Overview of Extent to Which the SPOG CBA (Collective Bargaining Agreement) May Not Fully Implement Accountability System Reforms
October 16, 2018

- **The parties appear to have negotiated this agreement, and the SPMA CBA, by using the prior CBAs as the starting point, rather than using the Accountability Ordinance and the reforms adopted therein, as the baseline. As a result, while the new structures and operational mandates remain (the CPC, the OIG, the OPA), many of which were not even subject to bargaining, a large number of the reforms achieved in the legislation have either been rolled-back, diminished or modified in ways that are not consistent with a strong accountability system or with the implementation committed to in the legislation**:

  "3.29.510 Implementation. Provisions of the ordinance introduced as Council Bill 118969 subject to the Public Employees' Collective Bargaining Act, chapter 41.56 RCW, shall not be effective until the City completes its collective bargaining obligations. As noted in Section 3.29.010, the police are granted extraordinary power to maintain the public peace, including the power of arrest and statutory authority under RCW 9A.16.040 to use deadly force in the performance of their duties under specific circumstances. *Timely and comprehensive implementation of this ordinance constitutes significant and essential governmental interests of the City*, including but not limited to (a) instituting a comprehensive and lasting civilian and community oversight system that ensures that police services are delivered to the people of Seattle in a manner that fully complies with the United States Constitution, the Washington State Constitution and laws of the United States, State of Washington and City of Seattle; (b) implementing directives from the federal court, the U.S. Department of Justice, and the federal monitor; (c) ensuring effective and efficient delivery of law enforcement services; and (d) enhancing public trust and confidence in SPD and its employees. *For these reasons, the City shall take whatever steps are necessary to fulfill all legal prerequisites within 30 days of Mayoral signature of this ordinance, or as soon as practicable thereafter, including negotiating with its police unions to update all affected collective bargaining agreements so that the agreements each conform to and are fully consistent with the provisions and obligations of this ordinance, in a manner that allows for the earliest possible implementation to fulfill the purposes of this Chapter 3.29." (emphasis added)*

- **The parties have expressly agreed that the CBA, not the Ordinance, will prevail whenever there is a conflict. This means that these roll-backs will occur even if City does not formally amend the Ordinance. Instead, regardless of what law remains on the books, and the public expectation that the law must be complied with, it will be the CBAs that govern. "It is also understood that the parties hereto and the employees of the City are governed by applicable City Ordinances, and said Ordinances are paramount *except where they conflict with the express provisions of this Agreement."* [See: Sec.18.2]** *(emphasis added)*

- **The implementation of the Ordinance has been further substantively impacted by the terms the parties have included in Appendices D and E. Here also, the parties have expressly stated again that "In the event there is a conflict between the language of the Ordinance and the language of the CBA or the explanations and modifications in this Appendix, *the language of the CBA or this Appendix shall prevail.*" [See: Appendix E.(3)]** *(emphasis added)*

- **The SPMA CBA also rolled back some of the reforms set forth in the legislation, particularly in the area of disciplinary appeals and in ensuring the Accountability System treats employees of all ranks equivalently. The position taken in adopting that CBA was that those roll-backs were acceptable because, in return, the City had gotten a commitment that the SPMA would not object to the rest of the Ordinance being implemented.**

This CBA with SPOG now means many critical reforms will not be implemented, regardless, so the value of the SPMA CBA's commitment to support overall ordinance implementation is significantly diminished. OPA will either have to establish two different systems for complaints and investigations involving employees from SPOG and employees from SPMA (different 180-day deadlines, different burdens of proof, different notice requirements, etc.) even if they are all involved in the same incident; or OPA and the City will decide that having two different systems creates myriad other problems. If so, they will instead apply the roll-backs in the system to SPMA as well as SPOG employees, giving all of those roll-backs to SPMA without having received anything in return on behalf of the public.

- **It should also be noted that the principle of all ranks being treated equally with regard to accountability processes was explicitly embedded in the Ordinance [See: 3.29.100D]. This was to ensure that the public and employees can rely on complaint, investigation, discipline, disciplinary appeals and related processes that do not treat higher ranking personnel differently than officers and sergeants. There is no language in either CBA that states that accountability policies and practices shall be applied uniformly regardless of rank or position.**

- **The City will have to return to the Federal Court overseeing the Consent Decree to detail the extent to which the Accountability System reforms achieved in the 2017 legislation have not been, and will not be, implemented.** The City submitted the Accountability legislation to the Federal Court in June, 2017. In that brief, the City notified the Court of the Accountability System reforms that had been secured and how those reforms advanced the work of the consent decree. The Court asked for additional information, and in its supplemental response, the City notified the court as follows:

  "…the City asks the Court to rule as follows:

  1) that the accountability system described in the enacted Ordinance, including the provisions on the List, is consistent with the Consent Decree;
  2) that the City may continue implementing the provisions of the Ordinance that are not on the List and bargaining the provisions on the List; and
  3) that, to the extent that bargaining or ancillary procedures for resolving bargaining disputes result in changes to the provisions of the Ordinance, the City must return to the Court for a determination that the accountability system with those changes is consistent with the Consent Decree.

  Finally, although the City expects that further bargaining over the provisions of the Ordinance will strengthen the accountability system, the Court will ultimately decide whether the City's expectation is well-founded. The City will return to the Court for a final review, including but not limited to review of any provisions that have changed as a result of bargaining." [See: Document 412 Filed 08/18/17 p. 1 and p. 9 of 11]

The following table summarizes important areas where the SPOG CBA may not fully implement Accountability System reforms.

Ordinance Language	Related SPOG CBA Language	Comments
3.29.010 Purpose **A.** The police are granted extraordinary power to maintain the public peace, including the power of arrest and statutory authority under RCW 9A.16.040 to use deadly force in the performance of their duties under specific circumstances. Public trust in the appropriate use of those powers is bolstered by having a police oversight system that reflects community input and values. It is The City of Seattle's intent to ensure by law a comprehensive and sustainable approach to independent oversight of the Seattle Police Department (SPD) that enhances the trust and confidence of the community, and that builds an effective police department that respects the civil and constitutional rights of the people of Seattle. The purpose of this Chapter 3.29 is to provide the authority necessary for that oversight to be as effective as possible.	**Preamble** The City and the Guild agree that the purpose of this Agreement is to provide for fair and reasonable compensation and working conditions for employees of the City as enumerated in this Agreement, and to provide for the efficient and uninterrupted performance of municipal functions. **Appendix E …**Recognizing the importance of proceeding with implementation of the Ordinance, and the need to protect the interests of both the Guild and the City, the parties hereby agree as follows	The parties have not included the language from 3.29.010 in the stated purpose; there is no reference to public trust, providing authority for the oversight to be as effective as possible, or even to the Accountability System. At a minimum, among the stated purposes of the contract should be "to ensure the accountability system is as effective as possible." In Appendix E, there is no reference to protecting the interests of the public.
3.29.100 OPA established – Functions and authority **F.** OPA shall have the authority to address complaints of police misconduct through investigation, Supervisor Action referral, mediation, Rapid Adjudication, or other alternative resolution processes, as well as through Management Action findings and Training Referrals. Management Action findings may be made for either Sustained or Not Sustained complaints of misconduct.	**Article 3.10** This section outlines in detail processes for mediation. **Appendix E.8**. (See also 3.29.120.D of the Ordinance.) The parties have included both Rapid Adjudication and Mediation in the Agreement. The City agrees that these programs as set forth in the Agreement meet the goals of the Ordinance.	Article 3.10 has not been amended to align with program recommendations made to address obstacles to use of mediation, including that the officer must agree to participate and that the complainant has to give up the option of possible discipline, even if the officer doesn't participate in a meaningful way. Other examples of obstacles included the length of time between the incident and when the mediation occurs and the formal nature of the process used (often in a downtown law firm, rather than in a community agency or other more informal setting. This CBA language is only true if the OPA Director may institute the Rapid Adjudication program and make needed improvements to the Mediation program. The CBA language does not fully comport with program recommendations to-date, is not fully detailed, and Rapid Adjudication is defined only as a pilot.
3.29.100 OPA established – Functions and authority	**Appendix E.12*** The City agrees that the intent of the Ordinance is that OPA will not	This CBA language rolls back a major reform under the Ordinance. A significant

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G. OPA's jurisdiction shall include all types of possible misconduct. In complaints alleging criminal misconduct, OPA shall have the responsibility to coordinate investigations with criminal investigators external to OPA and prosecutors on a case-by-case basis to ensure that the most effective, thorough, and rigorous criminal and administrative investigations are conducted.	itself conduct criminal investigations, but rather that the OPA will have responsibility to coordinate its investigations with criminal investigators and/or prosecutors from the City or other jurisdictions. **Article 3.7** Criminal Investigations - The Chief, after consultation with OPA, will determine the appropriate investigative unit with expertise in the type of criminal conduct alleged to conduct the criminal investigation and the associated interviews of the named employee(s), witness employee(s) and other witnesses. Unless otherwise required by law, while there is a presumption that criminal investigations will be performed by the City of Seattle, investigations may be sent to other agencies to be performed on behalf of the City in cases of a potential conflict of interest or other extenuating/unusual circumstances. In the event the Chief decides to have the Department conduct a criminal investigation internally despite the objection of OPA, the Chief will provide a written statement of the material reasons for the decision to the Mayor and the City Council President. OPA will not conduct criminal investigations. OPA and specialty unit investigators conducting the investigation may communicate about the status and progress of the criminal investigation, but OPA will not direct or otherwise influence the conduct of the criminal investigation. In the discretion of the Department, simultaneous OPA and criminal investigations may be conducted...	weakness in Seattle's system has been the lack of civilian oversight and independence for investigations of possible criminal conduct, which are often the most serious allegations. While OPA has full authority for less serious misconduct, when an allegation involved possible violations of the law, OPA has been prohibited from doing anything other than referring the complaint to SPD (infrequently to another law enforcement agency), then doing nothing other than waiting for their investigation to be completed, with no ability to influence the quality or nature of the criminal investigation or the length of time it takes. If the criminal investigation is not thorough or timely, any OPA administrative investigation has also then been affected (e.g., evidence is no longer available, witnesses' memories have faded after months have passed or there is limited time left in the 180-day investigation window). The reform adopted in Ordinance was for OPA to have the authority to handle criminal cases with all the same oversight and control as any other type of alleged misconduct, including the OPA Director seeking input from the prosecuting attorney at the beginning of the case, and working with the criminal investigator in determining the most effective approach for achieving thorough and rigorous criminal and administrative investigations. OPA was to not be barred any longer from conducting, supervising, coordinating or having any involvement in the investigation until the case was returned without charges or after prosecution. Other comments on the problems with the CBA language: OPA, not the Department, is

