

CBA: POLICE OFFICERS AND SERGEANTS

**Recommendations for a more transparent, equitable, and accountable
community-centered agreement**



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REMOVE, REVISE, REPLACE

Members of the Louisville Urban League, the 490 Project, and ACLU Kentucky recently began the review of the Collective Bargaining Agreement by and Between Louisville/Jefferson County Metro Government and River City Fraternal Order Of Police Lodge #614.

On the heels of a thorough and troubling investigation by the Department of Justice, the organizations sought to find areas of concern and opportunities to create a more transparent, equitable, and accountable agreement between the parties.

What follows are some of the recommendations identified thus far. The organizations plan to continue to meet with other partners and impacted community members to identify other recommendations.



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ARTICLE 4 - METRO GOVERNMENT RIGHTS

Section 2. The exclusive rights of Metro Government include, but are not limited to, the right to:

REVISE: Section 2 of Article 4 should be revised and expanded to include very specific provisions that for officers to be relieved of duty for things like: if a body camera is intentionally turned off during an encounter with a citizen; conviction of certain misdemeanors; failure to abide by SOP after being retrained and disciplined; etc.



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ARTICLE 5 – NONDISCRIMINATION

Section 1. Metro Government will not interfere with or discriminate in respect to any term or condition of employment against any Member because of Membership in or legitimate activity as required in this Agreement on behalf of the Members of the Lodge.

REVISE: Section 1 of Article 5 should be revised to include an exception that includes participation in known hate group/white supremacy group/domestic terrorist group. This does not include civil rights organizations or international pride organizations (Irish, English, Italian, etc.)



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ARTICLE 8 - LODGE BUSINESS

Section 1. The Lodge may select not more than ten (10) persons and the Lodge President to represent the Lodge in the negotiation of collective bargaining agreements during working hours without loss in compensation...

NOTE: The contract only stipulates the number (10) of members the FOP can have present during the negotiation of collective bargaining agreement. There is no prohibition on who is on Metro's negotiation team. Unless otherwise agreed upon in the ground rules, Metro Government can have any number of people on its negotiation team. That team should include community members to its negotiation team.



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ARTICLE 10 – ASSIGNMENTS

Section 6. 12-Hour Shifts

Members holding the rank of officer or sergeant and in patrol assignments will be scheduled for 12-hour shifts in a 14-day work period (hereinafter "work cycle," denoting a 14-day period of consecutive scheduled 12-hour shifts).

REVISE: A 12 hour shift, worked consecutively is too long. Officers cannot maintain the necessary mental, physical, and emotional health to do their jobs well at that rate. To attempt to do so is to put themselves and the public at risk.



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ARTICLE 14 - CONDITIONS OF EMPLOYMENT

Section 8. Secondary Employment

Members assigned to 12-hour platoons are prohibited from performing work in secondary employment without a minimum of eight (8) consecutive hours between any two (2) shifts. However, temporary exceptions to this prohibition may be granted by commanding officers with the permission of the Chief.

- i. Leave time, eliminated scheduled time and hours worked. Members may work secondary employment between consecutive shifts if they take leave time or have scheduled time eliminated.

REMOVE: There is no definition of what this exception can entail making oversight and accountability for any such “exception” nearly impossible and open for abuse by officers. Under no circumstances should secondary employment interfere with this primary employment.



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ARTICLE 14 - CONDITIONS OF EMPLOYMENT

Section 9. There will be no layoffs of Members for the duration of this Agreement.

REMOVE: This clause limits the possibility of innovation and flexibility in how Metro Government invests in public safety. Furthermore, the police are being treated differently than firefighters (who are also first responders) and correctional officers (who have complete control of a citizen's life). For reference see the LMDC CBA which states in Article 10 there can be layoffs when necessary with lowest seniority first being laid off. For reference the Firefighters and Oilers CBA states in Article 28, section 3 the same---there can be layoffs, as should be the case for everyone.



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ARTICLE 15 - HEALTH AND SAFETY

Section 3. Members assigned to 12-hour platoons will not be permitted to report to a regularly scheduled shift until they have had a minimum of 8 hours off before reporting to their scheduled shift. Members who become aware of any departmental work or any activity or function related to departmental work that may conflict with this 8-hour off provision shall immediately notify their commanding officer(s)...

