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### Report of the Office of Inspector General:

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## **REVIEW OF THE CITY OF CHICAGO'S EXPIRED AND EXPIRING COLLECTIVE BARGAINING AGREEMENTS**

May 2017

S66-IG- TJPUNE (866-448-4754) [www.chiccgoininspectoigciercil.org](http://www.chiccgoininspectoigciercil.org) <<http://www.chiccgoininspectoigciercil.org>>

*.Joseph M. Ferguson Inspector General*

## OFFICE OF INSPECTOR GENERAL

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May 31, 2017

To the Mayor, Members of the City Council, the City Clerk, the City Treasurer, and the residents of the City of Chicago:

This year, the City and its unionized workforce will negotiate new collective bargaining agreements (CBAs). The terms and conditions of employment for over 90 percent of the more than 30,000 City workers, ranging from salary schedules and vacation policies to staffing rules and disciplinary procedures, will be on the table. Such an opportunity to reassess the existing agreements and to negotiate CBAs that reflect both the immense value of Chicago's unionized public servants and the fiscal realities confronting the City has not presented itself in a long while. Indeed, more than two-thirds of the current CBAs took effect nearly ten years ago, in July 2007. Given the intervening economic upheaval, as well as the technological advances and other operational changes that inevitably transpire across such a long stretch of time, the 2017 CBA negotiations constitute a crucial moment for the parties to address, in a creative and collaborative fashion, the myriad challenges and opportunities facing the City. To be sure, this is a complex and difficult project. Contract negotiations are largely adversarial by nature, with each side seeking the best deal for itself. Here, however, in the public sector, it is incumbent on both management and labor to acknowledge the presence of a third party with a powerful interest in the outcome; namely, the people of Chicago. The people rightfully expect the City and its unions to negotiate contracts designed both to protect public funds by eliminating waste and optimizing efficiency, and to reward and incentivize public service by providing fair compensation and treating workers with respect.

In this report, we describe recently expired and soon to expire City CBAs, noting the impact of some current provisions and suggesting where amendments may improve economy, effectiveness, and integrity. OIG takes no position on the relative merits of any particular change to the existing agreements. We acknowledge that negotiations are elaborate endeavors involving many discrete and intertwining issues, and that the process cannot work if, from the outset, particular positions are set in stone. However, so long as a term is not subject to outside legal constraints, it should be fair game for discussion and compromise, with the end result being contracts that reflect our values, and are consonant with our shared responsibility to be careful stewards of taxpayer resources and to serve the interests of the community.

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(866-448-4754)

Finally, while the suggestions we present below manifest OIG's robust commitment to driving meaningful and comprehensive reform in the provision of public services wherever the opportunity exists, we understand that it may not be realistic to expect the parties to achieve across-the-board reform in a single round of bargaining. We do not intend to

imply otherwise. We offer this report to aid the proceedings by identifying contract elements that warrant particularly careful consideration by the parties and close scrutiny by City Council, and to serve the public interest by providing a general overview of what is at stake in the negotiations.

Joseph M. Ferguson Inspector General City of Chicago

Respectfully,

OIG File it 17-006,1

May 31, 2017

Review of the City of Chicago's Expired and Expiring CBAs

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Review of the City of Chicago's Expired and Expiring CBAs

## I. Background

The City of Chicago's workforce comprises front-line public servants such as police officers, paramedics, and sanitation workers, as well as personnel engaged in the administrative activities required to deliver essential services. The salaries and other costs associated with this large pool of employees constitute the majority of the City's operating expenses. While the number of budgeted City positions has decreased over the past decade, personnel costs continue to rise.<sup>1</sup> This is primarily due to salary increases resulting from contractual obligations under collective bargaining agreements (CBAs) with labor unions.

Over 90 percent of the City's more than 30,000 positions are unionized.<sup>2</sup> This includes approximately,

- 12,000 sworn Chicago Police Department (CPD) positions;
- 7,000 tradesperson/truck driver/laborer positions;
- 5,000 sworn Chicago Fire Department (Fire) positions;
- 3,500 positions represented by the American Federation of State, County, and Municipal Employees (AFSCME); and
- 2,000 civilian public safety and health worker positions.