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		intended to have responsibility to determine whether there would be simultaneous administrative and criminal investigations. It is incorrect to refer to the "Department's conducting an OPA investigation while the matter is being considered by a prosecuting authority," rather the Department "assists" OPA in its investigation. Finally, the Chief should obtain the OPA Director's concurrence in requesting that an outside agency conduct a criminal investigation.
3.29.105 OPA – Independence	There are inaccurate references throughout the contract to "SPD" or "Department" rather than to "OPA."	There are a number of grammatical and technical corrections needed throughout the CBA. These are not cited here, with the exception of references to City, SPD or Department instead of to OPA. In this case, the inaccuracy is not simply a minor technical issue. The language used in the CBA undercuts the principle that OPA is fully independent of SPD in its operations.
3.29.105 OPA – Independence **A.** OPA shall be physically housed outside any SPD facility and be operationally independent of SPD in all respects. OPA's location and communications shall reflect its independence and impartiality. . .	**Article 3.12 C.3** Any interview (which shall not violate the employee's constitutional rights) shall take place at a Seattle Police facility, except when impractical.	This provision is inconsistent with the reform in the Ordinance that requires OPA maintain an office in a location clearly independent of the Department. Interviews are conducted in OPA's office, not at a Seattle Police facility.
3.29.120 OPA Director – Authority and responsibility **B.** Hire, supervise, and discharge OPA civilian staff, and supervise and transfer out of OPA any sworn staff assigned to OPA. OPA staff shall collectively have the requisite credentials, skills, and abilities to fulfill the duties and obligations of OPA set forth in this Chapter 3.29.	**Appendix E.12** See comments.	This section is cited in Appendix E.12 but there is no italicized summary of the parties' agreement. See endnote.
3.29.120 OPA Director – Authority and responsibility **D.** Oversee and strengthen the effectiveness of OPA investigations, Supervisor Action referrals, mediation, Rapid Adjudication, and other alternative resolution processes, as well as Management Actions and Training Referrals. The OPA Director shall, in consultation with CPC and OIG, make and maintain a fair and effective mediation program and a fair and effective Rapid Adjudication process.	**Article 3.11 A-D** detail specific provisions for a Rapid Adjudication pilot project.	The Ordinance provides that the Rapid Adjudication and Mediation programs (and presumably their governing policies) be set up in consultation with CPC and OIG. The CBA details processes for Rapid Adjudication (RA) absent such guidance and with some key elements missing or in error (e.g., it does not provide for documenting

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		RA resolutions in employee files and refers to a disciplinary appeal of an RA case). RA was supposed to be piloted when first recommended in Jan 2014 so that it could be fully implemented in the CBA. The CBA now limits implementation to just such a pilot project. RA was intended to resolve certain types of cases of misconduct quickly, which often is better for all involved, tie accountability to the behavior sooner, which is an important principle of effectiveness, and save time and resources for other investigations. In using RA, the named employee immediately acknowledges a policy violation and appropriate discipline is imposed without an investigation. For example, if an employee failed to get a required approval, meet annual training requirements, complete a supervisory use of force review within the mandated timeline, or use In-Car Video, there could be an expedited process for acknowledging the violation, with appropriate discipline imposed using a discipline matrix, and with no appeals allowed. It would also help strengthen the Department's culture of accountability, making it clear that acknowledging mistakes is encouraged. For this reason, the employee's file should reflect resolution through the RA alternative.
3.29.120 OPA Director – Authority and responsibility **E.** Ensure OPA policies and practices are detailed in, and in compliance with, the OPA Manual, which shall be updated at least annually. Such updates shall be done in accordance with a process established by the OPA Director that provides for consultation and input by OIG and CPC prior to final adoption of any updates.	**Appendix E.12** See comments	This section is cited in Appendix E.12 but there is no italicized summary of the parties' agreement. See endnote.
3.29.125 OPA – Classifications and investigations **A.** When necessary, the OPA Director may issue a subpoena at any stage in an investigation if evidence or testimony material to the	**Appendix E.12** The City agrees that these sections of the Ordinance will not be implemented at this time with regard to	The recommendation to provide subpoena power has languished for years. The Ordinance provides for subpoena power for

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investigation is not provided to OPA voluntarily, in order to compel witnesses to produce such evidence or testimony. If the subpoenaed individual or entity does not respond to the request in a timely manner, the OPA Director may ask for the assistance of the City Attorney to pursue enforcement of the subpoena through a court of competent jurisdiction. **3.29.240 OIG – IG – Authority and responsibility** **K.** Issue a subpoena if evidence or testimony necessary to perform the duties of OIG set forth in this Chapter 3.29 is not provided voluntarily, in order to compel witnesses to produce such evidence or testimony. If the subpoenaed individual or entity does not respond to the request in a timely manner, the Inspector General may ask for the assistance of the City Attorney to pursue enforcement of the subpoena through a court of competent jurisdiction.	bargaining unit employees and their family members, and third party subpoenas seeking personal records of such employees and their family members. After the City further reviews questions raised concerning the authority and potential need for OPA and the OIG to issue such subpoenas, the City may re-open the Agreement for the purpose of bargaining over these sections of the Ordinance and the parties will complete bargaining prior to the OIG or OPA issuing subpoenas to bargaining unit employees and their family members, or a third party subpoena seeking the personal records of such employees and their family members.	both the OPA and OIG. If "personal records" as used here is intended to include bank records, medical records and the like, that undercuts part of the rationale for this authority. As noted each time this recommendation has been made, other City agencies (e.g., SEEC and OCR) have this authority.
3.29.125 OPA – Classifications and investigations **B.** …Unless the OPA Director determines exigent circumstances require otherwise, all SPD employee interviews shall be conducted in-person. All interviews shall be audio-recorded and transcribed, except any interviews conducted before a Rapid Adjudication disposition. If an interview is transcribed both the recording and the transcription shall be retained in the OPA case file.	**Article 3.6.F.6** All interviews shall be digitally audio-recorded and transcribed unless the employee objects. Interviews that are not digitally [sic] audio-recording for transcription by OPA shall be recorded by a court reporter or stenographer. The employee and/or entity requesting a court reporter or stenographer shall pay all appearance fees and transcription costs assessed by the court reporter or stenographer and shall make available to the other party an opportunity to obtain a copy of any transcription.	This is inconsistent with the Ordinance. All named employee and witness interviews must be recorded and transcribed and all recordings and transcriptions retained in the investigative files.
3.29.125 OPA – Classifications and investigations **F.** Every OPA investigation shall have an investigation plan approved by the OPA Director or the OPA Director's designee prior to the initiation of an investigation…	**Appendix E.12** The investigation plan shall be produced to the Guild after completion of the investigation and prior to the due process hearing.	Giving additional information to SPOG may further the imbalance with information provided to the public, and exacerbate distrust. Attention should be paid to whether providing this on behalf of the Guild further trust and fairness in the process.
3.29.125 OPA – Classifications and investigations **G.** In cases where a Sustained finding has been recommended by the OPA Director and hearing from the complainant would help the Chief better understand the significance of the concern or weigh issues of	**Appendix E.12** In the event the Chief meets with a complainant as provided in this section, notes will be taken at the meeting,	If the Chief is not required to take notes and share them with the public when the Chief meets with the named employee and/or the bargaining rep, how does

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credibility, the OPA Director may recommend that the Chief meet with the complainant prior to the Chief making final findings and disciplinary decisions.	and a copy of those notes will be made available to the Guild.	providing this to SPOG further trust in the fairness of the process? The Chief should not be mandated to take notes nor to share them.
3.29.130 OPA – Classification and investigation timelines **A.** OPA shall notify named employees, the Captain or equivalent of the named employees, and the bargaining unit of the named employees within 30 days of receiving directly or by referral a complaint of possible misconduct or policy violation. The notice shall by default not include the name and address of the complainant, unless the complainant gives OPA written consent for disclosure after OPA communicates to the complainant a full explanation of the potential consequences of disclosure. The notice shall confirm the complaint and enumerate allegations that allow the named employees to begin to prepare for the OPA investigation; however, if OPA subsequently identifies additional allegations not listed in the 30-day notice, these may also be addressed in the investigation.	**Article 3.1.A** Except in criminal investigations or where notification would jeopardize the investigation (the most common example being ongoing acts of misconduct), OPA shall notify the named employee of the receipt of a complaint, including the basic details of the complaint, within five (5) business days after receipt of the complaint by OPA. The OPA shall furnish the employee and the Guild with a classification report no later than thirty (30) days after receipt of the complaint by the OPA. The classification report shall include, at a minimum, i) a copy of the complaint, ii) the results of the OPA's preliminary review of the complaint, iii) the title and section (e.g. – 8.04 is Title 8, Section 4) of the policy or policies that the employee potentially violated, iv) a meaningful, detailed description of the employee's alleged actions that potentially violate the Department's policies, and, v) if the OPA intends to investigate the complaint, the procedures it intends to use in investigating the complaint (e.g., OPA investigation or line investigation). In order to ensure mutual understanding of this provision, the parties have included examples in Appendix H. In the case of allegations involving discrimination, harassment, retaliation or other Equal Employment Opportunity (EEO) laws, the classification report will indicate whether the investigation will be managed through the Seattle Department of Human Resources (SDHR). No employee may be interviewed until the employee has been	The Ordinance eliminated the five-day notice and provides for notice (and classification) within 30 days. Extending the five-day period allows OPA to conduct more initial intake before determining the possible violations and notifying the employee. This CBA language also appears to eliminate the reform that if OPA subsequently identifies additional allegations not listed in the 30-day notice, they may also be addressed in the investigation. It also appears that the CBA, in requiring a copy of the complaint, provides for identification of the complainant which is not allowed under the Ordinance unless agreed to by the complainant.

