

**CITY OF SEATTLE**

**RESOLUTION** 32112

A RESOLUTION affirming the City's good faith intent to consider raising in the collective bargaining process for the Seattle Police Management Association (SPMA) 2024 contract renewal police accountability proposals that have been identified by the public and the City's police oversight agencies.

WHEREAS, the mission of the Seattle Police Department is to prevent crime, enforce the law, and support quality public safety by delivering respectful, professional, and dependable police services; and

WHEREAS, public confidence in the fairness and integrity of the Seattle Police Department and its policing practices is a necessary component of effective policing; and

WHEREAS, the City Council recognizes the sacrifices and contributions of Seattle Police Management Association (SPMA) members, who strive to ensure the City achieves its public safety goals while being strong partners in ongoing efforts to implement lasting policing reforms and accountability structures, critical to ensuring the security of Seattle communities but especially those that have been disproportionately impacted by unconstitutional policing; and

WHEREAS, the City Council recognizes the right of SPMA and all public employee unions to collectively bargain for wages, hours, and working conditions in the best interest of their members; and

WHEREAS, the Collective Bargaining Agreement (CBA) between The City of Seattle and the SPMA will expire on December 31, 2023 and the parties will begin negotiating a new contract as soon as December 15, 2023; and

1 WHEREAS, the City respects the collective bargaining process and will negotiate and bargain a  
2 new CBA in good faith with the SPMA and respect the confidentiality of the process as  
3 required by Seattle Municipal Code (SMC) subsection 4.04.120.E; and

4 WHEREAS, SMC subsection 4.04.120.F requires the Council's Labor Policy and Public Safety,  
5 Human Services and Education committees or the successor committees to hold a public  
6 hearing on the effectiveness of the City's police accountability system and that this  
7 meeting should be held at least ninety days before the City begins collective bargaining  
8 agreement negotiations with the SPMA; and

9 WHEREAS, SMC subsection 4.04.120.G requires the City to consider in good faith whether and  
10 how to carry forward the interests expressed at the public hearing; and

11 WHEREAS, the Council's Labor Policy committee and Public Safety and Human Services  
12 Committee, held on August 8, 2023 a public hearing and received input from the City's  
13 police accountability agencies including the Office of Police Accountability (OPA),  
14 Community Police Commission (CPC), the Office of Inspector General for Public Safety  
15 (OIG), and from 11 residents that either provided personal testimony or represented  
16 community or non-profit organizations that have a stake in police accountability and the  
17 SPMA contract; and

18 WHEREAS, individuals providing testimony at the hearing represented local businesses,  
19 neighborhood groups, communities of color, public safety advocacy associations, and  
20 community building organizations that focus on civil liberties and represent the rights of  
21 residents who are disproportionately affected by police misconduct and/or are  
22 overrepresented in the criminal-legal system; and

1 WHEREAS, representatives from the OPA, the CPC, and the OIG testified that the current  
2 collective bargaining agreement between the City and SPMA, adopted as Ordinance  
3 126597 on June 14, 2022, led to significant improvements and gains in police  
4 accountability, including but not limited to:

5 1. Additions that clearly acknowledge and adopt the philosophy and purpose that  
6 underpins the accountability ordinance, including prioritizing community trust and  
7 transparency, and recognizing the role of proper discipline in police legitimacy;

8 2. Clearly acknowledging “preponderance of evidence” as the standard for appeal;

9 3. Clearly repudiating de novo review and clearly describing what evidence may  
10 be considered in appeals, with deference to decisions of the Chief;

11 4. Providing that discipline review hearings will be made publicly available for  
12 viewing;

13 5. Adding language that acknowledges that the City may implement the  
14 accountability ordinance, while reserving rights to potentially bargain effects;

15 6. Addressing a tolling loophole for crimes committed in other jurisdictions;

16 7. Allowing any OPA staff to investigate SPMA members; and

17 8. Clarifying and formalizing processes for mediation and “rapid adjudication;”

18 and

19 WHEREAS, another significant improvement and gain in police accountability in the SPMA  
20 2022 contract is the OIG and the OPA authority to issue subpoenas of those who may  
21 have been involved in potential officer misconduct incidents, and to seek a Court order  
22 should someone fail to comply with a subpoena, consistent with the due process  
23 protections added in Ordinance 126264; and

