

SENT VIA EMAIL

August 15, 2022

Sean Pritchard, President
San Jose Police Officers' Association
1151 N 4th St
San Jose, CA 95112

Re: POA Negotiations

Dear Sean:

The City is in the process of reviewing the POA's August 6, 2022 package proposal. In an effort to obtain clarification on several of the proposals that were included in the package, we requested to meet with the POA. However, the POA indicated you were unavailable to meet and asked us to send you our list of questions. In order for the City to formulate a counter proposal, we need clarification on our questions so we would appreciate obtaining these answers as quickly as possible.

COVID Bonus

While we appreciate the POA's modest movement in wages (from 16% total over two years to 14% total over two years), we noted that you have now added into your proposal a \$5,000 one-time COVID bonus. We would like to understand better the POA's reasoning for adding this bonus into the proposal. In addition, this is significantly more than the \$1,000 bonus provided to other City employees, many of whom also worked in the field during COVID (many as Disaster Service Workers). We would like to understand the POA's reasoning for such a significant difference in the amount proposed in comparison to the amount provided to other City employees.

Continuing Professional Training (CPT) Requirement Pay

The POA's proposal includes the following in exchange for an additional pay of 4% in the first year and 2% in the second year:

SJPOA proposes to increase Strategic Communications to 6 additional hours, Initiate 4 hour Duty to Intervene training, provide more frequent Racial and Cultural Diversity Training; Racial Profiling 8 hours. These trainings would continue to be required every 24-months.

Currently, the following CPT trainings are required of Officers:

Perishable Skills		
Course	Hours	Frequency
Firearms	4	2yrs
Arrest Control/ DT	4	2yrs
Driving	4	2yrs
Strategic Communications	2	2yrs
Use of Force	4	2yrs
Total**	18	
Continual Professional Training		
Course	Hours	Frequency
Bloodborne Pathogens	2	1yr
First Aid/CPR	8	2yrs
Domestic Violence	2	2yrs
High Speed Pursuits	1	1yr
Total**	13	
Other Mandated Training		
Course	Hours	Frequency
Racial Diversity/profiling	2	5

We understand that POST updates these training requirements periodically and the City adjusts the CPT trainings accordingly.

The City is committed to continuing to provide training opportunities for Officers as continual education and training is necessary and beneficial as we look to develop Officers and ensure they are well trained when performing their job duties. However, we are seeking additional information related to how the POA's proposal would impact current training requirements and why the POA believes their proposed changes to these training requirements are necessary at this time? Further, given that the current MOA already provides for a 7.5% Advanced POST pay to be provided to Officers who meet the POST Advanced Certificate requirements and trainings typically result in overtime pay being provided to Officers based on their schedule and the operational needs of the Department, we are requesting additional information related to why the POA believes that additional pay is warranted for Officers. Please confirm that you are just proposing to increase the number of hours of CPT training, but that the training is the same as what is currently required of them to maintain their POST certification. If the same, why is the POA proposing increasing the number of hours of CPT trainings they are already receiving beyond what POST requires? Additionally, is the POA proposing that these additional CPT training hours be completed while an Officer is within their regular schedule, or is the POA proposing that these additional hours be completed in addition to an Officer's regular schedule, and will therefore likely result in overtime pay?

Drug and Alcohol Testing Policy

As previously communicated to the POA, the City intends to use the same testing standards as the Federal Department of Transportation's (DOT) Federal Motor Carrier Safety Administration and follow the process/procedures outlined in the City's [Substance Abuse Program & Policy](#). Given that much of the provisions included in the POA's proposal are already addressed in the [Federal DOT Drug and Alcohol Testing Policy](#) and the City's Substance Abuse Program & Policy, we are requesting that the POA provide clarification related to why it is necessary to include the proposed language where it is already addressed in the above policies? Additionally, below are specific questions related to the various provisions in the POA's proposal:

