**Recommendations For Changes To The Labor Agreement Between the City of Minneapolis And Police Officers Federation of Minneapolis**

This document was prepared by the coalition *Mpls For A Better Police Contract.*

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**Introduction**

It is the public who are the beneficiaries of contracts with public employee agencies. This most certainly includes the Minneapolis Police Department (MPD). Yet, City residents are not allowed any direct involvement in the contract negotiations with these agencies. This is precisely why the City Council and Mayor must exercise due diligence regarding their responsibility and authority to approve the Labor Agreements, commonly referred to as contracts, with the Police Officers Federation Of Minneapolis (Federation). They must understand the contract is a needed vehicle to respond to the concerns the public has repeatedly raising about lack of police accountability, and that many of them also raised in their own campaigns.

Previous City Councils have given short shrift to providing a thorough and thoughtful review to the needs of the police contract. Now, community-based groups have put in the labor-intensive work to scour the City’s current contract with the Minneapolis Police Federation and identify crucial changes. It is our expectation that the City Council and Mayor will review the changes we recommend and study the Public Policy Rationale and ensure these changes become focal points during upcoming contract negotiations.

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**Eliminate Officer Fatigue**

*Language Change - Article 20.01:* “This Article is intended to define and provide the basis for the calculation of overtime pay or compensatory time off, as applicable. Nothing herein shall be construed as a guarantee of overtime work. All employees may be required to work overtime. **Except in an emergency as declared by the Mayor and/or Police Chief, employees shall not be required or permitted to work greater than 50 hours per week, including regular work hours, overtime, and all approved off-duty work as covered by this contract.**”

*Public Policy Rationale:* There are currently no limitations on the number of hours that can be worked by officers in either the collective bargaining agreement or in the MPD policy and procedure manual. Multiple studies show that officer exhaustion impairs judgment in ways that lead to increased squad car accidents, increased use of force and ethical breaches, less ability to control biases and other public safety and officer wellness issues. These issues increase workers comp and liability claims. See Maciag, M. October 2017. *The Alarming Consequences of Police Working Overtime.* Governing.com. [https://www.governing.com/topics/public-justice-safety/gov-police-officers-overworked-cops.html](https://www.governing.com/topics/public-justice-safety/gov-police-officers-overworked-cops.html)
MANDATORY MENTAL HEALTH SCREENINGS

Language Change - Article 31.02 - Add the following new provisions:

“(f) Where an officer previously employed by another law enforcement department is hired by the Minneapolis Police Department.”

“(g) Every three years.”

PUBLIC POLICY RATIONALE: MPD policy and procedure manual notes the stresses officers experience in their work. A number of studies indicate that suicides are the single highest cause of death of police officers, far outranking line-of-duty deaths. Yet there is no provision for regular psychological testing in the collective bargaining agreement or the manual. Having law enforcement officers patrolling the community with guns, while suffering from their own mental health issues, is a major public safety concern for the community. Ongoing psychological evaluations must be conducted by employment psychologists. Mental health issues must not be stigmatized or swept under the rug, but must be addressed and treated. Treatment must be offered along with removal from active duty if deemed necessary for successful treatment, and treatment refusal must be grounds for termination. Heyman, M., Dill, J., Douglas, R. *Ruderman White Paper on Mental Health and Suicide of First Responders.* April 2018. https://issuu.com/rudermanfoundation/docs/first_responder_white_paper_final_ac270d530f8bfb

MORE FLEXIBLE STAFFING

Language Change - Article 17.02, subd. 1(a): “The Chief will notify each Inspector as to the number of Eligible Employees and Bid Assignments that will be allocated to each Precinct for the upcoming bid. The total number of Bid Assignments for employees in the rank of Police Officer shall be not less than seventy percent (70%) fifty percent (50%) of the number of employees in the classification of Police Officer as of the date of posting. The number of Eligible Employees as of the posting date shall be reasonably related to the number of Bid Assignments.”

PUBLIC POLICY RATIONALE: Greater flexibility is needed for management to meet community exigencies, the needs of the department, and to select the appropriate officers for assignments based on skills, experience and conduct. Currently, 70% of officers can choose their assignments, which can hinder the needs of police management to respond community and department needs. A reduction to 50% strikes an appropriate balance.
Recommendations For Changes to Police Federation Labor Agreement

CITY CHARTER COMPLIANCE

Language changes in ALL of the following articles are needed to comport with Section 7.3 of the City Charter.