1 WHEREAS, the City’s accountability agencies recognize that few issues remain that are  
2 problematic for police accountability, and that addressing remaining recommendations in  
3 future bargaining agreements will further strengthen the accountability system  
4 established by the City in its Police Accountability Ordinance (Ordinance 125315)  
5 adopted in 2017; and

6 WHEREAS, community stakeholders, and representatives of the OPA, the CPC, and the OIG  
7 note community concerns about language in the Police Officer’s Bill of Rights, which  
8 could be interpreted to allow past practices to override recent gains in police  
9 accountability and requires more exploration to ensure that it does not hinder recent  
10 progress made on discipline review and reform, and this issue, along with a request to toll  
11 the 180-day timeline in cases involving the SPD Force Review Board, is further detailed  
12 in a letter from the OPA dated September 7, 2023, as Attachment 1 to this resolution; and

13 WHEREAS, representatives of the CPC have recommended that the next SPMA contract should  
14 (1) express in its purpose statement support for a strong accountability system, (2) fully  
15 implement all provisions of the Police Accountability Ordinance, (2) include a  
16 subordination clause that allows city law to prevail over contract terms, (3) use American  
17 Arbitration Association rules to the extent that they do not hinder robust accountability,  
18 (4) immediately implement indefinite suspensions for serious misconduct without  
19 consultation with the union, (5) eliminate the statute of limitations for any party that is  
20 involved in concealing misconduct, (6) create greater authority for OPA to coordinate its  
21 investigations with an entity that may be concurrently conducting a criminal  
22 investigation, and these priorities are further detailed in a letter from the CPC dated  
23 September 7, 2023, as Attachment 2 to this resolution; and

1 WHEREAS, representatives of the OIG have recommended that the next SPMA contract include  
2 (1) a strengthened mediation and rapid adjudication processes, (2) a potential change in  
3 practices that allow for accrual of overtime by SPD members who are serving a  
4 disciplinary suspension, and these priorities are further detailed in a letter from the OIG  
5 dated January 27, 2020 as Attachment 3 to this resolution; and

6 WHEREAS, other recommendations made by representatives of Seattle’s police accountability  
7 agencies include changes that align the contract’s records retention provisions with state  
8 law, providing for additional civilianizations, allowing for alternative police responses,  
9 and new investigative approaches, such that the CBA does not pose barriers to partnering  
10 with the community and moving forward swiftly on potentially transformative programs;  
11 and

12 WHEREAS, testimony from individuals and on behalf of interest groups largely echoed the  
13 requests made by the OPA, OIG, and CPC representatives and included support for full  
14 implementation of the Police Accountability Ordinance, support for additional police  
15 training including de-escalation and mental health training, support for bringing the City  
16 into compliance with the United States Department of Justice Consent Decree with regard  
17 to police accountability, opposition to racial disproportionality in the criminal justice  
18 system, support for new citizen review powers, support for new rights for complainants,  
19 support for the hiring of additional officers, support for more outreach to the community  
20 on issues of police accountability, and support for requiring officers to have a  
21 relationship/tie to the community they serve; and

1 WHEREAS, on May 21, 2019 the Court found that the City had fallen partially out of full and  
2 effective compliance with the Consent Decree due to concerns about the disciplinary  
3 appeals process and its impact on police accountability; and

4 WHEREAS, the Discipline Review process in the current SPMA contract strengthens  
5 accountability in the appeals process for Lieutenants and Captains, however, the Court  
6 continues to show interest in full implementation of the City’s Police Accountability  
7 Ordinance and has requested, per an order issued on September 7, 2023, a report on the  
8 status of the Ordinance’s implementation when the City reaches a tentative agreement  
9 with the Seattle Police Officer’s Guild (SPOG) through its current negotiation process;  
10 and

11 WHEREAS, consistent with SMC 4.04.120.G, the City will consider in good faith whether and  
12 how to carry forward the interests expressed at the public hearing. Those suggested  
13 changes that are legally required to be bargained with the SPOG, SPMA, or their  
14 successor labor organizations will be considered by the City, in good faith, for inclusion  
15 in negotiations but the views expressed in the public hearing will not dictate the City's  
16 position during bargaining; and

