

Summary and Analysis of Arbitration Award

No.	Issue	City	Association	What does it mean?
1	Term		X	Four year term effective from January 1, 2006 to December 31, 2008
2	Retroactivity		X	Retroactive to effective date of the agreement unless specifically designated elsewhere in the agreement
3	Retroactivity		X	
Analysis of Issues 1-3:		As noted at page 5 of the decision, “[e]ach of the first three issues pertain to the date that the Contract is to become effective. This naturally has an impact on the retroactivity of certain provisions.” At page 6, the Arbitrator ruled that: “The City’s various proposals with regard to the effective date of the Agreement cannot be adopted because they conflict with the specific wording of the Charter...” In responding to the City’s concerns that the Associations’ proposals would create unfunded liabilities, at page 7 of the Decision the Arbitrator stated: “Lack of evidence renders these contentions speculative...” and then concluded that “[t]he change in the <i>status quo</i> phraseology [proposed by the City] has not been demonstrated to be warranted.		
4	MPO Steps	X		Status quo, MPO steps will not be collapsed
Analysis if Issue 4:		The Association proposed collapsing the number of salary steps from seven to six, and presented evidence that 8 of the 11 comparable jurisdictions use 5 salary steps. At page 9, the arbitrator ruled that since the City has not “experienced difficulties recruiting” and does not have “substandard” compensation for officers with less than five years’ experience, “insufficient evidence has therefore been presented to support changing the status quo.”		
5	Benchmark	X		Status quo, no inclusion of past practice in MOU
Analysis of Issue 5:		The Association proposed that the MOU include language codifying the practice of using Top Step Police not designated in the MOU as the salary benchmark for all classifications. The arbitrator rejected this proposal and noted at page 11 of the decision that: “The parties have assumed [in past negotiations] that there is some sort of benchmark classification which is used for the purposes of analyzing comparative salary data. ... [and] there has been no demonstrable difference of opinion about the approach which is taken during these negotiations. ... As the saying goes, ‘if it ain’t broke, don’t fix it.’”		
6, 7	Salary		X	<ul style="list-style-type: none"> • January 1, 2006 – 5.28% Sworn • January 1, 2006 - 10.82 Non-Sworn • January 1, 2007 – 6% All Classifications • July 1, 2007 – 6% All Classifications • January 1, 2008 – 5% All Classifications • January 1, 2009 – 5% All Classifications
Analysis of Issues 6, 7:		The arbitrator noted that the fundamental differences between the salary proposals presented by the POA and the City “arise in the appropriate level of increase in the second year of the Agreement, and as to the dates when the increases shall become effective in each Contract year. The City places the effective date for all of its increases save one in July of each year. The Association’s demand seeks		

