument does not apply to OSA.

Indeed, Local Law 56 has created few mixed bargaining units. Nevertheless this does not justify the creation of a single bargaining unit composed of all Local Law 56 titles. Therefore, the City's petition should be denied and the OSA School Security/Traffic bargaining unit should not be disturbed.

UFT's Position

UFT argues that its School Supervisors' unit should not be disrupted because the unit remains appropriate. UFT asserts that the School Supervisors' unit maintains the same community of interest, the same duties, and the same terms and conditions of employment as it did prior to the enactment of Local Law 56. Local Law 56 resulted in only a minor change to the nature of bargaining in that UFT and the City will bargain a slightly broader scope of terms and conditions. UFT asserts that the import of this change is further minimized by the fact that UFT and the City have been bargaining for variations from the Citywide agreement pursuant to NYCCBL § 12-307(a)(2).

Without a showing that the unit is inappropriate, the Board cannot consider the City's petition. The UFT unit contains only a single title and therefore remains appropriate and unaffected by the City's claim that mixed units must be split. Nor is there any other evidence that the unit is no longer appropriate or that a conflict of interests or lack of cohesion exists among the membership. Therefore, because the unit remains appropriate, the unit should not be disrupted and the City's petition should be dismissed.

However, should the Board consider the City's petition, UFT asserts that a single bargaining unit is inappropriate. The interests of the Local Law 56 titles are too disparate to bargain as one group cohesively. All Local Law 56 titles, including School Security

Supervisors, would lose valuable bargaining rights as well as the ability to be represented by the bargaining representative of their choosing. Further, School Supervisors do not share a community of interest with Local Law 56 titles such as UPRs, SEAs, and FPIs. These disparate interests would hinder all the titles' ability to bargain. Although all titles promote public safety, they operate in different environments, perform different duties, have different workflow patterns, complete different training, are subject to different codes of conduct, are supervised by different people, and have different benefit plans. Further, the creation of a single unit would deprive employees of the benefits provided by UFT's welfare fund and would burden the fund because "new members would be joining without attendant reserves." (UFT Brief at 23)

Moreover, UFT argues that the City's rationale for one bargaining unit lacks merit. First, UFT argues that the City's proposal overstates the issue of proliferation. Local Law 56 has resulted in only two units having a mix of titles covered and not covered by the Citywide Agreement. The UFT unit is not one of these two units. The existence of two units that are no longer appropriate does not require the disruption of other appropriate units. Second, the City's petition exaggerates Local Law 56's impact on bargaining additional terms. UFT asserts that it has always negotiated a variety of terms and conditions with the City on a unit basis. Third, there is no support for the City's argument that the grouping of titles into Local Law 56 indicates that the titles share a community of interest. Although the City Council stated that each of the Local Law 56 titles were similar to the uniformed forces, it made no specific findings as to what, if any, similarities the titles had to one another.

Therefore, UFT requests that the Board dismiss the City's petition and order that the School Security Supervisors Unit continue to exist as a separate unit represented by UFT.

Local 237's Position

Local 237 argues that the City's petition should be denied and Local 237's bargaining unit should not be disrupted. In the alternative, Local 237 proposes that the Board certify a separate bargaining unit for Local 237 covering the Local Law 56 titles it currently represents.

First, Local 237 reasserts its argument that the City's petition should be dismissed for failure to state a claim. Local 237 argues that the City failed to present evidence in its petition, in its Memorandum of Law, or in the hearings that a question regarding the representation of titles at issue exists or that the City has a good faith doubt concerning the continued majority status of a certified union. To the contrary, the City concedes, and the hearings establish, that each title is currently represented by an exclusive bargaining representative. Further, Local 237 contends that the City's petition is barred by the contract bar rule because it was filed after the collective bargaining agreement had expired and before the appropriate window period for the successor agreement.²⁴

In response to the City's petition, Local 237 argues that unit consolidation is not required. Local 237 adopts the arguments made by DC 37 regarding unit fragmentation and contends that any such action only applies to mixed units. Thus, at most, Local Law 56 would result in the creation of two new units. The consolidation of all 26 titles into a

²⁴ This Board found the City's petition timely in its Interim Decision and Order, *DC 37*, 2 OCB2d 14 (BOC 2009). "We find that there are unusual and extraordinary circumstances that warrant processing this petition even though it would otherwise be barred by the contract bar rule." *Id.* at 24. We will not revisit this issue in this final order, but rely upon the analysis and conclusion stated in our prior decision.

single bargaining unit is unnecessary and would be disruptive. Local 237 adopts DC 37's arguments that the legislative history of Local Law 56 does not support the conclusion that all Local Law 56 titles should be in one unit.

Local 237 maintains that its existing bargaining unit is appropriate and should remain intact. Local 237 argues that its members share a community of interest that has been recognized in multiple representation proceedings over the course of 30 years. This community of interest includes both Local Law 56 titles and other represented titles. Local 237 argues that TLC Inspectors, PCSs, and APCSs are all part of the Public Health and Safety Inspectional Occupational Group and should remain in the same unit. All titles in this unit also have similar job duties, police powers, and special patrolman status; receive similar training; wear similar uniforms; earn similar wage rates; and have their own promotional lines. Notably, PCSs and APCSs, like other unit titles, respond to incidents while on and off duty, detain individuals, effectuate arrests, and confiscate and voucher property. Further, maintaining the existing bargaining unit ensures the members at issue the fullest freedom to exercise their rights because the unit's size enables the members to be heard. Maintaining the unit also respects the members' selection of Local 237 as their bargaining representative and allows the members to benefit from the bargaining history and the relationships they have already formed with their units and union representatives. Severing these long-term relationships would impede labor relations. Pursuant to Board policy, absent a showing that the existing bargaining unit must be changed, a unit should not be changed, especially where, as here, there is no evidence that altering the bargaining unit would have a positive effect.

Local 237 also argues that no other Local Law 56 title should be added to its unit. TEAs, specifically, should not be added to the unit because they have different promotional lines and wages rates and perform different duties including directing traffic, towing vehicles, and working in traffic intelligence. Further, although TEA IIIs and TEA IVs have special patrolman status, unlike PCSs and APCSs, they do not exercise these powers.