17 WHEREAS, the City Council has in the past adopted resolutions that memorialize the testimony  
18 given at hearings pursuant to SMC 4.04.120.F, including Resolution 31930; NOW,  
19 THEREFORE,

20 **BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEATTLE THAT:**

21 Section 1. The City of Seattle will consider in good faith whether and how to carry  
22 forward the interests referred to in the recitals through various means including, but not limited  
23 to, enactment of appropriate legislation, development of collective bargaining goals and

1 objectives, and facilitating community police dialogue. To the extent that Washington law  
2 requires any changes to be bargained with employee representatives, the City will seek to  
3 discharge such obligations in good faith.

4           Section 2. The City has made significant improvements to the most recent SPMA and  
5 SPOG bargaining processes, including expanded roles for the City’s police accountability  
6 partners and City Council staff. Designated accountability agency representatives now provide  
7 input throughout the process, including technical representation at the City’s Labor Relations  
8 Policy Committee, and the Council is represented at the bargaining table through the  
9 participation of a neutral Council Central Staff observer. The Council requests that the  
10 Executive and Labor Relations Director continue these practices to ensure ongoing transparency  
11 and the provision of critical input from the Council and its accountability partners.







SENT VIA EMAIL

**MEMORANDUM**

September 11, 2023

**To:** Mayor Bruce Harrell, Councilmembers Lisa Herbold, Andrew Lewis, Teresa Mosqueda, Alex Pederson, and Sara Nelson, and City Attorney Ann Davison

**From:** Gino Betts, Jr., Director of the Office of Police Accountability (OPA)

**Subject:** OPA’s supplemental letter concerning a renewed Seattle Police Management Association (SPMA) agreement

On August 7, 2023, the Office of Police Accountability submitted an initial letter concerning the SPMA bargaining process to the Council. Since then, public comments have highlighted potential concerns with the agreement, leading to OPA reassessing and supplementing its initial position with this letter. Below, OPA has flagged potential issues and changes that would benefit the fulfillment of its obligations:

- Modify 16.4 Internal Investigations Procedures, C, 4, (p. 39) to automatically pause the 180-day clock for cases with SPD’s Force Review Board. This will afford OPA an entire 180-day investigation period rather than whatever time remains following the Force Review Board’s evaluation.
- Community stakeholders have called attention to section 16.6, “Bill of Rights,” entitling officers to rights established by “the past practices of the Department...” Some have interpreted the provision as restricting SPD from deviating from precedent even when best practices and public interest call for it. Accordingly, SPMA members’ rights should not be expanded beyond those outlined in the “Police Officers’ Bill of Rights” or those negotiated under a new agreement.

As always, OPA appreciates the Council’s consideration and the opportunity to weigh in on union negotiations that directly impact its work. Thank you, and please reach out if further input or clarification is required.

Sincerely,

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Gino Betts Jr.  
Director  
Office of Police Accountability



Attachment 2 – Seattle Community Police Commission, Community Police Commission Recommendations for City of Seattle’s Collective Bargaining Agreement Negotiations with Seattle Police Management Association, September 7, 2023.

September 7<sup>th</sup>, 2023

VIA E-MAIL

Mayor Bruce Harrell  
Seattle City Hall  
600 Fourth Avenue, 7<sup>th</sup> Floor  
Seattle, Washington 98104

Council President Debora Juarez  
Councilmember Tammy J. Morales  
Councilmember Andrew J. Lewis  
Councilmember Sara Nelson  
Councilmember Lisa Herbold  
Councilmember Alex Pedersen  
Councilmember Teresa Mosqueda  
Councilmember Dan Strauss  
Councilmember Kshama Sawant  
Seattle City Hall  
600 Fourth Avenue, 2<sup>nd</sup> Floor  
Seattle, Washington 98104

RE: Community Police Commission Recommendations for City of Seattle’s Collective Bargaining Agreement Negotiations with Seattle Police Management Association

Dear Mayor Harrell and City Councilmembers:

Pursuant to City ordinance<sup>1</sup>, please find below recommendations from the Seattle Community Police Commission (CPC) with respect to the City’s upcoming contract negotiations with the Seattle Police Management Association (SPMA).