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				<p>implementation of increases as of January....” (See p. 21.)</p> <p>The arbitrator rejected the City’s argument that the Association’s salary proposal was fatally flawed. At page 21, the arbitrator states: “The question remains whether [the contingent nature of the Association’s] proposal was ‘fatal’ to the Association’s entire demand. The question must be answered in the negative. A number of reasons compel this conclusion. Perhaps the most significant centers on a question of due process. These negotiations have taken more than two and a half years. Wages and benefits of bargaining unit members which have remained stagnant at pre-2006 levels have been actually declining in value as the process drags on ... To nullify, rather than weigh, a party’s wage demand after such a long period ... would promote protracted negotiations and a reluctance to come to terms. <i>It would further encourage a party to keep its legal arguments against a proposal close to the vest, and postpone until the 11th hour the submission of those arguments which might convince the other side to modify demands</i>” (Page 21, emphasis added.) The Arbitrator goes on to state: “Preservation of the collective bargaining process here, as well as morale, are too important tot be left to ‘gotcha’s’.” The Arbitrator further noted that the portion of the proposal that was objected to by the City is “severable from the remainder” and that the Association’ modified of its final proposal to struck the objected to portion rendering “this discussion moot.” (Page 21; see also footnote 7.)</p> <p>The Arbitrator noted that the City’s salary proposal “would place the Association roughly in the middle of its universe” and that the Association’s proposal “will place it in the 85th percentile or top three on its nine-agency list of comparables.) (P. 22) The Arbitrator stated that: “There is nothing intrinsically persuasive about which relative position this Department should occupy on a selected list, especially where that position has not been established by custom or practice. Establishing a pay scale in the top third appears no more meritorious than establishing and preserving one at average, regardless of the universe. The Association must demonstrate why compensation that is above average is warranted. Simply put, they must show why their members need to be among the highest paid around.” (Page 22.)</p> <p>The Arbitrator found that the Association justified its salary proposal using evidence related to: (1) the difficulties in recruiting sworn personnel (Decision at p.22); (2) the fact that other jurisdictions offer elements of compensation to its personnel that are not available in the City such as shift differential and special assignment pay (Decision at p. 23); (3) the relatively higher cost of living in the area (Decision at p. 23); (4) a lack of affordable housing in the area in and around the City (Decision at p. 23); (5) the City’s proposal would place them “well below average” in the relevant market after the second year of the contract (Decision at p. 23); and (6) the City’s acknowledgement “that it is able to meet the Association’s demand with available resources and does not assert that it would be fiscally irresponsible to grant the Association’s proposal.” (Decision at pp. 23-24.)</p> <p>Notably, the Arbitrator rejected the City’s argument that its proposal was justified as being “more in line with the increases offered to other bargaining units”. The Arbitrator rejected this argument on the grounds that managers and supervisors “recently received significant increases, in some cases between 12% and 17%)” which were “over and above” the increases that they had already received in that same time period. (Decision at p. 22-23.) In rejecting the City’s argument that internal consistency justified its proposal, the Arbitrator stated: “A sizeable percentage of SLOCEA members received salary adjustments as the result of a wage survey which</p>

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				<p>were in addition to the 19% they had achieved via contract negotiations. Firefighters also received compensation above the 19% level if one factors in the raises given inspectors and the 3% paramedic incentive. The Association was further able to demonstrate that the increases attained by Firefighters placed them at a level in their list of comparable agencies that was roughly equivalent to the relative position that the Association will achieve on its list of comparables should its proposal be granted. When assessed from this standpoint, the Association's proposed salary increase is consistent with that awarded to the firefighters." (Decision at p. 23.)</p> <p>The Arbitrator concluded: "[T]he Association's proposal, overall, most nearly conforms to those factors detailed in the Charter." (Decision at p. 24)</p>
8	MPO Credit		X	<ul style="list-style-type: none"> • TA on language to add credit for prior agency special assignments) • Retroactive to January 1, 2006
Analysis of Issue 8:		<p>The main disagreement between the parties on this proposal concerned its effective date. The Association argued that the date should be retroactive to January 1, 2006, and the City argued that it should be granted prospectively from the date of the arbitration award. The Arbitrator noted that there was only one officer, Greg Dunn, that would be affected by this difference. (Decision at p. 24.) In ruling in the Association's favor, the Arbitrator noted: "In some sense, granting the Association's proposal on this issue will result in a minor windfall for Officer Dunn ... not unlike other unit members who will be made whole for the increases in compensation that they would have received had this Contract been concluded in due course and coincidental to the prior Agreement's expiration." (Decision at p. 25.)</p>		
9	Overtime – Sworn			Withdrawn
10	CTO Sworn			TA on 100 hours CTO for Sworn
11	Court Time – Sworn			<ul style="list-style-type: none"> • TA on 3 hour minimum if court is cancelled on the day of the appearance • Not retroactive; effective as of date of arbitration award
12	DMV Court – Sworn		X	Status quo – 3 hour minimum continues to apply to DMV court hearings
Analysis of Issue 12:		<p>The Arbitrator concluded: "Comparisons both internal and external demonstrate that the distinction between telephonic appearances and court appearances is one which is recognized only by the City. A substantial portion of other jurisdictions is willing to compensate their sworn officers with guarantees of three or four hours, regardless of the type of appearance. <i>The City is also willing to compensate staff officers at the three-hour level.</i> This indicates that this level of compensation is widely recognized and acknowledged as fair and reasonable for the inconvenience of performing work while one would otherwise be off duty. Accordingly, the Association's proposal most nearly conforms to the Charter factors, and will be adopted." (Decision at p. 27)</p>		
13	Overtime – Sworn	X		Officer may decline non-emergency OT shift if he/she has worked 8 hrs OT in the 14 days prior to that shift. If no volunteers, WC will then move up to the next least senior officer on that shift for mandatory OT.
14	Overtime – Non-Sworn			Withdrawn
15	CTO Non-Sworn	X		CTO hours reduced to 240 from 480
16	Overtime – Non-			Withdrawn