Last, Local 237 argues that the Board should not have granted LEEBA's motion to intervene and restates its objection that LEEBA lacks standing and is not a party in interest. Moreover, in light of the evidentiary record, LEEBA's petition should be denied, and LEEBA should be dismissed from this proceeding because it failed to appear and failed to present any evidence regarding the appropriateness of a separate bargaining unit for TLC Inspectors.

LEEBA's Position

LEEBA opposes the City's petition and argues that TLC Inspectors affected by Local Law 56 are entitled to a representation election. LEEBA argues that the TLC Inspectors' current bargaining unit is improper because a majority of employees in the unit perform clerical, not law enforcement, functions. Local Law 56 mandates that the affected employees be represented by a union that negotiates exclusively for law enforcement employees. Accordingly, LEEBA seeks to represent these employees.

Further, LEEBA asserts that the Office of Collective Bargaining has unlawfully postponed and, accordingly, denied consideration to LEEBA's petition for representation of TLC Inspectors. LEEBA contends that despite demonstrating a sufficient showing of interest and timely filing its petition, OCB has failed to conduct a hearing, make a fact

finding decision, or conduct a representation election, as required by the NYCCBL. LEEBA asserts that OCB has shown prejudice against LEEBA and against TLC employees who signed LEEBA's petition. LEEBA requests legal and equitable relief as the Board deems fair and reasonable.

DISCUSSION

The issues in this matter concern whether several existing bargaining units remain appropriate based on the placement of unit titles in new levels of bargaining by Local Law 56. NYCCBL §12-309(b)(1) provides that the Board has the duty "to make final determinations of the units appropriate for purposes of collective bargaining." This duty "entails a duty to monitor and reexamine on a continuing basis all existing bargaining units with a view to promoting efficient operation of the public service and sound labor relations." *DC 37*, 14 OCB 68, at 3 (BOC 1974). The Court of Appeals affirmed the Board's exercise of this broad statutory authority and affirmed the Board's findings of appropriate units that are different from those sought by the parties. *See Civ. Serv. Employees Assn. v. Helsby*, 25 N.Y.2d 842 (1969); *DC 37*, 16 OCB 46, at 6 (BOC 1975).

For the 26 Local Law 56 titles, the 2005 statutory amendment changed the level of bargaining in which these titles can participate from Citywide to either uniformed or to the newly articulated similar-to-uniformed level of bargaining. The NYCCBL provides that all employees subject to the Citywide level of bargaining must negotiate together as one group for certain non-economic terms such as overtime and time and leave rules. Accordingly, Citywide bargaining is conducted by the Municipal Labor Coalition ("MLC") on behalf of many bargaining units and applies to a wide-range of titles in many agencies. The uniformed level of bargaining and now the similar-to-uniformed

level of bargaining permit the enumerated employees to bargain all terms and conditions of employment on the unit level. Therefore, for the Local Law 56 titles, the 2005 amendment granted them the right to now negotiate all their terms and conditions of employment at the unit level.

The Board's process of determining appropriate bargaining units is governed by several guiding principles that are based on the history of labor relations in the City and on the collective bargaining process under the NYCCBL. First, there has been a practice of consolidating small bargaining units into large units in order to ensure effective contract negotiation. *DC 37, 2 OCB 44, at 2 (BOC 1968)*. This unit consolidation process is referred to as the Board's "non-proliferation policy." Prior to the enactment of the NYCCBL, the existence of hundreds of municipal bargaining units undermined the ability of the City and its unions to negotiate effectively. *See DC 37, 22 OCB 28, at 5 (BOC 1978); CEU, L. 237, IBT, 22 OCB 67, at 4 (BOC 1978); CEU, L.237, IBT, 22 OCB 67, at 5 (BOC 1978)*. Accordingly in order to promote the efficient operations of government and sound labor relations, between 1967 and 1978 the Board consolidated several small units into larger bargaining units and reduced the total number of bargaining units to 81. *Id.* at 4.

Second, unit consolidation was conducted gradually by the Board for over a decade and was not done from a blank slate. *See PBA-LIRR, 30 OCB 29, at 16 (BOC 1982)* (petition for separate unit of Special Officers denied); *MPBA, 56 OCB 4 (BOC 1995)*. When the NYCCBL was enacted, there were numerous pre-existing bargaining units that were preserved under the statute. NYCCBL § 12-314(c). Since that time, we have not necessarily found the same unit appropriate that would have been found

appropriate had no prior collective bargaining relationship existed. Instead, in applying the non-proliferation policy, the Board has balanced considerations of public employees' freedom of choice in designating representatives against the efficient operation of public service and sound labor relations. *See PBA-LIRR*, 30 OCB 29, at 17. We have emphasized preserving existing bargaining relationships between employees, their bargaining representatives, and management when consolidating separate groups of employees represented by the same union into a larger bargaining unit. *See DC 37*, 16 OCB 46 at 9 (BOC 1975). In sum, the Board's focus on consolidating units has not been so focused on non-proliferation that it ignored existing bargaining relationships.

Third, over time the Board's non-proliferation policy has not precluded the creation of new bargaining units when the Board finds circumstances warrant a separate unit. *See LEEBA*, 76 OCB 3 (BOC 2005) (finding that a separate unit of Environmental Police Officers is appropriate); *FABDA*, 22 OCB 57 (BOC 1978); *see also Doctors Assn. of the City of New York*, 12 OCB 31, at 10-11 (BOC 1973) (denying the City's request to add titles: Intern, Resident, Dental Intern, Dental Resident, and Jr. Psychiatrist to a large unit of medical and related Health Services titles, finding that these titles had unique educational and training interests that distinguished them from the other medical titles in the larger unit). PERB has similarly found circumstances that justify the fragmentation of existing units and creation of new units. *See County of Steuben*, 34 PERB ¶ 3023 (2001) (fragmentation not appropriate where no compelling circumstances such as inadequate representation or intra-unit conflicts); *City of Amsterdam*, 10 PERB ¶ 3031 (1977) (separating police from a unit of all public safety department employees, including firefighters, found appropriate because the two groups are fundamentally

different, there is a history of separate units for these two groups in the public sector, and administrative convenience to the city).