As the CPC has previously recommended with regard to contractual provisions addressing accountability amid collective bargaining with both SPMA and the Seattle Police Officers Guild (SPOG), the City must

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<sup>1</sup> [Ordinance 125315 Sec. 3.29.460](#) Collective bargaining and labor agreements provides in part as follows: “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 the ramifications of alternative proposals are understood...”.

ensure that contracts no longer embed any barriers to full implementation of the reforms the City enacted into law in June 2017 in the Accountability Ordinance.<sup>2</sup> That law, which the Mayor signed

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following the City Council’s unanimous passage, was the result of years of work by accountability oversight officials and community advocacy to ensure fair, transparent, and equitable police accountability.

Those reforms were intended to be a floor, upon which additional reforms would be built. The City committed to ensuring that collective bargaining agreements adopted or modified after the ordinance was enacted would align with each of the intended reforms, so that those improvements in Seattle’s accountability system could be fully realized on behalf of the public.

Although neither of the first contracts that the City entered into with SPMA or SPOG following enactments of the 2017 ordinance did that, the SPMA contract adopted in June 2022 did incorporate many of the recommendations from past and current oversight officials and the community, including many in the ordinance, making accountability provisions in the current SPMA contract much stronger. The City should build on that and focus on strengthening – not weakening – contractual accountability provisions over time. Moreover, the City needs to ensure that any contracts entered into or modified after state legislative efforts to strengthen police accountability took effect in July 2021 are consistent with the new requirements in state law.

Additionally, although SPOG and SPMA are different bargaining units, the City must ensure that contract terms related to accountability do not allow for different ranks to be treated differently. The City needs to require the same best practices for OPA investigations, discipline and disciplinary appeals, and other elements of accountability, for all ranks. Past accountability oversight officials recommended that the City ensure that such contract terms do not allow for different treatment by rank and that recommendation was incorporated in the 2017 accountability law, but it has not yet been fulfilled.

The following recommendations for the City’s upcoming bargaining with SPMA focus on several accountability provisions that prior agreements have not yet fully addressed or that need further refinement to fully implement the intended reform. We have listed them in the order they occur in the previous contract. We understand that our accountability partners at the Office of the Inspector General for Public Safety and the Office of Police Accountability will submit respective recommendations on these and other accountability provisions that speak directly to the discrete work of those organizations.

Purpose: The previous contract at its outset includes a provision on the contract’s purpose. When courts, arbitrators or others review challenges to discipline and determine that a contract provision is unclear or that the contract is silent on the issue, the reviewer often looks to the intent expressed in the purpose provision. If accountability provisions are part of the contract, the purpose provision should clearly

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<sup>2</sup> See *United States v. City of Seattle*, 2:12-cv-01282-JLR, Dkt. 533 (Levinson Decl.), which we incorporate by reference.

indicate that the purpose of the contract is to support a strong police accountability system – a priority for the City and the public – in addition to setting forth standard employment conditions.

Subordination clause (Article 12.2): The previous contract expressly provides that if any provision conflicts with federal or state law or City Charter, state law and Charter prevail. But, contrary to past recommendations, the contract allows contract terms to prevail over City ordinances. That should be changed, as it can lead to provisions that weaken, or even abrogate, City law, which happened following the adoption of the 2017 accountability ordinance. That ordinance has still not fully taken effect due to subsequently negotiated contracts, resulting in a loss of trust and confidence by the public and stakeholders who thought the reforms they worked to approve would be implemented.

Use of American Arbitration Association rules (Article 15.5 D): The previous contract includes a provision requiring an arbitrator to apply the voluntary labor arbitration regulations of the American Arbitration Association as a guideline for hearing procedures, unless the parties stipulated otherwise. This provision should be retained, but the contract should make clear that the AAA rules should only be applied to the extent that they do not hinder robust accountability or conflict with the disciplinary review process otherwise set forth in the contract.

