

CITY OF SAN LUIS OBISPO

Charter Section 1107

ARBITRATION

between

CITY OF SAN LUIS OBISPO

and

SAN LUIS OBISPO POLICE OFFICERS ASSOCIATION

Friday, December 21, 2007

8:30 a.m - 3:11 p.m.

REPORTED BY CINDY D. GRIFFITH

CSR #7281

1 THE ARBITRATION BETWEEN CITY OF SAN LUIS OBISPO AND  
2 SAN LUIS OBISPO POLICE OFFICERS ASSOCIATION  
3 was held at the Embassy Suites, 333 Madonna Road,  
4 San Luis Obispo, California, before Cindy D. Griffith, a  
5 Certified Shorthand Reporter in and for the State of  
6 California, on Friday, December 21, 2007, commencing at  
7 the hour of 8:30 a.m.

8

APPEARANCES OF COUNSEL:

9

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23

24

25

1     ALSO PRESENT:            Monica Irons - Director of Human  
                                  Resources  
2                                Karen Jenny - Assistant Director of  
                                  Human Resources  
3                                Ian Parkinson - Captain San Luis  
                                  Police Department  
4  
                                  Shaana Lichty - Secretary  
5                                Dale Strobridge - Police Officers  
                                  Association, President  
6                                Chuck Reidel, Police Officer  
                                  Association, Vice President  
7                                Barbara Sims - Treasurer  
                                  Jim Fellows - Member at Large  
8                                Chad Pfarr - Association  
                                  Representative

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1 San Luis Obispo, California

2 Friday, December 21, 2007

3 -- 00000 --

4

5 THE ARBITRATOR: We're back on the record.

6 MS. BERRY WILKINSON: Good morning. We are  
7 ready to proceed. I have a couple of clean-up items  
8 before we proceed this morning. The first is what's  
9 been handed and marked as Association Exhibit 247, which  
10 is a much more colorful example of what was written on  
11 the chart yesterday during the testimony of  
12 Dale Strobridge related to the formula that the  
13 Association has proposed for the calculation of  
14 compensatory time benefits, and it relates directly to  
15 Issues 24 and 25, which we presented yesterday.

16 And during the testimony --

17 THE ARBITRATOR: Compensatory time?

18 MS. BERRY WILKINSON: Or, I'm sorry, the  
19 Cafeteria Plan Benefit.

20 THE ARBITRATOR: There you go.

21 MS. BERRY WILKINSON: Thank you very much. I'm  
22 already ahead of myself this morning --

23 So, this is the Cafeteria Plan Benefit, Issues  
24 24 and 25, just an exhibit to demonstrate what was  
25 charted out up here yesterday.

1           Then I have another exhibit that I would like  
2 to simply introduce with respect to Issue Number 7.  
3 It's an exhibit that we will also simultaneously use  
4 with respect to Issue Number 5. And it is a Council  
5 Agenda Report related to a request by the chief of  
6 police to overstaff the communications technician  
7 positions because -- in order to avoid some critical  
8 staffing shortages.

9           There was testimony and exhibits presented by  
10 the City with respect to Issue Number 7, specifically  
11 Exhibit 7-34, related to turnover statistics for the  
12 communications technicians position, and some of the  
13 recruitment statistics.

14           And I would like to introduce this  
15 three-page -- or four-page Council Report, which  
16 addresses issues related to the fact that the City has  
17 been experiencing great difficulty recruiting and hiring  
18 an adequate number of dispatchers, due to the extremely  
19 demanding and highly technical nature of the job duties.  
20 The fact that the pool of interested candidates is  
21 relatively small.

22           It talks on page 2 of the Council Report about  
23 the one vacant -- current vacant communications  
24 technician position. It talks about -- both for the  
25 actual communications tech positions. One of them --

1 one of the techs is in training. One is on modified  
2 duty.

3 It talks about how two communications  
4 technicians have declared the intention to retire in  
5 2008, which foreshadows vacancies for which recruitment  
6 will be necessary.

7 The fact of the matter is that they have talked  
8 about not only these vacancies leading to fatigue and  
9 burnout because of the excessive amounts of overtime,  
10 but also that there are additional potentially  
11 unanticipated vacancies due to separations or illness,  
12 that would further exacerbate the staffing shortages.

13 So this exhibit is being presented in rebuttal  
14 to some of the City's statistics that really there's no  
15 problem with turnover, you know, in the police  
16 communications technician position. And I don't know  
17 what number it was marked.

18 MS. LICHTY: 248.

19 MS. BERRY WILKINSON: It was marked as Exhibit  
20 Number 248.

21 THE ARBITRATOR: Okay.

22 MS. BERRY WILKINSON: And then the last -- the  
23 final clean-up item, we have not marked as an exhibit  
24 yet, there was a request, or a suggestion, Mr. Goldberg,  
25 that there be a compendium, a word that we, on the POA

1 team, really enjoy on a regular basis.

2 THE ARBITRATOR: One of my favorites too.

3 MS. BERRY WILKINSON: Yes. And so

4 Shaana Lichty was gracious enough to identify by exhibit  
5 numbers the various exhibits that have been introduced,  
6 the issue number it pertains to, the article of the MOU,  
7 the nature of the issue, and a description of the  
8 exhibit.

9 This is only, right now, to date the exhibits,  
10 so those that have been introduced today are not there,  
11 and it only relates to exhibits that have been  
12 introduced during the course of this week. It is what I  
13 consider to be a work-in-progress. And so we would  
14 expect to finish a complete listing, at the conclusion  
15 of the hearing, for submission, more likely than not,  
16 with our materials at the conclusion.

17 THE ARBITRATOR: Okay.

18 MR. WHITMORE: This is not marked with an  
19 exhibit number?

20 THE ARBITRATOR: No.

21 MS. BERRY WILKINSON: No, because it's --

22 MR. WHITMORE: Okay.

23 MS. BERRY WILKINSON: It's, in essence, a draft  
24 or a guideline at this point.

25 THE ARBITRATOR: Like an index?

1 MS. BERRY WILKINSON: It's an index.

2 MR. WHITMORE: Okay.

3 MS. BERRY WILKINSON: With that, our issue of  
4 the morning that we are addressing first thing is issue  
5 Number 8, related to the Master Police Officer Program.  
6 And we had some testimony -- or some exhibits from the  
7 City, and some from us at the end of the -- or some  
8 discussion and dialogue at the end of yesterday. We do  
9 have a witness to call with respect to the Master Police  
10 Officer Program, and that would be Gregg Dunn.

11 If Mr. Dunn -- if Officer Dunn would be so  
12 kind.

13 THE ARBITRATOR: State your full name, please.

14 THE WITNESS: Gregg Dunn.

15 THE ARBITRATOR: And you are an officer with  
16 the San Luis Obispo Police Department, are you not?

17 THE WITNESS: Yes, I am.

18 THE ARBITRATOR: Please raise your right hand.

19

20 GREGG DUNN

21 having been first duly sworn, was

22 examined and testified as follows:

23

24 THE ARBITRATOR: All right, your witness.

25 MS. BERRY WILKINSON: With respect to Issue

1 Number 8, we are presenting the witness, Gregg Dunn.  
2 This is the witness on the Master Police Officer  
3 Program. We discussed yesterday, during evidence  
4 presentation, the fact that there is a member of the San  
5 Luis Obispo Police Officer's Association who --

6 THE ARBITRATOR: All right. Let's hear from  
7 him.

8 MS. BERRY WILKINSON: -- that is impacted, and  
9 I'm just introducing the topic.

10 THE ARBITRATOR: Okay.

11

12 DIRECT EXAMINATION

13

14 BY MS. BERRY WILKINSON:

15 Q So, Officer Dunn, would you be so kind as to  
16 tell me how long you have been employed with the San  
17 Luis Obispo Police Department?

18 A Since September of 1994.

19 Q And did you lateral to San Luis Obispo from  
20 another agency?

21 A Yes.

22 Q While you were at that other agency, did you  
23 have -- did you perform any special assignments that  
24 would be potentially considered with the Master Police  
25 Officer Program here in San Luis Obispo?

1 A Yes.

2 Q And can you describe -- we have marked as  
3 Association Exhibit 251 a -- an exhibit which contains  
4 some background information on Officer Dunn.

5 Officer Dunn, do you have a copy of that in  
6 front of you there?

7 A Yes, I do.

8 Q And can you identify for -- first, if you would  
9 be so kind, what agency did you lateral from?

10 A Riverside Police Department.

11 Q And how long were you at the Riverside Police  
12 Department before you joined San Luis Obispo?

13 A Almost 15 years. Fourteen years, nine months.

14 Q So 15 (sic) years, nine months, with Riverside,  
15 and then you've been here at San Luis Obispo for how  
16 long? Since '94?

17 A Since '94.

18 Q So approximately 13 years?

19 A Yes.

20 Q So at this point you have about 28 years  
21 total --

22 A Right.

23 Q -- law enforcement experience?

24 A In January it will be 28.

25 Q In January it will be 28?

1           So while you were at Riverside, are -- did you  
2 perform lateral -- or, I'm sorry, specialty assignments  
3 which would potentially qualify for consideration of the  
4 Master Police Officer Program here?

5           A     Yes.

6           Q     What were those?

7           A     Um, I was on the SWAT team for a total of 11  
8 years. I was on a variety of assignments that are  
9 similar to our SORT position. And I was on a major  
10 narcotics unit, which would be similar to the Narcotics  
11 Task Force position.

12          Q     I see here on Association Exhibit 251, on the  
13 left-hand side, there's some handwriting that says  
14 "SWAT" and "SORT" with some lines that draw to it, and  
15 then "NTF." "NTF" being "Narcotics Task Force"?

16          A     That's correct.

17          Q     And there's a line drawn to that.

18                 Are those what you would consider to be  
19 potentially eligible special assignments from your prior  
20 agency for the Master Police Officer Program here?

21          A     Yes.

22          Q     So the ones that are marked in the handwriting?

23          A     That's correct.

24          Q     Now, while you -- do you -- there are a number  
25 of requirements in order to achieve the position of

1 Master Police Officer, including, you know, educational  
2 background, a full year at the Step 6 range, certain  
3 assignments, and the like. Do you have all of those  
4 requirements, except for one more specialty assignment?

5 A Yes.

6 Q So while you've been here in San Luis Obispo,  
7 you have had two specialty assignments, but you're  
8 missing the third?

9 A That's correct.

10 Q And it is, in your opinion, one of the  
11 Riverside special assignments that should be considered  
12 for that Master Police Officer Program?

13 A Yes.

14 MS. BERRY WILKINSON: I have nothing further.

15 Q Oh, I do have one follow-up question, which  
16 is -- I'm sorry -- did you have those qualifications,  
17 except for that last final specialty assignment, as of  
18 January 2006?

19 A Yes.

20

21 CROSS-EXAMINATION

22

23 BY MR. WHITMORE:

24 Q Officer Dunn, during your 13 years with San  
25 Luis Obispo Police Department -- let me start over.

1 My name is Dick Whitmore. I'm representing the  
2 City in these proceedings.

3 During your 13 years with San Luis Obispo  
4 Police Department, you have had two specialty  
5 assignments?

6 A Yes.

7 Q What are they?

8 A SORT and NTF.

9 Q And in those 13 years, you chose not to perform  
10 any other specialty assignment; is that right?

11 A That's correct.

12 Q Is the specialty assignment that you think --  
13 specialty assignments, plural, perhaps -- from Riverside  
14 the same or different than the specialty assignments  
15 you've performed in San Luis Obispo?

16 A Um, the specialty assignments in Riverside that  
17 are similar to the SORT assignment are the ones listed  
18 as "The Metro," "The Street Crimes Unit," and "The  
19 Street Narcotics Unit." Those three all are similar in  
20 nature to the SLO P.D. SORT assignment.

21 Q You've done SORT here?

22 A Correct.

23 Q Okay. And it's your desire to count a SORT  
24 type of specialty assignment in Riverside to qualify you  
25 for Master Police Officer here; is that right?

1 A Yes.

2 Q Okay.

3 A As well as a SWAT assignment in Riverside, and  
4 as well as the Major Narcotics assignment in Riverside.

5 Q Thank you.

6 A Any one of the three.

7 Q Appreciate that --

8 A Sure.

9 Q -- clarification.

10

11 REDIRECT EXAMINATION

12

13 BY MS. BERRY WILKINSON:

14 Q A SWAT assignment, Officer Dunn, is one that,  
15 if you performed it here in San Luis Obispo, would  
16 qualify for Master Police Officer?

17 A Yes.

18 Q And you performed such an assignment in  
19 Riverside?

20 A Yes.

21 MS. BERRY WILKINSON: Thank you.

22 MR. WHITMORE: Nothing further.

23 THE ARBITRATOR: Anything further?

24 MS. BERRY WILKINSON: Nothing further.

25 THE ARBITRATOR: Thank you. The witness is

1 excused.

2 MR. WHITMORE: Thank you very much.

3 THE WITNESS: Thank you.

4 MS. BERRY WILKINSON: I would note just for the  
5 record that we did introduce, in addition to  
6 Exhibit 251, which is the Training and Experience  
7 listing from Officer Dunn, we introduced two other  
8 exhibits, consistent with how we've done the other  
9 issues; 249, which is the existing language of the  
10 Master Police Officer Program, and then 250, which is  
11 the proposed modified language with respect to the Issue  
12 Number 8, which is the only issue I've discovered  
13 actually corresponds to the article number in the MOA,  
14 so it's a unique issue in that way.

15 MR. WHITMORE: I'm sorry, I missed that last  
16 statement. Could you repeat it?

17 MS. BERRY WILKINSON: It's Issue Number 8 for  
18 Article Number 8.

19 MR. WHITMORE: Oh.

20 MS. BERRY WILKINSON: And I think it is the  
21 only one, out of all of the issues, that the issue  
22 number corresponds to the article number, so I'm just  
23 noting that unusual and interesting fact this morning.

24 MR. WHITMORE: Isn't that lovely?

25 (Discussion held off the record.)

1 MS. BERRY WILKINSON: With that, I would  
2 conclude all of the issues that the Association has  
3 presented, and -- and turn it to the City for those  
4 issues.

5 MR. WHITMORE: Okay. Off the record.

6 THE ARBITRATOR: Off the record.

7 (Discussion held off the record.)

8 THE ARBITRATOR: Back on the record.

9 MR. WHITMORE: What we have submitted as City  
10 Exhibit 11-1 through 11-5, the cover sheet with the  
11 current language, there ain't none, the City proposal,  
12 and the POA proposal, as we understand it. We have also  
13 attached certain survey data of what happens in other  
14 agencies. And finished with the last, 11-5, a survey of  
15 what we found in other agencies on all of the lists:  
16 The police proposed list, the City's proposed list, the  
17 comp study, and Measure Y.

18 During the course of today, I plan to do very  
19 little comment on them. I'll argue their significance  
20 later. But, of course, if there are questions, please  
21 let us know. This is an attempt just to describe what  
22 we got here.

23 MS. BERRY WILKINSON: I have a question at the  
24 outset.

25 MR. WHITMORE: Sure.

1 MS. BERRY WILKINSON: The -- I'm assuming, now,  
2 that what you've marked here in connection with  
3 Exhibit 11 is a modification to the City's prior  
4 position, because under Issue 11, the City's position  
5 was, "No change to the current language of the MOU."  
6 And so this is new language never before seen by the  
7 Association, nor a position presented to the  
8 Association. I just want to make sure I understand that  
9 correctly, that the City's modifying its position?

10 MR. WHITMORE: The City is modifying its  
11 position in response to the issues that the Association  
12 raised in the October 15, October 16 hearings.

13 MS. BERRY WILKINSON: Thank you. I just wanted  
14 to make sure --

15 MR. WHITMORE: Sure.

16 MS. BERRY WILKINSON: -- that I was clear on  
17 that concept.

18 MR. WHITMORE: Sure. This is an attempt to  
19 address some of the concerns that the Association had, I  
20 hope. I think. Most of them. So this is new language,  
21 you're right.

22

23 IAN PARKINSON

24 having been first duly sworn, was

25 examined and testified as follows:

1 DIRECT EXAMINATION

2

3 BY MR. WHITMORE:

4 Q Captain Parkinson, describe, if you would --  
5 you have a copy in front of you of this?

6 A Yes, I do.

7 Q Thank you. Describe what the City's proposal  
8 to deal with court cancellations, how that would work?

9 A Well, I guess, probably to start to say, what  
10 we're trying to do is get at the problem and make it  
11 administratively friendly to us to -- to deal with it.

12 So the problem itself is, an officer gets  
13 cancelled the morning of court for an afternoon case, a  
14 morning case. It's their days off and they've either  
15 made plans, or they've worked a graveyard shift get off  
16 in the middle -- or in the morning, and they have to be  
17 to court at 10:00, and they stay up, and then the court  
18 gets cancelled.

19 Q In those circumstances, the City proposal, pay  
20 the minimum?

21 A Pay the minimum, whether they go or not, so  
22 that the -- the purpose of the proposal from the City is  
23 that same-day cancellation, they get the minimum. They  
24 do not have to -- to go to court, as currently set  
25 forth. If -- currently, if the officer gets a

1 notification to be in court, they go to court, they get  
2 turned around at court, they get paid the minimum.

3 But if they -- and I think in -- there was  
4 testimony in one of the previous hearings that an  
5 officer drove down, didn't get to court, got cancelled,  
6 and potentially could not get compensated for that.

7 So, the point of this proposal is, if the  
8 officer receives same-day cancellation for the court,  
9 they automatically get the minimum.

10 The problem with the language that we saw from  
11 the union was, is "verified notice of cancellation from  
12 the previous day." It -- how do we verify notice?  
13 That's the problem.

14 So, we tried to simplify it and say -- and get  
15 at the root of the problem, and proposed language that  
16 said, "Same-day cancellation, you're gonna get paid."

17 THE ARBITRATOR: Off the record.

18 (Discussion held off the record.)

19 THE ARBITRATOR: Okay. Let's go back on.

20 BY MR. WHITMORE:

21 Q Okay. I would point out on the record that our  
22 language, in attempting to deal with this cancellation  
23 the day of, day before, 12-hour issue, is the same for  
24 nonsworn on Issue 17. I have some documents to  
25 introduce on that, but just for the record, they're both

1 the same, because nonsworn do get cancelled in court.

2 Captain, the way a -- normally an officer will  
3 be advised of a court cancellation the day before would  
4 be how?

5 A Well, there's three -- there's probably three  
6 basic ways of cancellation. The first is, the officer  
7 gets it off the recording. After 5:30, I believe, they  
8 can get on.

9 Q Let me stop you there. What is that?

10 A Victim Witness puts a list of the cases and --  
11 and their -- their disposition at the time. Whether or  
12 not it's been cancelled, whether or not it's going. So  
13 it's always been the requirement of the officer to  
14 contact the Victim Witness number after 5:30, verify the  
15 court case is still on the calendar, or been cancelled,  
16 and that will tell them whether or not they -- you know,  
17 they have to proceed.