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	provided the classification report. **Article 3.12. C.1.** The employee shall be informed in writing if the employee so desires of the nature of the investigation and whether the employee is a witness or a named employee before any interview commences, including the name, address of the alleged misconduct and other information necessary to reasonably apprise him of the allegations of such Complaint … **Article 3.6.F.** At least five (5) calendar days and no more than thirty (30) days prior to the interview, the OPA shall provide notice to the Guild and the employee being interviewed. The Chief of Police, or Acting Chief of Police in the event the Chief is unavailable, may determine that notice of not less than one (1) calendar day is appropriate for interviews in a specific case due to exigent circumstances …	This should say: "unless waived by the employee." Sometimes employees are fine with quicker interviews. And there are occasions when the employee is already at OPA and either is a witness for another investigation as well or a new allegation arises based on the interview. It has been a problem in the past that it was unclear whether it suffices if the employee states a preference for proceeding, and OPA then documents the waiver and continues.
3.29.130 OPA – Classification and investigation timelines **B.** The time period in which investigations must be completed by OPA is 180 days. The time period begins on the date OPA initiates or receives a complaint. The time period ends on the date the OPA Director issues proposed findings. **E.** If an OPA interview of a named or witness employee must be postponed due to the unavailability of the interviewee or the interviewee's labor representative, the additional number of days needed to accommodate the schedule of the employee or the employee's bargaining representative shall not be counted as part of the 180-day investigation period. **F.** If the OPA Director position becomes vacant due to unforeseen exigent circumstances, the 180-day period shall be extended by 60 days to permit the designation of an interim OPA Director and the initiation of the appointment process for a permanent OPA Director.	**Article 3.6.B.** Except in cases where the employee is physically or medically unavailable to participate in the internal investigation, no discipline may result from the investigation if the investigation of the complaint is not completed within one-hundred eighty (180) days after the 180-day start date (the 180 Start Date) or (if submitted to the prosecutor within one hundred eighty (180) days) thirty (30) days after receipt of a decline notice from a prosecuting authority or a verdict in criminal trial, whichever is later. The 180 Start Date begins on the earliest of the following: i. Receipt/initiation of a complaint by the OPA;	Article 3.6 (B) should have been eliminated in its entirety, per the Ordinance, which removed any language continuing to tie the 180-day timeline to the imposition of discipline. Note also that the language regarding a verdict, doesn't address guilty pleas or other types of dispositions not involving a verdict. • (i) refers to "complaints" and (ii) refers to "informal complaints."

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	ii. Receipt/initiation of a formal complaint by a sworn supervisor alleging facts that, if true, could without more constitute a serious act of misconduct violation, as long as the supervisor forwards the matter to OPA within forty-eight (48) hours of receipt. For cases of less than serious acts of misconduct, the 180 Start Date will begin with the receipt of information where the supervisor takes documented action to handle the complaint (for example a documentation in the performance appraisal system);	• The proposed amendments (ii) through (v) are inconsistent with the Ordinance. The start date is when OPA receives or initiates a complaint. Also, it is unclear what distinguishes "a serious act of misconduct violation" from "less than serious acts of misconduct."
	iii. For incidents submitted to the Chain of Command in Blue Team (or its successor), fourteen (14) days after the date on which the initial supervisor submits the incident for review to the Chain of Command;	• This should be tied to the supervisor identifying misconduct in Blue Team.
	iv. OPA personnel present at the scene of an incident; or v. If the Office of the Inspector General (OIG) is present at the scene of an incident at which OPA is not present, and if OIG subsequently files a complaint growing out of the incident, the date of the incident.	• It appears that what the parties mean in (iv) is that if OPA personnel are present at the scene, the start date is the date of the incident.
	Provided, however, in the case of a criminal conviction, nothing shall prevent the Department from taking appropriate disciplinary action within forty-five (45) days, and on the basis of, the judicial acceptance of a guilty plea (or judicial equivalent such as nolo contendere) or sentencing for a criminal conviction.	• Same point regarding the need to include other dispositions.
	For purposes of (iii) above, if following a Blue Team entry, the Chain of Command	• If (iii) is retained, this provision should not be limited to "serious misconduct."

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	concludes that no misconduct occurred, and then material new evidence (including video) is provided at a later date that suggests serious misconduct did occur, then a new 180 Start Date is triggered on the date that the new material evidence of serious misconduct is provided. *** 2. In addition to those circumstances defined in subsection B.1, above, the one-hundred eighty (180)-day time period will be suspended when a complaint involving alleged criminal conduct is being reviewed by a prosecuting authority or is being prosecuted at the city, state, county, or federal level or if the alleged conduct occurred in another jurisdiction and is being criminally investigated or prosecuted in that jurisdiction.	• This tolling was to be tied to any time used for a criminal investigation when the administrative investigation is on hold, not just to the time period when the prosecutor reviews the case for a filing decision after the investigation is completed. This is another important reform related to how criminal misconduct investigations are to be handled that has been eliminated.
3.29.130 OPA – Classification and investigation timelines ***(with respect only to cases involving possible criminal actions)*** **G.** In cases involving possible criminal actions, if an OPA administrative investigation is not commenced or is paused due to a criminal investigation, that time shall not be counted as part of the 180-day investigation period, and shall be documented in an administrative intake or investigation follow-up log in the investigation file. The OPA administrative investigation shall be paused as long as is necessary so that neither the OPA administrative nor the criminal investigation of the same incident is compromised. The 180-day clock shall resume whenever any administrative investigation steps are taken by OPA.	**Article 3.7** ... In the event the Department is conducting an OPA investigation while the matter is being considered by a prosecuting authority, the 180-day timeline provision continues to run. The criminal investigation shall become part of the administrative investigation. The Chief of Police may, at his/her discretion, request that an outside law enforcement agency conduct a criminal investigation.	This language rolls back the reform regarding tolling the 180-day clock for a criminal investigation. It also creates the problem of treating criminal cases investigated by SPD differently than those investigated by other law enforcement agencies. The bar on tolling the 180-day contractual time while the case is outside of OPA's control has been reinstated in the CBA and the reform eliminated.
3.29.130 OPA – Classification and investigation timelines	**Article 3.6.B** 180-Day Extension Requests **1.** The OPA may request and the Guild will not unreasonably deny an extension of: (1) the thirty (30) day period for furnishing the employee a classification report, if the complaint was not referred by the sworn supervisor to his/her Chain of Command or the OPA in a timely manner; (2) the one-hundred eighty (180) day time restriction if the OPA has made the request before the	Requiring OPA to request the Guild grant extensions for any situation already set forth in the Ordinance rolls back the reform. The Ordinance intentionally identifies explicit reasons for extending deadlines and stipulates the amount of time each is to be extended. Because so often the imposition of discipline is challenged due to lack of clarity about the 180-day timeline, the Ordinance was very specific and concrete.

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	one-hundred eighty (180) day time period has expired; has exercised due diligence in conducting the investigation of the complaint; and is unable to complete the investigation due to one of the following reasons: i) the unavailability of witnesses/named employee; ii) the unavailability of a Guild representative; iii) the OPA Director position becomes vacant due to unforeseen exigent circumstances; iv) when a complex criminal investigation conducted by the City takes an unusually long period of time to complete, and the City has exercised due diligence during the investigation; or v) other reasons beyond the control of the Department. A request for an extension due to the unavailability of witnesses must be supported by a showing by the Department that the witnesses are expected to become available within a reasonable period of time. The City's request for an extension will be in writing. The Guild will respond to the request in writing, providing the basis for denial, and recognizing that the determination will be based on the information provided to it. **2.** The OPA may request an extension for reasons other than the reasons listed above; however, any denial shall not be subject to subsection C.1 above. Any approval or denial of a request for an extension other than the reasons listed in C.1 shall be non- precedential. **3.** Nothing in this section prohibits the OPA from requesting more than one extension during the course of an investigation. **4.** In determining whether an extension	OPA should not have to ask the Guild's permission to extend timelines in those situations, nor should there be any ambiguity as to whether an extension is appropriate, whether the timeline is tolled, etc. • OPA makes the request not the Department

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	request under C1 was appropriately denied, the factors to be considered are the good faith of the parties, the facts and circumstances surrounding the request, and the information provided to the Guild by the City.	• OPA provides the information, not the Department
	Article 3.6.D. 180 Start Date Re-calculation	
	When a community member complains about an incident, the OPA will generally investigate even in situations where the 180-day period for investigation may have expired. In the event an incident that was or should have been determined to be a Type II Use of Force, Bias, or Pursuit is entered into Blue Team, reviewed by the Chain of Command, the Chain of Command does not forward the incident to OPA, and a community member later complains, the OPA may initiate the following process to determine whether a re-calculation of the 180 Start Date is appropriate.	• The first sentence should be removed, as well as the phrase "and a community member later complains." There should not be different approaches based on who is the complainant. Also, this should not be limited to Type II UOF.
	1. If OPA's investigation results in an OPA recommended finding that: (i) serious misconduct occurred, and that (ii) the serious misconduct was or should have been determined by the Chain of Command to be a violation of the Type II Use of Force, Bias, or Pursuit policy (or policies), OPA may request in writing that the 180 Start Date be recalculated to commence effective on the day of the community member's complaint. Such requests may not be unreasonably denied by the Guild. In the event the Guild denies the re-calculation, the Guild shall explain in writing the reason for the denial, and the matter will be resolved by the Chief, as	• Similarly, this should not be limited to only community member complaints. Also, as noted above, the determination of a recalculation should not require Guild approval. • With respect to the recalculation being subject to appeal, note that the Ordinance expressly eliminated arbitration as an option. To be consistent, this should read "subject to appeal to the PSCSC."