Language Change - Article 12.01: “The City, through the Chief of the Minneapolis Police Department Mayor or the Mayor’s designee, will discipline employees who have completed the required probationary period only for just cause, based on the disciplinary matrix included in the Minneapolis Police Department Policy and Procedures Manual.”

NOTE - The additional language change in this section specifically addresses the need for consistent discipline through use of the disciplinary matrix. (See below, “Reset Mechanism” Discipline Practices and Standards,” and “Disciplinary Matrix.”)

Language Change - Article 13.08, subd 1: “Notwithstanding any provision of the Civil Service Rules to the contrary, the Mayor or the Mayor’s designee Chief may, upon the prior advice and consent of the Chief Human Resources Officer, use the following process to make offers of employment for the job classification of Police Officer to applicants with prior sworn law enforcement experience.”

Language Change - Article 19.03: “…the City shall grant reasonable time off to take the examination except in emergencies as declared by the Chief of Police and/or the Mayor of Minneapolis.”

Language Change - Article 26.01, subd 4: “Once the investigation is concluded, the Mayor or the Mayor’s designee Chief will promptly make a decision as to whether discipline is to be imposed, and if so the level of discipline, and notify the employee.”

PUBLIC POLICY RATIONALE: The Labor Agreement with the Police Federation must be consistent and comport with all current law, including the Minneapolis City Charter. The City Charter specifically grants power to the Mayor to discipline or terminate City employees, and this includes police officers. Yet, the current contract with the Federation improperly gives this power to the Chief of Police, and thus is in violation of the City Charter.

Section 7.3 of the Minneapolis City Charter states: “Except where the law vests an appointment in the department itself, the Mayor appoints and may discipline or discharge any employee in the department (subject to the Civil Service Commission’s rules, in the case of an employee in the classified service).”
STATE LAW COMPLIANCE WITH RESPONSIBLE AUTHORITY

Language Change - Article 12.03: “Pursuant to the terms and definitions set forth in the Minnesota Government Data Practices Act, the Chief of Police and/or the Human Resources Director City Clerk or City Clerk designee shall be the “responsible authority” with regard to all “personnel data” gathered or maintained by the City with regard to employees governed by this Agreement.”

PUBLIC POLICY RATIONALE: Again, the contract must comport with the law, and this includes state statutes. State Statute requires cities like Minneapolis to have as its “Responsible Authority” the City Clerk. The designated Responsible Authority “is the individual ultimately responsible for the collection, use, and dissemination of government data.” However, the Police Federation contract improperly designates the Responsible Authority

Minnesota Statute 13.02, subd.16 (b) 2 states: “for statutory or home rule charter cities” the “Responsible Authority” “is the elected or appointed city clerk. If the home rule charter does not provide for an office of city clerk, the responsible authority is the chief clerical officer for filing and record keeping purposes.”

TRAINING DECISIONS AS MANAGEMENT RIGHT

Language Change - Article 5: “The Federation recognizes the right of the City to operate and manage its affairs in all respects in accordance with applicable law and regulations of appropriate authorities. All rights and authority which the City has not officially abridged, delegated or modified by this Agreement are retained by the City, including by not limited to appointing, training, and discharging employees.”

PUBLIC POLICY RATIONALE: As noted above, Section 7.3 of the City Charter makes clear specific core rights of management, including the right to determine the “appropriate training for department employees.” Specific management rights, including training decisions, must be explicitly identified in the police Federation contract.

PROHIBITING PERSONAL TIME INDEMNIFICATION

Language Change - Article 9: “The City shall provide legal counsel to defend any employee against any action or claim for damages, including punitive damages, subject to limitations set forth in Minnesota Statutes§466.07, based on allegations relating to any arrest or other act or omission by the employee provided: the employee was acting in the performance of the duties of his or her position; and was not guilty of malfeasance in office, willful neglect of duty or bad faith. Notwithstanding the above, the city shall not indemnify employees for the cost of legal counsel for criminal or civil actions and liabilities that occur during non-duty personal time.”
PUBLIC POLICY RATIONALE: Article X of the Minnesota Constitution allows for the collection of taxes for the furtherance of a public purpose and prohibits taxation for a private purpose. Minnesota statute 466.07 requires indemnification of officers only when acting in the performance of the duties of the position; and when not guilty of malfeasance in office, willful neglect of duty, or bad faith. The prohibition on city defense and indemnification of officers acting outside of their official duties or engaged in malfeasance, willful neglect or bad faith is outlined in Douglas v. City of Minneapolis and other court cases. While this practice happens infrequently, the City provided Officer Michael Griffin a $75,000 reimbursement for defense attorney fees for engaging in criminal conduct on personal time. This amounts to a tax-free bonus, and is entirely inappropriate. In a 2008 incident involving Officers Robert Kroll, police Federation president and Wally Krueger, the city refused similar indemnification for an incident that incurred on their personal time.