18 Q Okay.

19 A The second method is -- is -- in this case,  
20 Barbara might get a telephone call from the court saying  
21 the case is cancelled, late in the afternoon. In that  
22 case, she will make the telephone call to the officer  
23 and -- and let them know. And then the third is -- kind  
24 of where we run into this issue is, is the morning of,  
25 the officer's going to respond, they either contact the

1 district attorney's office or they contact the court, or  
2 get a phone call themselves already saying, "You're off.  
3 The case is cancelled. We settled it," or what have  
4 you. So those are the three main methods.

5 Q Okay. Going to the language you commented a  
6 minute ago on in the Association proposal, the "verified  
7 notice," what is the concern there about the department  
8 being able to verify whether they got actual notice?

9 A Well, we have no way of verifying that they got  
10 notice, and I -- you know, I guess, when we looked at  
11 that language, we had an issue with it or -- you know,  
12 I -- I can just speak for myself. I had an issue with  
13 it because trying to get at how do you administer this,  
14 with that language saying that -- that they have  
15 verified notice, and what does that mean, and -- and --  
16 we understood the fundamental problem, and we understood  
17 that it is a problem.

18 So I think the -- you know, the delay in the  
19 Language (A), we -- you know, we had an issue with the  
20 fundamental language of their proposal, not a  
21 fundamental problem -- or an issue with the problem.  
22 And I think when we tackled it, we said, "Well, let's  
23 just simplify it. Let's just say this is the main --  
24 this is the problem. Let's just say same-day notice,  
25 cancellation," so that's where we --

1 Q Let me make sure it's clear as to what the  
2 problem is with the "verified notice" language. To use  
3 an example, there is a message that's posted for Victim  
4 Assist -- by Victim Assistance, and the officer is to  
5 check in on that after 5:30; right?

6 A Correct.

7 Q Okay. If an officer chooses not to call Victim  
8 Assistance until ten o'clock at night, and there is a  
9 nine o'clock court appearance the next morning, that  
10 would be less than 12 hours that they got the actual  
11 notice; right?

12 A Correct.

13 Q And that's a problem, from our perspective.  
14 They're controlling when they would get the message?

15 A With that language, yes.

16 Q Yeah.

17 A Absolutely.

18 MR. WHITMORE: Nothing further.

19

20 RE-CROSS-EXAMINATION

21

22 BY MS. BERRY WILKINSON:

23 Q There's certainly a simple way to deal with  
24 that, is there not, which is, if it's posted at 5:30,  
25 whatever time that they check it, that's considered to

1 be more than 12 hours' verified notice, because the  
2 notice is available; right?

3 A Under that definition, possibly. But under the  
4 language we're talking about, with the interpretation of  
5 the POA's language. So I don't -- I know how you're  
6 defining it to me, but I don't think it's clear there.  
7 But that's --

8 Q And then -- because that's not the only way  
9 people get notice of a court cancellation; correct?

10 MR. WHITMORE: Right.

11 BY MS. BERRY WILKINSON:

12 Q The Victim Assistance notice? One is through  
13 that particular hotline; right?

14 A Correct.

15 Q And we know when that hotline is posted. It's  
16 at 5:30 p.m.

17 A That's when it's available, at 5:30, yes.

18 Q Okay. It's available after 5:30.

19 And if it's available at 5:30, then that would  
20 be notice to the employee at 5:30, regardless of what  
21 time the employee actually physically picked up the  
22 notice; right? You can verify that notice was available  
23 at 5:30 p.m.; right? I'm just asking you.

24 A Yeah, you could verify it was available, but  
25 that's not what the language says to me. It says,

1 "Verified Notice." It doesn't say, "When the  
2 information becomes available."

3 Q Sure.

4 A So that's the problem with the language.

5 Q That's your interpretation. And, of course,  
6 you know, dialogue with respect to how you fine tune  
7 language is something that can take place -- and I  
8 understand the City's now using this forum for that  
9 purpose, and that's fine, but it is -- that's just one  
10 of the many ways. Some of the same kind of ambiguity  
11 problems I foresee with the City's language, and so I  
12 want to flesh some of those out as well, since it's new.

13 It says, "Cancelled on the day the employee is  
14 to appear." You identified three ways. One is the  
15 hotline. The second is that somebody is actually --  
16 it's not actually cancelled until the day of, and so  
17 that would then qualify, under your language, as well as  
18 ours, because it would be on the same day. So, I  
19 thought I had a subpoena yesterday, and they didn't tell  
20 me until -- let's see, I had a subpoena yesterday for  
21 today --

22 A Uh-huh.

23 Q -- and on -- today, they told me, "No, you're  
24 no longer needed, and you're cancelled," well, then  
25 that's same-day notice; right?

1           A     Right.

2           Q     So, but if I had a subpoena yesterday, and  
3     somebody called Barbara and said, "They're no longer  
4     needed, they're cancelled," and it is the person's day  
5     off, maybe they're out of town, maybe they've made  
6     special arrangements to come back, and she can't reach  
7     that person, it would have been cancelled the day  
8     before, but the employee may not have known that it was  
9     cancelled until the day of, because that's that third  
10    way in which cancellation occurs; correct?

11          A     Uh-huh.

12          Q     So as -- that was a "yes"; right?

13          A     Yes.

14          Q     For the court reporter.

15                 And so, under that particular scenario, where  
16    through no fault of the employee's, they -- because they  
17    were just simply on their day off, maybe they were out  
18    of cell phone range, or whatever, they don't -- they  
19    wouldn't be eligible for the minimum, even though they  
20    didn't find out about it until the next day; right?

21          A     Correct.

22                 MS. BERRY WILKINSON: Thank you.

23    \\

24    \\

25    \\

1 REDIRECT EXAMINATION

2

3 BY MR. WHITMORE:

4 Q In that circumstance you're describing, there  
5 would still be the Victim Assistance hotline available  
6 after 5:30; right?

7 A Well, yes, but I think -- even Barbara  
8 testified, and I don't think it's very often, and I  
9 think that was what she described as well, that she'll  
10 get the phone call, and it won't necessarily be on the  
11 Victim Witness line. It's a separate phone call.

12 The idea is to put all of the court cases, the  
13 status on the line, but, you know, if they get a late  
14 cancellation before it gets on, or, you know, a -- a  
15 separate issue, they could call her directly and make  
16 the cancellation. But not very often. I think that's  
17 what was described.

18 Q But the person that Alison was describing, who  
19 is off duty and out of town the day before, who was out  
20 of cell phone range, let's say, doesn't get the message  
21 until the next day, could have called Witness Victim --  
22 Victim Witness program after 5:30; right? And wouldn't  
23 that tell them?

24 MS. BERRY WILKINSON: Not always.

25 THE WITNESS: Well, no, not necessarily.

1 BY MR. WHITMORE:

2 Q Okay.

3 A There's times that it doesn't get on that  
4 recorded line.

5 Q Okay.

6 A That's the issue. And, you know, like I said,  
7 it doesn't happen that often, but she'll get -- Barbara  
8 will get phone calls cancelling cases that are not  
9 necessarily on that. So it -- it does happen from time  
10 to time. I mean, you know, unfortunately -- you know,  
11 there's no 100 percent. So, in those cases, if they  
12 don't make it on there, that's a possibility.

13 MR. WHITMORE: Okay. Nothing further.

14 MS. BERRY WILKINSON: I have a couple follow-up  
15 questions to that.

16

17 RECROSS-EXAMINATION

18

19 BY MS. BERRY WILKINSON:

20 Q As I understand, the policy in the City of San  
21 Luis Obispo Police Department, it is a mandatory policy  
22 that the employee call the Victim Witness hotline;  
23 correct?

24 A Correct.

25 Q So they're obligated to do so, and they know

1 it's available at 5:30; right?

2 A Correct.

3 Q Now, there are other kinds of subpoenas that  
4 cancellation notice would not be received through the  
5 Victim Witness hotline; correct? Take, for example,  
6 DMV?

7 A Okay.

8 Q So, if an employee had a DMV subpoena, and it  
9 was cancelled the day before by a call to Barbara,  
10 and -- that would never appear on the Victim Witness  
11 hotline; correct?

12 A Correct.

13 Q So the only way the employee would know it was  
14 cancelled the day before would be by way of whatever  
15 extraordinary efforts Barbara used to try to minimize  
16 any inconvenience; correct?

17 A Correct. An issue potentially with both --  
18 both languages.

19 Q And then similarly, the same situation would  
20 apply for traffic court subpoenas? Those would not  
21 appear on the Victim Witness hotline; right?

22 A Right.

23 Q And neither would civil subpoenas; right?

24 A Correct. But I don't think traffic subpoenas,  
25 they're -- they're typically cancelled the day of. We

1 typically don't get phone calls in traffic subpoenas.  
2 They're -- people are failing to appear, that's  
3 typically what happens.

4 Q That may be the case, but it's still -- if it  
5 was, for whatever reason, then an officer would not, by  
6 your policy, get compensation?

7 A If they called, yes. Well -- correct.

8 Q Thank you.

9 I need to talk to my team for a minute.

10 THE ARBITRATOR: Okay. Off the record.

11 (Recess taken.)

12 THE ARBITRATOR: We're on the record.

13 MS. BERRY WILKINSON: With respect to Issue 11,  
14 the Association would like to note that in -- with  
15 respect to verified notice, it is our position that if  
16 it appears on the Victim Witness hotline -- and I've  
17 been corrected that the hotline occurs at 5:00 p.m. Not  
18 5:30. It's available from 5:00 -- starting at 5:00  
19 p.m. --

20 MR. WHITMORE: Okay.

21 MS. BERRY WILKINSON: -- that if it is on the  
22 recording at 5:00 p.m., that is considered to be notice,  
23 in the Association's viewpoint.

24 Beyond that, I have nothing further at this  
25 time.

1 MR. WHITMORE: Can I ask about the  
2 Association's position that if Barbara has called and  
3 left a message on the phone number designated by the  
4 individual as the number for that purpose, is that  
5 deemed cancellation?

6 MS. BERRY WILKINSON: No.

7 MR. WHITMORE: Okay.

8 THE ARBITRATOR: Maybe I can ask Captain  
9 Parkinson a question?

10 MR. WHITMORE: Sure.

11 THE ARBITRATOR: Whose obligation is it to  
12 determine whether or not your presence is required? Is  
13 it the department's obligation to call the officer, or  
14 is it the officer's obligation to call the department?

15 THE WITNESS: It's the -- well, it's the  
16 officer's obligation to honor the subpoena. It's the  
17 department's position to notify, upon cancellation, to  
18 the officer, or make notification to the officer.

19 THE ARBITRATOR: Okay. Thank you.

20 MR. WHITMORE: Nothing further on that issue.

21 But on the issue, similarly, for nonsworn,  
22 Number 17, I would like to introduce the documents  
23 without testimony because --

24 MS. BERRY WILKINSON: Essentially the same  
25 documents, the same testimony, would be applicable to

1 17 --

2 MR. WHITMORE: That's correct.

3 MS. BERRY WILKINSON: -- as 11, in the same way  
4 that when we submitted 11, it was equally applicable to  
5 17.

6 MR. WHITMORE: Okay.

7 THE ARBITRATOR: Okay.

8 MR. WHITMORE: We're picking up speed now.

9 THE ARBITRATOR: All right.

10 MR. WHITMORE: The next issue we would like to  
11 address is 13, and the reason we skipped 12 is we  
12 already did it.

13 MS. BERRY WILKINSON: We went 11 to 17, which  
14 is not numeric order, but I totally understand being  
15 similarly numerically --

16 MR. WHITMORE: I was hoping you wouldn't notice  
17 that.

18 MS. BERRY WILKINSON: So I like the fact that  
19 you're following my same pattern of numbering.

20 MR. WHITMORE: Yeah.

21 MS. BERRY WILKINSON: A convert.

22 MR. WHITMORE: Similarly tainted, perhaps.

23 MS. BERRY WILKINSON: Does that mean I've  
24 corrupted you?

25 MR. WHITMORE: No.

1 MS. BERRY WILKINSON: Okay.

2

3 REDIRECT EXAMINATION

4

5 BY MR. WHITMORE:

6 Q This is a revised cover sheet proposal from the  
7 City, listing, of course, the overtime assignment,  
8 current language proposal, and the POA proposal, which  
9 is not to change the language, and this is a change that  
10 is also intended to address some of the concerns that  
11 the Association has raised about mandatory overtime when  
12 there aren't enough volunteers.

13 Do you have a copy of that in front of you,  
14 Captain Parkinson?

15 A Yes, I do.

16 Q Okay. Can you describe, first of all, the  
17 situation where this would come into play?

18 A This would come into play when we have  
19 projected overtime -- to make a distinction between  
20 projected overtime and last minute overtime.

21 If somebody calls in sick for the shift that's  
22 following the current one, it's nights, and they're  
23 calling in sick on day shift, the practice is to call,  
24 and whoever we get ahold of is -- is coming in.

25 That's -- that's, you know, last minute, emergency, we

1 need to fill the shift.

2 Projected overtime, we have an officer away at  
3 school. We have an officer out on injury. We know we  
4 have shifts to fill in the -- the next two weeks  
5 potentially. This is meant to address the issue that  
6 if -- the procedure would be, first, to ask for  
7 volunteers. If we have no volunteers available, the  
8 procedure is to go to the least senior person on that  
9 shift to -- to work the overtime.

10 Q Is that the current practice?

11 A Yes.

12 Q Thank you.

13 A The -- this gives the option that if the  
14 supervisor calls the least person senior on that shift,  
15 and they have worked a -- at least an eight-hour  
16 overtime shift in the previous 14 days, they may decline  
17 to work that overtime, and that would enable the Watch  
18 Commander to move up to the next junior person on the  
19 list to work that overtime.

20 The idea is to avoid -- typically, we have a  
21 lot of -- a lot of junior people that put in for  
22 overtime, and it's to avoid them from getting stuck with  
23 it if they've already worked a previous shift, or -- or  
24 their previous days off, as an example.

25 Q Has there, from time to time, been a problem



1                                    RECROSS-EXAMINATION

2

3    BY MS. BERRY WILKINSON:

4            Q        This is another set of language that -- we've  
5    never received language on the City's proposal before,  
6    so we're digesting for the first time here.    So the  
7    Arbitrator, the City's counsel, and Captain Parkinson  
8    will have to bear with me for a moment, because up until  
9    this point, we've never had any language from the City  
10   at all on Issue 13.

11                    And so I have a few questions here.    I'm not  
12   sure that I understand the language as phrased.    And  
13   since we've never had an opportunity to prepare anything  
14   in response, I want to make sure, before I talk to my  
15   team, I know what you think this language means.    How's  
16   that?

17                    MR. WHITMORE:    We have discussed these issues,  
18   but you're right, you've never had the language before.

19                    MS. BERRY WILKINSON:    We discussed these issues  
20   only in mediation.

21                    MR. WHITMORE:    Okay.

22                    MS. BERRY WILKINSON:    Which --

23                    MR. WHITMORE:    This is new language.    We agree.  
24   This is an attempt to address your concern.

25                    THE ARBITRATOR:    That's how he prefaced

1 everything before he handed me the document.

2 MS. BERRY WILKINSON: Yes.

3 THE ARBITRATOR: Okay.

4 MS. BERRY WILKINSON: I would also note that we  
5 asked for more promised language at the mediation, but  
6 didn't get it, just in case you're --

7 MR. WHITMORE: Well, we're not talking about  
8 the mediation.

9 MS. BERRY WILKINSON: Yeah. So you -- you  
10 brought up that it was discussed before, and that was  
11 the only form in which it was discussed.

12 MR. WHITMORE: Okay.

13 BY MS. BERRY WILKINSON:

14 Q The phrase "nonemergency overtime shift" is  
15 used in this first section -- or the first sentence of  
16 the new section. What does a "nonemergency overtime  
17 shift" mean in your reading of this particular  
18 provision?

19 A Well, anything outside of the -- you know,  
20 filling the next shift. In other words, if they -- you  
21 know, if it's two days in advance, then it's not an  
22 emergency. I mean, we have an opportunity to fill it.  
23 When you receive a call from night watch for a day watch  
24 shift that's vacant, you have to fill it. There's no --  
25 there's an urgency to fill it at that point.

1 Q But is that an emergency? There's an urgency,  
2 but is it an emergency?

3 A Yes. To meet staffing levels, yes, that would  
4 make it an emergency.

5 Q Because what the current language says, is it  
6 talks about "planned overtime" --

7 A Correct.

8 Q -- which is a different thing?

9 A Correct.

10 Q Than "nonemergency overtime"?

11 A Correct.

12 Q So "planned overtime," your proposed language  
13 takes out that phrase "planned overtime," which is  
14 generally the kind of overtime which you know, and can  
15 reasonably anticipate in advance is going to occur, on a  
16 list that's posted, and people sign up for it; correct?

17 A Correct.

18 Q So now we're making a distinction between  
19 overtime that is posted on the list and nonemergency  
20 overtime shift. So, as I understand your definition, a  
21 nonemergency overtime shift would not include something  
22 like somebody's called in sick and now you're short  
23 personnel?

24 A Yeah, that -- that applies -- that type of --  
25 the description that you're offering is something we can

1 call anybody in, right now. So, yeah, this is non --  
2 this is nonemergency, nonlast minute, in order to fill  
3 the shift.

4 Q Can you run that one by me again?

5 A You know, I think we're confusing each other,  
6 because I'm -- I'm not sure where you're going either, I  
7 guess.

8 Q I guess I'm --

9 A Do you want a definition of "nonemergency"?

10 Q I guess I'm trying to understand what that  
11 means, because I think I have a perception of what a  
12 nonemergency overtime shift is that may be different  
13 from yours. And so I'm struggling to understand what  
14 the intent and meaning is behind that suggestion -- by  
15 that phraseology, so --

16 A Emergency overtime is filling a shift  
17 immediately, the need to fill it immediately, to meet  
18 staffing levels.

19 Q Okay. So in that kind of circumstance, the  
20 employee does not have an option to decline; right?  
21 They have to fill it?

22 A Correct.

23 Q Now, a nonemergency would be --

24 A Projected. Somebody is out on injury for two  
25 weeks. Somebody is on vacation that we need -- we have

1 to -- you know, we have to cover their shift because of  
2 staffing levels. Somebody's gone away to school, and we  
3 know they're away to school and we need to fill their  
4 shifts because we're, you know, at minimum staffing  
5 levels because other people are on vacation. We know in  
6 advance of less than 24-hour notice that we have to fill  
7 shifts.

8 Q Okay.

9 A And so typically the supervisor will put that  
10 out by E-mail saying, "I have these shifts for next week  
11 and the week after," looking for volunteers.

12 Q So then something that is an unanticipated need  
13 to fill a vacancy, caused by whatever reason, of less  
14 than 24 hours, would be considered, in the department's  
15 viewpoint, an emergency?

16 A A nonemergency. You said anything other?

17 THE ARBITRATOR: There's a lot of negatives in  
18 that sentence.

19 BY MS. BERRY WILKINSON:

20 Q Yeah, there were, and I guess it would -- an  
21 officer would not, under the language of the City's  
22 proposal, have the option of declining an over -- an  
23 overtime shift if the reason for their -- the need to  
24 fill it was something that happened within the last 24  
25 hours? That's kind of what I'm deriving from what

1 you've told me.