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	Sworn			
17	Court Time – Non-Sworn			<ul style="list-style-type: none"> • TA on 3 hour minimum if court is cancelled on the day of the appearance • Not retroactive; effective as of date of arbitration award
18	Overtime – Non-Sworn			Withdrawn
19, 20	Education Incentive Sworn and Non-Sworn		X	<ul style="list-style-type: none"> • Intermediate POST, AA, 60 units – 2.63% • Advanced POST, BA – 5.26% • Eliminated 3 unit annual qualification • Effective January 1, 2007
Analysis of Issues 19,20		<p>The main difference between the Education Incentive proposed by the City and that proposed by the Association was the inclusion of POST certificates in the Association’s proposal and the effective date (January 1, 2006 or 2007).</p> <p>The Arbitrator noted that “[a]s there was no proof presented on the fiscal impact of this proposal, it must be assumed that it will be minimal. The evidence amply demonstrated that the great bulk of comparable agencies provide an educational incentive for POST Intermediate and Advanced Certificates. Compensation for these Certificates through incentive pay is thus a widely accepted and typical benefit among law enforcement personnel.” (Decision at p. 24.)</p>		
21	Education Incentive – Non-Sworn	X		<ul style="list-style-type: none"> • Employees hired prior to January 1, 2008 will receive 5% step increase for successful completion of 9 semester units • Benefit eliminated for employees hired after January 1, 2008

22, 23	Education Incentive			TA – Education credits earned on city time shall be counted towards the incentive.
24, 25	Health Care Insurance	X		<ul style="list-style-type: none"> • <i>Effective December 2006 –</i> Employee - \$479 Employee + 1 – \$855 Family - \$1,133 • <i>Effective December 2007 –</i> Employee - \$507 Employee + 1 - \$900 Family - \$1,188 • <i>Effective December 2008</i> Employee - \$533 Employee + 1 - \$968 Family - \$1,277
26	PEMCHA	X		<ul style="list-style-type: none"> • Contribution \$97/month for active employees • Contribution \$72.75 for retirees • Effective January 1, 2008 • Increase 5% per year multiplied by the number of years the city has been in the PEMCHA program

