



VIA ELECTRONIC MAIL ONLY

January 27, 2020

Lisa Herbold
600 Fourth Avenue, Floor 2
PO Box 34025
Seattle, Washington 98124-4025

RE: Upcoming Contract Negotiations with the Seattle Police Officers' Guild

Dear Councilmember Herbold,

I am writing in response to your request for written comments from the Office of Police Accountability (OPA) concerning the upcoming contract negotiations between the City of Seattle and the Seattle Police Officers' Guild (SPOG). This is a topic into which I have put much thought and careful consideration. Along with the other accountability entities, I presented to City Council at the December 5, 2019 public hearing. I also provided feedback on the related resolution that is being considered in committee tomorrow. I believe the resolution accurately reflects the input previously provided by my office and the other accountability entities.

The issues outlined in the resolution remain areas of focus for OPA. While I understand that the final collective bargaining agreement between the City and SPOG may not incorporate all of the technical advice offered by OPA and the other accountability entities, I am confident that the City is committed to thoughtfully and comprehensively addressing these issues.

Below are two categories of recommendations. The first are issues previously identified by OPA and the other accountability entities at the December 5 hearing. The second are additional issues that OPA believes the City should consider in bargaining. These lists are not exclusive; there are several other improvements to the collective bargaining agreement that the City could consider that are not set forth herein.

While not included in these lists, in advance of the December 5 hearing, OPA and the OIG encouraged the City to more broadly consider during negotiations the overall transparency of the collective bargaining process, the enhancing of public trust in both the process and the outcome, and, wherever possible, to strive to solidify the independence of the accountability entities. OPA reiterates that advice here.

A. Issues Previously Identified

- Simplify the calculation of the 180-day deadline
- Establish mandatory extensions to the 180-day deadline when new evidence is discovered and where there are delays in reporting
- Make Rapid Adjudication permanent and add timeline flexibility
- Eliminate the five-day notice
- Clarify and expand the tolling of criminal investigations
- Lift restrictions on how OPA utilizes civilian investigators and acting sergeants
- Institute mandatory rotations between Patrol, Investigations, and specialty units



- Require the burden of proof for all allegations of misconduct to be preponderance of the evidence
- Make improvements to the arbitrator appeal option, including, but not limited to: instituting firm timelines; eliminating de novo review; ensuring the neutrality and expertise of arbitrators; and increasing transparency of the process
- Allow OPA to determine the investigative agency for allegations of criminal misconduct and increase OPA's ability to coordinate with the agency during the pendency of the investigation
- Strengthen and clarify subpoena authority and the process for how subpoenas are to be issued and enforced
- Include an external advisor in the bargaining process who understands labor negotiations and the intricacies of Seattle's police accountability system

B. Additional Issues for the City to Consider

- Bargain and fully implement supervisor handling of minor misconduct
- Clarify who may attend OPA interviews and define the nature and extent of permissible SPOG objections
- Address the impact of the new rules under Initiative 940

I very much appreciate being afforded the opportunity to address the issues set forth in this letter. Please do not hesitate to contact me with any questions concerning the above.

Sincerely,

Andrew Myerberg

Andrew Myerberg
Director, Office of Police Accountability

cc: Mayor Jenny A. Durkan
Michelle Chen, Mayor's Office
Chief Carmen Best, Seattle Police Department
Deputy Chief Marc Garth Green, Seattle Police Department
Executive Director Bessie Scott, Community Police Commission
Lisa Judge, Inspector General for Public Safety
Pete Holmes, City Attorney
Council President Lorena Gonzalez (Position 9, Citywide)
Councilmember Teresa Mosqueda (Position 8, Citywide)
Councilmember Tammy Morales (District 2)
Councilmember Kshama Sawant (District 3)
Councilmember Alex Pedersen (District 4)
Councilmember Debora Juarez (District 5)
Councilmember Dan Strauss (District 6)
Councilmember Andrew Lewis (District 7)