2 A If it's urgent to be filled, and typically it's  
3 going to be within 24 hours, they do not have the right  
4 to decline.

5 Q Now, looking at the second sentence, it says,  
6 "If no volunteers are available from the list." What  
7 list?

8 A Well, we have two -- the first is, is we have a  
9 sign-up list, that has been our practice to put up -- to  
10 put up, that includes volunteers. They sign up the days  
11 they want to work overtime.

12 Q But that's planned overtime; right?

13 A That's what?

14 THE ARBITRATOR: That's what --

15 THE WITNESS: That's what we're talking about.

16 THE ARBITRATOR: That's the article we're  
17 talking about here. Isn't it?

18 MR. WHITMORE: Right.

19 BY MS. BERRY WILKINSON:

20 Q So you're talking about people who have signed  
21 up in advance, designating that they want to work during  
22 particular hours?

23 A That they are available for overtime on any of  
24 these days for any of these shifts, and they sign their  
25 name on. Those people are actually seeking overtime on

1 those days.

2 The other method is sending out an E-mail to --  
3 you know, to all the officers, identifying a vacancy on  
4 a shift, and who -- who wants it.

5 Q And then you're using the phrase, let's see,  
6 "If no volunteers are available from the list," and you  
7 just described to me what you understand --

8 THE ARBITRATOR: It's referred to in Paragraph  
9 A. We know what the --

10 MR. WHITMORE: In the current language.

11 MS. BERRY WILKINSON: I'm looking at language  
12 B, which --

13 THE ARBITRATOR: Yeah, I know, but --

14 BY MS. BERRY WILKINSON:

15 Q The list in -- this is a question -- the list  
16 in Paragraph A is different from the list in Paragraph  
17 B.

18 THE ARBITRATOR: No, it's not.

19 BY MS. BERRY WILKINSON:

20 Q Okay. So you're considering it to be the same  
21 list?

22 A Yes.

23 Q I want to go on to the language in the next,  
24 "the watch commander may then move up to the next senior  
25 officer on that shift."

1 A Uh-huh.

2 Q What does that mean?

3 They can't reach for somebody who works on a  
4 different shift than the actual one --

5 A We don't typically do that. We go shift to  
6 shift. It creates too many issues for the officers and  
7 for the department.

8 Q Okay.

9 MS. BERRY WILKINSON: I really need to talk to  
10 my team.

11 THE ARBITRATOR: Okay.

12 MR. WHITMORE: Okay.

13 (Recess taken.)

14 MS. BERRY WILKINSON: We have a proposal to  
15 modify the language slightly into a manner that would be  
16 acceptable to the Association. What we would suggest  
17 would be to modify the first sentence, starting, "An  
18 officer may decline a nonemergency overtime shift if he  
19 or she has worked an" -- it says currently "an overtime  
20 shift." Change that to "a mandatory overtime shift" --  
21 "of at least eight hours in the last 14 days."

22 And then modify the second sentence, "If no  
23 volunteers are available" -- strike the words "from the  
24 list" -- "the watch commander may then move up to the  
25 next least senior officer" -- strike the words "on that

1 shift" -- "for mandatory overtime."

2 MR. WHITMORE: Okay. That's not acceptable to  
3 us.

4 MS. BERRY WILKINSON: Okay.

5 MR. WHITMORE: Okay. Can we go on?

6 MS. BERRY WILKINSON: No, because I need to put  
7 on some testimony in response to your proposal.

8 MR. WHITMORE: Okay.

9 MS. BERRY WILKINSON: If that's not acceptable,  
10 I need to put on some evidence as to why.

11 MR. WHITMORE: Fine.

12 THE ARBITRATOR: Can I talk to YOU outside for  
13 a second here?

14 MR. WHITMORE: Sure.

15 THE ARBITRATOR: Okay.

16 (Recess taken.)

17 MS. BERRY WILKINSON: I would call  
18 Dale Strobridge in response to the City's proposal.

19 THE ARBITRATOR: All right.

20

21 DIRECT EXAMINATION

22

23 BY MS. BERRY WILKINSON:

24 Q Mr. Strobridge, would you please explain why  
25 proposed modification to the MOU to address this

1 particular problem presents issues for the Association?

2 A Yes. At first blush, City proposal -- or City  
3 Exhibit 13-1, Paragraph (B), looks relatively benign to  
4 someone that has not worked in the system of absolute  
5 seniority at San Luis Obispo Police Department.  
6 Absolute seniority has been the paradigm there for the  
7 30 years that I was there, and it was -- probably 20  
8 years before that. So it's -- it's an institutional  
9 hierarchy, where seniority is absolute.

10 And the problems that I anticipate with the  
11 language that the City has proposed is, one, the  
12 officers -- just reading the paragraph so I can get it  
13 out there -- "An officer may decline a nonemergency  
14 shift if he or she has worked an overtime shift of at  
15 least eight hours in the last 14 days."

16 Well, that first portion of the paragraph  
17 describes officers who are voluntarily seeking overtime.  
18 Many of these officers are the junior officers, who are  
19 not earning the higher levels of compensation, that have  
20 young families, that have high mortgages, who live in  
21 the most expensive area on the Central Coast, that need  
22 that overtime. So, they do this voluntarily.

23 The -- and what we've previously proposed in  
24 the current language under Section 10.10 is "Planned  
25 overtime will be called from a list in order of

1 seniority." And this was a POA idea to facilitate the  
2 management's responsibility to be able to call people  
3 outside of seniority.

4 So, if someone volunteers, or puts their name  
5 on that list, that list is called by seniority. It's a  
6 heads up, "I'm available." The list is published at  
7 change of watch every cycle. So those -- those  
8 volunteers are clearly delineated.

9 Moving to the second portion of the paragraph,  
10 "If no volunteers are available from the list, the watch  
11 commander may then move up to the next least senior  
12 officer on that shift for mandatory overtime." So, what  
13 this does is it forecloses the department's ability to  
14 use half of the total staffing of the department at any  
15 given time.

16 An example is, we have two shifts, a day shift  
17 and a night shift. Day shift is 7:00 a.m. to 7:00 p.m.  
18 Night shift is 7:00 p.m. to 7:00 a.m. So at any given  
19 time, half of those officers on any given shift are on  
20 days off. And if the -- if the department is granted  
21 the ability to only designate overtime from a shift,  
22 they've now foreclosed their ability to request officers  
23 to work from an opposing -- a graveyard shift, who  
24 happen to be on days off, in the middle of their  
25 workweek, that may want to work overtime. So they are

1 foreclosing the ability for officers to be solicited for  
2 that overtime.

3           So this carries enormous -- and I have to  
4 underline that -- enormous impacts on the seniority  
5 clause, as well as the department's ability to solicit  
6 officers. So, it is not benign, and it's -- it's viewed  
7 very narrowly by the Association.

8           And in particular, it conflicts enormously with  
9 the nonsworn overtime provisions, which are very clearly  
10 articulated, which are -- were provided in the last POA  
11 agreement.

12           Q       When you're referring to "the seniority clause  
13 of the agreement," Mr. Strobridge, are you referring to  
14 what appears on page 31 of what's been submitted as  
15 Joint Exhibit 2; that is, Article 18 of the MOA?

16           A       Yes.

17           Q       Thank you. And it is your concern, as I  
18 understand it, that the language there, that is being  
19 proposed, overrides the first sentence of that  
20 particular provision?

21           A       Yes.

22           MS. BERRY WILKINSON: I have nothing further.

23           THE ARBITRATOR: Okay.

24        \\

25        \\

1 CROSS-EXAMINATION

2

3 BY MR. WHITMORE:

4 Q Mr. Strobridge, let me make sure I understand  
5 what you're saying.

6 If an individual works graves --

7 A Yes.

8 Q -- and there is nobody volunteering for an  
9 overtime shift for days, planned or anticipated or  
10 nonemergency overtime, that the department would have to  
11 order somebody from graveyard, that person from  
12 graveyard, to work the days?

13 A I've lost the question -- lost your --

14 Q Okay.

15 A -- question.

16 Q Isn't the practice in the department to have  
17 overtime shifts on days filled by people who work day  
18 shift?

19 A No. It shouldn't be.

20 Q Well, that's not my question. Is it?

21 A It's -- it's not my understanding of the  
22 practice that I left on retirement. If that's changed,  
23 it's in conflict with the MOA. The practice should be  
24 by seniority. And that was clearly delineated by a long  
25 history of practice.

1 MR. WHITMORE: Okay. No further questions.

2 THE ARBITRATOR: Okay. So then if a least  
3 senior person works a graveyard shift, they can be  
4 called in for overtime to work a day shift following  
5 their -- is that what you're asking?

6 THE WITNESS: No, because we have guaranteed  
7 separation of shifts. So any officer is guaranteed a  
8 minimum of ten hours off between shifts.

9 THE ARBITRATOR: All right. Well, let's say  
10 that they have that ten hours off, and then they're  
11 called in on the next day?

12 THE WITNESS: That --

13 THE ARBITRATOR: Is that okay by you?

14 THE WITNESS: Yes. And that's the practice.

15 MS. BERRY WILKINSON: And that would be a  
16 graveyard officer who would, more likely than not, be on  
17 their second day off, on their regularly scheduled days  
18 off?

19 THE WITNESS: Yes.

20 THE ARBITRATOR: Well, what if they are only on  
21 their first day off?

22 THE WITNESS: If they get off at seven o'clock  
23 in the morning -- let's just take a day. If they worked  
24 a Sunday graveyard shift, went to work at seven o'clock  
25 on Sunday night, got off at seven o'clock on Monday

1 morning, and the department needed a day shift overtime  
2 assignment, they could not be called. They could not be  
3 called on Monday.

4 MS. BERRY WILKINSON: And that's due to the  
5 mandatory time off?

6 THE ARBITRATOR: But they could be called on  
7 Tuesday?

8 THE WITNESS: They could be called on Tuesday,  
9 or they could be called on Wednesday. But they could  
10 not be called on Thursday because they're going to work  
11 that night at seven o'clock.

12 THE ARBITRATOR: No further questions.

13 MR. WHITMORE: Nothing further.

14

15 REDIRECT EXAMINATION

16

17 BY MS. BERRY WILKINSON:

18 Q I have a couple of follow-up questions.

19 Mr. Strobbridge, you mentioned that there's a  
20 limitation with respect to the availability of people by  
21 virtue of the use of the phrase "on that shift." Are  
22 there particular special assignments that have shifts  
23 different than the day and the night?

24 A Yes.

25 Q And what are those?

1           A       Well, any of the officers that are assigned to  
2 traffic division would be an overtime possibility. Any  
3 of the detectives who may be on days off on a weekend  
4 are also an overtime possibility. Any of the officers  
5 that are working SORT are another overtime possibility  
6 that could supplement any of these overtime  
7 requirements.

8           Q       Vice, traffic, SORT, detectives?

9           A       Yes. So there's another 15 to 20 people that  
10 could be put in circulation for overtime -- that are in  
11 circulation for overtime.

12          Q       That would not be accessible by virtue of this  
13 proposal?

14          A       That's true.

15          Q       And would not be tapped as a resource; right?

16          A       That's true.

17          Q       It would be the Association's preference to tap  
18 them as a resource before tapping the seniority clause?

19          A       Yes.

20          Q       With respect to this particular proposal, has  
21 there ever been a complaint to the Association Board  
22 about the manner in which seniority impacts the  
23 mandating of shifts?

24          A       I have -- I cannot remember any instance of  
25 somebody complaining because they were mandated to work

1 overtime, called back to work overtime, not  
2 administering any grievance on that issue.

3 Q And the members of the Association understand  
4 the seniority impact?

5 A Absolutely. It's institutional.

6 MS. BERRY WILKINSON: I have nothing further.

7 MR. WHITMORE: Nothing further.

8 THE ARBITRATOR: Thank you very much. The  
9 witness is excused.

10 MR. WHITMORE: Recall Captain Parkinson on this  
11 issue.

12

13 REDIRECT EXAMINATION

14

15 BY MR. WHITMORE:

16 Q Captain, you heard Mr. Strobbridge's testimony  
17 about the practice in the department of calling  
18 individuals for mandatory overtime -- strike that -- for  
19 nonplanned -- or planned nonemergency overtime, calling  
20 from the same shift versus calling from the other shift.

21 Do you agree with what he said?

22 A Not in its entirety, no.

23 Q Describe what you do not agree with.

24 A Specifically, on -- the first way to fill  
25 overtime is voluntary. It can be anybody, in any

1 assignment. That's what we're -- you know, that's the  
2 ideal. We get somebody voluntarily.

3 Second method is, is if we have no volunteers,  
4 we try to work within the shift. It creates a lot of  
5 problems -- and at least for the past six years, it's  
6 been our practice to work within our shifts. It creates  
7 problems not only for -- for them individually, trying  
8 to, you know, work outside a shift, working the days to  
9 nights. It's taking a day officer, who's not been  
10 working a night shift, and now he's working a graveyard,  
11 and it's hard on 'em. Physically it's hard on 'em. So  
12 that has been the practice, at least for the last six  
13 years, to work within the shift.

14 Now, the majority of the time -- and maybe this  
15 goes to the -- the portion that I -- that I agree on --  
16 the majority of the time, we do -- when -- we fill our  
17 shifts with volunteers. So it's really a nonissue a  
18 majority of time, because we have volunteers that --  
19 that step in.

20 We don't typically pull -- we don't go to the  
21 outside units for filling shifts. You know, traffic  
22 officers work normally a -- anywhere from a four- to  
23 five-day workweek. They're really not available, except  
24 maybe on weekends, to cover a patrol shift. They  
25 certainly can't do a graveyard and then accomplish their

1 own shift.

2 SORT, unless we have them shave, are typically  
3 not, which is definitely an option. We could have them  
4 shave.

5 MR. WHITMORE: Apparently that is not an  
6 option.

7 MS. BERRY WILKINSON: Chad is not liking that.

8 THE WITNESS: I'm feeling daggers back here.

9 THE ARBITRATOR: It's the source of all his  
10 strength.

11 THE WITNESS: It certainly is an option, but  
12 it's typically not something we like -- like to do  
13 because it alters their assignment. So, for the  
14 employees' sake, it's best to work within the shift, and  
15 that's what we -- we have been doing. But, again, it  
16 goes back to, when we have volunteers, it's not a  
17 problem.

18 MR. WHITMORE: Nothing further.

19 THE ARBITRATOR: Any questions?

20 MS. BERRY WILKINSON: I just have a couple of  
21 follow-up questions.

22 THE ARBITRATOR: Okay.

23 \\

24 \\

25 \\

1                                   RECROSS-EXAMINATION

2

3       BY MS. BERRY WILKINSON:

4           Q       You mentioned during your testimony that it's  
5 physically hard for a graveyard officer to work a day  
6 shift on an overtime assignment?

7           A       Actually, the flip side of that. I think it's  
8 easier to work -- go from graveyard to work day shift  
9 than it is from day shift to go to graveyard.

10          Q       I would tend to agree with you on that. But  
11 you don't have any limitations, do you, on graveyard  
12 officers -- or on day shift officers who may want to  
13 voluntarily sign up for a graveyard shift, do you?

14          A       We do not.

15          Q       So -- and, in fact, that is something that  
16 happens within the department, a graveyard -- or a day  
17 shift officer will volunteer to work a graveyard shift;  
18 correct?

19          A       Correct.

20          Q       So that physical limitation is not one that is  
21 preclusive of someone working a graveyard overtime shift  
22 from a day shift; right?

23          A       Some might say it is, but you're right, it's  
24 not.

25          Q       That's probably more a matter of a person's

1 level of physical tolerance and willingness to do so;  
2 right?

3 A Probably, yes.

4 Q It's also a right earned by seniority; correct?

5 A The ability to do that? Yes.

6 Q The right to choose?

7 A Yes.

8 Q Now, as I understood you in your testimony, and  
9 I just want to make sure I understood it correctly, it  
10 is very uncommon for the department to not have  
11 volunteers available -- right? -- for a nonemergency  
12 overtime shift?

13 A Yeah, I would say yeah, I think that's correct.

14 Q This is --

15 A Not that common or -- or uncommon.

16 Q This is a relatively small problem the  
17 department is trying to address?

18 A Yes.

19 Q And then you do have some officers who work  
20 a -- well, less senior officers in particular -- who  
21 work, and volunteer for, a lot of overtime; right?

22 A Absolutely.

23 Q That's a management problem for the department;  
24 correct? In terms of making sure that they are not  
25 overextending themselves physically, that would be a --

1 that would be a problem for management to deal with if  
2 they were; right?

3 A Yes. It -- I mean, it could be a management --  
4 well, it is a management problem. It could be a problem  
5 if we saw an officer that was overextending themselves.

6 Q And the department does still maintain the  
7 right to limit an officer's ability to volunteer for  
8 overtime within any particular window period of time  
9 because they may have concerns about the officer  
10 overextending himself; right?

11 A Oh, absolutely. We have that ability, sure.

12 MS. BERRY WILKINSON: Okay. Thank you. I have  
13 nothing further.

14 MR. WHITMORE: Nothing further. Thank you.

15 THE ARBITRATOR: Thanks, Captain.

16 MR. WHITMORE: I would submit additional  
17 documents on Issue 18, which is the same issue on  
18 overtime that we have just discussed, although this one  
19 deals with nonsworn. I don't have any testimony or  
20 argument to make. It is simply completing the record on  
21 that issue.

22 MS. BERRY WILKINSON: I do, if you're not going  
23 to call.

24 MR. WHITMORE: All right.

25 MS. BERRY WILKINSON: I'd like to call

1 Shaana Lichty.

2 MR. WHITMORE: Okay.

3

4 SHAANA LICHTY

5 having been previously duly sworn, was

6 examined and testified as follows:

7

8 DIRECT EXAMINATION

9

10 BY MS. BERRY WILKINSON:

11 Q Having been previously sworn --

12 THE ARBITRATOR: Hang on a second.

13 MS. BERRY WILKINSON: Sorry.

14 THE ARBITRATOR: I'm not sure if --

15 MS. BERRY WILKINSON: She did testify before,  
16 in the first proceedings, in October.

17 THE ARBITRATOR: Ah, back in the Dark Ages.

18 Okay.

19 THE WITNESS: I've been telling the truth for  
20 months.

21 THE ARBITRATOR: Okay.

22 BY MS. BERRY WILKINSON:

23 Q Having previously been sworn in this  
24 proceeding, Ms. Lichty, and provided testimony before,  
25 have you had an opportunity to review the language

1 provided by the City for the first time today on vol- --  
2 on overtime requirements for nonsworns?