The City's employment relationships with its sworn and civilian unionized workforces are subject to 44 separate CBAs.<sup>3</sup> On June 30, 2016, five of these contracts expired. Specifically, the CBAs with,

- each of the three CPD sworn ranks represented by the Policemen's Benevolent & Protective Association of Illinois, Unit 156 (sergeants, lieutenants, and captains);
- the Illinois Council of Police (ICOP) (representing civilian aviation security sergeants); and
- Unit II, comprising Service Employees International Union (SEIU) Local 73 and International Brotherhood of Electrical Workers (IBEW) Local 21 (representing various civilian positions, including crossing guards, parking enforcement and traffic control workers, aviation security personnel, and emergency dispatchers).<sup>4</sup>

<sup>1</sup> See City of Chicago's Annual Financial Analysis 2016 - City Workforce - Personnel Costs, accessed May 16, 2017, <http://chicago.github.io/annual-financial-analysis/Expenditure-Flistorv/Workforce/#personnel-costs> <<http://chicago.github.io/annual-financial-analysis/Expenditure-Flistorv/Workforce/#personnel-costs>>.

<sup>2</sup> These numbers are derived from the City of Chicago's Annual Financial Analysis 2016 - City Workforce - Union Workforce, accessed May 16, 2017, <<http://chicago.github.io/annual-financial-analysis/Expenditure-Flistorv/Workforce/tfunion-workforce>>.

<sup>3</sup> See City of Chicago Collective Bargaining Agreements, accessed May 16, 2017, <https://www.cityofchicago.org/city/cn/depls/dol/supp> <<https://www.cityofchicago.org/city/cn/depls/dol/supp>> info/city of chicago\_collectivebargainingagreements.html.

<sup>4</sup> On October 3, 2016, the City and Unit II executed a Memorandum of Agreement extending the 2011-2016 Unit II

CBA through December 31, 2017. Sec " 02016-7961, accessed May 16, 2017, <https://chicago.legistar.com/legislation/detail.aspx?VID=2872072&GUID=4DB986E6-0251-4CD5-9FD2-1E24A2D09DA0&Options=Advanced&Search=1>. This agreement became effective November 16, 2016. Given the relatively short period before the extended Unit II contract expires, we cover it in this report. Negotiations with the four other bargaining units are in progress. The terms of the four expired CBAs remain in effect until the unions and City Council ratify new agreements.

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Review of the City of Chicago's Expired and Expiring CPAs

The City's remaining CBAs expire on June 30, 2017. Many of these expiring contracts are 10-year agreements entered into by the Daley Administration to secure labor peace as a means of bolstering the City's failed bid for the 2016 Summer Olympics.<sup>5</sup> Their expiration thus constitutes a generational moment to align the terms of the relationship between the City and its unionized work force with operational and fiscal imperatives too long deferred because of, in many instances, the unusually long contract duration. Specifically, CBAs with the following unions expire this year,

- Fraternal Order of Police (FOP), Chicago Lodge No. 7 (sworn CPD employees below the rank of sergeant);
- Chicago Fire Fighters Union, Local No. 2 (sworn Fire employees);
- AFSCME, Council 31 (various civilian positions);
- Teamsters Local 743 (senior public health nurses);
- Illinois Nurses Association (INA) (non-senior public health nurses, nurse practitioners, and occupational health nurses); and
- 34 separate CBAs with unions constituting the Coalition of Unionized Public Employees (COUPE) (various civilian positions, see Appendix A for list). More than half of the COUPE employees belong to the three largest COUPE members: Teamsters Local 726, which represents approximately 2,200 positions, and Laborers International Locals 1001 and 1092, which act as a single bargaining unit (BU) and represent approximately 2,750 positions.

The basic structure of each City CBA is the same.<sup>6</sup> With few exceptions, each agreement,

- begins with a "recognition" provision indicating which job titles are subject to its terms;
- distinguishes between traditional "management rights," i.e., "certain rights, powers, and responsibilities [that] belong solely to and are exclusively vested in the Employer except only as they may be subject to a specific and express obligation" of the CBA,<sup>7</sup> and "union

<sup>5</sup> See National Electrical Contractors Association, "News Release: Chicago Guarantees Prevailing Wages to Building Trade Employees for 10 Years" (August 15, 2007), accessed May 16, 2017, <<http://www.nccanet.org/news/news-release-archive/news/2007/08/15/chicago-guarantees-prevailing-wages-to-building-trade-employees-for-10-years>> ("Daley is engaged in an aggressive crusade that would bring the 2016 Olympic Games to Chicago. While Daley denied his Olympic plans played a role in the contract negotiations, [Tom] Villanova, president of the Chicago and Cook County Building and Construction Trades Council, said Chicago's Olympic bid clearly benefits from the creation of labor agreements that extend beyond the scheduled games."); see also Greg Hinz, "Mayor reaches labor peace with trade unions," Crain's Chicago Business (August 7, 2007), accessed May 16, 2017, <<http://www.chicagobusiness.com/article/20070807/NEWS02/200025947/mayor-reaches-labor-peace-with-trade-unions>>.