Indefinite suspensions (Article 16.3): Under the previous contract, the Chief has the authority to immediately suspend an employee without pay where allegations in a complaint, if true, could lead to termination, or where the Chief determines that the suspension is necessary to ensure public safety or public trust, or is otherwise warranted. The Department is required to notify SPMA when it intends to indefinitely suspend an employee in the bargaining unit and SPMA has the right to request a meeting with the Chief to discuss the suspension, to occur within 15 days of the meeting request. The contract should make clear that the Chief may suspend an employee immediately and is not required to wait until that meeting has taken place.

Statute of limitations (Article 16.4.l(2)): The previous contract places no time limit on when misconduct may be addressed if the employee concealed the misconduct. But there is a time limit where the misconduct was concealed due to someone else’s actions. Whenever misconduct is discovered to have been concealed, it harms community trust and confidence if that misconduct is not addressed, regardless of who concealed it. As past accountability oversight officials recommended, this provision should not limit concealment to “where the named employee concealed acts of misconduct,” but should instead read: “where the acts of misconduct have been concealed,” so that it includes concealment of misconduct by others, such as an officer’s partner, other employees, or third parties.

Records Retention (Article 16.4(N); (O); Appendix B): These provisions should be updated to conform with state law effective July 2021 requiring that all personnel records for any peace officer or corrections officer be retained for the duration of the officer's employment and at least 10 years thereafter. They should have been updated in the contract adopted in June 2022.

The new state law made clear that an employing agency may not enter into any agreement or contract with an officer or union allowing the agency to destroy or remove any personnel record while the officer is employed and for 10 years thereafter. The law also did not limit the retention requirement to files related to sustained findings. Instead, records to be retained include all misconduct and equal employment opportunity complaints, progressive discipline imposed, written reprimands, supervisor coaching, suspensions, involuntary transfers, investigatory files, other disciplinary appeals and litigation records, and any other records needed to comply with the requirements in the statute. See: RCW 43.101.135; RCW 40.14.070.

The records retention provisions in state law are not subject to bargaining. All contracts entered into or modified must be consistent with the law’s requirements.

Criminal investigations (Article 16.5): As previously recommended, this provision should be amended to allow the investigating authority to investigate complaints of any alleged serious misconduct that is criminal in nature, other than complaints of misconduct within the jurisdiction of the Office of Independent Investigations (see chapter 43.102 RCW), without limiting the way the authority receives complaints or conducts its investigations. That includes decision-making as to which entity should conduct any necessary criminal investigation, coordination with the criminal investigators if external to the investigating authority, and whether criminal and administrative investigations should be done concurrently or sequentially, to ensure that both are rigorous, thorough, and timely.

Bill of Rights (Article 16.6): Similar to our concerns with the subordination clause, this contract provision states that “The ‘Police Officers’ Bill of Rights’ spells out the minimum rights of an officer but where the language of the contract or the past practices of the Department grant the officer greater rights, those greater rights shall pertain.”

The “Bill of Rights” provisions in the Seattle Municipal Code [SMC 3.28.320] that should have been stricken when the accountability ordinance was adopted in 2017 still needs to be removed so that the public, officers, and those who are responsible for implementation can rely on the accountability ordinance and the contracts as containing all relevant requirements and standards, without concern that they may be affected by other language elsewhere.

As we stated in 2019 when we last commented on the SPMA contract, the CPC continues to emphasize the importance of incorporating all accountability provisions from the 2017 ordinance into all police public employment contracts. This letter is not a comprehensive list of recommendations<sup>3</sup>, and we want to

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<sup>3</sup> For example, the CPC still advocates for the [reforms called for in 2019](#) regarding allowing supplemental information from SPMA (Articles 16.4(C)(5) & 16.6.6), mediation (Article 16.7) and rapid adjudication (Article 16.8), which have not been fully implemented as recommended.



Attachment 2 – Seattle Community Police Commission, Community Police Commission Recommendations for City of Seattle’s Collective Bargaining Agreement Negotiations with Seattle Police Management Association, September 7, 2023.

emphasize that the CPC supports the accountability work and recommendations of our partners in the Office of Inspector General for Public Safety and the Office of Police Accountability as we work in partnership towards shared goals of accountability and strengthening of public trust in constitutional policing in Seattle.

