

**CITY AND COUNTY OF SAN FRANCISCO
IN INTEREST ARBITRATION PROCEEDINGS
PURSUANT TO CHARTER SECTION A8.590**

**San Francisco Sheriff's Managers and
Supervisors Association,**

Union,

and

The City and County of San Francisco,

Employer.

OPINION AND AWARD

Board Members

Katherine Thomson
Lisette Adams
Melissa Whitehouse

Neutral Chairperson
Union Board Member
Employer Board Member

Appearances

On Behalf of the Union

Peter Saltzman
Leonard Carder LLP
1330 Broadway, Suite 1450
Oakland, CA, 94612

On Behalf of the Employer

Jennifer Stoughton
Deputy City Attorney
1390 Market Street, 5th Floor
San Francisco, CA, 94102

INTRODUCTION

During negotiations for a successor collective bargaining agreement, the San Francisco Sheriff's Managers and Supervisors Association (MSA) and City and County of San Francisco (City) reached impasse on certain terms and conditions of employment. An Arbitration Board was convened pursuant to San Francisco Charter Section A8.590-5(d), and met on April 16, 18, 25, 28, 30, and May 1 and 3, 2019. Katherine Thomson, arbitrator/mediator, had been previously agreed upon by the parties to act as the neutral Chairperson of the Board; Lisette Adams, President of MSA, was selected by the Union as its Board Member; and Melissa Whitehouse was selected by the City as its Board Member.

The parties engaged in mediation with the assistance of the Chairperson and reached tentative agreements on most of the remaining issues in dispute. The Board heard testimony from witnesses and received documentary evidence. The hearing was recorded by a Certified Shorthand Reporter, and the parties were afforded the full opportunity to present and call witnesses, to cross-examine the witnesses of the other party, and to present evidence and arguments in support of their positions. At the conclusion of mediation and the evidentiary hearings, the parties elected to submit only one issue to the Board for decision: equity adjustments to base wages for the Sergeant Classification (8308), as described below.

TENTATIVE AGREEMENTS

During negotiations and mediation, the parties reached tentative agreements on the following:

1. City 1 (Union Security)
2. City 4 (Gender Pronoun Cleanup -- subject to review of final text)
3. City 6 (Union Access)
4. City 7 (Holiday Pay)
5. City 12 (Paperless Pay)
6. City 16 (Intent)


7. City 17 (SDI)
8. City 19 (Scope of Unit)
9. City 26 (Facility Commander Pay)
10. Union 2 (In-Lieu Holidays)
11. Union 4 (Progressive Discipline)
12. Union 20 (Training Officer Premium)
13. Union 22 (C-04 TAs)
14. Union 28 (Tuition Reimbursement)
15. Union 29 (K9)
16. Union 32 (Bilingual Premium)
17. Union 41 (POST Premium)
18. Union 42 (Wages)
19. Equity Adjustments for Classes 8310 and 8312
20. Vacancy Information and CalOSHA correspondence
21. Contract Term

RULING: The Board approves each of these tentative agreements, which are contained in Exhibit A to this Award, and directs their inclusion into the new Collective Bargaining Agreement for the 2019-2022 term.



 Katherine Thomson, Neutral Chairperson - Concur

May 11, 2019



 Lisette Adams, MSA Panelist - Concur

May 13, 2019



 Melissa Whitehouse, City Panelist - Concur

May 14, 2019

EQUITY ADJUSTMENT FOR SERGEANT CLASS

1. Association's Final Offer

The Sheriff's Sergeant Classification (8308) will receive equity adjustments to base salary on the dates and in the amounts listed below:

<u>1/1/20</u>	<u>1/1/21</u>	<u>1/1/22</u>
0.5%	0.5%	0.5%

2. City's Final Offer

No change.

3. Relevant Charter Provisions

Section A8.590-5(d) of the San Francisco Charter provides:

The Arbitration Board shall decide each issue by majority vote by selecting whichever last offer of settlement on that issue it finds most nearly conforms to those factors traditionally taken into consideration in the determination of wages, hours, benefits and terms and conditions of public and private employment, including, but not limited to: changes in the average consumer price index for goods and services; the wages, hours, benefits and terms and conditions of employment of employees performing similar services; the wages, hours, benefits and terms and conditions of other employees in the City and County of San Francisco; and the formulas provided for in this Charter for the establishment and maintenance of wages, hours, benefits and terms and conditions of employment. The impartial Arbitration Board shall also consider the financial condition of the City and County of San Francisco and its ability to meet the costs of the decision of the Arbitration Board.