Although the express terms contained in each CBA are meant to capture the parties' intentions, we acknowledge that interpretation of contract provisions is often constrained by grievance arbitration awards and past practices.

<sup>7</sup> E.g., City of Chicago, "Agreement between the City of Chicago and the American Federation of State, County and Municipal Employees, Council 31 Effective July 1, 2012 through June 30, 2017" (AFSCME CBA), Section 2.1,

accessed May 16, 2017, <[https://www.citvolchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreements/afscme\\_fullvexecuted\\_cba\\_2012-2017.pdf](https://www.citvolchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreements/afscme_fullvexecuted_cba_2012-2017.pdf)> (providing non-exhaustive list of

management rights: "all mailers concerning or related to the management of the Employer's operations and the administration thereof, and the direction of the working forces, including (but not limited to) the right to suspend, discipline, or discharge for just cause; to layoff for lack of work or for lack of funds; to hire, classify, transfer and assign work, promote, or recall; to make and enforce reasonable rules and regulations;

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Review of the City of Chicago's Expired and Expiring CBAs

rights," e.g., the union's status as the exclusive bargaining agent for its members, the right to maintain bulletin boards and distribute literature, and time off for union activities;

- commits the parties to no strikes and no lockouts;
- provides for "dues check off (direct deduction of union dues from union members' City paychecks) and "fair share" fees (deduction of "the employee's Fair Share cost of the collective bargaining process, contract administration and pursuing matters affecting wages, hours and other conditions of employment" from non-union members' paychecks);<sup>8</sup>
- sets wages and salary schedules;
- establishes rules regarding work hours and overtime;
- sets policies for vacations, as well as holiday, sick, and other types of leave;
- sets terms of health plans and similar benefits;
- establishes rules for determining seniority and continuous service time;
- establishes disciplinary procedures, including grievance and arbitration processes;
- prohibits discrimination on any basis, including union membership or activity;
- sets forth policies related to employee drug and alcohol abuse and treatment;
- includes a "separability" clause (sometimes called a "savings" clause) providing that if any part of the agreement is "determined to be contrary to law, all other provisions shall remain in full force and effect;"<sup>9</sup>
- sets the agreement's duration and provides that the CBA constitutes the entire understanding between the parties and is subject to ratification by the City Council; and
- appends a varying number of "side letters" and memoranda of agreement, both pre- and post-dating the CBA itself, wherein the parties agree to supplemental terms and interpretations of existing contract provisions.

In this report, we identify a variety of provisions in the current City CBAs which may benefit from reconsideration with an eye toward optimal allocation of City resources.<sup>10</sup> If the parties approach the impending contract negotiations purposefully and creatively, bearing in mind their shared responsibility to the best interests of the people of Chicago, the new contracts (2017

to maintain order and efficiency; to schedule the hours of work; to determine the services, processes, and extent of the Employer's operation, the types and quantities of machinery, equipment and materials to be used, the nature, extent, duration, character and method of operation, including (but not limited to) the right to contract out or subcontract; the right to determine the number of employees and how they shall be employed, and the quality and quantity of workmanship and work required to insure maximum efficiency of operations; to establish and enforce fair production standards; and to determine the size, number and location of its departments and facilities.")

<sup>8</sup> E.g., AFSCME CBA, Sections 25.1 and 25.2, accessed May 16, 2017, <[https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreements/afscme\\_fully\\_executed\\_cba\\_2012-2017.pdf](https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreements/afscme_fully_executed_cba_2012-2017.pdf)>.

<sup>9</sup> E.g., AFSCME CBA, Section 26.4, accessed May 16, 2017, <[https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreements/afscme\\_fully\\_executed\\_cba\\_2012-2017.pdf](https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreements/afscme_fully_executed_cba_2012-2017.pdf)>.