Finally, here the most pertinent principle from OCB's history of bargaining units concerns the bargaining unit placement of members of the uniformed forces. Historically, the Board has not placed members of the uniformed forces in the same bargaining unit as non-members because the scope of bargaining for these employees is governed by different sections of the NYCCBL. Originally, the uniformed level of bargaining expressly applied to only a few titles that were in the uniformed fire, police, corrections, and sanitation services.²⁵ The bargaining units representing these uniformed service employees are small and are often composed of only one or a few titles.²⁶ This section of the law remained unchanged until 2001 when titles were added to the uniformed level of bargaining: Fire Alarm Dispatchers (Local Law 18, eff. April 25, 2001) and Emergency Medical Services ("EMS") titles (Local Law 19, eff. April 25,

²⁵ At the Citywide level of bargaining, the unit structure and bargaining history is significantly different than at the uniformed level. For employees who participate in Citywide bargaining, the bargaining units are generally large and contain multiple titles in similar occupational groups.

²⁶ Titles in some of the bargaining units in the police service are: Cert. No. 54-68: Police Officer; Cert. No. 5 NYCDL #78: Lieutenant; Cert. No. 5 NYCDL #85 Sergeant; Cert. No. 5 NYCDL #77: Detective; Cert. No. 5 NYCDL #122: Captain, Surgeon, and Police Surgeon. Titles in some fire service bargaining units are: Cert. No. 1 NYCDL #2: Firefighter, Fire Marshall; Cert. No. 1 NYCDL #24: Lieutenant, Captain, Battalion Chief, Deputy Chief, Fire Medical Officer and Supervising Fire Marshall. Titles in the some of the bargaining units of the corrections service are: Cert. No. CWR-63/67: Correction Officer. Some of the titles in the sanitation service bargaining units are: Cert. No. 1 NYCDL #1: Sanitation Worker; Cert. No. 21-68: Supervisor (Sanitation) and General Superintendent (Sanitation) Level I; Cert. No. 4-2000: General Superintendent (Sanitation) Levels II and III.

2001).²⁷ At the time of that amendment, the EMS titles were in a bargaining unit with other titles that participated in Citywide bargaining. As a result, in *DC 37, 72 OCB 1*, at 7, we held that EMS titles added by local law to the uniformed level of bargaining were no longer appropriately included in a unit that includes titles in the Citywide level of bargaining “[g]iven that the statutory amendment now allows the petitioned-for employees the right to bargain independently.” *See also DC 37, 22 OCB 22* (BOC 1978) (civilian titles at the Police Department are not appropriately placed in a unit with uniformed police because under the NYCCBL police can negotiate separate from non-uniformed employees); *UFOA, L 854, IAFF*, 8 OCB 20 (1971) (request to add Chaplains to unit of Fire Officers was rejected because they are not members of the uniformed fire service); *Sanitation Medical Officers Assn.*, 8 OCB 25 (BOC 1971) (employees in Medical Officer titles were not members of the uniformed service and therefore not appropriately included in a unit of Sanitation Officers).

The changes to the levels of bargaining for certain Local Law 56 titles, and our policy against combining uniformed and non-uniformed service members in the same bargaining unit, now require that we remove some of the Local Law 56 titles from their existing bargaining units. The existing bargaining units that contain these titles are inappropriate because as a result of Local Law 56, these units now contain titles that are in the Citywide level of bargaining as well as titles that are in either the uniformed and/or similar-to-uniformed levels of bargaining. Accordingly, we amend Cert. No. 26-78 to remove the FPI and AFPI titles, amend Cert. No. 46L-75 to remove the titles TEAs Level

²⁷ The Fire Alarm Dispatchers unit, which was created prior to the 2001 statutory amendment, only contained two titles in the same uniformed service and remained unchanged after the amendment. *See FABDA, 22 OCB 57* (BOC 1978).

III and IV, amend Cert. Nos. 38A-78 and 38B-78 to remove the UPR and AUPR titles and amend Cert. No. 67-78 to remove employees in the titles SSA, TLI, ATLI, PCS, and APCS, and Special Officers employed at ACS/DJJ, DOHMH, DHS, and HRA.

The remaining issues raised by the petitions concern the unit placement of the titles that have been removed from the existing bargaining units and whether this impacts on the configuration of the other pre-existing units that contain Local Law 56 titles. This is an inquiry that the Board has not often undertaken and differs substantially from the initial creation of bargaining units or the addition of new titles to existing bargaining units. When creating new bargaining units, the Board must consider the following unit placement factors:

1. Which unit will assure public employees the fullest freedom in the exercise of the rights granted under the statute and the applicable executive order;
2. The community of interest of the employees;
 - a. the job duties and responsibilities of the employees;
 - b. their qualifications, skills and training;
 - c. interchange and contact;
 - d. wage rates;
 - e. lines of promotion;
 - f. organization or supervision of the department, office or other subdivision.
3. The history of collective bargaining in the unit, among other employees of the public employer, and in similar public employment;
4. The effect of the unit on the efficient operation of the public service and sound labor relations;

5. Whether the officials of government at the level of the unit have the power to agree or make effective recommendations to other administrative authority or the legislative body with respect to the terms and conditions of employment which are the subject of collective bargaining;

6. Whether the unit is consistent with the decisions and policies of the Board.

Section 1-02(k) of the Rules of the Office of Collective Bargaining (Rules of the City of New York, Title 61, Chapter 1) (“OCB Rules”).

Here, we must consider these factors, but also harmonize or balance them with this Board’s long-standing policy against the proliferation of bargaining units. *See, e.g., Dist. 1199, Nat’l Union of Hospital and Health Care Employees*, 22 OCB 66, at 6 (BOC 1978). In reaching our conclusions, we note that in this instance there were potentially several unit placements for the affected Local Law 56 titles that fit many of the criteria for appropriate unit placement. The Board’s mandate is to determine an appropriate unit, giving due consideration to all applicable factors and law. In exercising this authority, the Board has amended existing bargaining units to the extent that the titles included share a very strong community of interest, while endeavoring to limit the number of new bargaining units created. The express intention of Local Law 56 was only to modify bargaining rights; it was not necessarily to disturb existing bargaining relationships. Accordingly, we have been mindful of the titles’ collective bargaining history and have attempted to create as little disruption as possible to the existing bargaining relationships. Our conclusions are based on the very unique facts of this case.