3 A Yes.

4 Q And is there a process within -- you are a  
5 dispatcher; right?

6 A Correct.

7 Q Otherwise known as a "communications  
8 technician"?

9 A Yes.

10 Q Do you mind if I refer to it as "dispatcher"?

11 A Whatever works for you.

12 Q Okay. Is there an existing process for how  
13 overtime works within the dispatch center?

14 A Yes, and it's very similar to what happens for  
15 the officers. When there is nonemergency projected  
16 overtime, a list is posted. With the staffing that  
17 we've had, the list is extensive. By seniority, we each  
18 take the list, and sign up where we can. It starts with  
19 the most senior, who gets to pick what shifts they want  
20 to work, if any, and it goes down through seniority and  
21 is signed up.

22 When there is something that is not signed up  
23 for, we have in our -- in the MOA, there's a specific  
24 section related to contacts. It's 38.2. In that  
25 section, we have it outlined as to exactly what happens

1 when a shift is not signed up for. And because we have  
2 three different kinds of time off, each one is handled  
3 pretty differently.

4 If it's -- if someone had signed up for  
5 holiday, and that shift was posted for overtime --  
6 because of staffing, it always is. We don't have people  
7 to cover when these people take time off. Rarely. If  
8 it's holiday, and nobody signs up for it, it's  
9 cancelled. It's not ordered to anybody. The person  
10 does not get their holiday.

11 If it's comp time, compensatory time off, it is  
12 cancelled if nobody signs up for it. The dispatcher now  
13 comes back to work, and is paid overtime at time and a  
14 half to work the shift of theirs that was not covered.

15 If it's vacation time, it is now ordered to  
16 somebody else.

17 So depending on exactly what the person's  
18 selection of time was, if it's not signed up, it's  
19 handled very differently.

20 Q Okay. Now, you mentioned Section 38.2 of the  
21 agreement. That's Joint Exhibit 2, starting at page 61,  
22 continuing on to page 62, 63, and 64. It's a pretty  
23 comprehensive section dealing with shifts and work  
24 schedules for communications technicians; correct?

25 A Extremely comprehensive, and it was a result of

1 blood, sweat, and tears, by the entire division, a  
2 couple of years back. It fixed virtually all of the  
3 problems that we've had, with the exception of staffing,  
4 which is not something that the POA can necessarily fix.  
5 But with the exception of not having people, this has  
6 taken care of all of our scheduling issues, including  
7 the way the overtime is signed up for and mandated.

8 Q So there's not currently a problem --

9 A It is absolutely not a problem, with the  
10 exception of staffing. We need more people. Everybody  
11 knows we need more people. We're working with what  
12 we've got.

13 Q We introduced earlier today an exhibit, which  
14 number escapes me, but it was the Council Report from  
15 this morning dealing with the Chief's proposal to  
16 overstaff due to understaff -- or overfill due to  
17 understaffing; correct?

18 A Uh-huh.

19 Q There's a serious shortage in the dispatch  
20 center, is there not?

21 A There is.

22 Q And --

23 A Besides training, which takes a long time for  
24 people, and there's no guarantee somebody will be  
25 released from training able to do the job. We've had

1 one supervisor off on light duty for months, and that's  
2 a working position. We had another dispatcher off for  
3 surgery for about three months. That leaves about seven  
4 or eight of us left. And when you've got four people  
5 working, and vacation, and time off, we're absolutely  
6 depleted all the time.

7 Q So there's an extraordinary amount of overtime,  
8 is that fair to say, in the dispatch center?

9 A Yes.

10 Q Yet you don't have problems filling  
11 nonemergency shifts?

12 A No. And I think we all have the idea that it's  
13 gotta be filled, and I don't want the junior person to  
14 be ordered everything. And I have quite a bit of  
15 seniority, and yet I take a huge fraction of what is put  
16 out there, as do all of the senior people. It's not an  
17 issue in dispatch.

18 Q And so you work -- you work together,  
19 basically, in order to make sure no one of you is  
20 overextended?

21 A And, frankly, the pool is so small, the chances  
22 of me getting it anyway are high. We know who's gonna  
23 get the shift because we have very few people. And on  
24 night watch, you have four. On day watch, you have  
25 four. And that's what we've been working with. There's

1 not many people to choose from.

2 Q Now, this extensive section that you talked  
3 about here in 38.2, was that the -- you mentioned the  
4 division working together. Were the City staff working  
5 on it as well?

6 A Yes, Monica was involved in this also.

7 Q Monica Irons, the human resources director?

8 A Correct.

9 Q Based on your testimony, it sounds to me as  
10 though the dispatchers are working together with respect  
11 to the issues presented by overtime. Do you view the  
12 City's proposal here on Issue Number 18 as potentially  
13 being disruptive of a situation that currently works  
14 well?

15 A Yeah. There was a lot that went into this  
16 agreement, and to undo it two years later would be  
17 devastating to people who are working really hard to  
18 keep that center going.

19 Q So it is, in your opinion, trying to fix a  
20 problem that's not broken?

21 A Right.

22 MS. BERRY WILKINSON: I have nothing further.

23 MR. WHITMORE: No questions.

24 THE ARBITRATOR: Thank you very much. The  
25 witness is excused.

1 MR. WHITMORE: We'd move next to 15.

2 THE ARBITRATOR: Okay.

3 MS. BERRY WILKINSON: Following that ever  
4 present numerical order of 18 to 15.

5 MR. WHITMORE: This is a proposal by the City  
6 to reduce the maximum accrual of compensatory time off  
7 for dispatchers. You have just heard testimony about  
8 the staffing problems. The idea that they can  
9 accumulate a very large number of compensatory time off  
10 hours in a bank, all the way up to 480, exacerbates that  
11 staffing problem because they take the time off. Then  
12 somebody comes in and works for them, and gets  
13 compensatory time off at time-and-a-half for working the  
14 hour, it magnifies itself.

15 We have the City's proposed -- the current  
16 language, the City's proposal, what we understand to be  
17 the POA position that there be no change. We have  
18 listed, in the attached exhibits, through 15-5, what we  
19 have found in the surveying we did, and you will see  
20 there is no agency that has the type of comp time off  
21 that they have in San Luis Obispo. Indeed, the 240 that  
22 we are proposing, an amount which other nonsworn have,  
23 is as generous, or more so, than any other agency that  
24 we surveyed.

25 I have nothing further on that issue.

1 THE ARBITRATOR: Okay.

2 MS. BERRY WILKINSON: Give me a second.

3 THE ARBITRATOR: All right.

4 MS. BERRY WILKINSON: We've marked, in response  
5 to the City's proposal, Association Exhibit 252, which  
6 is the existing language of the MOA in Article 11.3,  
7 which, as the City accurately characterized, the  
8 Association's proposal is to maintain the status quo,  
9 and not to change 11.3.

10 We have marked as Association Exhibit 253 a  
11 document that was also previously introduced this  
12 morning in response to the City -- no, I'm sorry --  
13 Exhibit 253, which is a supplement to the MOA, which  
14 was -- for the period of June 30 to -- or July 1, 2003,  
15 June 30, 2004, which contained an expansion, at that  
16 time, of the maximum accrual rate for communications  
17 technicians to 480 hours.

18 Prior to this side letter agreement, the  
19 communications technicians maintained the same level.  
20 They had that 240-hour maximum. It was expanded, back  
21 with this supplemental agreement, which was in  
22 effect and -- which became effective on June 30th of  
23 2004, during that period of time. And so the City  
24 agreed to, and permitted, expansion in 2004, and now in  
25 2006 is reducing it, so the 480-hour cap or accrual

1 maximum for compensatory time is a relatively new  
2 provision of the MOU.

3           Then we have marked as City Exhibit 254 a -- an  
4 E-mail that is -- was a cover to the Dispatch Overstaff  
5 Agenda Report that was previously introduced here, and  
6 it will again be introduced, which, of significance,  
7 indicates that the overtime hours to date in the  
8 dispatch center for the year 2007 are 2,182.75 hours,  
9 which, by the way, supports, I think, Ms. Lichty's  
10 earlier testimony that there's a lot of overtime that  
11 these limited pool of people in the dispatch center have  
12 to perform.

13           Association Exhibit 255, which is the Council  
14 Report related to the overtime staffing, from which I  
15 read earlier today in connection with our rebuttal to  
16 one of the City's --

17           THE ARBITRATOR: That's not what it is. That's  
18 why exhibits sort of speak for themselves.

19           MS. BERRY WILKINSON: And then I -- so this is  
20 266? I'm sorry, I --

21           THE ARBITRATOR: It looks like a statute to me.

22           MS. BERRY WILKINSON: Yes, you're correct. It  
23 is Exhibit 255. Mine was the one that we previously  
24 introduced here today. 255 here is the statutory  
25 provision which permits accrual to 480 hours, so it is a

1 legally permissible provision to have.

2 Exhibit 256 is a listing of the compensatory  
3 time banked hours for those members who are entitled to  
4 the 480-hour --

5 MS. LICHTY: No.

6 MS. BERRY WILKINSON: For the entire  
7 department, and Association included, in which are the  
8 communications technicians demonstrating that excessive  
9 accrual of compensatory time is -- is really not a  
10 problem within the department.

11 And Exhibit 258, which shows it by  
12 classification, and you can see there, with respect to  
13 the communications technicians, there are none of  
14 them -- or one of them, actually, that actually exceeds,  
15 and only by 22 hours, the 240-hour maximum accrual rate  
16 of the compensatory time bank.

17 So, at this point, I would like to call  
18 Shaana Lichty to testify with respect to the reasons the  
19 Association maintained its position that a 480-hour bank  
20 is appropriate.

21 MR. WHITMORE: I've got a numbering problem.

22 THE ARBITRATOR: Me too.

23 MR. WHITMORE: I don't have the same numbers  
24 you do.

25 MS. BERRY WILKINSON: Okay. Well, I have a

1 different set, then.

2 MR. WHITMORE: Let's go off the record.

3 (Discussion held off the record.)

4 MS. BERRY WILKINSON: So shall we go back on  
5 the record here?

6 THE ARBITRATOR: Yes.

7 MS. BERRY WILKINSON: Exhibit 257, which I've  
8 previously referenced as "Exhibit 258," should be the  
9 Excel spreadsheet report by classification.

10 We had -- Exhibit 256 was the compensatory  
11 leave time bank by individual member name.

12 And then 257 is the compensatory time bank  
13 accruals, as of June 22nd of 2006, but by  
14 classification.

15 I note that -- wait. That was 257. 256 is the  
16 accrual by name.

17 So, Ms. Lichty --

18 MR. WHITMORE: Is there a 258?

19 MS. BERRY WILKINSON: No, there is not a 258.

20 THE ARBITRATOR: Not yet anyway.

21 MS. BERRY WILKINSON: Not yet.

22 MR. WHITMORE: Thank you.

23 THE ARBITRATOR: Okay.

24

25

1 RE CROSS-EXAMINATION

2

3 BY MS. BERRY WILKINSON:

4 Q Ms. Lichty, the proposal from the City is to  
5 reduce the maximum accrued compensatory time for  
6 communications techs from 480 hours to 240 hours. Would  
7 you describe for us, please, how it is that the  
8 communications technicians received this higher level of  
9 accrual bank than the sworn classification back in 2004?

10 A It was based on a meeting that we had outside  
11 of negotiations, which this supplemental Memorandum  
12 Agreement, which is 253 -- I'm questioning my number --

13 Q That is 253.

14 A -- and which that is based on that meeting, we  
15 looked at number 255, which allows nonsworn employees,  
16 communications technicians specifically, to accrue the  
17 480 hours. So it was a combination of those two, which  
18 resulted in this agreement.

19 Q And what was the reason that an increased  
20 compensatory time bank was being considered back in  
21 2004?

22 A We had the exact same staffing issues in 2004  
23 as we do now in 2007. Nothing has changed. We worked  
24 overtime like crazy back then. It's -- part of what's  
25 unique about dispatch is in their liability. They know

1 a year in advance -- the City knows a year in advance  
2 exactly what their liability is, as far as how much time  
3 we plan to be taking off.

4 We have a master schedule go out in September  
5 that all of us rotates through by seniority, and sign  
6 up, for the entire next year's schedule, including  
7 holiday time, comp time, and vacation time.

8 Because of our staffing issues, there are very  
9 few opportunities during that year to take anything off  
10 that you haven't signed up for in September of the prior  
11 year.

12 I think -- you know, the liability is very well  
13 known to the City. We work a lot of overtime, as shown  
14 in the number. We have, so far to date, 2,182 hours of  
15 overtime. To take all of that in cash, we need our time  
16 off.

17 I mean, I understand the City having an issue  
18 with us taking time off requires -- requires more  
19 coverage, but we're paying for a staffing problem that  
20 we can't fix. We need our time off to avoid the burnout  
21 that we're absorbing as a result of -- of a staffing  
22 issue.

23 THE ARBITRATOR: But don't you see there's a  
24 contradiction here between taking a lot of time off and  
25 who's going to supplant the tasks that are accomplished

1 by the people who are taking the time off? At some  
2 point or another, you're -- you're caught in between a  
3 rock and a hard place.

4 THE WITNESS: And I think if you look at the  
5 numbers, there's nobody that has 480 hours that they're  
6 planning on taking off. It's not fair to do to anybody  
7 else in there. It's not how we work. I'm probably the  
8 one who has the most, and that's because I'm -- on the  
9 second -- the last exhibit, I have probably the 262  
10 hours, of which it's now down to below 240, because of  
11 the holidays. It -- you know, depending on -- I don't  
12 see the 480 as -- as something that's reached for most  
13 people.

14 We had a com tech, who's now left our unit, who  
15 did require banking a lot of units, because she had a  
16 child with a medical problem. And for her, that was a  
17 security, that she could take the time off, if she  
18 needed to, for her child, because it wouldn't have been  
19 covered under family care.

20 We have people go out on pregnancies who need  
21 comp time to deal with that.

22 We're, for the most part, a female unit, and  
23 because of that, you know, the -- the age that we're at,  
24 the time off is something that I -- I don't see the -- I  
25 don't see the liability there. I -- I think it's a

1 security, for people down there, to have the idea that  
2 if they needed to.

3 And with that said, a year in advance you have  
4 to tell them that you plan on taking it.

5 THE ARBITRATOR: Well, okay. But 480 hours  
6 translates into how many weeks off?

7 MR. WHITMORE: Forty hours a week.

8 THE WITNESS: Ten.

9 THE ARBITRATOR: Twelve.

10 MR. WHITMORE: Twelve.

11 THE ARBITRATOR: So how would that impact the  
12 people that are left in communications, if somebody took  
13 three months off?

14 THE WITNESS: We have that example right now.  
15 It's tough.

16 THE ARBITRATOR: Yeah. It is, isn't it? Okay.

17 MR. WHITMORE: Nothing further.

18 BY MS. BERRY WILKINSON:

19 Q Similarly, you were asked the question about  
20 how it impacts the dispatchers if somebody actually were  
21 to take that amount of time for those -- because you're  
22 working so many hours of overtime now. Is there a  
23 concern about the reduction of --

24 (Interruption by the court reporter.)

25 \\  
26

1 BY MS. BERRY WILKINSON:

2 Q Would that have an impact?

3 A I think it limits people's ability to put their  
4 time where they want to. And I think people who are  
5 willing to sign up for time off -- or for overtime,  
6 based on the fact that they may get time off later, may  
7 not be as encouraged to do it if there was a cap on it.

8 I don't -- I think it's a -- we treat each  
9 other well in there. We have a system that's working.  
10 I don't think it's anything that two years after an  
11 agreement was made needs to be changed. I don't think  
12 anything has changed since two years ago.

13 Q With respect to the fact that you're  
14 accumulating your time, and certainly there would be an  
15 impact if -- if people took the time, due to the  
16 staffing shortage, is there a perception that if the  
17 staffing shortage is solved, as optimistic as that might  
18 be, that those who put in the time, and worked very  
19 hard, would not be rewarded by being able to take extra  
20 time off when the staffing shortage is fixed?

21 A If we had -- if we were --

22 THE ARBITRATOR: This is heaping speculation on  
23 speculation on speculation.

24 THE WITNESS: Well, if we were full staffed --  
25 if we were full staffed, we have two positions called

1 "Relief." Those positions work in lieu of someone  
2 taking a vacation. Someone taking three months off  
3 would be covered by Relief. We would not be impacted,  
4 if we had enough bodies, the way it stands today.

5 THE ARBITRATOR: Nothing further.

6 MS. BERRY WILKINSON: It's actually not  
7 speculation.

8 THE ARBITRATOR: It is what it is.

9 MR. WHITMORE: Off the record?

10 THE ARBITRATOR: Off the record.

11 (Recess taken.)

12 MR. WHITMORE: Okay. On the record.

13 We have a submitted a set of documents number  
14 19-1 through 19-15. These deal with educational  
15 incentive issues. The first two pages are the current  
16 language, the City proposal, and the POA proposal.

17 I am going to want some testimony from Captain  
18 Parkinson.

19 THE ARBITRATOR: Okay.

20 MR. WHITMORE: But first let me describe 19-3  
21 through 19-15 describes the educational incentive  
22 provisions in a variety of agencies, and then also  
23 lists, in the far right, whether or not there is an MPO  
24 step, Master Police Officer.

25 The -- I think the document speaks for itself,

1 so I'm not going to talk about it, but I do want Captain  
2 Parkinson to testify as to one aspect of why the City is  
3 doing what it's doing.

4 THE ARBITRATOR: Very good.

5 MR. WHITMORE: I would also represent, as  
6 Captain Parkinson comes up, that what the City is  
7 proposing is an improvement over where we are now.  
8 The -- we've already had some discussion about the  
9 Master Police Officer Program, and the fact that, in  
10 response to a POA request, a proposal, the City granted  
11 the Master Police Officer Program, and had educational  
12 incentive cancelled pursuant to that proposal.

13 What we are now proposing, keep the Master  
14 Police Officer Program, but add an additional  
15 educational incentive. And what I'd like Captain  
16 Parkinson to do is describe, in essence, what is the  
17 City's proposal to enhance the current incentive  
18 program.

19

20 DIRECT EXAMINATION

21

22 BY MR. WHITMORE:

23 Q Captain, this language for the City talks about  
24 degrees, college degrees, A.A., B.A., or equivalent.

25 What is the City's intent, and the thrust of its

1 proposal, to provide educational incentive for degrees?

2 A Basically, keep it true to the degrees, A.A.  
3 and B.A., and exclude the POST certificates. Probably  
4 an example is -- I'll fall on my sword here for a moment  
5 and use myself as an example. I have every POST  
6 certificate they offer, short of an executive. I have a  
7 management, supervisory, all the advanced. I have  
8 sufficient college units for my bachelor's degree. I'm  
9 on the long-term completion plan though.

10 Under our proposal, um, I do not qual- -- I  
11 would not qualify for ed. incentive. And I tell you  
12 that because I think that's important that -- that it be  
13 a true ed. incentive. And that -- that's the Chief's  
14 position, that's our position, that it should be the  
15 people that obtain the degrees should get compensated,  
16 and -- and it should be limited to their completion  
17 degree, and -- and encourage them, including myself, to  
18 complete.

19 Q For the purposes of the Police Administration's  
20 position, why is it -- does it make sense to provide the  
21 educational incentive for a degree, but not provide an  
22 educational incentive over and above Master Police  
23 Officer for POST certificates?