<sup>10</sup> Chicago remains at a critical juncture in its effort to return to self-sustaining fiscal health. On top of its well-documented debt and pension issues, in its 2016 Financial Analysis the City forecasted an operating structural deficit in 2017 of at least \$137.6 million. See City of Chicago's Annual Financial Analysis 2016 - Financial Forecast - Corporate Fund Projections, accessed May 16, 2017, <<http://chicago.github.io/annual-financial-analysis/forecast/ft2017-corporate-fund-projections>>. The projections for 2018 and 2019 are also dire. Under the most

positive realistic set of assumptions, the operating structural deficit in 2018 is projected at \$102.1 million; under a "worst case scenario" set of assumptions, the figure rises to \$581.1 million. The corresponding numbers for 2019 are \$144.1 million and \$780.1 million, respectively.

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CBAs) could greatly contribute to improving the City's financial situation. To be clear, OIG takes no position on the relative merits of any particular potential change to the existing agreements raised in this report. The process simply cannot work if, from the outset, particular positions are set in stone, and existing provisions known to have produced problematic outcomes and consequences are allowed to operate as tethering starting points in negotiations; so long as a contractual term is not subject to outside legal constraints, it should be fair game for discussion and compromise. This report is intended to help facilitate, not complicate, the proceedings, and to serve the public interest by providing a general overview of what is at stake in the negotiations."

## II. General Issues Related To CBA Structure And Terms

The following characteristics of the City's current CBAs affect the City's capacity to, among other things, innovate and modernize operations, as well as refine its delivery of services to be more cost effective, efficient, accountable, and transparent.<sup>12</sup>

### A. Binding Terms in Side Letters Appended to CBAs

The existing City CBAs append numerous "side letters," sometimes referred to as "letter agreements," or memoranda of understanding (collectively, "side letters"). The number of side letters varies greatly, from four in most COUPE CBAs, to 42 in the FOP and AFSCME CBAs, and 51 in the Fire CBA. Many of the existing side letters have been in effect for multiple bargaining cycles. For example, the Unit II CBA includes a side letter dated June 6, 1988.<sup>13</sup> Some of the CBAs provide that "amendments and modifications . . . may be made by mutual written agreement of the parties to this Agreement."<sup>14</sup> In others, the parties' agreement that appended side letters remain in effect is itself housed in a side letter.<sup>15</sup>

" Note that, in this context, the collective bargaining process comprises not only the parties' negotiations, but also the ratification of the negotiated contracts by City Council. Briefly, each contract is introduced as an ordinance by the Mayor, referred to the Committee on Workforce and Development, and then, if the Committee so recommends, ratified by a majority of the full Council.

<sup>12</sup> For more detail on these general issues, see OIG's March 2011 Review of the Efficiency of the Job Duties of Motor Truck Drivers at 53-56, accessed May 16, 2017, <<http://chicagoinspectorgeneral.org/wp-content/uploads/2011/03/IGO-Review-of-the-Efficiency-of-the-Job-Duties-of-MTDs-March-30-2011.pdf>>. <sup>13</sup> See City of Chicago, "City of Chicago Agreement with Public Safety Employees Union Unit II Effective January 1, 2011 through June 30, 2016" (Unit II CBA), Side Letter 2, accessed May 16, 2017, <[https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/UNIT II CONTRACT.PDF](https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/UNIT%20II%20CONTRACT.PDF)>.

<sup>14</sup> E.g., City of Chicago, "Labor Contract between Chicago Fire Fighters Union, Local No. 2, and the City of Chicago, Illinois Effective July 1, 2012 through June 30, 2017" (Fire CBA), Section VI.A, accessed May 16, 2017,

<<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/POLICEITRE-Local2CBA2012->

<sup>15</sup> See, e.g., AFSCME CBA, Side Letter 15, accessed May 16, 2017, [hUps://www.cityofchicago.org](http://www.cityofchicago.org)

<[http://www.cityofchicago.org/content/dam/city/depts/dol/Collective/n20Bargaining%20Agreements/afscme\\_fully\\_executed\\_cba\\_2012-2017.pdf](http://www.cityofchicago.org/content/dam/city/depts/dol/Collective/n20Bargaining%20Agreements/afscme_fully_executed_cba_2012-2017.pdf)>

("Unless otherwise noted, all side agreements and/or settlement agreements are extended and shall continue to be in effect. During the drafting of the final contract document incorporating the revisions agreed to in these negotiations, the parties will meet and confer regarding which existing side letters can and should be incorporated into the contract language or attached to the contract. It is understood that all side letters will remain attached to the contract unless a decision to do otherwise is mutually agreed to and that the decision to remove an agreement from the back

of the contract or not attach other agreements will not be regarded as withdrawal of an existing side letter.")