Preliminarily, we do not find it appropriate to remove all the Local Law 56 titles from their existing bargaining units and place them in a single new bargaining unit. Although one large unit may be consistent with the Board’s non-proliferation policy and

would simplify bargaining by only requiring the negotiation of one agreement, under the circumstances we do not find that such a unit is warranted or appropriate. First, the Board does not find a substantial basis upon which to disturb several of the existing bargaining units that contain only one or a few Local Law 56 titles that are all subject to the uniformed or similar-to-uniformed level of bargaining. For example, the Deputy Sheriffs' unit remains appropriate inasmuch as it contains only titles that are subject to the similar-to-uniformed level of bargaining. When the Board created this unit, it was relatively small and contained only one or a small number of titles, and there has now been a substantial history of bargaining in this small unit. Local Law 56 has not changed any of these factors. Accordingly, we see no reason to disrupt this long and unique bargaining history.

Second, although we acknowledge that all the Local Law 56 titles engage in safety, security and/or code or law enforcement duties, they do not all share the same qualifications, training, or interchange/contact. Many do not share the same wage rates or pay structures, lines of promotion, organizational structures, or supervision. Further, most of the titles at issue have engaged in some level of unique bargaining on a unit level for a number of years. Therefore, the efficiency gained by the City's ability to negotiate one agreement for all 26 titles may well be undermined, if not negated, by the complexity of harmonizing a vast array of disparate terms and conditions of employment for such a large group of employees.

Finally, it is not clear from Local Law 56 or its legislative history what significance there may be to the bargaining process for titles included in the uniformed

level of bargaining versus inclusion in the similar-to-uniformed level of bargaining.²⁸ Nevertheless, since the NYCCBL explicitly provides these two levels, this Board has been mindful of this distinction and has endeavored to keep titles in different levels of bargaining in units with employees in the same level of bargaining when practicable. Therefore, based on all the factors noted, we do not find that one large unit of all Local Law 56 titles is appropriate. Accordingly, the petition in RE-178-07 is dismissed. We turn now to the unit placement issues for Local Law 56 titles in the uniformed level of bargaining.

Uniformed Level of Bargaining

Fire Protection Inspectors

The petition filed concerning employees in the FPI and AFPI titles seeks to add them to an existing bargaining unit that contains EMS titles, which are also included in the uniformed level of bargaining. The FPI and AFPI titles and the EMS titles are all employed at the Fire Department, are all designated as part of the uniformed service, and are eligible to participate in the uniformed level of bargaining. Further, they are both represented by DC 37 and are currently covered by many of the same Fire Department rules, procedures, and working conditions. Although these two title series have distinct duties and responsibilities, skills, training, and direct supervision, DC 37 has been their only collective bargaining representative, and there is no evidence to suggest that the interests of employees in both title series cannot be represented in one unit. Therefore, the inclusion of the Fire Protection Inspectors in the EMS unit would not disturb the employee's chosen collective bargaining representative, compromise their bargaining

²⁸ It is clear from the statute that the titles included in the uniformed level of bargaining are part of the "uniformed service." This is distinctive from titles included in the similar-to-uniformed level of bargaining that are not titles considered within a uniformed service.

rights, or increase the overall number of bargaining units. Since the Fire Protection Inspector and EMS titles share an employing agency and are already subject to many of the same agency rules and terms of conditions of employment, the effect on the operation of the public service and labor relations of combining these titles into one bargaining unit should be minimal relative to inclusion of the Fire Protection Inspector titles in a larger unit or establishing a new unit for just one title series.

Accordingly, we find that the accretion requested, adding the Fire Protection Inspector titles to the EMS bargaining unit, is appropriate. In reaching this conclusion, we note that the City may be correct that the FPI and AFPIs inspection duties may be more similar to inspection duties performed by Taxi and Limousine Inspectors. Nevertheless, we find that the other criteria described above are significant and that inclusion of the Fire Protection Inspectors in the EMS unit will result in less disruption to bargaining process than any other asserted option. Further, the inclusion of the Fire Protection Inspectors in the EMS bargaining unit does not disrupt any other existing bargaining unit and does not increase the total number of units for which the City must bargain. Therefore, we grant DC 37's petition in AC-36-07 and accrete the FPI and APFI titles to DC 37's Cert. No. 4-2003. Since both the Fire Protection Inspector titles and the EMS titles are represented by DC 37, the accretion of the Fire Protection Inspectors to the EMS unit does not raise a question concerning representation, and DC 37 will continue as the certified bargaining representative of that unit.

Traffic Enforcement and Sanitation Enforcement Titles

Next, we address the issue of unit placement of TEA Levels III and IV, which we removed from Cert. No. 46L-75. DC 37's petition in RU-1250-05 seeks to create a new

bargaining unit containing only employees in the higher two levels of this title. To create an entirely separate bargaining unit for just these 300 employees is not warranted in light of the fact that there are other employees in the same title and occupational group who are in the same level of bargaining in another bargaining unit. Accordingly, for the reasons described below, DC 37's request to create a new separate bargaining unit containing the TEA Levels III and IV is denied. As explained below, we find it appropriate to combine TEA Levels I and II, ATEA, and Parking Control Specialist titles with TEA Levels III and IVs, to form one unit containing all the traffic enforcement titles ("Traffic Enforcement unit").

The reconfiguration of these titles into one bargaining unit containing all the Traffic Enforcement titles will afford the employees the fullest freedom in exercising their bargaining rights granted under the amended statute. The historical separation of the levels of the TEA title was primarily based on the finding that TEA Level IIIs shared a greater community of interest with all other motor vehicle operator titles than they did with TEA Level I and IIs. *See CWA, 30 OCB 1 (BOC 1982)*. Although, this rationale made sense in 1991 in the context of placement of two levels of one title, under the circumstances here, it is no longer reasonable to keep levels of the same title in separate bargaining units.