24 A Well, I think the POST certificates are covered  
25 under the -- the MPO program. Under the ed. -- true ed.

1 incentive program, at least in -- in our mind, a true  
2 ed. incentive program, it requires the completion of the  
3 degree. A POST certificate only requires a certain  
4 amount of units towards obtaining that -- that  
5 certificate.

6 Q Okay. The City's proposal would provide a  
7 benefit above and beyond those presently provided to  
8 sworn officers; correct?

9 A Yes.

10 Q And would provide an educational incentive for  
11 degrees similar to what nonsworn get; correct?

12 A Correct.

13 MR. WHITMORE: Nothing further of the captain.

14

15 CROSS-EXAMINATION

16

17 BY MS. BERRY WILKINSON:

18 Q This is the first time we've seen language from  
19 the City with respect to Issues 19 and 20, and so I  
20 would like to take a moment with my team. But before  
21 doing so, you said that you wouldn't qualify for the  
22 education incentive. You wouldn't anyway -- right? --  
23 because you're not a member of the POA Bargaining Unit?

24 A That's a very good point. Unless they invited  
25 me back in.

1 Q Well, you --

2 MR. STROBRIDGE: No chance.

3 MR. WHITMORE: I knew that -- I knew that was  
4 coming.

5 THE WITNESS: I set myself up for that.

6 MR. WHITMORE: In your dreams.

7 BY MS. BERRY WILKINSON:

8 Q Or you voluntarily took a demotion, which would  
9 qualify you for the --

10 MR. STROBRIDGE: We will accept that.

11 THE ARBITRATOR: Let's go off the record while  
12 we give those folks an opportunity to talk about this.

13 (Recess taken.)

14 BY MS. BERRY WILKINSON:

15 Q In the interest of economy and efficiency, I  
16 just wanted to go back and look, because we had  
17 previously presented, in October, on the education  
18 incentive issue.

19 THE ARBITRATOR: Not to put too fine a point on  
20 it.

21 BY MS. BERRY WILKINSON:

22 Q And so, I just wanted to reference that there  
23 were a number of Association exhibits already introduced  
24 in October, as well as one introduced, I think it was  
25 yesterday, Exhibit 125, which we just simply

1 supplemented our October presentation with that.

2 I'm not going to take the time at this point to  
3 compare the charts that we prepared back in October as  
4 to the comparables that the charts the City has prepared  
5 this time. They are both there, and so I think if I  
6 forego -- and there was plenty of testimony last time,  
7 so I think I'm going to forego at this point in time any  
8 testimony, but I did want to reference that there were  
9 other exhibits pertaining to this issue previously  
10 presented on, which we'll be relying, as to why the POST  
11 certificate element is an important element of the  
12 educational incentive pay. And enough said on that.

13 THE ARBITRATOR: All right.

14 MR. WHITMORE: I would just, for the record,  
15 make it clear that the position we've taken with regard  
16 to the A.A. degree and the B.A. degree was communicated  
17 prior to the start of these proceedings, in the summary  
18 of issues for arbitration, where we said this would be  
19 our position, so it's not a complete surprise as to what  
20 we've said we're willing to do.

21 THE ARBITRATOR: Okay.

22 MS. BERRY WILKINSON: Yeah. Without question,  
23 though, of course, what one says one is going to do, and  
24 what one actually reduces to writing, are --

25 THE ARBITRATOR: We're going to move on,

1 nonetheless.

2 MR. WHITMORE: I would like to, since we now  
3 have, established by Counsel, a past practice of  
4 jumping, to Issue Number 40.

5 MS. BERRY WILKINSON: Oh, a big jump.

6 MR. WHITMORE: And this is -- this is one of  
7 those Ian issues. And we have combined 40 and 41.

8 Off the record.

9 (Discussion held off the record.)

10 THE ARBITRATOR: Ready to go on the record?

11 MR. WHITMORE: Yes, please.

12 THE ARBITRATOR: All right. We're on the  
13 record.

14 MR. WHITMORE: This is a City presentation on a  
15 POA proposal to do two things for field service  
16 technicians, as we understand the POA proposal, to  
17 change to a 4/10 work plan, and to provide a paid lunch.

18

19 DIRECT EXAMINATION

20

21 BY MR. WHITMORE:

22 Q Captain Parkinson, you're familiar with the  
23 POA's proposal, as we understand it?

24 A Yes.

25 Q Can you address the department's position, the

1 administration's position, with regard to those two  
2 issues? First, the 4/10 work plan?

3 A Just the -- a short description of the unit.  
4 The field service technicians are -- they work a variety  
5 of jobs. They're pretty much -- they do everything that  
6 we call upon them to do. There's three of them. One of  
7 them, technically, doesn't perform the same job duties  
8 as the other two. She does not work in the field. She  
9 works in the evidence room. She's in charge of evidence  
10 processing and -- or storage and -- and tagging and  
11 processing, in that manner.

12 So, effectively, we have two field service  
13 technicians. Currently they have available to them an  
14 8/5 and a 9/80, and they're both on the 9/80. The  
15 problem with us moving them to a 4/10 is, right now, one  
16 day a week, we are down to one during the week. A 4/10  
17 would be two days a week we'd be down to one. And  
18 anytime, of course, you have vacation on those days,  
19 you're losing the services of the -- of the two.

20 Quite honestly, the biggest problem is, is just  
21 the unit's so small, it's just schedulingwise it  
22 doesn't -- it's not, in our opinion, the best -- in the  
23 best interest of the department.

24 Q With regard to the paid lunch, what's the  
25 department's position with regard to the POA's proposal

1 to provide a paid lunch for the field service  
2 technicians?

3 A I would say that generally they're -- that the  
4 two are not called out of their lunch. Could they be?  
5 Absolutely. And I completely agree that if they are  
6 called out, they should be compensated in overtime.  
7 But, as a general practice, to compensate them for their  
8 lunch, you know, we don't feel that it's necessary.

9 MR. WHITMORE: Nothing further.

10 MS. BERRY WILKINSON: Short of noting that this  
11 is a previous presentation in response to evidence put  
12 on in October --

13 MR. WHITMORE: It is.

14 MS. BERRY WILKINSON: -- I don't feel the need  
15 to revisit any of the things we did in October here on  
16 this Friday of December. But we will have, I think, one  
17 supplemental exhibit. But Shaana went to go retrieve  
18 it, so I'll just go introduce that later.

19 MR. WHITMORE: Fine.

20 MS. BERRY WILKINSON: At this point, I have no  
21 questions of the captain.

22 THE ARBITRATOR: Thank you.

23 MR. WHITMORE: All right. Thank you.

24 This, as I mentioned, covers both 40 and 41, as  
25 you see in the top right-hand corner. We'd like next to

1 go to 42.

2 MS. BERRY WILKINSON: Again, as I understand  
3 it, this is in response to what we did in October.

4 MR. WHITMORE: That's correct.

5 MS. BERRY WILKINSON: Not a new issue.

6 MR. WHITMORE: Correct.

7 MS. BERRY WILKINSON: Off the record.

8 (Discussion held off the record.)

9 THE ARBITRATOR: We're on the record.

10

11 DIRECT EXAMINATION

12

13 BY MR. WHITMORE:

14 Q For the record, I've introduced a one-page  
15 sheet, 42-1, which reflects the current language, the  
16 City's proposal that there not be any change in the  
17 current language, and then the POA proposal, which, as I  
18 understand it, Captain -- correct me if I'm wrong --  
19 this is a proposal to provide detectives with a fully  
20 paid lunch. Is that the way you understand it?

21 A Yes.

22 Q Okay. What is the department's position  
23 regarding providing detectives -- changing from an  
24 unpaid lunch, which the contract now provides, and  
25 moving to a paid lunch?

1           A     I think, probably to summarize, probably be the  
2     same position as the field service technician.  Yes,  
3     there's times that they get called out, and they should,  
4     in fact, be compensated for that time, when they do get  
5     called out.  But I believe it's the -- it's a rarity  
6     that it happens, and -- and it can be addressed by --  
7     you know, by paying them overtime when they're called  
8     out, and not on a regular basis.

9                     The only other thing that I'd offer in this  
10    area is that -- and I think it was brought up before,  
11    just to -- to put it out, is that there was a comparison  
12    made between this unit and the SORT team, that the SORT  
13    team does get a paid lunch and the detectives don't.  
14    You know, my -- you know, my position on that is the  
15    SORT team predominantly works in the field.  A lot of  
16    their activity is self-initiated.  An investigator works  
17    primarily in the station, with their majority of their  
18    work assigned.

19                    Patrol -- or the SORT team, can, and does, on a  
20    regular basis, perform patrol-type operations.  
21    Obviously not in uniform most of the time.  But on  
22    student weekends they work in raid jackets and issue  
23    citations, things that are -- are field activities.  And  
24    that's the way the unit was designed, and that's the  
25    distinct difference between the two.  Having worked both

1 assignments, there -- there is a distinct difference.

2 Q You have worked both assignments?

3 A Yes.

4 Q And not just for the reporter, but, partly,  
5 what is a raid jacket, and how do you spell it?

6 A Raid, r-a-i-d.

7 Q Thank you.

8 A It's like a windbreaker with patches on it.

9 Q Got it.

10 MS. BERRY WILKINSON: You see it on CSI all the  
11 time. That would be the CSI gear.

12 MR. WHITMORE: Right. Okay.

13 Nothing further of the captain.

14 THE ARBITRATOR: Questions?

15 MS. BERRY WILKINSON: Noting that we already  
16 presented evidence that stands different significantly  
17 from what the captain testified to, I don't need to  
18 repeat that here today, so I have nothing further.

19 MR. WHITMORE: Thank you.

20 THE ARBITRATOR: Okay.

21 MR. WHITMORE: Okay. We would move next to  
22 Issue 43. This is a City proposal. It is a proposal to  
23 deal with something called "The Briefing Period."

24 \\

25 \\

1 DIRECT EXAMINATION

2

3 BY MR. WHITMORE:

4 Q First, Captain Parkinson, can you describe  
5 what -- the City, what it is that the City is proposing?

6 A In the description, there's essentially three  
7 shifts available to the investigatives -- or the  
8 investigators, the detectives, and that is a 4/10, a  
9 9/80, and a 5/8.

10 The shift has traditionally started on a 5/8,  
11 at quarter till the hour for a briefing, very similar to  
12 a patrol briefing, where they come in 15 minutes early,  
13 and they get 15 minutes of overtime, and then they  
14 start.

15 What -- what the City is -- the police  
16 department is recommending is that the shift for the  
17 4/10 start at 6:45 a.m., to facilitate them going to  
18 detective briefing, and conclude at quarter till the  
19 hour, after, you know, the completion of their ten  
20 hours.

21 On regular shifts, other than the 4/10, that  
22 briefing -- or their shift would start at the top of the  
23 hour, so if they were starting at 8:00 they would not  
24 have to come in at quarter till. They would come in at  
25 eight o'clock, and their briefing would be -- occur at

1 that time.

2 It is our position it's just not necessary, it  
3 is mandatory that they come in. Now, you know, for --  
4 probably for every argument that -- that we hear that  
5 they don't want to come in, there's probably two that  
6 say they want to come in for, you know, the 15 minutes  
7 of overtime.

8 But the reality is, it's done in patrol because  
9 of the overlap necessity. To have one team, ideally,  
10 briefed before, which rarely happens completely. But  
11 the idea is to have them briefed prior to going out on  
12 the street. We don't have that same necessity with --  
13 with investigations.

14 Q At present, a detective working the 4/10, as  
15 his or her regular schedule --

16 A Uh-huh.

17 Q -- every day gets 15 minutes of overtime  
18 working their regular schedule because of the 15 minutes  
19 of briefing; is that right?

20 A Correct.

21 Q So, the City's proposal would still require  
22 them to come in at the same time, but they'd leave 15  
23 minutes earlier at the end of the day, so there would be  
24 no overtime built into their regular daily work;  
25 correct?

1 A Correct.

2 Q With regard to the 6:45, is that when patrol  
3 briefing occurs for day shift?

4 A Yes.

5 Q Do the detectives participate in the patrol  
6 briefing?

7 A Yes. The ones that are working the 4/10.

8 Q Okay. Do detectives work shifts, or do they  
9 work days?

10 A They work days.

11 Q 4/10, 9/80 or 5/8; right?

12 A Correct.

13 MR. WHITMORE: Nothing further.

14 MS. BERRY WILKINSON: Give me one quick moment.

15 MR. WHITMORE: Sure.

16 THE ARBITRATOR: Sure.

17 (Discussion held off the record.)

18

19 CROSS-EXAMINATION

20

21 BY MS. BERRY WILKINSON:

22 Q I just have a couple of follow-up questions,  
23 very briefly. Captain, how long has this built-in 15  
24 minutes of overtime applied to the investigation  
25 division assignment?

1 A At least 20 years.

2 Q For a very long time; correct?

3 A It's a long time, yeah.

4 Q At least in mine --

5 A Beyond that, I -- I don't know. At least 20.

6 Q Maybe more?

7 A I'm sure it is more.

8 Q And with respect to the detective division  
9 assignment, is there any specialty pay, any premium pay,  
10 that goes along with that assignment?

11 A Well, the MPO program would kick in with the --  
12 with the completion of that, so I guess "yes."

13 Q Well, this is -- the detective position is a  
14 qualifying specialty to achieve MPO if you have the  
15 multitude of other qualifying requirements as well, but  
16 when you are assigned to the detective division, if you  
17 don't have any of the other MPO qualifications, or maybe  
18 it's your first, instead your third, specialty  
19 assignment, you would receive no extra premium pay for  
20 that position; correct?

21 A Correct.

22 MS. BERRY WILKINSON: Thank you.

23 THE ARBITRATOR: Anything else?

24 MR. WHITMORE: Nothing further.

25 THE ARBITRATOR: Okay.

1 MR. WHITMORE: If we can go off the record for  
2 a minute?

3 THE ARBITRATOR: Off the record.

4 (Discussion held off the record.)

5 MR. WHITMORE: Back on the record?

6 THE ARBITRATOR: Yes, we're back on the record.

7 MR. WHITMORE: Thank you. The City has  
8 submitted 16-1. This is a City proposal. This is a  
9 proposal which has been communicated to the Association,  
10 prior to these proceedings, that the City is interested  
11 in having some kind of cash-out of compensatory time off  
12 at the end of the calendar year, which would then allow  
13 the employee to begin accruing comp time off January 1st  
14 of the following year. This would, of course, result in  
15 the individuals who have comp time on the books  
16 receiving money. They'd get cashed out.

17 We have now proposed that -- the proposal that  
18 we have out there now as proposal to cash it all out.  
19 We may revise that in our final. We're still talking  
20 about that, and I wanted to give a heads up.

21 The reasons, we will argue in our final  
22 argument, for wanting to get at this issue in some way  
23 is that there is an unfunded liability for comp time  
24 that stays on the books.

25 There is also the fiscal problem for the City

1 that comp time on the books, over a number of years,  
2 increases in cost as salary goes up, because if the  
3 individual leaves, or cashes out at a much later date,  
4 the value of that comp time is higher than it was when  
5 it was earned.

6 If we can stay on top of it annually, we've  
7 capped that cost, in addition to dealing with the  
8 unfunded liability. We'll make those arguments more  
9 specifically when we submit our final proposal. And as  
10 I say, it may be exactly like this, or it may be  
11 somewhat revised. The issue is one of concern to the  
12 City.

13 I don't have anything further on this issue at  
14 this time.

15 THE ARBITRATOR: All right. Just for point of  
16 clarification, under the wording of this proposal,  
17 everybody would start off the year with zero --

18 MR. WHITMORE: Correct.

19 THE ARBITRATOR: -- in their leave bank? Or  
20 comp time bank?

21 Okay. It didn't take long for a response, did  
22 it?

23 MS. BERRY WILKINSON: I would agree with  
24 Counsel's characterization that this was articulated  
25 previously, which is shown by the promptness of our

1 ability to be able to provide a response to it.

2 We didn't have actual language, but I think  
3 that we -- or what was communicated was not hard to  
4 translate into actual language, and the actual language  
5 is consistent with what was communicated. So, that is a  
6 good thing. Although I know it may change, as the City  
7 did as well.

8 I have a couple of questions with respect to  
9 this. I'm not sure who to direct them to, so I'm going  
10 to direct them to you, Mr. Whitmore. And then if  
11 there's --

12 MR. WHITMORE: Sure.

13 MS. BERRY WILKINSON: -- you know, a person you  
14 wish to redirect it to, I will leave that to your  
15 discretion.

16 MR. WHITMORE: Okay.

17 MS. BERRY WILKINSON: I will note that the  
18 Association has marked as Exhibits 258 and 259 the  
19 current language, which is what it wishes to see. This  
20 is a proposed change by the City. The Association's  
21 position is no change to the language. Maintain the  
22 status quo. So 258 reflects that.

23 Exhibit 259 is an exhibit which then reflects  
24 the assessment of other comparable agency cash out or  
25 compensatory time off provisions, and, as you can see,

1 there is no other jurisdiction on the combined list of  
2 jurisdictions which have a mandatory cash out, let alone  
3 a mandatory cash out that brings the compensatory time  
4 bank down to zero.

5 Although Napa has a 50-hour carry-over  
6 requirement, they are required to have a bank of  
7 compensatory time banked out at 50 hours. So with  
8 respect to that, they would cash it out if it was above  
9 50 hours.

10 The -- I also would note, and I guess this is  
11 the source of my question, as I understand the City's  
12 proposal, that cash out of compensatory time only  
13 applies to nonsworns; correct?

14 MR. WHITMORE: Yes, that's this proposal.

15 MS. BERRY WILKINSON: Okay. It's not our  
16 understanding that the City has a similar proposal for a  
17 zero cash out to sworns; am I correct?

18 MR. WHITMORE: Correct.

19 MS. BERRY WILKINSON: Okay. So we would have  
20 an inconsistency because the -- as I understand it,  
21 because the sworns can accumulate compensatory time to  
22 the maximum of their bank, and would be able to maintain  
23 it from year to year, which is obviously one of the  
24 things that we will be arguing.

25 So my practical question is, one, with respect

1 to this provision, that, as it currently works, and as  
2 described previously by Ms. Lichty in her testimony, the  
3 communications techs, for example, sign up in September  
4 of the year, so, for example, this year they would have  
5 signed up in September of 2007 for time off in 2008, in  
6 part utilizing their compensatory time off bank that is  
7 in existence in September of 2007. They cash it out to  
8 zero, how does that then work? They wouldn't be  
9 eligible to sign -- they wouldn't have any time on the  
10 books January 1st for which they've already signed up in  
11 September of '07.

12 MR. WHITMORE: I'll try to get an answer. I  
13 don't know the answer.

14 MS. BERRY WILKINSON: Okay. Thank you. So  
15 that would be, in our opinion, a major flaw with the  
16 proposal that we would argue ultimately.

