

Mayor David A. Condon
City of Spokane, City Hall
808 W. Spokane Falls Blvd.
Spokane, WA 99201

April 10, 2017

Mayor Condon:

We are writing to share the City Council's goals for the next round of negotiations with the Spokane Police Guild. We ask your negotiations with the Guild seek the improvements to the City's contract outlined in this letter.

While this letter briefly describes improvements the Council seeks in the next Guild agreement, we would be happy to meet with you in executive session to provide more thorough specifics of these proposals.

General provisions

We have specific suggestions and concerns which we have shared with you over the past several months, and we request that you negotiate for the following improvements to the agreement with the Guild. They are listed here in no order of priority or importance:

- Amend SPD policy to institute a cap on overtime for SPD regular duty. In the case of "special duty" for private entities, institute a cap, per SPD policy, on the total of overtime hours or total work hours (i.e., regular time plus overtime and off-duty/special duty work hours). We also believe that there should be an annual cap on overtime hours for each officer, again established by SPD policy. We share the concerns raised in section 1040.3(d) of SPD Police Policy regarding potential performance and employee efficiency impacts to our officers. Off-duty police work can affect overtime use if officers take leave to work off-duty, as other officers must back fill for the employee on leave. Additionally, officers who work both overtime and off-duty may be at risk of fatigue and increased use of sick leave.
- Reform SPD's policy of assigning overtime based solely on seniority in favor of a more equitable approach, such as a rolling seniority roster similar to the approach used by the Fire Department, in order to greatly reduce the overall cost to the City of police department overtime.
- Allow SPD to employ non-commissioned property crimes technicians for routine administrative work surrounding property crimes (i.e., processing evidence, engaging with the public at their residences following a burglary, etc). Doing so would leave commissioned officers free to engage in patrol and investigation duties. These property crime technician job positions shall not

supplant existing or future commissioned officer positions. This efficiency measure has been discussed by Council members for some months now.

OPO ordinance changes:

We also strongly believe that the next collective bargaining agreement with the Police Guild should be consistent with an updated OPO ordinance, that can be improved in the following ways to better deliver on the will of the voters who, in 2013, enacted sections 129 and 130 of the City Charter (“Prop. 1”). To do this, we want to see the many existing OPO provisions of the Guild agreement remain in place, with the following management prerogative changes to the ordinance, in no particular order of priority or importance:

- Types of Incidents Involved

Add Administrative Review Panels of critical incidents, use of force and deadly incidents, vehicle pursuits, and vehicle collisions to the list of OPO-Involved Investigations.

- Independent Investigations

The OPO must be able to investigate complaints if IA chooses not to fully investigate a complaint after being requested to do so by OPO. Before initiating an independent investigation, the OPO should be required to notify IA of the intent to conduct an independent investigation. The scope of OPO-Involved Investigations is to be determined solely by the OPO, provided that the investigation does not interfere with an IA or criminal investigation.

- Closing Reports or Letters

The Council reiterates that the OPO should write closing reports concerning the complaints that originated with the OPO, and should have the discretion to independently determine whether to write closing reports on incidents that originate with IA which the OPO deems to be of public importance, provided that the closing reports will not identify the involved officers or comment on discipline, and shall not be issued until after all disciplinary action, including any related arbitration, has been completed. If the OPO makes formal recommendations to the Police Department, the Police Department’s leadership should be required to respond within 30 days of receiving the recommendations.

- Umbrella of Police Ombudsman

The definition of “OPO” must include both the Police Ombudsman himself, but also the employees within the office, so that the OPO can efficiently conduct document review and discharge other administrative duties of the OPO, provided that only the appointed Ombudsman may participate in IA interviews of bargaining unit members, and may ask questions in IA interviews. In that connection, all OPO office employees, staff, interns, agents, and the like would also be subject to appropriate background checks, and confidentiality agreements.

- Selection of the OPO

The fifth member of the OPO selection committee should be a member of the OPOC. SMC 04.32.060(l) should be amended to provide that the OPO must be a resident of Spokane County or become a resident of Spokane County within 6 months of beginning work.

- OPO Qualifications

Applicants for the position of OPO should have 5 years of legal or investigative experience in criminal procedure, police practices, or civil rights, as well as at least 5 years of experience with the law of criminal procedure, civil rights, or police practices, as well as knowledge of national models of civilian police oversight at the time of application.

- Statements Concerning Inability to Use OPO reports in discipline of an Officer

We need to reiterate that both the City and SPD are precluded from using OPO reports outside and after the IA process in the disciplinary proceedings of bargaining unit members.

- “OPO-Involved Investigation” definition

We should amend the definition of “OPO-Involved Investigation” to include any allegation of police officer misconduct against a community member or a serious matter.

- Monthly and Annual Council Reporting

We should require monthly reports to the Council’s Public Safety Committee by the Commission chair (or designee), OPO, and IA, as well as annual reports from both the OPO and the Commission to the City Council concerning the prior years’ activities and the coming year’s work plan.

There are many issues subject to mandatory bargaining that we believe also should be included in the next contract in order to strengthen the management prerogatives of civilian oversight. The Guild largely approved them in the last contract and we urge that the administration maintain the attached current contract language vesting the City with this authority and to also secure the following modifications in the next contract.

For example, although the OPO can currently determine whether to certify whether an investigation was timely, thorough, and objective, the OPO’s certification authority should be expanded to include certification of the accuracy and completeness, on a more probable than not basis, of any key factual findings published by IA, including the ability to certify investigations upon the completion of further factual findings.

The OPO should also continue to have the authority to either complete (or seek a third party to complete), to the OPO's satisfaction, an IA investigation of a bargaining unit member if the Police Department is not willing to complete the investigative activities recommended by the OPO.

Again, we would be happy to discuss with you further details of these requests, in executive session.

As we see it, the City has the opportunity within this window of bargaining improve SPD policy, provide more efficient personnel arrangements, improve public safety generally, and to implement Prop. 1, while at the same time supporting our dedicated police officers. As you enter this, the last Guild negotiation of your tenure, we hope to partner with you to obtain these much needed changes which will restore public trust, improve officer working conditions, and improve public safety for our citizenry.

Sincerely yours,

Council President Ben Stuckart

Council Member Lori Kinnear

Council Member Amber Waldref

Council Member Candace Mumm

Council Member Karen Stratton

Council Member Mike Fagan

Council Member Breean Beggs