RESET MECHANISM: DISCIPLINE STANDARDS AND PRACTICES

Language Addition - NEW Article 11.09: “The use of a disciplinary matrix is considered a best practice. Therefore, effective 30 days after contract ratification, a well-defined disciplinary matrix with clear and specific mitigating and aggravating factors will be included in the Minneapolis Police Department’s Policy and Procedures Manual. This matrix shall be used as the basis for disciplinary decisions, to ensure consistency in the disciplinary process and for levels of discipline.”

PUBLIC POLICY RATIONALE: All Employees deserve a fair and consistent process for discipline with clear standards, including mitigating and aggravating factors. Failure to maintain consistent discipline has resulted in disciplinary decisions being overturned during arbitration for poor past practices and for a lack of progressive discipline. 2,600 complaints have been brought against Minneapolis Police Department officers by members of the public, and yet, only a dismal 10 have been sustained, far below the national average. Embedding this language in the contract will delineate a break with past practices, a process known as disciplinary reset.

DISCIPLINARY MATRIX

Language Change Article 12.01: “The City, through the Chief of the Minneapolis Police Department Mayor or the Mayor’s designee, will discipline employees who have completed the required probationary period only for just cause, based on the disciplinary matrix included in the Minneapolis Police Department Policy and Procedures Manual.”

Public Policy Rationale: The additional language added to Article 12.01 carries over the language from New Article 11.09 that specifically clarifies that discipline will be consistent through use of the disciplinary matrix. (See above, “Reset Mechanism; Discipline Practices And Standards.”)
**Recommendations For Changes to Police Federation Labor Agreement**

**48-HOUR RULE FOR CRITICAL INCIDENTS**

Language Change - Article 12.04: “Before taking a formal statement from any employee, the City shall provide to the employee from whom the formal statement is sought a written summary of the events to which the statement relates. To the extent known to the City, such summary shall include: the date and time (or period of time if relating to multiple events) and the location(s) of the alleged events; a summary of the alleged acts or omissions at issue; and the policies, rules or regulations allegedly violated. Except where impractical due to the immediacy of the investigation **Except for a statement regarding a critical incident taken within the first 48 hours following that incident**, the summary shall be provided to the employee not less than two (2) days prior to the taking of his/her statement. If the summary is provided to the employee just prior to the taking of the statement, the employee shall be given a reasonable opportunity to consult with a Federation representative before proceeding with the scheduled statement.”

**PUBLIC POLICY RATIONALE:** The contract section on taking formal statements from officers has been misinterpreted and inappropriately relied on to create a so-called “48-Hour Rule” barring such statements after critical incidents. The vague language of “impractical due to the immediacy” must be replaced with a clear standard that no such 48-hour rule applies to interviews of officers after a critical incident. This new language will strengthen officer protection for all other cases.

**NEW HIRE ALIGNMENT WITH MPD VALUES**

Language Change - Article 13.08, subd. 1(d): Add as the last sentence: “**However, all officers hired under this section shall receive training in the expectations and values of the Minneapolis Police Department and the MPD Policy and Procedure Manual as per 13.09, subd. 1.**”

**PUBLIC POLICY RATIONALE:** Officers may come into the department with training that is contrary to the expectations, values and practices of the MPD, including fear-based training, unauthorized chokeholds or other practices that conflict with the policy and procedure manual. The contract must ensure that these officers know what is expected within MPD.

**CLEARER CONDUCT EXPECTATIONS**

Language Changes - Article 13.09, subd 1:

- **First bullet point:** “Assuring that employees perform their jobs consistent with written policies and procedures as outlined in the Minneapolis Police Department Policies and Procedures Manual as well as the expectations and values of the Minneapolis Police Department and the City of Minneapolis.”
Recommendations For Changes to Police Federation Labor Agreement

- **Second bullet point**: “Communicating reasonable performance expectations prior to April 1 of each year, and for documenting and notifying employees of inappropriate conduct as soon after the conduct as possible, and giving the employee guidance and time to correct behavior.”