Sincerely,

Reverend Patricia Hunter, Co-Chair

Reverend Harriett Walden, Co-Chair

Joel Merkel, Co-Chair

cc: Ann Davison, Esq., Seattle City Attorney (via e-mail)  
Chief Adrian Diaz, Seattle Police Department (via e-mail)  
Dr. Antonio M. Oftelie, Federal Monitor, Seattle Police (via e-mail)  
Commissioners, Seattle Community Police Commission (via e-mail)

Attachment 2 – Seattle Community Police Commission, Community Police Commission Recommendations for City of Seattle’s Collective Bargaining Agreement Negotiations with Seattle Police Management Association, September 7, 2023.



# Seattle Office of Inspector General

Attachment 3 – Seattle Office of Inspector General, Input regarding Seattle Police Management Association (SPMA) Collective Bargaining Parameters, September 8, 2023.

September 8, 2023

Sent VIA Email

To: Mayor Bruce Harrell; Council President Deborah Juarez; Public Safety and Human Services Committee Chair Lisa Herbold

From: Lisa Judge, Inspector General for Public Safety

Re: Input regarding Seattle Police Management Association (SPMA) Collective Bargaining Parameters

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## **Introduction and background**

The City is required by ordinance to receive input about collective bargaining parameters from those who provide civilian oversight of the police accountability system – the Community Police Commission (CPC), the Office of Police Accountability (OPA), and the Office of the Inspector General for Public Safety (OIG) – as the City defines its approach to upcoming bargaining with Seattle police unions. Creating and fostering systems and processes to ensure police officers are accountable to the public they serve is a primary goal of the Office of Inspector General. Providing meaningful feedback to policy makers at critical decision points, such as setting bargaining parameters and considering ratification of collective bargaining agreements for police, is one such way OIG can assist in identifying potential barriers to accountability, as well as positive changes that bring those agreements closer in alignment with community expectations.

In advance of bargaining in 2019, OIG generated a memorandum to the Seattle City Council identifying potentially problematic provisions in the SPMA agreement that impact accountability. That memo was intended to highlight areas of focus for the City in bargaining efforts to strengthen and actualize the accountability reforms enacted by the Seattle City Council in 2017. Primary areas of concern at that time included ensuring measures that provide transparency, enhance community trust, and solidify authority and sustainability for accountability entities. Specifically, subpoena power for OPA and OIG, quantum of proof on appeal, 180-day timeline clarity, arbitration reform, and OPA authority in criminal cases were identified as primary areas for improvement. Additionally, increased transparency in the bargaining process was also called out for reform.





## Seattle Office of Inspector General

Attachment 3 – Seattle Office of Inspector General, Input regarding Seattle Police Management Association (SPMA) Collective Bargaining Parameters, September 8, 2023.

### **Progress achieved in the current CBA**

Since that time, the current CBA was negotiated, resulting in substantial strides that address specific concerns raised by OIG and other stakeholders. Improvements and gains that directly benefit accountability efforts in the current CBA include:

- Additions to Article 15 that clearly acknowledge and adopt the philosophy and purpose that underpins the accountability ordinance, including prioritizing community trust and transparency, and recognizing the role of proper discipline in police legitimacy;
- Clearly acknowledging “preponderance of evidence” as the standard for appeal;
- Clearly repudiating *de novo* review and clearly describing what evidence may be considered in appeals, with deference to decisions of the Chief;
- Providing that discipline review hearings will be made publicly available for viewing;
- Language acknowledging the City may implement the accountability ordinance, while reserving rights to potentially bargain effects;
- Addressing a tolling loophole for crimes committed in other jurisdictions;
- Allowing any OPA staff to investigate SPMA members; and
- Clarifying and formalizing processes for mediation and “rapid adjudication.”

With regard to the bargaining process itself, the City has made significant improvements allowing for accountability stakeholder input throughout the process, as well as adding a neutral observer at the bargaining table.