17 I have nothing further on that.

18 MR. WHITMORE: Nothing further.

19 THE ARBITRATOR: All right.

20 MR. WHITMORE: I would like a short break off  
21 the record --

22 THE ARBITRATOR: Okay.

23 MR. WHITMORE: -- to review a couple sets of  
24 documents.

25 THE ARBITRATOR: All right. What kind of time

1 do you need?

2 MR. WHITMORE: Ten.

3 THE ARBITRATOR: Okay.

4 MR. WHITMORE: Thank you.

5 (Recess taken.)

6 MR. WHITMORE: I have distributed City exhibits  
7 21-1, 21-2, and 21-3. These are -- it's a proposal by  
8 the City to make certain changes in educational  
9 incentive and tuition reimbursement. And I'd like  
10 Karen Jenny to describe the City's proposal.

11 THE ARBITRATOR: Okay.

12

13 DIRECT EXAMINATION

14

15 BY MR. WHITMORE:

16 Q Karen, directing your attention to 21-2, there  
17 is a present section from the contract, which has been  
18 converted for City proposal purposes, that have a whole  
19 lot of strike-outs. What is the City attempting to do  
20 in these deletions?

21 A The City is attempting to simplify the  
22 education incentive program. The language in Article  
23 14, currently some applies to sworn. Some applies to  
24 nonsworn. Some applies to employees hired before July  
25 of 1981. Some applies to employees after July of 1981.

1 And it is our intention by this deletion that everyone  
2 would be covered by the -- I believe it's Paragraph A of  
3 Section -- of Article 14, whereby the education  
4 incentive would apply on a permanent basis after you  
5 achieve the A.A., or 60 units, or the B.A. degree.

6 Q Okay. I notice that in the City proposal, at  
7 the -- the last bullet point is left in, with everything  
8 else that's deleted above it. What's the significance  
9 of that? What does that mean?

10 A That's leaving in current language, "All  
11 employees are currently eligible for tuition  
12 reimbursement," and we are not proposing to change that.

13 Q Now, employees hired after July 1, 1981, had to  
14 meet certain requirements?

15 A Yes.

16 Q The first two bullet points there?

17 A Yes.

18 Q And we're proposing those be deleted.

19 A We're proposing those requirements be deleted.

20 Q So that whether hired before or after '81, you  
21 would be subject to the City policy for tuition  
22 reimbursement; is that correct?

23 A That is correct.

24 MR. WHITMORE: No nothing further of Karen.

25 THE ARBITRATOR: Questions --

1 MS. BERRY WILKINSON: I -- I do.

2

3 CROSS-EXAMINATION

4

5 BY MS. BERRY WILKINSON:

6 Q This is -- the City has proposed before  
7 simplifying the language, but we did not know what they  
8 meant by that, because we didn't have the simplification  
9 ever in front of us until now.

10 As I understand the City's proposal as  
11 articulated, Karen, in 21-3, the City is in agreement  
12 with the Association to strike the annual qualification,  
13 and the requalification requirements, that we  
14 presented -- which was what a proposal we presented back  
15 in October?

16 A Yes, that is correct.

17 MR. WHITMORE: Correct.

18 BY MS. BERRY WILKINSON:

19 Q I'm struggling here, seeing as how this is the  
20 first time that I've seen this, with how does this  
21 actually simplify things in your view?

22 I mean, it deletes a whole bunch. It deletes a  
23 5 percent step increase, which, in my viewpoint, takes  
24 away, actually, a benefit that's provided. I'm not  
25 quite sure how it simplifies the benefit.

1           A       It simplifies the benefit in that it goes back  
2 to the language, as -- as I understand it, it goes back  
3 to the program prior to 1981, and it simplifies it, in  
4 that you have to have reached a certain level before  
5 you're eligible for ed. incentive.

6                   Rather than the current provision in F-1, while  
7 you are taking classes, if you take at least nine units  
8 in one fiscal year, then for the following fiscal year  
9 only -- it's not a permanent 5 percent; it is the  
10 following fiscal year -- you would get 5 percent. If  
11 you don't maintain those nine units each year, then the  
12 5 percent ed. incentive, under that provision, goes  
13 away.

14                   It's -- it's a bit confusing. It's a little  
15 difficult to administer and track for people, to make  
16 sure that they're on and they're off and they're getting  
17 that, and that was our intention in simplifying the  
18 language.

19           Q       Okay. And so, to make sure I've got this  
20 straight, because I think, actually, simplification in  
21 this -- as described by you is actually the equivalent  
22 of removing a benefit, so I want to see whether I'm  
23 correct on that.

24                   As I understand, the education incentive  
25 provision, if you have a degree, then you get the

1 benefit in -- articulated in A; right?

2 A Right.

3 Q So you get that one-half step above the base  
4 salary --

5 A Yes.

6 Q -- is that correct?

7 And that's the equivalent of the 5.26 percent  
8 pay increase?

9 A That one-half step?

10 Q Yeah.

11 A No, it's 2.63.

12 Q It's 2.6 -- that's right. Thank you very much.  
13 I get my numbers confused.

14 So, let's -- as I read Section F, Section F  
15 applies to somebody who is not yet qualified to receive  
16 the basic benefit under Section A; right?

17 A Yes, that's correct.

18 Q So, Section A, that's a one step above base  
19 salary if you have the degree in your possession --

20 A Correct.

21 Q -- correct?

22 A That's correct.

23 Q And Section F, you get this 5 percent as you  
24 are pursuing your degree; right?

25 A As long as you maintain nine units in one

1 fiscal year, then the next fiscal year, yes.

2 Q So, as I understand, then, the City's  
3 simplification, let's take Barbara Sims as an example,  
4 as I think we've learned earlier in this proceeding that  
5 she does not yet have her degree, so she would not be  
6 eligible for the benefit in Section A; correct?

7 A Correct.

8 Q But as we learned yesterday, as she gave us  
9 some schooling on algebra, whether we're interpreting it  
10 correctly, she is working towards her degree; correct?

11 A That I do not know, but that's --

12 Q All right. Well, then -- but if she was --  
13 hypothetically --

14 A Yes.

15 Q -- speaking, if she was currently working  
16 towards her degree, then she would be entitled to this  
17 5 percent specified in Section F?

18 A Yes.

19 Q By virtue of removing that, then, on the new  
20 contract, if she hadn't achieved her degree yet, she'd  
21 lose that 5 percent; correct?

22 A That is correct. That is the intention of our  
23 proposal.

24 MS. BERRY WILKINSON: Nothing further.

25 MR. WHITMORE: Nothing further.

1 THE ARBITRATOR: Do you know how many people  
2 are in this category?

3 THE WITNESS: I believe just one. Maybe two.

4 MR. WHITMORE: And she just raised her hand.

5 MS. SIMS: And I work very hard to maintain  
6 those nine units every year.

7 MS. BERRY WILKINSON: And working very hard  
8 still to get your degree?

9 MS. SIMS: I'm known as the overtime queen in  
10 records, too. So I go to school and work overtime.

11 THE ARBITRATOR: Okay. Thank you.

12 MR. WHITMORE: I would like to deal --

13 MS. BERRY WILKINSON: I do feel compelled to  
14 put actually -- I don't know if we need to put more  
15 formally on the record the evidence with respect to  
16 Barbara.

17 MR. WHITMORE: I'll stipulate to it.

18 MS. BERRY WILKINSON: Oh, you'll stipulate to  
19 it?

20 MR. WHITMORE: Yeah.

21 I don't mean to deprive you the chance of  
22 testifying, but --

23 THE ARBITRATOR: Off the record.

24 (Discussion held off the record.)

25 MR. WHITMORE: Back on the record.

1           The City has submitted City Exhibit 22-1.  
2       There is some new language here. What we have tried to  
3       do is address a concern raised by the Association. The  
4       proposal would be to say that you do not receive  
5       educational incentive for work done on City time, but  
6       Mr. Strobridge raised the issue of having been sent to  
7       training by the City which qualified towards a degree.

8           What we are trying to do is to say generally  
9       you do not receive educational incentive for training  
10      received on City time, but if we send you, then you do  
11      get credit for that towards your educational incentive,  
12      so that's what we were trying to do with this proposal.

13           Before Counsel says it, this is new language  
14      developed since the last hearing when those issues were  
15      raised, and it is an attempt to address a concern, that  
16      we thought was reasonable, that the Association raised?

17           MS. BERRY WILKINSON: Actually, I was going to  
18      say something else, which is, having presented this  
19      revised language that accomplishes just in a different  
20      way exactly what the Association was attempting to  
21      accomplish, we're fine with it.

22           THE ARBITRATOR: Yea. We got something off the  
23      table.

24           MR. WHITMORE: Can't I argue something about  
25      it?

1           THE ARBITRATOR: Holy Toledo. I think what got  
2 'em was your preempting her from saying this was new  
3 language.

4           MR. WHITMORE: T.A. 22.

5           THE ARBITRATOR: Thank you very much.

6           MR. WHITMORE: Good. It was -- off the record.

7                   (Discussion held off the record.)

8           MR. WHITMORE: This is 23.

9           THE ARBITRATOR: Okay.

10          MR. WHITMORE: The 23-1 is an attempt by the  
11 City to respond to the proposal from the Association  
12 that -- to delete the language "Educational incentive  
13 will be removed if the employee is promoted." They want  
14 to delete that.

15                What we're proposing is that there be no change  
16 in the current language. This is a cover sheet  
17 reflecting that. The only argument I would make, which  
18 we will make again, is this only occurs, removal of  
19 education incentive on promotion, when the individual is  
20 promoted outside of this bargaining unit, to another  
21 bargaining unit, whose contract either covers it or  
22 doesn't cover it. So, this is not -- this is an attempt  
23 to do something beyond the bargaining unit, and affect  
24 another negotiation group. So, we think the deletion is  
25 inappropriate, and we should keep the current language

1 as it is, which says, "It is removed if they are  
2 promoted," when they will be subject to the other  
3 bargaining unit's contract.

4 MS. BERRY WILKINSON: Well, actually, I think  
5 we have the reverse concern, which is, we have no  
6 control over the benefits, and should not have any  
7 control over the benefits, if somebody is promoted out  
8 of our unit. And by having this language in our  
9 contract, it's superfluous. It's got no -- whether they  
10 have it or they don't have it, whether they get it or  
11 don't get it, is going to depend on where they go when  
12 they leave our unit. So there's no reason to have the  
13 language.

14 We're not suggesting that the employee keeps a  
15 benefit that they derive only by virtue of being in our  
16 bargaining unit when they move to another bargaining  
17 unit. We're simply suggesting it's not -- we don't need  
18 the language in there because we don't control that  
19 benefit.

20 It's not appropriate for us to be stating in  
21 our MOA what may or may not happen if someone leaves the  
22 bargaining unit. It's self-evident to us. The minute  
23 they're no longer our unit member, our collective  
24 bargaining unit doesn't apply to them, and they're  
25 controlled by somebody else's, so they may or may not

1 receive it.

2 MR. WHITMORE: There is no dispute, is there,  
3 that if someone is promoted, they go outside of the  
4 bargaining unit, there are no internal bargaining unit  
5 promotions?

6 MS. BERRY WILKINSON: Yeah, we don't have any.

7 MR. WHITMORE: Yeah.

8 MS. BERRY WILKINSON: And that's precisely the  
9 reason to remove the language, is that since we don't  
10 have any -- we don't have anybody who gets promoted  
11 within our bargaining unit, there's no reason to have it  
12 there.

13 THE ARBITRATOR: Off the record.

14 (Discussion held off the record.)

15 (Noon recess taken from 12:15 p.m. to 1:16 p.m.)

16 THE ARBITRATOR: Back on the record.

17 MS. BERRY WILKINSON: During -- prior to the  
18 break, we were given the Association Exhibits 44-1  
19 through 44-17, which was the City's proposed appendix  
20 clean-up language, and I have to say I'm to be admired  
21 for my remarkable ability to expedite through material I  
22 have never seen before, but I have a couple of questions  
23 about it. So I want to make sure, as I look at it, I am  
24 understanding correctly some of the things that raised  
25 questions.

1           So if I look at 44-1, it says, "Delete Appendix  
2 D. The provisions of Appendix E are contained in  
3 Article 16." Is that just a typo, "E"? It should be  
4 "D" there?

5           MS. JENNY: You've got one that says "E"?

6           MS. BERRY WILKINSON: Yeah.

7           MS. JENNY: It should be "D." That's a typo.  
8 Mine says "D."

9           MS. BERRY WILKINSON: Mine says "E."

10          MS. JENNY: Well, then it is a typo. Sorry.

11                   (Discussion held off the record.)

12          MR. WHITMORE: I want to move on to two, Issues  
13 24 and 25. Issue 24 is the 2007 health insurance -- or  
14 Cafeteria Plan numbers. The 24-2 reflects the City's  
15 proposal, adding in, "As the Association has sought life  
16 insurance as part of the Cafeteria." 24-4, some survey  
17 information. 24-4 through --

18          MS. BERRY WILKINSON: I don't have 24-4. I  
19 have 24-3.

20          MR. WHITMORE: Do we not have that?

21          THE ARBITRATOR: I don't either.

22          MR. WHITMORE: Okay. We looked at the survey  
23 information, and decided we didn't need it, because  
24 yours -- the information you had was close enough. So I  
25 have these old drafts of things. That's what I -- why I

1 mentioned it. So the last section is -- the last page  
2 is 24-3.

3 And 25, and I want Karen's help on this one in  
4 testimony, these are later years.

5 THE ARBITRATOR: Okay.

6 MR. WHITMORE: 25-2 contains the City's  
7 proposal, and I want some testimony from Karen on that  
8 subject shortly, including a description from 25-8 of  
9 the numbers, and how the City came up with the figures  
10 it did.

11 We do have some survey information on this one,  
12 which is on 25-9.

13 THE ARBITRATOR: Off the record.

14 (Discussion held off the record.)

15 THE ARBITRATOR: Okay. We're on the record.

16

17 DIRECT EXAMINATION

18

19 BY MR. WHITMORE:

20 Q Karen, directing your attention to 25-2, these  
21 numbers appearing at the very top, "Effective December  
22 '06 for January '07," those are the numbers that appear  
23 back in Issue 24; correct?

24 A Yes, that is correct.

25 Q Okay. Now, going further down, for Effective

1 '07, Effective '08, for the January '08 and January '09  
2 premiums, different numbers. How did you arrive at  
3 those -- how did the City arrive at those numbers? And  
4 feel free to refer to later documents if you need to.

5 A Okay. If we can turn to page 25-8, which is  
6 the -- a chart that I prepared, this shows how we came  
7 up with the numbers that we are proposing.

8 For -- let me back up. We used the same  
9 methodology as we used for the formula that we have in  
10 other -- with other bargaining groups, firefighters,  
11 fire battalion chiefs, including staff officers --

12 Q And what is that formula?

13 A -- for successive years.

14 That is a 50/50 cost sharing split of the  
15 average increase -- percentage increase of the health  
16 plans available to the bargaining units.

17 Q Okay.

18 A So they're -- different bargaining units have  
19 some different health plans available, so that the  
20 percentages would not necessarily be the same for every  
21 bargaining unit, but they would be close.

22 Q Okay. So to arrive at the numbers you arrived  
23 at for the last two years of this contract, what did you  
24 do to calculate those kind of projected numbers?

25 A Well, if I may, let me back up to how we

1 calculated for 2007.

2 Q Okay.

3 A Because the 2007 number includes the average  
4 cost increases, that we know, for plans that occurred in  
5 2005, 2006, and 2007, so we went back two years, to when  
6 the -- the last time the Cafeteria contribution was set.

7 And that's referenced on page 25-1. The  
8 current family coverage is \$995, or the current family  
9 contribution. So the average -- again, going back to  
10 page 25-8, in the top box, where it says, "Proposal for  
11 2007," that as 50/50 split of the average percentage  
12 cost increases for PERS plans available to this unit.

13 That increase amounted to, over the three  
14 years, 21.5 percent. 50 percent of that is  
15 10.7 percent. We applied the 10.7 percent to the 995 to  
16 come up with the numbers shown under "City Contribution"  
17 column in that first box.

18 Now, if you actually take a calculator, you  
19 won't quite -- these numbers are slightly higher than  
20 10.7 percent. And in that box above the -- the line  
21 above the average increase, there is a comment that  
22 "This was adjusted equal to the SLOPSOA," or the Police  
23 Staff Officers contribution.

24 That adjustment was approximately, depending on  
25 the contribution, 5 to \$7, because the Police Staff

1 Officers had a slightly higher percentage increase,  
2 because they do not have the benefit of the PORAC plan,  
3 which had a lesser percentage increase in 2005, 6,  
4 and 7.

5 We felt it was important to be consistent  
6 between the bargaining units, someone promoting from one  
7 bargaining unit into the next, so we adjusted this  
8 upwards slightly, as I said, 5 to \$7, to match the  
9 Police Staff Officers Unit.

10 Q All right. And you did, I gather, from the  
11 lower two boxes, the middle one and the one on the  
12 bottom, the same analysis, reflecting the numbers in the  
13 same way; is that right?

14 A That is correct. There's a slight difference  
15 in 2009, because we don't know what the rates are going  
16 to be in 2009. We have -- as you can see in the middle  
17 box, the -- for 2008, the average percentage increase  
18 for the plans available was 6.37. We have estimated for  
19 2009 that the average percentage increase will be  
20 15 percent. We think that might be high. We just don't  
21 know. It's -- health insurance rates, it's anybody's  
22 guess. We have had years when the percentage increase  
23 has been as much as 12 or 15 percent.

24 So the City is taking the -- using the estimate  
25 of 15 percent to come up with dollar amounts that we

1 propose would go into the contract. If the percentage  
2 increase in 2009 turns out to be less than 15 percent,  
3 then the City -- we would not change our proposal. We  
4 would take on -- we would take that part of the risk,  
5 speaking as a risk manager. And if -- okay.

6 MR. WHITMORE: I don't have anything further  
7 from Karen on this issue.

8 MS. BERRY WILKINSON: I have a couple of  
9 questions, and then I want to take a break, if we may.

10

11

CROSS-EXAMINATION

12

13 BY MS. BERRY WILKINSON:

14 Q Why did you choose three years for your average  
15 for 2007?

16 A Because the last -- this 995 contribution is  
17 based on the 2004 rates, so this contribution has not  
18 been increased -- it was not increased in 2005 or 2006.  
19 We felt it important to capture not just the 2007  
20 increase, but the 2005 and 2006.

21 Q What were the increases for 2005, 2006, and  
22 2007?

23 A I -- if you'll give me a minute, I have them in  
24 a folder.

25 Q That will be fine. Why don't you --

1 A Right now? Okay. I'm ready when you are.

2 Q Oh, I am. I was just writing "2005," "2006,"  
3 "2007."

4 A I don't have the average calculated --

5 Q Understood.

6 A -- in what I'm referring to here.

7 Q Understood.

8 A But in 2005, the Blue Shield HMO increased  
9 2.54 percent.

10 Q Okay.

11 A PERS Choice increased .58 percent.

12 Q Okay.

13 A And the PORAC plan increased 2 percent --

14 Q So --

15 A -- at family coverage.

16 Q So for 2005, Blue Shield increased 2.54; PERS  
17 .58, you said --

18 A Yes.

19 Q -- PORAC, 2 percent?  
20 2006?

21 A 2006, Blue Shield HMO increased 10.6 percent.  
22 PERS Choice increased 9.4 percent. And PORAC remained  
23 zero. There was no increase.