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	provided below. If OPA recommends a finding that the serious misconduct described above occurred, it will forward its recommendations to the Chief. After reviewing OPA's recommendations, and offering a due process hearing where required, the Chief will determine in writing whether the matter was appropriate for re-calculation, and if so, whether the findings of OPA should be sustained and discipline imposed. The Chief's decision on re-calculation as well as any discipline issued are subject to arbitration. **2.** In the event a Bias or Pursuit incident entered into Blue Team is recalculated pursuant to D.1. above, and there was a Type I Use of Force in the same incident that was serious misconduct, which was not previously reported to OPA, then the recalculated 180 Start Date from the Bias/Pursuit incident will be applied to the Type I Use of Force.	
3.29.130 OPA – Classification and investigation timelines **I.** To ensure the integrity and thoroughness of investigations, and the appropriateness of disciplinary decisions, if at any point during an OPA investigation the named employee or the named employee's bargaining representative becomes aware of any witness or evidence that the named employee or the employee's bargaining representative believes to be material, they shall disclose it as soon as is practicable to OPA, or shall otherwise be foreclosed from raising it later in a due process hearing, grievance, or appeal. Information not disclosed prior to a due process hearing, grievance, or appeal shall not be allowed into the record after the OPA investigation has concluded if it was known to the named employee or the named employee's bargaining representative during the OPA investigation, and if OPA offered the employee an opportunity to discuss any additional information and suggest any additional witnesses during the course of the employee's OPA interview.	**Appendix E.12** The City agrees that this section will not be implemented during the term of this Agreement (including any holdover period). Instead, the parties will implement the following provisions. This agreement does not in any way change or impact the application of any evidentiary standards applicable in grievance arbitration. In the interest of the Chief receiving relevant information prior to making a disciplinary decision, the parties have agreed that in the event new material evidence is presented to the Chief at a due process hearing, the Chief may return the matter to OPA, and the 180-day period will be extended to allow the OPA to	An agreement to not implement 3.29.130.I is a roll-back of an important reform in the Ordinance that evidence cannot be raised later if known previously and not shared with OPA. E.12 of the CBA also rolls back the reform that the grievance process is not to be used for disciplinary appeals; and the reform of the evidentiary standard to be used for disciplinary appeals.

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3.29.420 - Disciplinary, grievance, and appeals policies and processes **A.6** All appeals related to employee discipline shall be governed by this Chapter 3.29 and Chapter 4.08. Only appeals for which the hearing has already been scheduled prior to the effective date of the ordinance introduced as Council Bill 118969—including Disciplinary Review Board proceedings for officers and sergeants, and arbitration proceedings for lieutenants and captains—shall continue in accordance with the relevant contractual or legislated procedures. As of the effective date of the ordinance introduced as Council Bill 118969, all other disciplinary appeals may proceed only under this Chapter 3.29 and Chapter 4.08. **3.29.420 - Disciplinary, grievance, and appeals policies and processes** **A.7** Oral reprimands, written reprimands, "sustained" findings that are not accompanied by formal disciplinary measures, and alleged procedural violations may be processed through grievance processes established by the City Personnel Rules or by Collective Bargaining Agreements, but no grievance procedure may result in any alteration of the discipline imposed by the Chief. Such grievances are not subject to arbitration and may not be appealed to the PSCSC or any other forum. **4.08.105 – Tenure of employment for police officers** **A.3** … The Commission will review the recommended decision and, within 30 days of the oral argument, issue a final determination whether the disciplinary decision was in good faith for cause, giving deference to the factual findings of the Hearing Officer. Both the recommended decision and the final decision should affirm the disciplinary decision unless the Commission specifically finds that the disciplinary decision was not in good faith for cause, in which case the Commission may reverse or modify the discipline to the minimum extent necessary to achieve this standard.	investigate the new evidence and provide it to the Chief (see Article 3.5F) of the Agreement). Additionally, in order to minimize the likelihood that either party is unduly surprised at an appeal hearing, the parties agree that fifteen days prior to a discipline appeal hearing, each party will disclose any experts not previously used in the due process hearing or the grievance procedure.	
3.29.130 OPA – Classification and investigation timelines **J.** If further investigation is initiated because new information is brought forward during an OPA interview or a due process hearing, or because of any additional investigation directed by OIG, the 180-day investigation time period shall be extended by 60 days. I. To ensure the integrity and thoroughness of investigations, and the appropriateness of disciplinary decisions, if at any point during an OPA investigation the named employee or the named employee's bargaining representative becomes aware of any witness or evidence	**Article 3.1.E** Unless further investigation is deemed necessary, the Chief shall make a good faith effort to make the final decision within ten (10) days as to whether charges should be sustained, and if so, what discipline, if any, should be imposed, after considering the information presented in any due process hearing. If new material facts are revealed by the named employee during the due process hearing and such	The CBA is inconsistent with the adopted in Ordinance. The time period begins on the date OPA initiates or receives a complaint and ends on the date the OPA Director issues proposed findings, *no*t the date the DAR is issued. Again, this was a recommended improvement so that the SPD DAR process – over which OPA has no control - would no longer be included in the OPA 180 days. See: 3.29.130 (B).

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that the named employee or the employee's bargaining representative believes to be material, they shall disclose it as soon as is practicable to OPA, or shall otherwise be foreclosed from raising it later in a due process hearing, grievance, or appeal. Information not disclosed prior to a due process hearing, grievance, or appeal shall not be allowed into the record after the OPA investigation has concluded if it was known to the named employee or the named employee's bargaining representative during the OPA investigation, and if OPA offered the employee an opportunity to discuss any additional information and suggest any additional witnesses during the course of the employee's OPA interview.	new material facts may cause the Chief to act contrary to the OPA Director's recommendation, the case will be sent back to the OPA for further investigation. The 180-day period for investigation will be extended by an additional sixty (60) days, less any time remaining on the 180-day clock (i.e. – if at one hundred twenty (120) days on the clock, then no extension; if at one hundred fifty (150) days, then an additional thirty (30) days; if at one hundred eighty (180) days, then an additional sixty (60) days). The 180-day period runs from the 180 Start Date (see 3.6B) until the proposed Disciplinary Action Report is issued. If further investigation is warranted the 180-day period begins to run again the day after the due process hearing and will not include the time between issuance of the proposed Disciplinary Action Report and the due process hearing …	The case should *not* be sent back for further investigation unless there is compliance with the Ordinance language set forth in 3.29. 420(I) noted above that new information may not be raised if known during the OPA investigation. Without this language the reform has been rolled back. The CBA is inconsistent with the Ordinance, which specifically provides for 60 additional days, to ensure sufficient time for OPA to follow-up on any new evidence presented at the hearing and for OPA's additional investigation to be certified by the OIG (which now performs the OPA Auditor investigation review and certification role.). Provides for 60 additional days. There were a number of important reforms made in Ordinance to address a long history of problems related to the 180-day deadline. The language of 3.29.130 lays out with specificity when the 180-day timeline starts and ends, when extensions shall be granted, etc. It should have been incorporated here or all language related to defining and extending the 180-day period removed from the CBA so that the Ordinance language will prevail.
3.29.135 OPA—Explanations of certain complaint dispositions **F.** Termination is the presumed discipline for a finding of material dishonesty based on the same evidentiary standard used for any other allegation of misconduct.	**Article 3.1** ...The standard of review and burden of proof in labor arbitration will be consistent with established principles of labor arbitration. For example, and without limitation on other examples or applications, the parties agree that these principles include an elevated standard of review (i.e. – more than preponderance of the evidence) for termination cases where the alleged offense is stigmatizing to a law	All misconduct investigations had a standard of review of "preponderance" (meaning more likely than not), other than for dishonesty, for which the old CBA required a standard of "clear and convincing". The Ordinance reform was to set the standard at preponderance for all, including dishonesty. The Federal Court affirmed and so ordered, in response to a City filing as part of the consent decree.

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	enforcement officer, making it difficult for the employee to get other law enforcement employment. In the case of an officer receiving a sustained complaint involving dishonesty in the course of the officer's official duties or relating to the administration of justice, a presumption of termination shall apply. Dishonesty is defined as intentionally providing false information, which the officer knows to be false, or intentionally providing incomplete responses to specific questions, regarding facts that are material to the investigation. Specific questions do not include general or "catch-all" questions. For purposes of this Section dishonesty means more than mere inaccuracy or faulty memory.	This CBA language not only rolls that back, it creates a new ambiguous higher standard called an "elevated standard of review", and applies it to a new set of misconduct cases. One could argue that *any* misconduct for which an employee is fired, including dishonesty, is "stigmatizing" and makes it "difficult for the employee to get other law enforcement employment". Thus, the contract language not only vitiates the commitment to the preponderance standard for dishonesty, but also results in a broad range of misconduct allegations being subject to "an elevated standard of review." Article 3.1 defines dishonesty as intentionally providing false information. The reform goal was to *remove* having to prove intentionality from the definition of dishonesty. It was also to underscore the obligation under SPD Policy (5.001) to be truthful and provide complete information in *all* communications – not just during OPA investigations, (e.g. employees must be truthful when testifying in court, completing incident reports, conducting Use of Force reviews, etc.).
3.29.135 OPA—Explanations of certain complaint dispositions **A.** If there is disagreement between the Chief and the OPA Director as to the OPA Director's recommendations on findings, the Chief and the OPA Director shall engage in a supplemental meeting to discuss the disagreement, which shall occur after an employee due process meeting has taken place. **B.** If the Chief decides not to follow one or more of the OPA Director's written recommendations on findings following an OPA investigation, the Chief shall provide a written statement of the material reasons for the decision within 30 days of the Chief's decision on the disposition of the complaint. If the basis for the action is personal, involving family or	**Article 3.5.G** When the Police Chief changes a recommended finding from the OPA, the Chief will be required to state his/her reasons in writing and provide these to the OPA Director. A summary of the Chief's decisions will be provided to the Mayor and City Council. In stating his/her reasons in writing for changing an OPA recommendation from a sustained finding, the Chief shall use a format that discloses the material reasons for his/her decision. The explanation shall make no reference to	The CBA is not consistent with the Ordinance requirements. The Ordinance also addressed the need for transparency in cases in which the finding or disciplinary decision is changed *later in the process* for other reasons (such as being overturned on appeal). This reform was adopted to address problems identified in a 2014 disciplinary system review. By not including that language, this reform has also been rolled back.