All four levels of the TEA title and the ATEA title share a community of interest in that they are all employed in the traffic enforcement bureau of the NYPD, they have interchange/contact, share lines of promotion, a common organizational structure, and some common supervision. Further, all four levels of the TEA title and ATEA have been added to the uniformed police service in the uniformed level of bargaining. While Levels

I and II and Levels III and IV have been in separate units with different bargaining representatives for over 20 years, this separation commenced with the creation of TEA Level III, motor vehicle operators who were assigned to a special unit at DOT. Since that time the traffic enforcement operation was transferred to NYPD, where it has remained for over 15 years. Now, there is considerable overlap among the duties of the various TEA Levels and their supervision that no longer justifies a separation within the title series. Additionally, we note that to grant TEA Levels III and IVs a separate bargaining unit as requested would unnecessarily increase the number of bargaining units. Therefore, based on the community of interest within the traffic enforcement occupational group, we conclude that the City, the employees, and bargaining process will benefit from consolidation of all the traffic enforcement titles into one unit. *See Local 300, SEIU*, 6 OCB12 (BOC 1970), *aff'd*, *Penta v. Anderson*, N.Y.L.J., Mar. 9, 1971 at 2 (Sup. Ct. N.Y. Co.) (consolidation of occupationally related titles in one bargaining unit, wherever possible, ‘is essential to the effectuation of the purposes and policies of the Statute and the proper functioning of the collective bargaining process.’”).

Because we find that a unit separation in the traffic enforcement titles is no longer appropriate, we also reconfigure CWA’s Cert Nos. 25-74 and 26-74, which contains traffic enforcement and sanitation enforcement subordinate and supervisory titles. We are breaking up the existing CWA represented units in order to segregate titles based on the uniformed service to which the titles belong: the sanitation service titles will be placed in one unit, and the traffic enforcement titles in the police service will be part of the new Traffic Enforcement unit.²⁹ Although the combination of the traffic and

²⁹ We note that in reaching the conclusion that separate traffic enforcement and sanitation enforcement units are appropriate, the total number of bargaining units is not increased.

sanitation titles in the CWA represented units may not have been unusual when these titles participated in Citywide bargaining, there is no precedent in the uniformed level of bargaining to have units containing titles in different uniformed services. Historically, CWA has bargained for the two units containing traffic enforcement and sanitation titles jointly. Therefore, the combination of the uniformed sanitation service titles into one unit will preserve not only the community of interest within this occupational group but also will preserve the history of bargaining for these titles and their bargaining representative. In reaching this conclusion, we also note that there has been no objection to the combination of supervisory and non-supervisory titles by virtue of the City's petition that seeks one unit of all supervisory and non-supervisory Local Law 56 titles. Accordingly, the Board finds that a unit containing the SEA and ASEA titles, all designated as part of the uniformed sanitation service is appropriate ("Sanitation Enforcement unit"). CWA is the certified bargaining representative of all the titles in this unit. Therefore, the Sanitation Enforcement unit does not raise any question concerning the continuing majority status of that union, and CWA will remain the certified bargaining representative of the unit.

Unlike the traffic enforcement titles represented by CWA, we do not find that the Admin TEA title should be fragmented from the OSA bargaining unit and combined with the other titles in the Traffic Enforcement unit. The inclusion of the Admin TEA title with the other traffic enforcement titles would have been appropriate if we were operating from a blank slate, but we are not. Instead, there must be a compelling reason to support the unit disruption and the consequent disruption to bargaining. The OSA-

Following the removal of the traffic enforcement titles, Associate Sanitation Enforcement Agent is added to Sanitation Enforcement Agent in Cert. No. 25-74, and the now vacant Cert. No. 26-74 is terminated.

represented unit contains only titles in the police service and in the uniformed level of bargaining, and therefore it is still an appropriate unit after Local Law 56. Our combining of the lowest levels of this occupational group does not justify disturbing this appropriate bargaining unit. Accordingly, we make no changes to Cert. No. 9-2001, represented by OSA.

However, we find appropriate that the PCS and APCS titles should be added to the Traffic Enforcement unit containing the TEA and ATEA titles. The record shows a very strong community of interest between the PCS and APCS titles and the TEA and ATEA titles. In fact, the duties/responsibilities, skills and training, interchange/contact, lines of promotion, organizational structure, and supervision for both groups of titles is identical. For all purposes, it appears that the NYPD uses the PCS and APCS titles interchangeably with the TEA and ATEA titles. Accordingly, the community of interest factors weigh very strongly in favor of combining the TEA titles and the PCS and APCS titles into one traffic enforcement bargaining unit.

In reaching this conclusion, we recognize that we are including similar-to-uniformed titles in a unit with uniformed titles. However, in this instance we find this warranted mainly due to the undisputed evidence that employees in the PCS and APCS titles are used interchangeably with employees in the TEA and ATEA titles. Further, there are only 40 employees in the parking control titles, and there have been no new employees hired into this title in over 15 years. Under the Local Law 56 amendments, both the TEA titles and the PCS and APCS titles have the ability to negotiate all terms and conditions of employment on a unit level. Therefore, the fact that the parking control titles are not designated part of the uniformed police service like the TEA titles does not

undermine their ability to negotiate terms of conditions of employment within the Traffic Enforcement unit. Although the PCS and APCS titles have been in Local 237's bargaining unit for many years, we believe that including them in the Traffic Enforcement unit with other employees who are employed at the same agency and perform the same functions will be more efficient for both the City and the employees in collective bargaining and outweighs any disruptive effect caused by their removal from Local 237's unit.

In sum, based on their common ability to negotiate terms at the unit level as well as common duties and responsibilities, skills, training, interchange, and supervision, it is simply most efficient to have one unit of all the titles performing traffic enforcement duties. Despite the lengthy histories of separate collective bargaining, the NYPD's current interchangeable use of the TEA and parking control titles and the Board's non-proliferation policy makes a separate unit of parking control titles unjustifiable and one bargaining unit for all traffic enforcement titles appropriate. The new Traffic Enforcement unit, which contains the TEA, ATEA, and parking control titles, now contains titles represented by three different unions: DC 37, CWA, and Local 237. Therefore, the creation of this unit creates a question concerning representation that must be resolved. Assuming that more than one of these three unions expresses an interest in representing all the titles in the new unit, we will hold an election to determine which union the employees desire as a collective bargaining representative.

School Safety Agents

We find that creation of a new bargaining unit solely for the SSAs is appropriate and consistent with our precedent. Under Local Law 56, the SSAs were added to the

uniformed police service. Creation of a new bargaining unit for the SSAs is consistent with our history of single title or title series units within the uniformed level of bargaining. Further, it provides the least amount of disruption to the employees and to the labor management relationship inasmuch as the relationship between the current bargaining representative, L. 237, and the City is preserved. Although, creation of a new unit for the SSAs will increase the number of total bargaining units, we do not find another unit placement that is more appropriate. Moreover, as noted earlier, we are not creating bargaining units from a blank slate. Here, we are constrained by Local Law 56 to revise the existing units to accommodate certain titles' new bargaining rights.