24 Q Okay. In 2007?

25 A 2007, Blue Shield HMO increased 13.8 percent.

1 PERS Choice increased 12.5 percent. And the PORAC plan  
2 increased 9.97 percent.

3 Q Thank you. I appreciate you grabbing your  
4 folder.

5 MR. WHITMORE: Do I understand that the average  
6 of the three, in each year, was calculated, then added  
7 to the next year, and added to the next year, to come up  
8 with the total of 21.5?

9 THE WITNESS: That's correct.

10 BY MS. BERRY WILKINSON:

11 Q I just have a couple other questions before I  
12 take a break to consult with my team.

13 As I understood your testimony, and I just want  
14 to make sure I am understanding it is correctly, you --  
15 to reach these increases, you used the formula that's  
16 basically articulated in the prior MOU?

17 It's the one-half of the average percentage  
18 change for family coverage in the PERS health plans  
19 available in San Luis Obispo County, just applying the  
20 PERS plans available to the POA unit as opposed to the  
21 fire unit?

22 A Yes.

23 Q Now, that's the same for the battalion chiefs  
24 as well; correct?

25 A Yes.

1 Q Then SLOPSOA has a hard dollar figure, as does  
2 the POA?

3 A SLOPSOA, as I remember, has a hard dollar  
4 figure in the first year -- the years -- beginning in  
5 2009, when we don't know what the increase is, they have  
6 the formula -- same cost sharing formula.

7 Q Oh, I'm sorry. Yes, you are right about that.  
8 I was looking at SLOCEA.

9 A SLOCEA has a hard dollar formula.

10 Q I'm sorry?

11 A Or hard dollar amount.

12 Q Okay. I got them mixed up. Thank you for the  
13 correction.

14 Now, when it comes to the fire and the  
15 battalion chiefs, where this formula, in essence, comes  
16 from as applied, they don't have a tiered system;  
17 correct?

18 A That is correct.

19 Q So they are doing the average percentage change  
20 for family coverage, which means that somebody who is an  
21 employee only coverage would have available to them  
22 sufficient cash to purchase all their benefit; right?

23 A Yes.

24 Q So the application of the formula in -- for  
25 other bargaining units, like fire and battalion chiefs,

1 simply will cover 100 percent of an employee only?

2 A Yes.

3 Q But it won't for a POA member; correct?

4 A It will not, because it is a 50/50 cost sharing  
5 split of the increase.

6 Q And you have graciously indicated here on your  
7 chart how many employees actually opt out, versus are  
8 employee only, versus employee plus one, employee plus  
9 two. I'm assuming you're projecting forward into the  
10 future years that it will remain the same and  
11 consistent?

12 A That was the assumption that was made.

13 Q And notwithstanding Mr. Strobridge's testimony  
14 that sometimes they move in and out of employee only.

15 Do you know how many employee onlys there are  
16 in the SLOPSOA unit?

17 A I do not.

18 MS. BERRY WILKINSON: With that, I'd like to  
19 take a break.

20 MR. WHITMORE: Can I ask --

21 THE ARBITRATOR: I just want to be clear about  
22 one thing.

23 MR. WHITMORE: Okay. Good.

24 THE ARBITRATOR: This is the method that was  
25 used in prior years in prior contracts? The cost

1 sharing, that is?

2 THE WITNESS: It's the method the City has  
3 used. How we came to the numbers, you know, there was  
4 probably some massaging of that. Not a strict formula,  
5 no.

6 THE ARBITRATOR: All right. Well, but was this  
7 cost sharing method employed in the prior agreement to  
8 arrive at those sums?

9 THE WITNESS: No, I guess.

10 THE ARBITRATOR: Different way of asking the  
11 question: Is this a change in the way that you  
12 calculate what the health benefit contribution is?

13 MS. BERRY WILKINSON: A change for POA?

14 THE ARBITRATOR: Yes. That's the only unit I'm  
15 dealing with.

16 THE WITNESS: Yeah. The -- I'm hesitating,  
17 thinking about my answer in this regard, only because it  
18 has been the City's intention in prior negotiations,  
19 prior proposals that we would have set forward, that we  
20 use the same methodology. Where the actual number  
21 landed may not have been right at that particular  
22 formula.

23 THE ARBITRATOR: All right. But it was your  
24 intent to share any cost increases 50/50?

25 THE WITNESS: Yes.

1 THE ARBITRATOR: All right.

2

3 CROSS-EXAMINATION

4

5 BY MR. WHITMORE:

6 Q I have just a follow-up on 25-9. There is in  
7 the City's proposal, now, to go back to 25-2, a  
8 different approach to how the opt-out would work;  
9 correct?

10 A That is correct.

11 Q Describe what the City's proposal is, and then  
12 I want to go back to 25-9?

13 A On 25-2, the City is proposing that the  
14 contribution for those employees who opt out of the  
15 health coverage would be fixed at the \$470-per-month  
16 contribution, which is the 2007 contribution for  
17 employee only.

18 Q Have we done that before, or is that different?

19 A That is different.

20 Q Okay. Go to 25-9. This is a survey you have  
21 done of opt-outs, and the dollars?

22 A Yes.

23 Q Okay.

24 A These are the maximum cash back -- cash amounts  
25 that other agencies allow for the people who opt out.

1 Q And is this the combined list that the City is  
2 proposing and the POA is proposing?

3 A Yes, in addition to the compensation City list  
4 and the Measure Y Benchmark list.

5 Q Oh, all of those are included?

6 A All of those, yes.

7 MR. WHITMORE: Okay. Nothing further at this  
8 time.

9 THE ARBITRATOR: Okay. You need a few minutes  
10 to talk this over?

11 MS. BERRY WILKINSON: Yeah. I just have one  
12 question before we do.

13

14 REDIRECT EXAMINATION

15

16 BY MS. BERRY WILKINSON:

17 Q Ms. Jenny, you had indicated that the fire uses  
18 this cost sharing formula, and that relates to family  
19 coverage. The Association had introduced Exhibit 209  
20 with respect to internal comps as to what the actual  
21 benefit is, and fire has it at \$824 a month. Is that  
22 the accurate figure, to your knowledge, as to what the  
23 actual flat contribution rate is for fire?

24 A Will be in 2008 --

25 Q In 2008?



1 this averaging of the rates is -- that is used for the  
2 other bargaining units was used by the City in  
3 connection with the POA? Did you hear her testimony on  
4 that issue?

5 A Yes, I did.

6 Q Do you agree?

7 A No.

8 Q Why?

9 A That may be true in some distance past when  
10 that formula actually was incorporated in the POA MOA.

11 Q So that language on that formula used to be in  
12 the POA's agreement?

13 A Yes.

14 Q But it's not now?

15 A True. And it was removed when the POA went  
16 from a flat dollar contribution, similar to fire,  
17 SLOPCEA, the BCs, the management, the confidentials, I  
18 believe even the elected officials all have a flat  
19 dollar contribution, and it's when we came up with this  
20 very creative notion to redistribute the wealth and come  
21 up with a tiered plan.

22 And the basis for that was a spreadsheet that I  
23 created on the demographics of our bargaining unit in  
24 relationship to the fire, and the notion was 100 percent  
25 funded for the employee only, so many opt-outs, and then

1 100 percent for the employee plus one, 90 percent for  
2 their dependents, 100 percent for the family, 90 percent  
3 for their dependents, and that was the theory that we --  
4 when we created this tiered formula.

5 Now, we've never actually -- as I've  
6 articulated in the previous exhibits we presented this  
7 morning, and I don't have that exhibit number on the tip  
8 of my tongue --

9 Q This one (indicating)?

10 A No. It was the spreadsheet that we developed  
11 last night and submitted as an exhibit.

12 Q Oh. The exhibit that was an example of the  
13 calculations you put up on the board yesterday?

14 A Yes. Yes.

15 Q So the Exhibit 247?

16 A Yes. So we've -- we've never really crafted an  
17 exhibit similar to 247 for the City to actually  
18 calculate the hard numbers. Those calculations have  
19 always been done in negotiations. And may I see that  
20 spreadsheet? And they've always been done similarly to  
21 the template that I created to identify calendar year  
22 2007 insurance rates and calendar year 2008 insurance  
23 rates, which we have --

24 Q It's Association Exhibit 207.

25 A 207. And then that's been the basis for

1 negotiations when we've been completely open. And  
2 that's how we've identified the target numbers for  
3 employee only, employee plus one, and employee plus  
4 family.

5 MS. BERRY WILKINSON: I have nothing further of  
6 this witness.

7 MR. WHITMORE: No questions.

8 THE ARBITRATOR: Okay. Thank you.

9 THE WITNESS: "No questions," is that what you  
10 said?

11 MR. WHITMORE: Are you going to give me a  
12 second chance?

13 THE WITNESS: No, I --

14 MR. WHITMORE: No questions.

15 MS. BERRY WILKINSON: I just wanted to note, we  
16 talked off the record, that while we discussed the fact  
17 that exhibits were removed from 25, we didn't confirm  
18 which numbers were in the City's exhibit.

19 As I understand it, the only exhibits for Issue  
20 25 are Exhibit 25-1, 2, and 3, and then we skipped to  
21 25-8 and 9.

22 MR. WHITMORE: Correct.

23 MS. BERRY WILKINSON: I just wanted to verify  
24 that for the record.

25 MR. WHITMORE: Correct.

1 (Discussion held off the record.)

2 MR. WHITMORE: Back on the record.

3 Issue 26 is a City proposal in response to an  
4 Association proposal. I guess it's a City counter. And  
5 this deals with the unequal contribution issue. And I  
6 guess the easiest way to do it is to have Karen not sit  
7 down yet.

8

9 DIRECT EXAMINATION

10

11 BY MR. WHITMORE:

12 Q Do you have the 26-1 through 26-6 there with  
13 you?

14 A Yes, I do. 26-7, I believe.

15 Q 26-7 was what I meant. Thank you.

16 Let me go to those last few pages, the  
17 resolution. This is a City of San Luis Obispo 1993  
18 resolution, when the City got into PERS health; correct?

19 A That is correct.

20 Q And at the outset, the City Council adopted  
21 what's known as "the unequal contribution system";  
22 correct?

23 A Yes, that is correct.

24 Q Okay. Now, let's go back to 26-2. If you  
25 could, please describe what the City's proposal is with

1 regard to the unequal contribution option?

2 A The City's proposal is to incorporate the  
3 requirements of AB2544, which changes the -- the current  
4 rules of the unequal contribution are that the  
5 contribution toward retirees is increased 5 percent of  
6 whatever that minimum, PERS minimum contribution, is  
7 set. It changes each year. 5 percent of that amount  
8 it's increased until the unequal contribution reaches  
9 the minimum level. Then it is the equal contribution.

10 AB2544 changed that to say the 5 percent needs  
11 to be multiplied by the number of years the City has  
12 been in the PEMCHA program, or the PERS health program,  
13 and so it would -- not just 5 percent, but 5 percent  
14 times the number of years that the City has been in the  
15 program.

16 Q The issue of AB2544 and the unequal  
17 contribution change was testified to by John Bartel on  
18 Wednesday; correct?

19 A Yes, that's correct.

20 Q Could you refer to 26-4? Is this a chart you  
21 prepared utilizing John Bartel's data?

22 A Yes, that is correct.

23 Q Do I understand it correctly, that each year  
24 the adjustments to be made under the post AB2544, far  
25 right column, are reflected here?

1 A Yes, that's correct.

2 Q And do I understand also that by 2013, we'll  
3 get there, to have equal contributions for active and  
4 retirees?

5 A That is our estimate, based on what we project  
6 health rates will be over those years, yes.

7 Q Okay. Now, just so everyone understands, the  
8 2013 equal contribution for actives and retirees is  
9 \$145.38 per month; correct?

10 A That's correct.

11 Q For active employees, they are also provided a  
12 Cafeteria Plan well above the 145.38; correct?

13 A Yes, that is correct.

14 MR. WHITMORE: Okay. I don't have anything  
15 further of Karen on this issue.

16 THE ARBITRATOR: Off the record.

17 (Discussion held off the record.)

18 THE ARBITRATOR: Back on, Ms. Wilkinson?

19

20 CROSS-EXAMINATION

21

22 BY MS. BERRY WILKINSON:

23 Q I see in the proposal language here, at City  
24 Exhibit 26-2, the City references currently 80.80 per  
25 month for active employees and 20.30 for retirees.

1 A Would you like me to explain that?

2 Q Yes.

3 A That is simply a housekeeping to reflect the  
4 current year's contribution. The strike-out language of  
5 48.40 for active employees and 13.03 for retirees  
6 reflects the contribution that was in effect at the time  
7 this agreement -- the prior agreement was set.

8 Q So by that, you're not intending to lock -- I  
9 guess my question was, the use of the phrase "currently"  
10 is not intended to lock it into that number? That  
11 number will grow by virtue of the calculus --

12 THE ARBITRATOR: By law.

13 BY MS. BERRY WILKINSON:

14 Q -- and the statutory obligations?

15 A Yes. That's correct. We just reflect the  
16 current number each time we update the --

17 Q That was my -- that was my reason for focusing  
18 on the word "currently." It was designed to be an  
19 illustration, not a sealing?

20 A Correct.

21 Q Thank you. That's all.

22 I have a question, and I apologize for the fact  
23 that I'm going to ask another question after I said I  
24 was done.

25 The final two sentences of your proposal, "The

1 cost of the City's participation in PERS will not  
2 require the City to expend additional funds toward  
3 health insurance beyond what is already provided. In  
4 summary, this cost, and any increases, will be borne by  
5 the employees." What do you understand that to mean?

6 A That is existing language.

7 Q Right.

8 A It is language that was put in place -- my  
9 understanding is it was put in place at the time the  
10 City went into the PERS health program. So I was not  
11 part of those negotiations, so I don't -- I can't speak  
12 from first-hand knowledge. But my understanding of it  
13 is, at the time the City went into the PERS health  
14 program, that language was put in there that it  
15 wouldn't -- it was not to cost the City any more to be  
16 in the PERS health program than it had cost the City  
17 previously under our -- an individual program that we  
18 were in.

19 Q I see.

20 A That's my understanding, not being part of the  
21 negotiations.

22 MS. BERRY WILKINSON: Thank you.

23 THE ARBITRATOR: Okay.

24 MR. WHITMORE: If I can have just a second.

25 (Discussion held off the record.)

1 MR. WHITMORE: On the record.

2 We have proposed or -- or supplied 27.1 and  
3 27.2, two documents dealing with the opt-out issue.  
4 There is some inconsistency or question or potential  
5 confusion. Here's what I'd like to do under "City  
6 Proposal": Delete the first two-and-a-half lines so  
7 that all that is left is 470 per month as proposed in  
8 Issue 25. There was other language that had been in  
9 earlier. Our proposal is to cap the amount of the cash  
10 out at \$470 per month. Karen already testified to that.

11 This was older language, that didn't get  
12 updated, and I know I could take a break and we could go  
13 print it and redo it, and I don't want to do that.

14 MS. BERRY WILKINSON: I'm crossing out what  
15 here?

16 MR. WHITMORE: "No change to current language."

17 MS. BERRY WILKINSON: Thank you.

18 MR. WHITMORE: "City is willing," all the way  
19 down to "Cafeteria Contribution." Leave in the last,  
20 "470 per month as proposed in Issue 25."

21 MS. BERRY WILKINSON: Okay. So everything up  
22 to that first parentheses at the dollar sign is struck  
23 out?

24 MR. WHITMORE: Correct. So our proposal --

25 THE ARBITRATOR: Just strike the first

1 sentence, in other words.

2 MR. WHITMORE: Actually, the first two.

3 THE ARBITRATOR: First two sentences?

4 MS. BERRY WILKINSON: Have I got it right?

5 MR. WHITMORE: Yeah.

6 (Discussion held off the record.)

7 MR. WHITMORE: And this is consistent with

8 Issue 25, that we've already had testimony on.

9 MS. BERRY WILKINSON: So you're proposing to  
10 put that into B?

11 MR. WHITMORE: Yes.

12 MS. BERRY WILKINSON: I'm being dense. I'm not  
13 sure I understand. So will you --

14 THE ARBITRATOR: I'm not sure I do either.

15 MR. WHITMORE: Okay. Well, let's go off the  
16 record and --

17 THE ARBITRATOR: All right.

18 (Discussion held off the record.)

19 MR. WHITMORE: Back on the record.

20 On this issue, we will submit a final proposal,  
21 with language, at the end of these proceedings.

22 THE ARBITRATOR: Okay.

23 MR. WHITMORE: What we want to clarify is that  
24 we want to cap the cash out, as is the practice, at the  
25 employee only. We're willing to get rid of the \$16

1 assessment. That will be in our language.

2 THE ARBITRATOR: All right.

3 MR. WHITMORE: With regard to exactly what is  
4 stricken up above, we have some questions, and we'll  
5 provide specific language as part of our final proposal,  
6 but this is a heads up on where we're going.

7 THE ARBITRATOR: Okay.

8 MS. BERRY WILKINSON: I would like to, then,  
9 have Mr. Strobbridge address the issue of the cap on the  
10 cash out.

11 MR. WHITMORE: Okay.

12 THE ARBITRATOR: All right.

13

14 DIRECT-EXAMINATION

15

16 BY MS. BERRY WILKINSON:

17 Q Mr. Strobbridge, the City has proposed capping  
18 the cash out contribution for the Cafeteria Plan at \$470  
19 per month for the Association membership. Do you  
20 understand that proposal?

21 A I do.

22 Q Does it have significant implications for the  
23 Association?

24 A Yes, it does. Not to exaggerate, huge  
25 implications.



1 CROSS-EXAMINATION

2

3 BY MR. WHITMORE:

4 Q Is that 700 a month the employee only coverage,  
5 or employee plus one, or full family? What is it?

6 A Well, fire is a flat amount, so there is no  
7 tier for employee only --

8 Q I understand.

9 A -- employee plus one, yes.

10 MR. WHITMORE: Understood. I got it. Thank  
11 you.

12 We will provide a final proposal on that --

13 MS. BERRY WILKINSON: Understood.

14 MR. WHITMORE: -- as part of this process.

15 THE ARBITRATOR: Let's go off the record.

16 (Discussion held off the record.)

17 MR. WHITMORE: I've submitted City Exhibit  
18 30-1. This is an issue that was addressed in October.  
19 Before Counsel points it out, I will identify the fact  
20 that this is new language, which was a further attempt  
21 to address issues they raised. In the Association  
22 proposal, there was language about "while in the line of  
23 duty." This issue deals with health insurance for  
24 survivors of unit members. We agree that those survivor  
25 benefits can include health, dental, and vision. And

1 the question had to do with under what circumstances  
2 would those be provided.

3 The Association had asked for those benefits to  
4 be provided to a surviving family member -- family of a  
5 unit member who dies as a result of a job-related  
6 illness or injury sustained while in the line of duty.  
7 That language led to some discussion.