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health-related circumstances about the named employee, the statement shall refer to "personal circumstances" as the basis. The written statement shall be provided to the Mayor, the Council President and the Chair of the public safety committee, the City Attorney, the OPA Director, the Inspector General, and the CPC Executive Director, and be included in the OPA case file and in a communication with the complainant and the public. If any findings or discipline resulting from an investigation are changed pursuant to an appeal or grievance, this responsibility shall rest with the City Attorney.	the officer's name or any personally identifying information in providing the explanation. In the event the change of recommendation is the result of personal, family, or medical information the Chief's explanation shall reference "personal information" as the basis of his decision.	
3.29.140 OPA – Staffing **A.** The OPA Director and the Deputy Director shall be civilians and, within 18 months of the effective date of the ordinance introduced as Council Bill 118969, all investigative supervisors shall be civilian. **B.** All OPA staff working directly with SPD supervisors to support the handling of minor violations and public access to the accountability system shall be civilians. **C.** Within 12 months of the effective date of the ordinance introduced as Council Bill 118969, intake and investigator personnel shall be entirely civilian or a mix of civilian and sworn, in whatever staffing configuration best provides for continuity, flexibility, leadership opportunity, and specialized expertise, and supports public trust in the complaint-handling process. **D.** All staff shall have the requisite skills and abilities necessary for OPA to fulfill its duties and obligations as set forth in this Chapter 3.29 and for OPA's operational effectiveness. No civilian staff shall be required to have sworn experience and no civilian staff shall have been formerly employed by SPD as a sworn officer. **E.** The OPA Director and the Chief shall collaborate with the goal that the rotations of sworn staff into and out of OPA are done in such a way as to maintain continuity and expertise, professionalism, orderly case management, and the operational effectiveness of both OPA and SPD, pursuant to subsection 3.29.430.G. **F.** The appropriate level of civilianization of OPA intake and investigator personnel shall be evaluated by OIG pursuant to Section 3.29.240. **G.** OPA investigators and investigative supervisors shall receive training by professional instructors outside SPD in best practices in administrative and police practices investigations. OPA investigators and investigative supervisors shall also receive in-house training on current SPD and OPA policies and procedures.	**Article 7.10** It is agreed that non-sworn personnel shall neither be dispatched to, nor assigned as a primary unit to, investigate any criminal activity. **Appendix D.** The parties agree as follows: 1. Unless otherwise agreed, at any time after the date of signing, the City may replace up to two (2) sworn investigator positions (Sergeant positions currently filled by Sergeants or Acting Sergeants) with up to two (2) civilian investigators. 2. Any case that reasonably could lead to termination will have a sworn investigator assigned to the case. 3. Once the civilian investigators of OPA have been trained, the intake work for civilian initiated complaints will primarily be performed by civilian investigators. Sergeants may be assigned to fill-in or back-up a civilian investigator engaged in intake duties for civilian initiated complaints. All other intake and all investigations will be performed by both Sergeants and the civilian investigators (collectively the "Investigators"). It is agreed that while OPA civilian administrative personnel will not conduct investigations or intake duties, they will have responsibility for providing routine administrative support to the	This CBA language is not consistent with the use of civilian personnel in OPA. For example, OPA is involved at FIT call-outs and with type III Use of Force. The contract is inconsistent with the Ordinance, which calls for, at minimum, a mix of civilian and sworn staff and does not foreclose civilians from handling any type of investigation. Under the Ordinance, OPA has the authority to use civilians for all positions and all types of investigations. Having civilians do intake offers complainants a civilian alternative to take their complaint; civilians investigators and investigation supervisors enhance trust, provide continuity and staffing flexibility, provide specialized expertise, and ensure a non-law enforcement perspective. Sworn staff bring expertise and perspective that is also important, and an OPA assignment is valuable for moving up the chain of command. The OPA Director was to have discretion in establishing the mix in order to balance competing needs, handle investigations efficiently, have an effective complement of differing expertise and perspectives, etc. Finally, the OPA Director has responsibility to manage rotations of sworn staff, doing so in collaboration with

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	Investigators. Examples of duties that are considered administrative support are creating the IA-Pro file, adding documents to the file as directed by Investigators, and preparing routine response communications for Investigators such as a file closing letter. Examples of duties that are considered intake, and not administrative support, are conducting interviews, analyzing video, determining relevancy, determining policy violations, and drafting any non-routine communications. 4. The civilianization of OPA shall not result in the reduction of Sergeant FTE's in the Department. The FTE for any Sergeant position removed from OPA shall be transferred to another position in the Department. 5. In determining the order of transfer out of OPA, the initial transfer will consist of any Acting Sergeant(s) filling a position in OPA. Thereafter, the order will initially be determined by volunteers. In the event there are more volunteers than needed, the most senior (most time in OPA) volunteer(s) will be transferred. Thereafter, transfers will be in the order of inverse seniority, and the provisions of the Agreement to any involuntary transfer shall apply. 6. Acting Sergeants currently on the Sergeant promotional roster may serve in OPA to fill a temporary vacancy limited to three (3) months. While at OPA, Acting Sergeants shall only perform intake duties and may be paired with a Sergeant to assist in investigations.	the Chief. Also note that 3.29.140.E is cited in Appendix E.12. There is no italicized summary of the parties' agreement for this section of the Ordinance.
3.29.300 CPC established – Functions and authority **E.** Identify and advocate for reforms to state laws that will enhance	**Appendix E.12** While the Guild recognizes the right of the CPC to engage in advocacy,	This is in direct conflict with the Ordinance. Each of the areas specified in the Ordinance

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public trust and confidence in policing and the criminal justice system. Such advocacy may include, but is not limited to, reforms related to the referral of certain criminal cases to independent prosecutorial authorities, officer de-certification, pension benefits for employees who do not separate from SPD "in good standing," and the standards for arbitrators to override termination decisions by the Chief.	the Guild is concerned that inclusion of the examples in this section of the Ordinance could be perceived as support by the Guild for these examples. Recognizing the need to get the Ordinance in place, the City agrees it will remove the second sentence from the Ordinance. In so doing, the City reaffirms its support of CPC's authority to identify and advocate for reforms to state laws that will enhance public trust and confidence in policing and the criminal justice system, as explicitly provided for in the first sentence of this section of the Ordinance, which will remain in place as written.	were included as priorities for establishing needed accountability mechanisms to better serve the public.
3.29.330 CPC – Independence Without the necessity of making a public disclosure request, CPC may request and shall timely receive from other City departments and offices, including SPD, information relevant to its duties under this Chapter 3.29 that would be disclosed if requested under the Public Records Act.	**Article 3.6.H** … The Community Police Commission (CPC) will only have access to closed OPA files. The Chief of Police or his or her designee may authorize access to the officer's Captain, and to others only if those others are involved in (1) the disciplinary process; (2) the defense of civil claims; (3) the processing of a public disclosure request; or (4) the conduct of an administrative review.	The contract conflicts with the Ordinance provisions related to CPC access to any information relevant to its duties.
3.29.380 CPC – Access to and confidentiality of files and records **A.** CPC and the Office of the CPC shall have access to unredacted complaint forms of all OPA complaints and unredacted files of all closed OPA investigations.	**Article 3.6.H** … The Community Police Commission (CPC) will only have access to closed OPA files. The Chief of Police or his or her designee may authorize access to the officer's Captain, and to others only if those others are involved in (1) the disciplinary process; (2) the defense of civil claims; (3) the processing of a public disclosure request; or (4) the conduct of an administrative review.	By not noting CPC access to unredacted OPA complaint forms and unredacted closed OPA investigation files, the CBA may be inconsistent with the Ordinance. Note that the full section in the CBA refers to the OPA Auditor's access to material. This error should be corrected.
3.29.420 Disciplinary, grievance, and appeals policies and processes **A.4** The Chief shall have the authority to place an SPD employee on leave without pay prior to the initiation or completion of an OPA administrative investigation where the employee has been charged with a felony or gross misdemeanor; where the allegations in an OPA	**Article 3.3** Indefinite Suspensions - On indefinite suspensions used for investigative purposes which do not result in termination of employment or reduction in rank, the resultant punishment shall not	This specific Ordinance language was debated, discussed and precisely drafted. The contract's introduction of "moral turpitude, or a sex or bias crime" narrows the types of misconduct for which the Chief

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complaint could, if true, lead to termination; or where the Chief otherwise determines that leave without pay is necessary for employee or public safety, or security or confidentiality of law enforcement information. In any case of such leave without pay, the employee shall be entitled to back pay if reinstated, less any amounts representing a sustained penalty of suspension.	exceed thirty (30) days including the investigative time incorporated within the indefinite suspension. However, if an employee has been charged with the commission of a felony or a gross misdemeanor involving either moral turpitude, or a sex or bias crime, where the allegation if true could lead to termination, the Employer may indefinitely suspend that employee beyond thirty (30) days as long as the length of such suspension is in accord with all applicable Public Safety Civil Service Rules. In the event the gross misdemeanor charges are filed by the City, and are subsequently dropped or the employee is acquitted, the backpay withheld from the employee shall be repaid, with statutory interest. The Guild will be notified when the Department intends to indefinitely suspend an employee. The Guild has the right to request a meeting with the Chief to discuss the suspension. The meeting will occur within fifteen (15) days of the request. If the charges are dropped or lessened to a charge that does not meet the qualifications above, there is a plea or verdict to a lesser charge that does not meet the qualifications above, or in the case of a hung jury where charges are not refiled, the employee shall be immediately returned to paid status. An employee covered by this Agreement shall not suffer any loss of wages or benefits while on indefinite suspension if a determination of other than sustained is made by the Chief of Police. In those cases where an employee covered by this Agreement appeals the disciplinary action of the Chief of Police, the Chief of Police shall abide by the decision resulting from an appeal as	may take this action, undercutting the intended reform. The Ordinance also provides the Chief appropriate latitude in determining the need for such leave without pay.