4. Discussion

The parties agreed on base wage increases of 3% on July 1, 2019, and an additional 1% on December 28, 2019. Subject to certain contingencies the unit will receive raises of 3% in July 2020, .5% in December 2020, 3% in July 2021, and .5% in January 2022. This schedule of wage increases has been agreed to by many if not most of the unions representing the City's employees.

The City agreed to slightly higher salary increases for Lieutenants and Captains in this unit, spread over three years. That agreement will address issues of equity and compaction. While the Sergeants' top step salary is above the mean of salaries for comparable employees in the comparator jurisdictions, the Lieutenants' salary is below the mean, and the Captains' salary even further below the mean. (City Exhibits 3, 4 and 5) Although the Sergeants' salary ranks 5th among the comparables before the across-the-board increases, the salaries of the Lieutenants and Captains do not rank as high. (Union Ex. 17)


Were the panel to accept the MSA's offer on the Sergeant salary, the effect would be to undo the parties' attempt to correct the equity issues and issue of salary compaction that already exists due to exemptions from earning overtime pay.

RULING: The Panel accepts the City's final offer on equity adjustments for the Sergeant class.



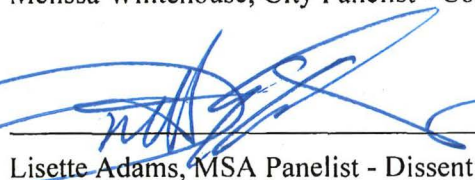
Katherine Thomson, Neutral Chairperson - Concur

May 11, 2019



Melissa Whitehouse, City Panelist - Concur

May/4 2019



Lisette Adams, MSA Panelist - Dissent

May/3 2019

Concurring Opinion by Panelist Whitehouse:

While the Charter factors on economic comparability do not require or suggest that the City will compensate employees at or above the average or median compensation of comparable employees in comparator jurisdictions, the City agreed to equity adjustments for

the 8310 and 8312 classes because those classes were substantially under the average compensation of comparable employees. The Sergeant class, by comparison, is well over the average of comparable employees, and the City's base wage proposal already provides a large compensation increase for them. For this reason and considering the significance of the City's wage, which is well above projected CPI, and other pay equity proposals, the City's proposal best comports with the applicable Charter factors.

Dissenting Opinion by Panelist Adams:

The Union's offer is intended to provide minimal additional compensation to Sheriff's Sergeants for the unique work they perform, the wide span of control they manage, and the heavy workloads they endure as a result of chronic understaffing. The evidence at hearing demonstrated that the Sheriff's Sergeant Class ranks fourth among Sergeant classes in the ten counties of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Santa Cruz, Solano and Sonoma. However, the work performed by Sheriff's Sergeants in San Francisco is much more complex and varied than in those other counties. In addition to traditional patrol and custodial work, San Francisco Sheriff's Sergeants engage in extensive rehabilitative and post-release work, performing counseling and community functions within a highly diverse population.

Moreover, Sergeants in San Francisco carry a work load that far exceeds their counterparts in other jurisdictions. Evidence submitted by the Union, for example, demonstrated that Sergeants supervise and manage as many as 36 sworn and civilian staff at a time. These workloads are further exacerbated by chronic understaffing: the San Francisco Sheriff's Department has been plagued by excessive overtime and insufficient staff coverage. In the years since MSA was established as a bargaining unit in 2009, the volume of work has substantially increased, while the number of filled bargaining unit positions has remained stagnant or even decreased. Sergeants work more mandatory overtime now than ever before, making up for severe staff shortages, both among the MSA

ranks and among the Deputy Sheriff ranks. These shortages are not due to unavailable or unbudgeted positions, but rather to political positions and agreements made between the Sheriff and other City Officials. The Mayor's Budget Director, Kelly Kirkpatrick, testified that the Sheriff received a supplemental to her overtime budget. Under questioning by panel member Captain Lisette Adams, Ms. Kirkpatrick acknowledged that the funding was not due to staff overspending, but rather to the fact that funds were reallocated from salaries for unfilled positions to the exhausted overtime fund. This kind of deliberate understaffing is unacceptable while bargaining unit members routinely work through their lunch hours to compensate for staff shortages and help complete the tasks and duties of their subordinates.