### **Parameter considerations for the next SPMA CBA**

Few issues remain that are potentially problematic for accountability and both parties appear to have taken community concerns to heart in negotiating the current agreement. Issues for future bargaining parameters include: strengthening OPA processes for mediation and rapid adjudication, records retention conformance to state law, and addressing potentially concerning issues in Article 16.

Mediation and Rapid adjudication: These provisions should include the recommendations previously made by civilian oversight officials to strengthen these alternative resolution processes and provide greater latitude for OPA development of these processes.

Records Retention: State law provides that all personnel records for any peace officer or corrections officer must be retained for the duration of the officer's employment and a



## Seattle Office of Inspector General

Attachment 3 – Seattle Office of Inspector General, Input regarding Seattle Police Management Association (SPMA) Collective Bargaining Parameters, September 8, 2023.

minimum of 10 years thereafter. An employing agency may not enter into any agreement or contract with an officer or union allowing the agency to destroy or remove any personnel record while the officer is employed and for 10 years thereafter.

These records include all misconduct and equal employment opportunity complaints, progressive discipline imposed, written reprimands, supervisor coaching, suspensions, involuntary transfers, investigatory files, other disciplinary appeals and litigation records, and any other records needed to comply with the requirements set forth in the statute. [See: RCW 43.101.135; RCW 40.14.070]

Future CBAs should defer to retention periods defined by state law, or alternatively, remain silent on records retention, thereby allowing state law to control with no conflicting CBA provision.

### Section 16.6 Issues:

The potentially concerning section provides:

**“Bill of Rights- The ‘Police Officers’ Bill of Rights’ spells out the minimum rights of an officer **but where the language of the contract or the past practices of the Department grant the officer greater rights, those greater rights shall pertain.”****

This has been identified by some in community as a provision with the potential to allow practices perceived as problematic to appropriate discipline and accountability to override newly adopted provisions. This language potentially locks in past decisions as precedent, limiting opportunity for course corrections from undesirable past practices or rulings. While the Department should not be allowed to treat people with similar misconduct differently week to week or month to month, there must be the ability to improve practices, decisions, policies, and training with appropriate communications, disclosure, and policy stating what the approach will be going forward.

In an effort to assess whether such issues are theoretical or are actually occurring, OIG will gather and assess data related to deviation from OPA Director recommendations and findings, and where discipline imposed by the Chief falls within possible ranges. In 2019, an OIG audit described a condition wherein Chiefs in the last few years have tended to impose discipline on the lower end of the possible range, thereby arguably creating a presumption in practice. Such data analysis can inform future negotiations and shed light on whether this provision is indeed problematic.



## Seattle Office of Inspector General

Attachment 3 – Seattle Office of Inspector General, Input regarding Seattle Police Management Association (SPMA) Collective Bargaining Parameters, September 8, 2023.

### Other Possible Considerations:

The OIG audit of discipline processes also identified a potential issue related to accrual of overtime by SPD members while under a disciplinary suspension, which was flagged by SPD as possibly impeded by collective bargaining. OIG acknowledges that management has a significant interest in maintaining proper staffing and may need to use personnel in an overtime capacity. The issue should be explored to determine if bargaining could mitigate public trust impacts related to this issue, while preserving necessary management rights to ensure proper staffing.

While much of this input specifically concerns accountability provisions, OIG also strongly supports contract advances that will allow for new staffing configurations, additional civilianization, and alternative responses and investigative approaches, so that neither CBA poses barriers to partnering with the community and moving forward swiftly on potentially transformative programs.

Although SPOG and SPMA are different bargaining units, one of the recommendations that was made by past accountability oversight officials, and was then incorporated in the 2017 accountability law, is that the City ensure that contract terms related to the accountability do not allow for different ranks to be treated differently. To accomplish that, all contracts should require the same best practices for OPA investigations, discipline and disciplinary appeals, for all ranks.

### Conclusion:

Overall, the current CBA presents a dramatic step forward in fostering meaningful oversight of the Seattle Police Department and increasing accountability and transparency to community. Addressing remaining recommendations in future agreements will further strengthen the accountability system established by the City in 2017. Finally, the changes and improvements achieved in the current and future SPMA agreements provide a roadmap for a fruitful path forward for ongoing bargaining with the Seattle Police Officers' Guild (SPOG).