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	provided by law with regard to back pay or lost benefits.	
3.29.420 Disciplinary, grievance, and appeals policies and processes **A.5** No disciplinary action will result from a complaint of misconduct where the misconduct comes to the attention of OPA more than five years after the date of the alleged misconduct, except where the alleged misconduct involves criminal law violations, dishonesty, or Type III Force, as defined in the SPD policy manual or by applicable laws, or where the alleged act of misconduct was concealed**.**	**Appendix E.12** The parties have amended Article 3.6.G of the Agreement, which will be applicable. The parties further agree that the existing phrase in Article 3.6.G "where the named employee conceals acts of misconduct" includes but is not limited to misconduct where an employee fraudulently completes a timesheet because such act conceals the actual amount of time that was worked. **Article 3.6.G** Timing of Investigations - No disciplinary action will result from a complaint of misconduct where the complaint is made to the OPA more than four (4) years after the date of the incident which gave rise to the complaint, except: 1) In cases of criminal allegations, or 2) Where the named employee conceals acts of misconduct, or 3) For a period of thirty (30) days following a final adverse disposition in civil litigation alleging intentional misconduct by an officer.	This provision rolls back another important reform. Per the Ordinance, the statute of limitations for investigation of complaints is five years and for certain types of misconduct there is to be *no* statute of limitations. Again, this reform was specifically proposed and adopted to address past instances where public trust and accountability were diminished because significant misconduct could not be addressed.
3.29.420 Disciplinary, grievance, and appeals policies and processes **A.6** All appeals related to employee discipline shall be governed by this Chapter 3.29 and Chapter 4.08. **A. 7 Public Safety Civil Service Commission** **c.** Oral reprimands, written reprimands, "sustained" findings that are not accompanied by formal disciplinary measures, and alleged procedural violations may be processed through grievance processes established by the City Personnel Rules or by Collective Bargaining Agreements, but no grievance procedure may result in any alteration of the discipline imposed by the Chief. Such grievances are not subject to arbitration and may not be appealed to the PSCSC or any other forum.	**Article 14.1** Any dispute between the Employer and the Guild concerning the interpretation or claim of breach or violation of the express terms of this Agreement shall be deemed a grievance. Such a dispute shall be processed in accordance with this Article. For purposes of processing, grievances will be categorized in two ways: "Discipline Grievances" and "Contract Grievances". **Discipline Grievances** cover the challenge to a suspension, demotion, termination or transfer identified by the Employer as disciplinary in nature. Any grievance	This is inconsistent with the reforms adopted in Ordinance. A number of reforms related to the disciplinary appeals process have been rolled back. The retention of arbitration as an avenue for disciplinary appeals is counter to the intent of the Ordinance reforms.

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	challenging such discipline shall be considered a Discipline Grievance, even though the grievance may involve other contractual issues as well. A Discipline Grievance will be initiated at Step 3 and may include additional related grievance(s) regarding an interpretation or claim of breach or violation of the terms of the Agreement, which may be added per Section 14.2 Step 4. **Contract Grievances** cover all other grievances that do not fit in the definition of "Discipline grievance" including other types of discipline. A Contract Grievance will be initiated at Step 1 or as provided for in Section 14.3 . . . An employee covered by this Agreement must, upon initiating objections relating to actions subject to appeal through either the grievance procedure or pertinent Public Safety Civil Service appeal procedures, use either the grievance procedure contained herein or pertinent procedures regarding such appeals to the Public Safety Civil Service Commission. Under no circumstances may an employee use both the grievance procedure and Public Safety Civil Service Commission procedures relative to the same action. If there are dual filings with the grievance procedure and the Public Safety Civil Service Commission, the City will send a notice of such dual filings by certified mail to the employee(s) and the Guild. If both appeals are still pending after thirty (30) days from the receipt of such notice by the Guild, the appeal through the grievance shall be deemed withdrawn. The withdrawn grievance shall have no precedential value . . .	

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	See also steps outlined in the contract for processing both types of grievances, including the option of using arbitration.	
3.29.420 Disciplinary, grievance, and appeals policies and processes A.7.a All appeals related to SPD employee discipline shall be open to the public and shall be heard by the PSCSC.	**Appendix E.12** The parties have agreed that appeals related to employee discipline can go through arbitration pursuant to the collective bargaining agreement or to the PSCSC. The City may re-open the Agreement for the purpose of bargaining over members of the public attending arbitrations, and the parties will not change their current practice until after a change is achieved through the negotiation process.	The CBA conflicts with the Ordinance and weakens the adopted reform of eliminating multiple avenues of appeal. Further, having these hearings open to the public was a bare bones improvement, and even that minor improvement has now been eliminated.
3.29.420 Disciplinary, grievance, and appeals policies and processes A.7.b The PSCSC shall be composed of three Commissioners, none of whom shall be current City employees or individuals employed by SPD within the past ten years, who are selected and qualified in accordance with subsection 4.08.040.A.	**Appendix E.12** The parties have agreed that changes to the structure of the PSCSC contained in the Ordinance should be resolved through joint bargaining with the other interest arbitration eligible public safety unions. The Guild agrees to participate in such bargaining. During joint bargaining, the Guild will retain the ability to disagree with the position(s) advocated by the other unions, and may vote independently. If the event of such a disagreement, the City and Guild shall proceed to mediation and arbitration to resolve the matter. In the event other public safety unions refuse to engage in joint bargaining, the City may re-open the Agreement for the limited purpose of negotiating the changes in the Ordinance related to the structure of the PSCSC. The City agrees to defer implementation of this section until bargaining is completed on all issues for which bargaining is required.	This rolls back the reform to end the practice of sworn employees having any role in presiding over appeals of discipline, so that the process is fairer for the public. The PSCSC is a creature of State law and City ordinance and the City is under no obligation to bargain its composition.
3.29.420 Disciplinary, grievance, and appeals policies and processes A.7.c Oral reprimands, written reprimands, "sustained" findings that are not accompanied by formal disciplinary measures, and alleged procedural violations may be processed through grievance processes established by the City Personnel Rules or by Collective Bargaining	**Appendix E.12** The City agrees that this section of the Ordinance shall not change the scope of matters that are subject to the grievance procedure and arbitration under the	This CBA language maintains a prior CBA provision for grieving written reprimands that conflicts with the reform in the Ordinance.

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Agreements, but no grievance procedure may result in any alteration of the discipline imposed by the Chief. Such grievances are not subject to arbitration and may not be appealed to the PSCSC or any other forum.	Agreement and to challenge/hearings under the PSCSC. In addition, the City confirms that operation of the grievance procedure and PSCSC can result in the alteration of discipline imposed by the Chief. Both parties recognize the right of the other party to utilize internal review processes prior to entering into a settlement of a grievance or a PSCSC appeal. **Article 3.2** Written reprimands shall be subject to the grievance procedure of the Agreement.	
3.29.420 Disciplinary, grievance, and appeals policies and processes A.8 SPD employees shall not use any type of accrued time balances to be compensated while satisfying a disciplinary penalty that includes an unpaid suspension.	**Appendix E.12** The parties agree that application of Section 3.4 of the Agreement meets the interests of the City, and thus will continue to be applicable. **Article 3.4** An employee will be precluded from using accrued time balances to satisfy a disciplinary penalty that mandates suspension without pay when the suspension is for eight or more days. However, if precluding such use of accrued time negatively affects the employee's pension/medical benefit, the unpaid suspension may be served non-consecutively.	This CBA language rolls back the intended reform to what was in the previous CBA that permitted use of accrued time balances for discipline of less than 8 days. The Ordinance expressly eliminated the 8-day minimum so that regardless of the length of discipline imposed, the employee may not use any type of accrued time balance to satisfy what are supposed to be days without pay.
3.29.420 Disciplinary, grievance, and appeals policies and processes A.9 The City Attorney's Office shall determine legal representation for SPD in disciplinary challenges. The City, including SPD, shall not settle or resolve grievances or disciplinary appeals without the approval of the City Attorney's Office.	**Appendix E.12** The parties confirm that this section of the Ordinance is not intended to alter the steps of the grievance process, or provide a mechanism for either party to void an agreement reached during the grievance process. Each party is expected to designate the representative(s) authorized to enter into a binding settlement agreement. While each party may have internal processes in place in terms of attaining authority for reaching an agreement, it is the responsibility of the	The intent of this Ordinance language was to expressly mandate the role of the City Attorney's Office on behalf of the City. It does not impact SPOG and the language in the CBA returns to the vague representative language this reform was intended to address.

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	representative to ensure internal processes have been complied with.	
3.29.420 Disciplinary, grievance, and appeals policies and processes **A.2.b** SPD shall provide a copy of any proposed Disciplinary Action Report or successor disciplinary action document to the affected employee via electronic communication. If the employee seeks a due-process meeting with the Chief or the Chief's designee, the employee must communicate that request to the Chief's office electronically within 10 days of the date of receipt of the disciplinary action document.	**Article 3.1 A.** When the City provides the employee with the notice described in the previous paragraph, the Guild shall additionally be provided with the City's disciplinary investigation, including access to any physical evidence for examination and testing …	This and other Ordinance language regarding deadlines was intentional, to reduce identified patterns of delay, which results in the public, complainants and employees not having complaints resolved in a timely manner. The requirement of the employee notifying the Chief's office within 10 days if a due process hearing is requested appears to have been dropped.
3.29.420 Disciplinary, grievance, and appeals policies and processes **A.2.c** The Chief or the Chief's designee shall hold the due process meeting within 30 days of the employee's request. **A.2.d** The Chief or the employee may request one reasonable postponement of the due-process meeting, not to exceed two weeks from the date of the originally scheduled meeting.	The employee, the City, and the Guild shall cooperate in the setting of a hearing date, which shall be held thirty (30) days after the investigation file is provided to the Guild (unless mutually agreed to hold it earlier). The parties may agree to an extension based on extenuating circumstances.	The CBA is consistent with the Ordinance in agreeing to the 30-day window but undercuts it by allowing the parties to extend that timeline. This could result in open-ended delays.
4.08.105 Tenure of employment for police officers **A.2** The Commission shall ensure that a hearing is conducted as soon as practicable, but in no event later than three months after submission of the notice of appeal. The hearing shall be confined to the determination of whether the employee's removal, suspension, demotion, or discharge was made in good faith for cause. **A.3.** Within 30 days of a hearing conducted by the Hearing Officer, the Hearing Officer shall issue a recommended decision. If neither party files written objections to the recommended decision within 20 days of the date of the decision, the recommended decision shall be the final decision of the Commission. If either party objects to the decision, the Commission shall set a schedule for briefs and oral argument. The oral argument shall occur in a public meeting of the Commission and shall be held within 60 days of the date of the recommended decision. The Commission will review the recommended decision and, within 30 days of the oral argument, issue a final determination whether the disciplinary decision was in good faith for cause, giving deference to the factual findings of the Hearing Officer. Both the recommended decision and the final decision should affirm the disciplinary decision unless the Commission specifically finds that the disciplinary decision was not in good faith for cause, in which case the Commission may reverse or	**Article 14.4** The time limits for processing a grievance stipulated in 14.2 of this Article may be extended for stated periods of time by mutual written agreement between the Employer and the Guild, and the parties to this Agreement may likewise, by mutual written agreement, waive any step or steps of Section 14.2 An arbitration hearing shall generally be conducted within ninety (90) calendar days from the date the arbitrator provides potential dates to the parties, recognizing that the parties may extend the timeline to account for availability. Requests for an extension will not unreasonably be denied.	For the same reasons as noted just above, the Ordinance also detailed expectations for scheduling and completion of appeal hearings in order to address the long-standing problems of delay that do not serve the public well. The CBA appears to have dropped these Ordinance provisions intended to support timely appeal processes: • Have the PSCSC use a hearing examiner who is a tenured professional not subject to selection by the parties and whose availability is certain; OR have the PSCSC contract with an arbitrator, but only if the selection process for the arbitrator is via a pre-determined pool to be used for several years, not a process where either side can refuse to accept the arbitrator (4.08.070.J) • Require each side to have two attorneys who can handle appeals to eliminate delays caused due to assigned attorney