1. Reasonable Suspicion –What “objective facts” is the POA proposing be met in order for an Officer to be subject to reasonable suspicion testing? Reasonable suspicion testing is already addressed in the Substance Abuse Program & Policy. Why does the POA believe that it is necessary to include the proposed language given that the City already has an existing policy on this issue?
2. Policy – Why is the POA proposing that where there are conflicts between the City’s Substance Abuse Policy and the POA’s proposed policy, the POA’s proposed policy would control? What issues has the POA identified related to the City’s existing Substance Abuse Program & Policy that the POA believes is better addressed in its proposal?
3. Program Organization – Why is the POA proposing that the Department Program Administrator administer the policy? This is something that is typically administered centrally by the Human Resources Department’s Health and Safety Division. Additionally, why is the POA proposing that positive results be directly reported to the Police Department’s Executive Command Staff? This is not current practice as currently any positive test results for City employees are directly reported to the Office of Employee Relations. Why does the POA believe this change is necessary?
4. Notification – Please define what the POA believes is “confidential” related to an Officer being selected for random testing? It is necessary to be able to communicate appropriately when an Officer will be unavailable due to testing. How does the POA propose addressing this?
5. Training – Please provide additional information related to what training the POA believes should be given related to the policy. Why does the POA believe that all department staff should receive training on the policy and what would this training entail?
6. Random Testing – Why does the POA believe that 10% of Officers should be tested up to two times in a 12-month period as opposed to 25% of Officers as proposed by the City on May 11, 2022? Why is the POA proposing that the Department Program Administrator facilitate all requests for reasonable suspicion tests, as opposed to following what is already provided for in the City’s Substance Abuse Program & Policy? It is expected that a Department Program Administrator may not be available at all times. How does the POA propose addressing this?
7. Vehicular Accidents – Why does the POA believe that Officers should only be tested after a vehicular accident that resulted in an injury as opposed to testing after *any* vehicular accident as proposed by the City? Why are you proposing only testing for alcohol and not drugs? If the POA believes that no employee should be under the influence of alcohol or drugs at any time, why limit this to just alcohol and vehicle accidents that result in injury?
8. Prohibited Drugs – Is the POA’s intent to match what is provided for in the Federal DOT Drug and Alcohol Testing Policy? If so, why is it necessary to include this section as opposed to referring to the Federal DOT Drug and Alcohol Testing Policy?
9. Positive Results – Why is the POA proposing to have a second test performed if an Officer tests positive for drugs or alcohol? As the POA is aware, obtaining results from a first test will delay the timing of a second test being performed and may therefore affect the results as certain substances may leave the Officer’s system within that timeframe.
10. Discipline and Officer Support and Rehabilitation – Again, this is addressed in the POA MOA and existing City policies. Why does the POA believe these provisions are necessary?
11. Overall, there are instances in which only drug or only alcohol testing is mentioned, please clarify if the POA is proposing specific drug or alcohol testing where noted in the proposal or if the intent is the Officer will be tested for both alcohol and drugs when subject to testing?

Community Policing

As you are aware, moving shift change from every 6 months to annually was agreed to by the POA during 2016 negotiations with the City and was in an effort to improve Community Policing. As such, it remains unclear why the POA now believes that reverting back to a 6-month shift is

necessary. Although the POA has cited the turnover in the program, we understand that the changes in staffing are due to Officer transfers, promotions, retirements and the like. How would reducing the amount of time an Officer is in an assignment stop or delay normal attrition from occurring? Isn't it possible that this create even less of a consistency in the staffing of shifts as now there will be potentially 100% turnover every six months? How does the POA envision the staffing needs of the proposed program be met, given the proposed selection process? If there are an insufficient number of Officers who meet the selection criteria or express interest in the assignment how does the POA propose addressing that?

The City looks forward to the POA's response to these questions so that we can continue to engage in negotiations with the POA over a successor MOA. If the POA prefers to meet to discuss these proposals and the questions raised above, please provide the City with your availability at your earliest convenience.

Sincerely,


Jennifer Schembri

Director of Human Resources
Director of Employee Relations

c: Anthony Mata, Chief of Police
Paul Joseph, Assistant Chief of Police
Tom Saggau, POA Consultant
Gregg Adam, POA Legal Counsel