- **Add a fourth bullet point**: “Ensuring that employees sign an annual affirmation that they have read the Minneapolis Police Department Policies and Procedures Manual and are responsible for knowing and abiding by its contents.”

**PUBLIC POLICY RATIONALE**: It is essential to have language that clearly outlines supervisory responsibilities to employees. Employees are poorly served by vague language about expectations for their conduct. It must be clear to employees that the one standard of conduct is the Minneapolis Police Department Policies and Procedures Manual. Effective discipline requires that employees acknowledge awareness of and accountability to the Minneapolis Police Department Policies and Procedures Manual.

**SUPERVISORY STAFFING LEVELS**

*Language Change – Article 16.02:*
The number of sergeants in the Department shall not be reduced below twenty-three and one-quarter percent (23.25%) of the greater of the total authorized strength of all sworn personnel of the Department; or the actual number of sworn personnel, as determined on July 1 of each year. The City recognizes the need to maintain adequate staffing and supervisory levels. To this end, the City will make reasonable efforts to assure that properly qualified supervisory staff are assigned to all shifts, balanced by the need to respect the employee’s need to be away from the job and the organizational need to provide growth and development opportunities for the purpose of succession. Nothing in this Section shall be interpreted to abridge the Employer’s right to ensure adequate and appropriate staffing and supervisory levels.

**PUBLIC POLICY RATIONALE**: The current 23.25% sergeant staffing requirement is an unreal expectation by the Federation when we consider its cost to Minneapolis taxpayers. Currently, no other labor agreements with the City specify supervisory percentages. Rather, other labor agreements state that "adequate and appropriate staffing and supervisory levels" reside squarely within the City’s rights as the employer. See Fire Chiefs Agreement, [http://www.minneapolismn.gov/hr/laboragreements/labor-agreements_fire-chiefs_index](http://www.minneapolismn.gov/hr/laboragreements/labor-agreements_fire-chiefs_index). We urge city council members to advocate for the management right to set supervisory staffing. We believe the City will gain significant cost savings, make more officers available for patrol and call response, and make funds available for piloting alternate public safety measures through this change. To avoid demotions, attrition should be used to reduce the number of sergeants to the City’s preferred supervisory percentage over time.
**TESTING FOR ANABOLIC STEROIDS**

*Language Change - Article 30:*

30.01 – *Purpose Statement* “This Agreement establishes standards concerning drugs and alcohol, **including anabolic steroids**, which all employees must meet and it establishes a testing procedure to ensure that those standards are met.”

30.04 **A. Reasonable Suspicion Testing** “The Employer may, but does not have a legal duty to, request or require an employee to undergo drug and alcohol testing, **including testing for anabolic steroids**, if the Employer or any supervisor of the employee has a reasonable suspicion (a belief based on specific facts and rational inferences draw from those facts) related to the performance of the job that the employee.”

**PUBLIC POLICY RATIONALE:** As early as 1989, the Drug Enforcement Administration, International Association of Chiefs of Police and other organizations recognized abuse of anabolic steroids as a serious and growing issue. The problem has continued to worsen, largely because police departments fail to routinely test for anabolic steroids. Anabolic steroid abuse is harmful to the health of officers and the use of these Class III drugs can also cause psychological changes that endanger the community. Testing for these dangerous drugs must occur under the same reasonable suspicion circumstances as other drugs. Humphrey, K. Decker, K. Goldberg, L., et al. *Anabolic Steroid Use and Abuse by Police Officers: Policy & Prevention*. June 2008. The Police Chief, Volume: 75, Issue: 6.

**LONG-TERM GOAL: SEPARATE UNIONS FOR LINE STAFF & MANAGEMENT**

**PUBLIC POLICY RATIONALE:** Most unionized work places have separate unions for management and line staff. This is in large measure to avoid the inherent conflicts that occur when a staff member challenges discipline that was meted out by a front line supervisor, who is also a union member. This also avoids a difficult conflict for supervisors themselves, who are expected to be loyal to the employer while also remaining loyal to the union. These conflicts are a barrier to accountability and meaningful discipline.