NOTE AND REVISE: There is no outlined accountability system mentioned with regard to this clause. Officers are simply told to self-report. Furthermore, there is no mention of how secondary employment factors into this reporting. Our position is that no secondary employment should interfere with an officer's job performance which includes their ability to get the necessary rest they need.



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ARTICLE 17 - DISCIPLINARY PROCEDURE AND BILL OF RIGHTS

Section 2: Receipt of Complaints

NOTE AND REVISE: There is no accountability for the police if this section is not being followed. There must be an accountability system to ensure complaints are appropriately processed, investigated, and adjudicated.



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Section 3: Suspension Without Pay Pending

REPLACE: Replace the entire section with language that is more instructive. Despite several examples where this clause should have been used, it is sparingly ever enacted. Disciplinary actions like Suspension Without Pay Pending require more directive guidance and less subjective discretion in order ensure their effective use.



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Section 4: Manner of Investigation

- B. All investigators assigned to SID will be required to complete a minimum of 40 hours KLEC approved training or the equivalent certification, similar or equivalent to the Southern Police Institute's Internal Affairs Policy, Practice & Legal Considerations course, covering topics of investigation techniques, human dynamics and memory, specifically as they relate to police/citizen interactions prior to being assigned as lead investigator on a case...

REVISE: Identify a better/different training, particularly one not primarily authored or facilitated by current or former police officers. The training currently referenced has been used for years and is inadequate. Metro Government should consult with Dr. Cherie Dawson-Edwards, Vice Provost for Faculty Affairs and an Associate Professor for the Department of Criminal Justice at the University of Louisville to begin the search for more effective training options.



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Section 4: Manner of Investigation

- I. The Professional Standards Unit (PSU) shall complete its investigation within a reasonable period of time of the Chief's directive or complaint.

REVISE: Identify a more specific time frame for PSU to finish an investigation. 60 or 90 days should be ample amount of time.



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Section 4: Manner of Investigation

- L. The parties recognize the Civilian Review and Accountability Board and the Office of Inspector General and their powers and duties as a government entity according to Chapter 36 of LMCO, or as later addressed by Statute.

REVISE: Expand this section to clearly state that officers and command staff shall work with these agencies in good faith and cooperate, provide documents in a timely manner. Additionally, the parties to this agreement should agree that Civilian Review and Accountability Board has subpoena power; e.g. if documents are requested, they must be provided to the Board within 14 days.



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Section 6: File Retention

- A. All PSU files shall be maintained in accordance with applicable statutes and regulations regarding archive retention.
- B. All PSU files will be maintained in accordance with Article 18, Personnel Files, of this Agreement.

REVISE: All documents should be immediately available to Civilian Review and Accountability Board. All documents should be retained for more time (5 years). The city should create a searchable database for the public (anything that would be available in an open records request).



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Section 7: Critical Force Incidents

- C. Only the Member, Public Integrity Unit detective and/or his/her supervisor and Member's counsel shall be present during the Member's interview. Members shall not be required to provide a statement concerning the use of deadly force during a criminal investigation with Professional Standards Unit detectives present.

REVISE: Include that the Inspector General has the right to, and may be present at any interview if he or she chooses. This means the Inspector General will be given reasonable notification in advance of any interview.



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ARTICLE 20 – RESIDENCY

Section 1. No presently employed Member shall be required to live in Metro Louisville during the length of this contract.

Section 2. Members who intend to purchase a primary resident in a CDBG-eligible census tract will be eligible for an incentive payment of five-thousand dollars (\$5,000) as down payment assistance for the purchase of that primary residence.

REVISE: Police should live in the community they serve. The city should increase the incentives to make this happen.



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ARTICLE 21 – MAINTENANCE OF STANDARDS

Conditions of employment relating to wages, hours and working conditions shall be maintained as set forth in the Agreement unless a modification of said Agreement is negotiated between the parties.

REVISE: All MOUs made between the parties of this agreement should be available to the public. City should create a searchable database (if the document could be subject to an open record request).



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ARTICLE 27 – OVERTIME

Section 1.

REVISE: Section should explicitly state that search warrants shall not be performed at the end of the shift without the authorization of a member of command staff and "clear and convincing" evidence that the requested timing is necessary.



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ARTICLE 39 – COMMUNITY VOLUNTEERING

Section 1. LMPD Officers are encouraged to volunteer two (2) hours per pay period, during their regular work shift, at an organization in the community they serve.

REVISE: Increase the hours and make this clause mandatory.



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