8 We have developed language, which we have  
9 included, that we believe will clarify, and, I think,  
10 address the concerns the Association has.

11 MS. BERRY WILKINSON: It does. We're  
12 comfortable with the language.

13 MR. WHITMORE: Okay. We're okay with this one?

14 THE ARBITRATOR: Okay on that?

15 MS. BERRY WILKINSON: Yes.

16 THE ARBITRATOR: Very good. Thank you very  
17 much.

18 MR. WHITMORE: Okay. Issue 31.

19 THE ARBITRATOR: Okay.

20 MS. BERRY WILKINSON: Before we move on to the  
21 next issue, and before I forget, we had some  
22 off-the-record conversation about Issue 27, which was  
23 the \$16 fee, with respect to what that meant.

24 And the Association noted that the freeze is  
25 more than the \$16 --

1 MR. WHITMORE: Correct.

2 MS. BERRY WILKINSON: -- at least for 2008, is  
3 more than the \$16 trade-off the City is proposing.

4 Short of that, I don't have any other comments  
5 on that proposal at the moment.

6 MR. WHITMORE: Okay.

7 THE ARBITRATOR: Okay.

8 MR. WHITMORE: Issue Number 31 is a City  
9 response to a POA proposal that an individual be  
10 allowed -- that's not saying it quite the right way --  
11 an employee -- if an employee dies, that individual will  
12 receive a 100 percent cash out of sick leave. The  
13 present provision is that there be a 25 percent cash out  
14 of sick leave upon death.

15 We have attached 31-2, which is a survey of all  
16 of the agencies on all of the lists the City has used,  
17 which indicate, we believe, support for the City's  
18 position, to keep it at 25 percent, since it is more  
19 generous than the majority of agencies that are listed  
20 in this comprehensive survey.

21 I don't have anything further on this one.

22 MS. BERRY WILKINSON: The Association had  
23 previously presented an internal comp. This is all  
24 external; right?

25 MR. WHITMORE: That's correct.

1 MS. BERRY WILKINSON: Okay. Thank you.

2 THE ARBITRATOR: Okay.

3 MR. WHITMORE: Anything else on this one?

4 MS. BERRY WILKINSON: No.

5 THE ARBITRATOR: No.

6 MR. WHITMORE: Okay.

7 (Discussion held off the record.)

8 THE ARBITRATOR: Back on the record.

9 MR. WHITMORE: This is a City counterproposal,  
10 new proposed language, dealing with sick leave cash out  
11 upon disability retirement, and commencement of PERS  
12 benefits.

13 There is a provision where we are proposing  
14 that there be a 30 percent cash out -- ability to cash  
15 out 30 percent of 400 hours, beginning January 1, 2008.  
16 But we have reserved language saying the sick leave does  
17 not extend the date of the disability retirement. That  
18 is also discussed in a later proposal.

19 (Discussion held off the record.)

20 MR. WHITMORE: Back on the record.

21 Just to clarify one thing, because a question  
22 came up on the Association proposal. When it said  
23 "75 percent of sick leave, with maximum of 1,000 hours,"  
24 whether that meant 75 percent of 1,000 hours, or  
25 75 percent of some other number, with a maximum of

1 1,000, I believe we clarified that to be 1,000 is the  
2 maximum that can be cashed out, so it would be  
3 75 percent, I think, of 1,333.

4 MS. BERRY WILKINSON: 1,333.

5 MR. WHITMORE: Yeah.

6 The City's proposal is 30 percent, with a  
7 maximum of 40 -- 400 hours pay-off, so the total would  
8 be higher than that. 400 is the max you could get paid  
9 off in sick leave.

10 MS. BERRY WILKINSON: Thank you for that  
11 clarification, because it answered one of the questions  
12 I was just about to ask.

13 And so as I read what you've presented here as  
14 the counterproposal, City Exhibit 32-2, it is, in  
15 essence, both a counterproposal related to Issue 32, as  
16 well as 33?

17 MR. WHITMORE: It is. We have also one on 33,  
18 but it does address that issue. You're right.

19 MS. BERRY WILKINSON: But are they linked?

20 MR. WHITMORE: No, they're separate proposals,  
21 to be decided differently by the arbitrator. We've  
22 cross-referenced down below, and we'll be discussing  
23 that in 33.

24 MS. BERRY WILKINSON: I wasn't sure if the  
25 proposal was now a consolidated proposal or --

1 MR. WHITMORE: No.

2 THE ARBITRATOR: No.

3 MS. BERRY WILKINSON: I just wanted to make  
4 sure that I would be --

5 MR. WHITMORE: Sure.

6 MS. BERRY WILKINSON: -- dealing with the  
7 issues separately.

8 The Association, in Exhibit 168, had put in  
9 some internal comparisons which the benefits for the  
10 fire department and the battalion chief units is greater  
11 than what is even being proposed here in --

12 THE ARBITRATOR: Nature of argument.

13 MS. BERRY WILKINSON: No, in the  
14 counterproposal.

15 THE ARBITRATOR: Okay.

16 MS. BERRY WILKINSON: But my question was, is  
17 there a reason for that?

18 MR. WHITMORE: No.

19 MS. BERRY WILKINSON: Is there something  
20 distinct, with respect to the Association's comp  
21 position, in the number of hours of disability  
22 retirement that accounts for it?

23 MR. WHITMORE: I -- I am told that fire has a  
24 lower cash out at service retirements, and a higher cash  
25 out for disability retirement.

1 MS. BERRY WILKINSON: Okay. Thank you.

2 MR. WHITMORE: This issue, 33, is intended to  
3 deal with postponing the effective date of an industrial  
4 disability retirement by using sick leave. In our final  
5 proposals, we'll clarify the separation between these  
6 two, that they're not one and the same.

7 The -- we have attached at 33-4 and 33-5 the  
8 Personnel Rule from the municipal code, which, in our  
9 opinion, satisfies that statutory requirement that the  
10 arbitrator asked about, if you have a rule that says  
11 "Sick leave is not to be used for this," then the  
12 statute does not compel the use of sick leave.

13 We -- this is the Personnel Rule the City has  
14 relied on consistently to say that sick leave is for  
15 nonindustrial injuries, and may not be used while an  
16 employee is on workers' comp.

17 We will also, as part of final argument, submit  
18 some case law that addresses the kind of resolution we  
19 have here, and attempts to clarify why we don't think  
20 we're compelled by law to apply nonindustrial sick leave  
21 to an industrial injury situation.

22 MS. BERRY WILKINSON: I'm not finding the rule.

23 MR. WHITMORE: I would point out at line -- on  
24 page 33-4, 2.36.420(A), "sick leave defined: Absence  
25 from duty because of illness for off-the-job injury or

1 exposure," is a definition of sick leave.

2 On page 33-5, Paragraph 12, "A public safety  
3 employee shall not receive sick leave payments while  
4 receiving workers' comp payments."

5 MS. BERRY WILKINSON: Thank you. I don't think  
6 I got that far on 33-5.

7 MR. WHITMORE: Those are the sections the City  
8 has relied on, I am told, in the past, to deal with that  
9 issue, The arbitrator.

10 THE ARBITRATOR: Thank you.

11 MS. BERRY WILKINSON: In response to that, I  
12 will call Mr. Strobridge.

13

14 DIRECT EXAMINATION

15

16 BY MS. BERRY WILKINSON:

17 Q Mr. Strobridge, you've seen the City Personnel  
18 Rule referenced by the City in Exhibits 33-4 and 33-5?

19 A Yes.

20 Q Has the City, in the past, permitted people to  
21 run up their sick leave in connection with a  
22 work-related disability?

23 A Yes.

24 Q Please explain.

25 A I can give one particular instance, and that

1 was, actually, the former Association president,  
2 Jason Berg, who exhausted his 4850 benefits, and then  
3 was permitted to expand his date of retirement by  
4 utilizing his accrued sick leave.

5 MS. BERRY WILKINSON: Thank you.

6 MR. WHITMORE: No questions.

7 THE ARBITRATOR: Thank you.

8 THE WITNESS: Thank you.

9 (Discussion held off the record.)

10 MR. WHITMORE: Back on the record.

11 We've put into evidence Exhibit 34-1, 2, and 3.

12 The Association had proposed, as reflected on  
13 34-2, Paragraph (D), that sick leave be deemed  
14 confidential.

15 34-3 as survey of all of the externals. It is  
16 unanimous, no one else does this in their MOU. That's  
17 all I have on 34-3.

18 MS. BERRY WILKINSON: In doing the -- I don't  
19 know who did the survey, so I will ask this question so  
20 you can determine who is appropriate to respond to it.  
21 In doing the survey, was it asked whether or not people  
22 include sick leave in the evaluation?

23 MR. WHITMORE: It's my understanding the answer  
24 is -- did you ask that? Whether it's included in the  
25 evaluation?

1 MS. BERRY WILKINSON: This simply says,  
2 "MOU" -- "Is there an MOU provision about it?"

3 MR. WHITMORE: Right.

4 MS. BERRY WILKINSON: Was there any assessment  
5 of whether or not they actually put it in the  
6 evaluation?

7 MR. WHITMORE: All we did was look at the  
8 MOU's.

9 MS. BERRY WILKINSON: Okay. Thank you.

10 MR. WHITMORE: It's limited to the narrow  
11 question asked.

12 MS. BERRY WILKINSON: Okay. So there was no  
13 attempt to determine whether the personnel -- or whether  
14 the performance appraisals actually, as a matter of  
15 practice, included sick leave?

16 MR. WHITMORE: Correct.

17 MS. BERRY WILKINSON: Thank you.

18 MR. WHITMORE: On the next several, beginning  
19 with 35, these are really housekeeping. We will argue  
20 issues with regard to family leave. All we have is the  
21 paperwork showing the positions of the parties in the  
22 current language.

23 Same is true for City Exhibit 36. Simply a  
24 cover sheet.

25 THE ARBITRATOR: Off the record.

1 (Discussion held off the record.)

2 MR. WHITMORE: With regard to Issue 37, Family  
3 Leave Issue, the City's proposal, which is a  
4 counterproposal to the Association proposal, is  
5 substantially similar, but not identical.

6 We have proposed that, in the language the  
7 Association proposes to delete, instead of the annual  
8 maximums set forth in Paragraphs 22.1 and 22.2, we've  
9 asked that that stay in, because we are not clear on  
10 what the intent is in deleting it, and do not know  
11 whether or not that affects what's in 22.1 or 22.2. So  
12 the only difference is that we ask that that language  
13 stay in.

14 MS. BERRY WILKINSON: The City has added the  
15 word "Registered" to the words "Domestic Partner."

16 MR. WHITMORE: Oh, well, that, yeah. Sorry.

17 MS. BERRY WILKINSON: Would you explain,  
18 please?

19 MR. WHITMORE: Yeah.

20 THE ARBITRATOR: It makes it official.

21 MR. WHITMORE: It is -- a domestic partner is  
22 not just somebody who says they are. A domestic partner  
23 is somebody who registers with the Secretary of State,  
24 filling out a particular form. And so we did add that,  
25 and I forgot. Sorry. A "Registered Domestic Partner"

1 is a term of Art, and it was included and listed that  
2 way on purpose to make sure that it satisfies the legal  
3 requirement.

4 THE ARBITRATOR: It's on my to-do list.

5 MS. BERRY WILKINSON: I have no problem with  
6 that. I have a problem that we already TA'd "Domestic  
7 Partner." We TA'd on the language "Domestic Partner,"  
8 and now we're adding "Registered Domestic Partner."

9 MR. WHITMORE: All right. Well, let me go back  
10 and look at that. I did not know that.

11 MS. BERRY WILKINSON: Yeah.

12 MR. WHITMORE: So let me find out.

13 THE ARBITRATOR: We're off the record.

14 (Discussion held off the record.)

15 MR. WHITMORE: Back on the record.

16 We agree there was a TA. We view "Domestic  
17 Partner" being a "Registered Domestic Partner." That's  
18 the way we view it because it is a legal term for  
19 "Domestic Partner." I don't know how you want to deal  
20 with that. I gather this was added to clarify, with the  
21 thought that that's what was intended. But if it's not,  
22 then we need to have further discussion.

23 MS. BERRY WILKINSON: So is the City  
24 withdrawing its TA on the basis that unless it's a  
25 Registered Partner, it doesn't qualify for use?

1 MR. WHITMORE: No. We will TA on not having  
2 the word "Registered" there. Okay?

3 MS. BERRY WILKINSON: But the discussion that  
4 led to the TA on "Domestic Partner" never ever included  
5 an obligation that the Domestic Partner to whom it  
6 applied had to be a Registered Domestic Partner. So to  
7 the degree that the City is changing now the requirement  
8 to be something more formal is a problem.

9 MR. WHITMORE: What is your intent in using the  
10 term "Domestic Partner"?

11 MS. BERRY WILKINSON: Domestic Partner.

12 MR. WHITMORE: Anybody who says they are?

13 MS. BERRY WILKINSON: Are you going to require  
14 our people -- you didn't require it before -- to  
15 register in order to be entitled to this? If they are a  
16 domestic partner in a domestic partnership, that would  
17 be okay.

18 MR. WHITMORE: Labor Code 233, "Use of sick  
19 leave"?

20 MS. BERRY WILKINSON: We were doing it by  
21 virtue of our MOU.

22 MR. WHITMORE: So under Labor Code Section 233,  
23 you don't intend that to be "Registered Domestic  
24 Partner"? Cuz that's what the statute requires, and the  
25 way the term's used.

1 MS. BERRY WILKINSON: Well, our section says,  
2 "In accordance with Labor Code Section 233," so to the  
3 degree that 233 requires anything, that's all that it  
4 says in here.

5 MR. WHITMORE: All right.

6 MS. BERRY WILKINSON: So if your interpretation  
7 of 233 is "Registered Domestic Partner," then so be it,  
8 but I'm not going to include the word "Registered  
9 Domestic Partner" in here.

10 MR. WHITMORE: All right. Well, we'll go back  
11 and take a look and decide whether we change our final  
12 proposal.

13 THE ARBITRATOR: Okay. Off the record.

14 (Discussion held off the record.)

15 THE ARBITRATOR: Back on the record.

16 MR. WHITMORE: For the record, City Exhibit  
17 39-1, 2, 3, and 4 attempt to set forth the respective  
18 positions on the issue of grievance procedure and  
19 disciplinary procedure. We will submit a final  
20 proposal. We've indicated a willingness to put the  
21 Personnel Rule Disciplinary Appeal in the contract as a  
22 disciplinary appeal, but do not want it to be part of  
23 the grievance procedure. We have attached, at 39-5, 6,  
24 through 9, the Personnel Rule Disciplinary Procedure.  
25 And we would either, as an attachment or appendix or an

1 exhibit or a contract itself, be willing to include  
2 that.

3 The Exhibit 39-10 is survey, and 11 and 12, is  
4 survey information about how the other agencies deal  
5 with disciplinary appeals, whether or not they're  
6 included in the disciplinary procedure or not, and  
7 various other issues regarding disciplinary appeals.

8 Other than that, I don't have anything further  
9 on 39.

10 THE ARBITRATOR: It's sort of unclear from your  
11 survey whether there's arbitration provisions.

12 MR. WHITMORE: There is a reference over on the  
13 far right -- hang on.

14 THE ARBITRATOR: I believe I see it.

15 MR. WHITMORE: Thank you.

16 THE ARBITRATOR: So we've got two -- three,  
17 actually. I see where you refer to it. Thank you.

18 MS. BERRY WILKINSON: Off the record for a  
19 second?

20 THE ARBITRATOR: Sure. Off the record.

21 (Discussion held off the record.)

22 THE ARBITRATOR: Let's go back on the record.

23 Let me ask, Mr. Whitmore, if there's anything  
24 further from the City?

25 MR. WHITMORE: No.

1 THE ARBITRATOR: Off the record.

2 (Discussion held off the record.)

3 THE ARBITRATOR: Back on the record.

4 Anything further from the Association?

5 MS. BERRY WILKINSON: No.

6 THE ARBITRATOR: Let me state, in closing, that  
7 this has been a very long and very complex process,  
8 that's been made somewhat more pleasant by the very  
9 professional approaches that both sides of the table  
10 have taken to this. I want to congratulate them on  
11 having those particular styles of presentation. It  
12 certainly makes things a lot easier for me.

13 Let's go off the record.

14 (Discussion held off the record.)

15 MR. WHITMORE: Back on the record.

16 Let me make a suggestion as to how we would  
17 deal with the timing -- this is consistent with the way  
18 multiple issue interest arbitrations that I've dealt  
19 with have gone in the past -- that 30 days from receipt  
20 of transcripts, final proposals, and arguments. The 30  
21 days is very important to us because of the need to meet  
22 with City Council, and they don't meet every day.

23 Two weeks after receipt of final proposals and  
24 arguments, each side would submit a final closing  
25 rebuttal thing. And at that point, it would be under

1 submission to the arbitrator.

2 The charter provides that once the arbitrator  
3 has come up with a decision issue by issue, that it is  
4 delivered to the parties, remains confidential for ten  
5 days, giving the parties an opportunity to talk, and at  
6 that point -- and it's not binding at that point.

7 And then after the expiration of the ten days,  
8 the arbitration award is made public and is binding on  
9 both parties. So that would be the suggested time line  
10 I would recommend.

11 THE ARBITRATOR: Is that acceptable to you?

12 MS. BERRY WILKINSON: Yes.

13 THE ARBITRATOR: Let me state also for the  
14 record that, in the event the parties wish additional  
15 time, or they want to engage in additional discussions  
16 on some of these issues, I strongly encourage them --  
17 not necessarily to take the additional time, but to keep  
18 the dialogue flowing.

19 MR. WHITMORE: And we will do that. And please  
20 understand we may have to tap your services again for  
21 assistance in facilitating those discussions.

22 THE ARBITRATOR: I am at your disposal in that  
23 regard.

24 Once again I want to thank everybody here, and  
25 the few people who are not here, who have participated

1 in this long and fairly complex process for their very  
2 excellent presentations and professional attitudes  
3 towards these issues. And also let me extend my best  
4 wishes for a wonderful Christmas and New Year's, and/or  
5 holiday season. And with that, this matter is  
6 adjourned, and we're off the record.

7 (Proceedings concluded at 3:11 p.m.)

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1 STATE OF CALIFORNIA )  
 ) ss.  
 2 COUNTY OF SAN LUIS OBISPO )

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REPORTER'S CERTIFICATE

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I, Cindy D. Griffith, a Certified Shorthand

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Reporter in and for the State of California, do hereby

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certify:

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That said proceeding was taken before me at the

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time and place therein set forth and was taken down by

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me in shorthand and thereafter reduced to computerized

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transcription.

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I hereby certify that the foregoing is a full,

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true and correct transcript of my shorthand notes so

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taken.

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Dated at San Luis Obispo, California, this 4th

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day of January, 2008.

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\_\_\_\_\_  
 CINDY D. GRIFFITH  
 CERTIFIED SHORTHAND REPORTER

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