27	Health Insurance Opt Out	X		Opt out contribution fixed at \$479/month
28	Retiree Health	X		No benefit except PEMCHA contribution
29	Life Insurance			TA to increase life insurance to \$35,000 paid through cafeteria plan
30	Health Insurance for Unit Member Survivors			TA to provide health, dental and vision for 1 year for the surviving family of an active employee who dies as a result of a job-related illness or injury
31	Sick Leave - Death	X		Cash out of sick leave at death – 50%
32	Sick Leave – Disability Retirement		X	Job related disability retirement and actual commencement of PERS benefits – 75% with maximum of 1000 hours payoff
33	Sick Leave – Industrial Disability Retirement	X		Sick Leave cannot be used to postpone the effective date of an industrial disability retirement
34	Sick Leave in Evaluations		X	Sick Leave deemed confidential and not subject to reporting in monthly or annual evaluations without proof of abuse
Analysis of Issue 34:		The Arbitrator noted that both parties presented proposals to provide for a new employee right, and that they are “for the most part, two ways of saying the same thing. The Association’s proposal is just a simpler way of saying it.” (Decision at 57.) Accordingly the Arbitrator ruled: “the Association’s proposal most nearly conforms to the Charter factors, and will be adopted.”		
35	Family Leave		X	Increase to 48 hours annually for member of immediate family
36	Family Leave		X	Increase to 48 hours annually for member who is part of the employee’s household
Analysis of Issues 35 and 36:		The Arbitrator ruled: “External comparisons lean heavily in favor of the Association’s proposal. Seven of the eleven provide the benefit at the level sought or above, while an eight provides a 40-hour benefit considerably greater than the one currently in effect in the City. In other words, 16 hours [as proposed by the City] is well below the average, while 48 approaches it very nearly.” (Decision at p. 57-58.) The Arbitrator therefore ruled: the “Association’s proposal on this issue thus most nearly conforms to the Charter factors and will be adopted.” (p. 58)		
37	Family Leave			TA to add domestic partner to family leave language

38	Salary Survey Agencies		X	For purposes of external comparisons: Gilroy, Monterey, Napa, Petaluma, Pleasanton, Salinas, Santa Barbara, Santa Cruz, Santa Maria
Analysis of Issue 38:		<p>Although not technically an economic proposal it was clearly linked to the other economic items and thus was an important issue to the Association and hotly contested by the City. The difference between the list of external comparison cities used by the Association and the City involved the substitution of Chico and Davis on the City’s list for the cities of Santa Barbara and Gilroy (which appear on the Association’s list). Otherwise, the lists were the same.</p> <p>The Arbitrator noted that “it is abundantly clear that the inclusion of Chico and Davis...necessarily drags down the average compensation” in the data set. (Decision at 62).</p>		

				After an exhaustive analysis of the factors used to determine comparability, the Arbitrator concluded that “Gilroy and Santa Barbara contain more points of similarity to the City than do Chico and Davis, and thus provide more appropriate bases for comparisons and inclusion with in the group of comparable agencies.” (Decision at p. 63).
39	Grievance Procedure	X		<ul style="list-style-type: none"> • MOA will reference Personnel Rules & Regulations • No Binding Arbitration for disciplinary matters
Analysis of Issue 39		Significant revisions to the grievance procedure were agreed to by the parties during mediation resulting in a much improved process for the membership. The only major unresolved issue related to whether there should be binding arbitration for disciplinary matters. While binding arbitration is certainly the standard in the industry and definitely preferable, because of the high caliber and quality of the individuals who comprise the membership of the Association, discipline is rarely required and the appeals process rarely invoked. Consequently, there was an absence of available proof to demonstrate that the binding arbitration system is superior to that which currently exists. As a result, the Arbitrator declined to modify the status quo.		
40	Work Schedules – FST	X		No change to status quo
41	Work Schedules – FST			TA to 30 minute paid lunch
42	Work Schedules – Investigations	X		<ul style="list-style-type: none"> • 4/10 work schedule • 30 minute unpaid lunch unless called back to work • If called back to work, the time will be considered time worked
43	Work Schedules – Investigations	X		<ul style="list-style-type: none"> • Investigative Lieutenant will determine work days and hours for those who work the 4/10 schedule • May include shifts starting at 0645 am with attendance at patrol briefings • Briefing part of regular shift (no OT)
44	Appendix Cleanup			TA

Note: During the seven scheduled days of mediation, numerous tentative agreements were reached that resolved many issues prior to the interest arbitration proceedings. All of the tentative agreements reached during mediation were identified as Joint Exhibit 3 and are considered part of the final arbitration award.