Further, we do not combine the SSA title with the other Local Law 56 titles represented by Local 237, which were added to the similar-to-uniformed level of bargaining, namely the Taxi and Limousine Inspector titles and Special Officers at certain agencies. SSAs have been designated part of the uniformed police service while the other Local 237 represented titles have not. In addition, unlike the unique circumstances with the PCS and APCS titles, the duties of the SSAs, Taxi and Limousine Inspector titles and Special Officer titles are not interchangeable. Therefore, we are not compelled to combine titles that are in different levels of bargaining.

Similarly, we do not find that the SSA title should be combined with the other school safety titles in the OSA and UFT bargaining units. Since, the OSA and UFT units remain appropriate units after Local Law 56, there must be a compelling reason to support their disruption and the consequent disruption to their bargaining. We find no such reason here.³⁰ We note that the existing OSA and UFT units contain only school

³⁰ We note that the OSA bargaining unit contains only the highest level of the titles in the traffic enforcement and school safety occupational groups. Further, the UFT unit has a

safety titles in the uniformed police service and therefore do not present the issue of combining different uniformed services that was found with CWA's traffic and sanitation enforcement units. Accordingly, we make no changes to Cert. No. VR-3-98, represented by the UFT, and Cert. No. 9-2001, represented by OSA.

In summary, we create a new bargaining unit containing only the SSA title. The creation of this new unit for the one title alone does not raise a question concerning representation, and therefore Local 237 will remain the certified bargaining representative of the new unit.

Similar-to-Uniformed Titles

Special Officers and Taxi and Limousine Inspectors

As stated earlier, we have removed these similar-to-uniformed titles from IBT Local 237's bargaining unit Cert No. 67-78, which contains titles in the Citywide level of bargaining. The Board finds that the TLC Inspector titles and the Special Officers employed at ACS/DJJ, DOHMH, DHS, and HRA are appropriately placed together in a new bargaining unit.³¹

The TLC Inspector and Special Officer titles are now both in the similar-to-uniformed level of bargaining and therefore share the same bargaining rights. Accordingly, consistent with our unit consolidation policies, placing the two title series in a bargaining unit together avoids an undue proliferation of bargaining units. Here, this

very unique bargaining history. Specifically, the UFT-represented school safety titles have always bargained with the UFT's teacher members. Therefore, harmonizing the terms and conditions of employment of those titles with other titles that have not bargained with pedagogues could present unique and difficult issues.

³¹ We note that Local Law 56 created an unusual split in the Special Officer title since Special Officers at the agencies specified in the amendment are in the similar-to-uniformed level of bargaining while employees in the title who do not work at the specified agencies remain in the Citywide level of bargaining.

combination also preserves the existing community of interest between these titles, as well as their bargaining history. Since these two title series have bargained together in the same unit for many years, keeping them together will be the least disruptive to labor relations. Accordingly, we find this is the most appropriate unit placement for these titles.

We are not persuaded that a separate unit of only the TLC Inspector titles is appropriate. Local Law 56 did not mandate that every title would get its own bargaining unit. Instead, the mandate of the amendment was only to modify the bargaining rights of certain titles. It was left within this Board's jurisdiction to determine the unit placement of the affected titles. Further, no evidence was presented to substantiate any need for the TLC Inspector titles to be in a separate unit. *See United Fed'n of Law Enforcement Officers*, 40 OCB 14 (BOC 1987), *aff'd*, 1990 WL 113119 (S.D.N.Y. July 30, 1990) (petition requesting separate unit of Park Rangers dismissed because insufficient evidence to show fragmentation from larger unit was appropriate). Therefore, LEEBA's request for a bargaining unit containing only the TLC Inspector titles is denied.

In filing its petition in RU-1255-08, LEEBA submitted a showing of interest for only the TLC Inspector titles. This showing of interest is not sufficient for the larger unit containing both the TLC Inspector titles and the Special Officers at ACS/DJJ, DOHMH, DHS, and HRA that the Board finds appropriate. Therefore, if LEEBA wishes to represent all the employees in this newly created unit, it must so inform the Board within 30 days of issuance of this Decision and Order and within 90 days of issuance of this Decision and Order, it must submit a current and sufficient showing of interest in order to raise a question concerning representation in the newly created unit. *See U.A. Plumbers*,

18 OCB 23, at 20 (BOC 1976) (affording an intervenor additional time “in the interest of equity and fairness” to submit a sufficient showing of interest in the unit that the Board found appropriate when that unit differed from the unit the intervenor claimed was appropriate). Creation of this new unit alone does not raise a question concerning representation, and therefore Local 237 will remain the certified bargaining representative of the new unit unless a valid question concerning representation is raised.³² See *L. 237 & 832, IBT*, 26 OCB 14, at 2 (BOC 1980) (finding no need to hold an election when the intervenor had less than a 30% interest in the overall unit); *CEU, L. 237, IBT*, 6 OCB 51, at 5 (BOC 1970) (finding that no election was required when a union had less than a 30% showing of interest in the larger unit found appropriate by the Board).

Urban Park Rangers

As a result of Local Law 56, UPRs and AUPRs are now eligible to bargain all their own terms and conditions of employment, and accordingly these titles have been removed from DC 37’s existing bargaining unit that contains other titles in the Citywide level of bargaining. For the following reasons, we grant DC 37’s request that the Park Ranger titles be placed in their own bargaining unit.