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modify the discipline to the minimum extent necessary to achieve this standard.		being unavailable for weeks or months. The Ordinance doesn't stipulate back-up representation, but it does state that deadlines shall not be delayed more than two weeks due to the unavailability of attorneys. • Require the union to file notices of appeal with the City Attorney at the same time they are filed with SPD (4.08.105.A.1)
3.29.430 Recruitment, hiring, assignments, promotions, and training **E.** SPD shall adopt consistent standards that underscore the organizational expectations for performance and accountability as part of the application process for all specialty units, in addition to any unique expertise required by these units, such as field training, special weapons and tactics, crime scene investigation, and the sexual assault unit. In order to be considered for these assignments, the employee's performance appraisal record and OPA history must meet certain standards and SPD policy must allow for removal from that assignment if certain triggering events or ongoing concerns mean the employee is no longer meeting performance or accountability standards."	**Article 7.4.G.** Prior to an involuntary transfer for inadequate performance, an employee will be given notice of the performance deficiencies and a reasonable opportunity to correct the deficiencies. **7.4.4** Performance Based Transfers – A transfer based upon inadequate performance shall only occur if the Department has documented a repetitive performance deficiency and informed the employee, and the employee has had a reasonable opportunity to address the performance deficiency, normally no less than thirty (30) and no more than ninety (90) days. The performance deficiency to be corrected must be based on objective criteria that are evenly applied across similar units of assignment (for purposes of this provision similar units of assignment in patrol will be citywide across the watch). The performance deficiency identified as needing correction cannot be simply general statements. The employee shall be given a written explanation of 1) the concerns, which shall include sufficient facts or examples of the employee's failures to meet the objective criteria in order to assist the employee to understand the issue(s); and 2) specific actions the	In Article 7.4.G and 7.44, the contract rolls back an important Ordinance reform that supports appropriate management authority to address issues of employees not rotating out of specialty units, employees who may have sustained misconduct or who may engage in conduct that warrants transfer. Service in specialty units, and the higher pay that may come with that, should be seen as a privilege, not a right. Also, mandatory transfers were not addressed in the CBA. Management has the authority to move captains and lieutenants at-will in order to have personnel gain experience in different units, different parts of the city, etc. and to match skills and abilities to meet the goals of effective policing that best serves the community. This contract is silent on management authority to do that for sergeants and officers.

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	employee can take to satisfactorily address the employer's concerns. Prior to the written explanation document being given to the employee, it shall be reviewed and approved by the employee's Bureau Commander and the Department's Human Resource Director (or designee). When making the transfer, the Department will give good faith consideration to the employee's preference for a new assignment.	
3.29.430 Recruitment, hiring, assignments, promotions, and training **D.** After consulting with and receiving input from OIG, OPA, and CPC, SPD shall establish an internal office, directed and staffed by civilians, to manage the secondary employment of its employees. The policies, rules, and procedures for secondary employment shall be consistent with SPD and City ethical standards, and all other SPD policies shall apply when employees perform secondary employment work.	**Article 7.9** Employees covered by this Agreement shall be allowed to engage in off-duty employment subject to the same terms and conditions in effect on January 1, 1992. This provision is subject to the Secondary Employment reopener set forth in Article 21. **Article 21.5** For the duration of this Agreement, the City may reopen this Agreement on the issue of Secondary Employment. In the event the City does re-open, the Guild may re-open the Agreement on any economic issue that is directly related to and impacted by the change in Secondary Employment.	Secondary employment is not an employment right and should not be subject to bargaining. Secondary employment reforms were to be implemented last year. Reform recommendations have been repeatedly made over many years to address real and perceived conflicts of interest, internal problems among employees competing for business, the need for appropriate supervisory review and management, and to adopt technological opportunities. The recommendations included eliminating the practice of having secondary employment work managed outside of the Department, often by current employees acting through their private businesses created for this purpose or through contracts between the employee and a private business; making clear that ICV, BWC, Use of Force, Professionalism and all other policies apply when employees are performing secondary employment work; creating an internal civilian-led and civilian-staffed office; and establishing clear and unambiguous policies, rules and procedures consistent with strong ethics and a sound organizational culture.
3.29.430 Recruitment, hiring, assignments, promotions, and training	**Appendix E.12** The City confirms that all	This language appears to suggest that the

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G. The Chief shall collaborate with the OPA Director with the goal that sworn staff assigned to OPA have requisite skills and abilities and with the goal that the rotations of sworn staff into and out of OPA are done in such a way as to maintain OPA's operational effectiveness. To fill such a sworn staff vacancy, the Chief and the OPA Director should solicit volunteers to be assigned to OPA for two-year periods. If there are no volunteers or the OPA Director does not select from those who volunteer, the Chief shall provide the OPA Director with a list of ten acting sergeants or sergeants from which the OPA Director may select OPA personnel to fill intake and investigator positions. Should the OPA Director initially decline to select personnel from this list, the Chief shall provide the OPA Director with a second list of ten additional acting sergeants or sergeants for consideration. If a second list is provided, the OPA Director may select personnel from either list, or from among volunteers.	transfers in or out of OPA of bargaining unit members will be done in compliance with the CBA.	parties intend to say that this section of the Ordinance is to be repealed and replaced with language related to transfers in Appendix D of the CBA. If so, this provision is inconsistent with the Ordinance.
3.29.440 Public disclosure, data tracking, and record retention **E.** All SPD personnel and OPA case files shall be retained as long as the employee is employed by the City, plus either six years or as long as any action related to that employee is ongoing, whichever is longer. SPD personnel files shall contain all associated records, including Equal Employment Opportunity complaints, and disciplinary records, litigation records, and decertification records; and OPA complaint files shall contain all associated records, including investigation records, Supervisor Action referrals and outcomes, Rapid Adjudication records, and referrals and outcomes of mediations. Records of written reprimands or other disciplinary actions shall not be removed from employee personnel files.	**Article 3.6.L.** OPA files shall be retained based on their outcome. Investigations resulting in findings of "Sustained" shall be retained for the duration of City employment plus six (6) years, or longer if any action related to that employee is ongoing. Investigations resulting in a finding of not sustained shall be retained for three (3) years plus the remainder of the current year. OPA files resulting in a not sustained finding may be retained by OIG for purposes of systemic review for a longer period of time, so long as the files do not use the name of the employee that was investigated.	The reform set forth in the Ordinance was to address past issues where the lack of retained records impacted the City's ability to ensure accountability on behalf of the public. For example, where there is a history of complaints that are no longer available due to the shorter retention period. Additionally, it should be noted that all records are now electronic, making retention even easier.
3.29.440 Public disclosure, data tracking, and record retention **F.** For sworn employees who are terminated or resign in lieu of termination, such that the employee was or would have been separated from SPD for cause and at the time of separation was not "in good standing," SPD shall include documentation in SPD personnel and OPA case files verifying. . . (d) that the Chief did not or will not grant any request under the Law Enforcement Officers Safety Act to carry a concealed firearm. The latter two actions shall also be taken and documentation included in the SPD personnel and OPA case files whenever a sworn employee resigns or retires with a pending	**Appendix C.1.B** Upon service retirement from the Seattle Police Department, an employee may purchase from the Department, at market value, the service weapon he or she had been issued. **Appendix C.1.C** An employee whose request to purchase service weapon is denied shall have the right to appeal the denial to the Chief of Police or designee,	Appendix C.1.B should apply only to employees who retired in good standing. Concealed carry privileges should be granted under rules of LEOSA, including having retired in good standing. These caveats should be made explicit in the CBA in order to ensure consistency with the reforms written into the Ordinance. Similarly, the option for secondary employment or retiree employment should