Our determination of the unit placement for these titles was based on a balancing of several of the guiding principles we have described and applied. Arguably, it would be consistent with our non-proliferation policy to include the UPRs and AUPRs in a larger bargaining unit with other titles in the similar-to-uniformed level of bargaining. If

³² A 30% showing of interest is required in order to raise a question concerning representation. See OCB Rule § 1-02(c)(2)(i). Only if the Board is already conducting an election may an intervenor appear on the ballot with a 10 % showing of interest. See OCB Rule § 1-02(n)(1); *CEU, L. 237, IBT*, 6 OCB 51, at 5.

we were starting from scratch in configuring bargaining units, this principle may well be determinative. However, in applying our policy against proliferation of bargaining units we have always been mindful of the titles' collective bargaining history as well as their chosen bargaining representative. In this instance, if we include the Park Ranger titles in a larger unit of similar-to-uniformed titles, this placement would put them with titles with which they have no history of bargaining. Overall, we do find a compelling reason to disturb the existing bargaining relationship. *Cf. United Fed'n of Law Enforcement Officers*, 40 OCB 14 (petition requesting separate unit of Park Rangers dismissed because no exceptional circumstances warranted deviation from the policy against fragmentation). The creation of one more bargaining unit will only have a minimal effect on the City's bargaining ability, and in this instance creation of a separate unit is consistent with "the efficient operation of the public service and sound labor relations." OCB Rule § 1-02(k)(4).

Therefore, in order to preserve stability in labor relations, as well as the negotiated terms and conditions of employment that the Park Ranger titles currently enjoy, we find that creation of a new bargaining unit containing the UPR and AUPR titles is appropriate. Creation of this unit does not create a question concerning representation. Therefore, DC 37 remains the certified bargaining representative of the Park Ranger titles in the new unit.

Deputy Sheriffs

As noted earlier, Cert. No. 94-73, the bargaining unit containing the Deputy Sheriff titles remains appropriate since it contains only titles that are included in the similar-to-uniformed level of bargaining. These titles have bargained in a small and

homogenous unit since the titles were created. No party to the proceeding, other than the City, requested any other unit placement for the titles. Accordingly, we find no evidence to support a change to this existing unit.

ORDER

Pursuant to the powers vested in the Board of Certification by the New York City Collective Bargaining Law, it is hereby

ORDERED, that Cert. No. 26-78 (as previously amended) be, and the same hereby is, further amended to delete the title Fire Protection Inspector (Title Code No. 31661) and Associate Fire Protection Inspector (Title Code No. 31662); and it is further

ORDERED, that Cert. No. 4-2003 (as previously amended) be, and the same hereby is, further amended to add the titles Fire Protection Inspector (Title Code No. 31661) and Associate Fire Protection Inspector (Title Code No. 31662); and it is further

ORDERED, that Cert. No. 46L-75 (as previously amended) be, and the same hereby is, further amended to delete the title Traffic Enforcement Agent Levels III and IV (Title Code Nos. 7165A and 7165B); and it is further

ORDERED, that Cert. No. 67-78 (as previously amended) be, and the same hereby is, further amended to delete the titles School Safety Agent (Title Code No. 60817), Taxi and Limousine Inspector (Title Code No. 35116), Associate Taxi and Limousine Inspector (Title Code No. 35143), Parking Control Specialist (Title Code No. 41120), Associate Parking Control Specialist (Title Code No. 41122), and Special Officers (Title Code No. 70810) and Supervising Special Officers (Title Code No. 70817) employed at ACS/DJJ, DOHMH, DHS, and HRA; and it is further

ORDERED, that Cert. No. 26-74 (as previously amended) be, and the same hereby is, further amended to delete the titles Associate Traffic Enforcement Agent (Title Code No. 71652) and Associate Sanitation Enforcement Agent (Title Code No. 71682) and; and it is further

ORDERED, that Cert. No. 26-74 (as previously amended) be, and hereby is terminated as there are no titles remaining in the unit; and it is further

ORDERED, that Cert. No. 25-74 (as previously amended) be, and the same hereby is, further amended to delete the title Traffic Enforcement Agent Levels I and II (Title Code No. 71651) and add the title Associate Sanitation Enforcement Agent (Title Code No. 71682); and it is further

ORDERED, that a separate bargaining unit is appropriate for the titles Traffic Enforcement Agent Levels I and II (Title Code No. 71651), Traffic Enforcement Agent Levels III and IV (Title Code Nos. 7165A and 7165B), Associate Traffic Enforcement Agent Title Code No. 71652), Parking Control Specialist (Title Code No. 41120), and Associate Parking Control Specialist (Title Code No. 41122); and it is further

DIRECTED, that as part of the investigation authorized by the Board, an election by secret ballot be conducted under the Board's supervision, at a date, time and place to be fixed by the Board, among the employees in the titles: Traffic Enforcement Agent Levels I, II, III, and IV (Title Code Nos. 71651, 7165A, and 7165B), Associate Traffic Enforcement Agent (Title Code No. 71652), Parking Control Specialist (Title Code No. 41120), and Associate Parking Control Specialist (Title Code No. 41122) employed by the City of New York and related public employers, to determine whether these employees wish to be represented by District Council 37, AFSCME, the Communications

Workers of America, or the International Brotherhood of Teamsters, Local 237 for the purposes of collective bargaining. Employees in the above-named titles employed during the payroll period immediately preceding this Decision and Order, other than those who have voluntarily quit, retired, or who have been discharged for cause before the date of the election, are eligible to vote; and it is further

DIRECTED, that District Council 37, AFSCME, the Communications Workers of America, or the International Brotherhood of Teamsters, Local 237 may have their organization's name removed from the ballot, in the afore-mentioned election by filing with the Board, within 14 days after service of this Decision and Order, a written request that its name be removed from the ballot; and it is further

DIRECTED, that within 14 days after service of this Decision and Order, the City will submit to the Director of Representation an accurate list of the names and addresses of all the employees in the titles: Traffic Enforcement Agent Levels I, II, III, and IV (Title Code Nos. 71651, 7165A, and 7165B), Associate Traffic Enforcement Agent (Title Code No. 71652), Parking Control Specialist (Title Code No. 41120), and Associate Parking Control Specialist (Title Code No. 41122) employed by the City of New York and related public employers and who were employed during the payroll period immediately preceding the date of this Decision and Order; and it is further

ORDERED, that a separate bargaining unit is appropriate for the title School Safety Agent (Title Code No. 60817); and it is further

CERTIFIED, that Local 237, International Brotherhood of Teamsters is the exclusive representative for purposes of collective bargaining for the unit of School Safety Agents. This unit will be referred to as Cert. No. 1-14A; and it is further

ORDERED, that a separate bargaining unit is appropriate for the titles Taxi and Limousine Inspector (Title Code No. 35116), Associate Taxi and Limousine Inspector (Title Code No. 35143), and Special Officers (Title Code No. 70810) and Supervising Special Officers (Title Code No. 70817) employed at the Administration for Children's Services, the Department of Juvenile Justice, the Department of Health and Mental Hygiene, the Department of Homeless Services, and the Human Resources Administration; and it is further

DIRECTED, that if LEEBA wishes to represent the employees in this newly created unit, it must so inform the Board within 30 days of service of this Decision and Order and within 90 days of service of this Decision and Order, it must submit a current and sufficient showing of interest in order to raise a question concerning representation in the newly created unit; and it is further

ORDERED, that Cert. No. 38B-78 be, and the same hereby is, further amended to delete the title Urban Park Ranger (Title Code No. 60421); and it is further

ORDERED, that Cert. No. 38A-78 (as previously amended) be, and the same hereby is, further amended to delete the title Associate Urban Park Ranger (Title Code No. 60422); and it is further

ORDERED, that a separate bargaining unit is appropriate for the titles Urban Park Ranger (Title Code No. 60421) and Associate Urban Park Ranger (Title Code No. 60422); and it is further

CERTIFIED, that District Council 37, AFSCME is the exclusive representative for purposes of collective bargaining for the unit of Urban Park Rangers and Associate Urban Park Rangers. This unit will be referred to as Cert. No. 1-14B.

Dated: January 10, 2014

MARLENE A. GOLD
CHAIR

GEORGE NICOLAU
MEMBER

CAROL A. WITTENBERG
MEMBER

NOTICE OF AMENDED CERTIFICATIONS

This notice acknowledges that the Board of Certification has issued a Decision and Order amending certifications as follows:

DATE: January 10, 2014 **DOCKET #:** RE-178-07, RU-1249-05,
RU-1250-05, RU-1255-08 & AC-36-07

DECISION: **7 OCB2d 1 (BOC 2014)**

EMPLOYER: City of New York, represented by the Office of Labor Relations
40 Rector Street, 4th Floor
New York, NY 10006

AMENDMENT 1: Certification No. 26-78 has been amended as follows:

Deleted: **Fire Protection Inspector (Title Code 31661) and Associate
Fire Protection Inspector (Title Code 31662)**

Certified Bargaining Representative:

District Council 37, AFSCME, AFL-CIO
125 Barclay Street
New York, NY 10007

AMENDMENT 2: Certification No. 4-2003 has been amended as follows:

Added: **Fire Protection Inspector (Title Code 31661) and Associate
Fire Protection Inspector (Title Code 31662)**

Certified Bargaining Representative:

District Council 37, AFSCME, AFL-CIO
125 Barclay Street
New York, NY 10007

AMENDMENT 3: Certification No. 46L-75 has been amended as follows:

Deleted: Traffic Enforcement Agent Levels III and IV (Title Code 71651A and B)

Certified Bargaining Representative:

District Council 37, AFSCME, AFL-CIO
125 Barclay Street
New York, NY 10007

AMENDMENT 4: Certification No. 26-74 is terminated following the deletion of all of its titles:

Deleted: Associate Traffic Enforcement Agent (Title Code 71652)
Associate Sanitation Enforcement Agent (Title Code 71682)

Certified Bargaining Representative:

Communications Workers of America
80 Pine Street, 37th Floor
New York, NY 10005

AMENDMENT 5: Certification No. 25-74 has been amended as follows:

Added: Associate Sanitation Enforcement Agent (Title Code 71682)
Deleted: Traffic Enforcement Agent Level I and II (Title Code 71651)

Unit Titles: Sanitation Enforcement Agent (Title Code No. 71681)
Associate Sanitation Enforcement Agent (Title Code 71682)

Certified Bargaining Representative:

Communications Workers of America
80 Pine Street, 37th Floor
New York, NY 10005

AMENDMENT 6: Certification No. 67-78 has been amended as follows:

Deleted: School Safety Agent (Title Code No. 60817)
Special Officer (Title Code No. 70810)*
Senior Special Officer (Title Code No. 70815)*
Supervising Special Officer (Title Code No. 70817)*
Principal Special Officer (Title Code No. 70820)*
Taxi and Limousine Inspector (Title Code No. 35116)

Supervising Taxi and Limousine Inspector (Title Code No. 35142)
Senior Taxi and Limousine Inspector (Title Code No. 35136)
Associate Taxi and Limousine Inspector (Title Code No. 35143)
Parking Control Specialist (Title Code No. 41120)
Associate Parking Control Specialist (Title Code No. 41122)

*Only those in the title employed at the Administration for Children's Services, the Department of Juvenile Justice, the Department of Health and Mental Hygiene, the Department of Homeless Services, and the Human Resources Administration.

Certified Bargaining Representative:

International Brotherhood of Teamsters, Local 237
216 West 14th Street
New York, NY 10011

AMENDMENT 7: Certification No. 38B-78 has been amended as follows:

Deleted: Urban Park Ranger (Title Code 60421)

Certified Bargaining Representative:

District Council 37, AFSCME, AFL-CIO
125 Barclay Street
New York, NY 10007

AMENDMENT 8: Certification No. 38A-78 has been amended as follows:

Deleted: Associate Urban Park Ranger (Title Code 60422)

Certified Bargaining Representative:

District Council 37, AFSCME, AFL-CIO
125 Barclay Street
New York, NY 10007

NOTICE OF CERTIFICATIONS

This notice acknowledges that the Board of Certification has issued a Decision and Order certifying representatives for three new bargaining units:

DATE: January 10, 2014 **DOCKET #:** RE-178-07, RU-1249-05,
RU-1250-05, RU-1255-08 & AC-36-07

DECISION: **7 OCB2d 1 (BOC 2014)**

EMPLOYER: City of New York, represented by the Office of Labor Relations
40 Rector Street, 4th Floor
New York, NY 10006

CERTIFICATION 1-14A:

Unit Title: **School Safety Agent (Title Code No. 60817)**

Certified Bargaining Representative:

International Brotherhood of Teamsters, Local 237
216 West 14th Street
New York, NY 10011

CERTIFICATION 1-14B:

Unit Titles: **Urban Park Ranger (Title Code 60421)**
Associate Urban Park Ranger (Title Code 60422)

Certified Bargaining Representative:

District Council 37, AFSCME, AFL-CIO
125 Barclay Street
New York, NY 10007