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complaint and does not fulfill an obligation to fully participate in an OPA investigation.	whose decision shall be final and binding.	only apply to employees who retired in good standing.
3.29.460 Collective bargaining and labor agreements **B.** The terms of all collective bargaining agreements for SPD employees, along with any separate agreements entered into by SPD or the City in response to an unfair labor practice complaint, settlement of grievance or appeal, or for other reasons, including those previously reached, shall be clearly and transparently provided to the public, by posting on the SPD website. **C.** Whenever collective bargaining occurs, any separate agreements in place affecting ongoing practices or processes which were entered into by SPD or the City in response to an unfair labor practice complaint, settlement of grievance or appeal, or for any other reasons, shall be incorporated into the new or updated collective bargaining agreement or shall be eliminated.	**Appendix E.12** Pursuant to SMC 3.29.460, the parties have reviewed all of their outstanding separate agreements. After determining which of those involve "ongoing practices or processes" under the Ordinance, the parties have agreed to incorporate the agreements listed Appendix G as part of the new collective bargaining agreement. It is understood that while the failure to incorporate an agreement involving an ongoing practice or process means that the agreement can no longer be enforced through the CBA, any such former agreement may still be relied upon for historical purposes or as evidence of past practice. While enforcement through the CBA has been "eliminated", the former agreement may be used for historical or past practice purposes. In addition, as compliance with 3.29.460B, each of the incorporated agreements will be posted on the Department website. In addition, the parties agree that 3.29.460B is satisfied in full by posting CBA, the incorporated agreements, and any future agreements that change ongoing practices or policies on the Department website. **Appendix F** lists the MOUs and MOAs incorporated into the contract**.**	Listing separate agreements in the contract does not conform to the spirit of the law which is for the terms of those ongoing agreements to be added to the overarching CBA. This ensures the terms have been fully reviewed during negotiations and are not in conflict with the terms of the CBA. Policymakers, public, appellate officers, and others need to be able to see the terms of those additional agreements given that they are intended to be part of the CBA. If they in any way provide for additional, different or conflicting obligations, those need to be readily apparent. A few MOUs in particular that have been identified in the past as needing to be addressed: a. Remove limitations on use and review of ICV for improving performance. b. Combine Firearms Review, FRB and OIS review processes and ensure appropriate OPA involvement. c. Allow promotions from any of the top 5 scorers, regardless of order. d. Address the decision-making process for, and length of, assignments to OPA. Note that the contract refers to side agreements listed in Appendix G, but this isn't correct – they are listed in Appendix F.
3.29.500 Construction **A.** In the event of a conflict between the provisions of this Chapter 3.29 and any other City ordinance, the provisions of this Chapter 3.29 shall govern.	**Article 18** Subordination of Agreement. It is also understood that the parties hereto and the employees of the City are governed by applicable City Ordinances, and said Ordinances are paramount except where they conflict with the express provisions of this Agreement.	The parties are expressly agreeing that the terms of the CBA shall prevail, even though they are inconsistent with, or in conflict with, the Ordinance.

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3.29.510 Implementation **A.** Provisions of the ordinance introduced as Council Bill 118969 subject to the Public Employees' Collective Bargaining Act, chapter 41.56 RCW, shall not be effective until the City completes its collective bargaining obligations. As noted in Section 3.29.010, the police are granted extraordinary power to maintain the public peace, including the power of arrest and statutory authority under RCW 9A.16.040 to use deadly force in the performance of their duties under specific circumstances. Timely and comprehensive implementation of this ordinance constitutes significant and essential governmental interests of the City, including but not limited to (a) instituting a comprehensive and lasting civilian and community oversight system that ensures that police services are delivered to the people of Seattle in a manner that fully complies with the United States Constitution, the Washington State Constitution and laws of the United States, State of Washington and City of Seattle; (b) implementing directives from the federal court, the U.S. Department of Justice, and the federal monitor; (c) ensuring effective and efficient delivery of law enforcement services; and (d) enhancing public trust and confidence in SPD and its employees. For these reasons, the City shall take whatever steps are necessary to fulfill all legal prerequisites within 30 days of Mayoral signature of this ordinance, or as soon as practicable thereafter, including negotiating with its police unions to update all affected collective bargaining agreements so that the agreements each conform to and are fully consistent with the provisions and obligations of this ordinance, in a manner that allows for the earliest possible implementation to fulfill the purposes of this Chapter 3.29.	**Appendix E.3** In the event there is a conflict between the language of the Ordinance and the language of the CBA or the explanations and modifications in this Appendix, the language of the CBA or this Appendix shall prevail.	The parties are expressly agreeing that the terms of the CBA, including the Appendices, shall prevail, even though they are inconsistent with, or in conflict with, the Ordinance.
Other Topics Requiring Attention Firearms Review Board	**Appendix G** In addition to the other agreements reached by the parties related to the OIG, the OIG may attend Firearms Review Boards and will in all respects be afforded the same access, participation, and treatment as be as the Monitor (see the January 18, 2013 MOU of the parties).	This language should be updated to make sure that access is to all current boards.
Other Topics Requiring Attention **3.29.460 Collective bargaining and labor agreements** **A.** Those who provide civilian oversight of the police accountability system shall be consulted in the formation of the City's collective bargaining agenda for the purpose of ensuring their recommendations with collective bargaining implications are thoughtfully considered and		Bargaining should begin again relatively soon since this proposed CBA ends in December, 2020. It will be important to follow through on the commitment to have technical advisors with Accountability System expertise advise the City, as was

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the ramifications of alternative proposals are understood. These individuals shall be subject to the same confidentiality provisions as any member of the Labor Relations Policy Committee.		provided for in the Ordinance. [This should be the practice, as well, for all contract re-openers and for the list of other exceptions to the Ordinance laid out in Appendix E.] See CM Herbold's proposed legislation which provided for more ongoing advice throughout the bargaining process, and Section 3.29.460, which provided for it as the City prioritizes its bargaining agenda.
Other Topics Requiring Attention Payment of Guild President Salary	**Article 1.4 …** Having reviewed the data, it is agreed that effective July 1, 2018, the City will pay seventy-eight percent (78%) of the Guild President's salary for 1736 hours a year, with the remaining twenty-two percent (22%) paid by the Guild for 1736 hours a year, up to 2088 per year. In addition, the City shall pay the entire cost of any hours over 1736 in a year, without contribution from the Guild. Thereafter, the parties will review the data in the spring of each year (recognizing the Guild's July through June budget year) to determine whether an adjustment of the 78/22 percentage (up or down) should be made.	Note the City [the public] continues to pay 78% of the Guild President's salary, including all time spent in labor-management meetings, addressing grievances, and "other such duties", rather than the Guild paying the salary. And, the greater amount of time spent by the Guild on these functions, the more it costs the public, and there is no cost to the Guild.
Other Topics Requiring Attention Dispute Process Regarding Payment of Guild President Salary	**Article 1.4** … Recognizing that there may at times be a difference of opinion on this issue, and that there may be confidential time records of the Guild President, the parties agree that any dispute will be submitted to a neutral third party for final and binding resolution.	It is unclear whether the cost of this dispute resolution is also to be paid by the City [the public].
Other Topics Requiring Attention Managing Time of Guild Representatives	**Article 1.5.A** The Employer shall afford Guild representatives a reasonable amount of on-duty time to consult with appropriate management officials and/or aggrieved employees, to post Guild notices and distribute Guild literature not of a political nature and to meet with the recruit class during a time arranged by the Employer; provided that the Guild representative	This does not provide that the supervisor has the right to approve or manage the time requests to help ensure the Guild-related tasks don't negatively impact assigned duties and don't consume an excessive amount of time, even though this work is to be paid for by the public. It appears to suggest the supervisor's role is simply to provide the time sheet and grant

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	and/or aggrieved employees contact their immediate supervisors, indicate the general nature of the business to be conducted, and request necessary time without undue interference with assignment duties. Time spent on such activities shall be recorded by the Union representative on a time sheet provided by the supervisor. Guild representatives shall guard against use of excessive time in handling such responsibilities. **Article 1.5.B** The Employer reserves the right to determine the total amount of specific hours of official time which will be approved for Guild officials to conduct Guild business on duty time.	the time requested. It is unclear how this aligns with the employer's authority in Section B.
Other Topics Requiring Attention Non-Discrimination	**Article 4.4** Non-discrimination - It is agreed by the Employer and the Guild that the City and the Guild are obligated, legally and morally, to provide equality of opportunity, consideration and treatment to all members employed by the Seattle Police Department in all phases of the employment process and will not unlawfully discriminate against any employee by reason of race, disability, age, creed, color, sex, national origin, religious belief, marital status or sexual orientation.	This language needs to be updated to conform with City and State law.
Other Topics Requiring Attention EEO Complaints	**Article 3.13.E** The provisions of Section 3.6 shall apply to EEO investigations.	As noted above, 3.6 conflicts with the Ordinance reforms made. Second, this now *adds* all those roll-backs to EEO investigations in addition to OPA investigations, further expanding the roll-backs.
Other Topics Requiring Attention Garrity	**Appendix E.10** Garrity. Without limiting other potential situations where Garrity could/would apply, the City agrees that in implementing the Ordinance it will comply with Garrity whenever it seeks to compel	The CBA language is overly broad. As has been noted over the years, Garrity should only be used when appropriate, e.g. in cases potentially involving criminal liability.

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	testimony during an OPA interview.	
Other Topics Requiring Attention Re-Openers	**Article 21** cites specific re-opener areas including patrol shift schedules (21.4), secondary employment (21.5), and mandatory subjects related to the Gender/Race Workforce Equity efforts (21.6). It also states that "the parties have agreed to re-open the Agreement on some topics". **Appendix E.12** states that subpoena authority for OPA and OIG could be re-opened "after the City further reviews questions raised concerning the authority and potential need for OPA and the OIG [to do so]". It also cites re-opener areas related to public attendance at arbitration and changes to the composition of the PSCSC. **Appendix H** cites re-opener related to how anonymous complaints are to be handled when providing complaint classification information.	All re-opener topics should be disclosed for public transparency and any re-openers related to the Accountability System should be considered and addressed using the expertise of accountability system technical advisors. Re-openers that weaken or roll-back reforms adopted in the Ordinance should not be included. E.g., • Whether disciplinary hearings will be open to the public; • The composition of the PSCSC; and • Protecting the confidentiality of complainants. Also, the contract should provide for a re-opener related to establishing a community complaint process.

[*] At the start of Appendix E.12, the CBA states "The parties have also reached the following understandings on specific sections of the Ordinance. For ease of reference, the relevant language from the section is included . . . followed by the agreement of the parties in italics." The language inserted under "Related to SPOG Contract Language" in these instances refer to the understandings of the parties about the specific Ordinance language cited. In several instances, the CBA did not include explanatory material which raises questions about whether the interpretations were inadvertently excluded.