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Maintaining binding provisions outside the four corners of an agreement creates ambiguity and can cause confusion and undermine transparency for the public, the City Council, and its relevant subject matter oversight committees, as well as frustrate efficient and effective contract administration and enforcement.<sup>16</sup> The parties should address this issue in the 2017 CBA negotiations.

#### B. "Traditional Work" Reserved for Union Members

The majority of City CBAs (those with the COUPE unions) contain a "traditional-work" clause, which provides, in pertinent part,

Any work which has been traditionally performed by employees who are represented by the Union shall continue to be performed by said employees, except where non-unit employees have in the past performed unit work, or in emergencies, to train or instruct employees, to do layout, demonstration, experimental, or testing duties, to do troubleshooting or where special knowledge is required, provided however, where employees do not report to work because of vacations, or other absences or tardiness, or for personal reasons during the course of the day, or because all of the employees are or will be occupied with assigned duties, or to complete a rush assignment, employees of any other unit represented by another Union shall not perform the work of said employees. . . . The Employer shall not arbitrarily extend the period of any emergency beyond the

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need for that emergency.

Arbitrators have interpreted traditional work as the types of tasks the City has "customarily and consistently assigned to bargaining unit employees over a significant period of time."<sup>18</sup> Only workers covered by a particular CBA are permitted to perform such work, effectively locking in historical job duties and impeding managerial flexibility and innovation. Because the definition of "traditional work" in the CBAs is broad and susceptible to multiple interpretations, managers may be left uncertain about the allowable scope of job responsibilities of their subordinates. There have been situations where a manager did not realize they possibly violated a traditional-work provision until the union filed a grievance. In sum, the traditional-work provisions can make it difficult for City managers to adapt to practical changes or attempt to address operational necessities and reduce inefficiencies.

<sup>16</sup> See Review of the Efficiency of the Job Duties of Motor Truck Drivers at 55-56, accessed May 16, 2017,

[http://chicagoinspectorgeneral.org/wp-content/uploads/2011/03/IGO-Review-of-the-Efficiency-of-the-Job-Duties-of-MTDs-March-30-2011 .pdf](http://chicagoinspectorgeneral.org/wp-content/uploads/2011/03/IGO-Review-of-the-Efficiency-of-the-Job-Duties-of-MTDs-March-30-2011.pdf).

<sup>17</sup> E.g., City of Chicago, "Collective Bargaining Agreement between Teamsters Local 726 and City of Chicago Effective July 1, 2007 through June 30, 2017" (Teamsters Local 726 CBA), Section 14.2, accessed May 16, 2017,

<https://www.cityofchicago.org/content/dam/vcity/depts/dol/Collective%20Bargaining%20Agreement2/BU8TEAMS>ERSLocal700.pdf>.

<sup>18</sup> See Opinion and Award in the matter of the Arbitration between City of Chicago Department of Water Management and Teamsters Local 700 at 16 (George R. Fleischi, 2010), accessed May 16, 2017, <http://chicagoinspectorgeneral.org/wp-content/uploads/2011/03/Fleischli-Arbitration-award-October-2010.pdf> (internal quotation marks omitted).

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OIG addressed a prime example of the problem with the concept of "traditional work" in our 2011 Review of the Efficiency of the Job Duties of Motor Truck Drivers.<sup>19</sup> A detailed analysis of Motor Truck Driver (MTD) responsibilities revealed that a sizable percentage of MTDs employed by the City were used solely to transport personnel and equipment in vehicles that required no special licensing or skills to drive. Therefore, the task of driving did not require the specialized skills of a MTD. An assigned member of the work crew participating in the actual performance of a task or project could easily perform the needed driving, which is the approach OIG found in the staffing of similar work crews for private contractors used by the City to perform similar types of work. We found that the principal reason for the inefficient use of MTDs was that the CBA with their union - the Teamsters - severely constrains the City's managerial rights. As noted above, the Teamsters contract does not allow the City unilaterally to transfer work that has been traditionally performed by MTDs to other City employees, except in emergencies. Nor does the CBA allow the City to subcontract any service that would result in the layoffs of MTDs. In this context, the traditional-work restrictions are to blame for the City employing, conservatively, approximately 200 MTDs it does not need, at a price tag of more than \$20 million per year in 2016 dollars. All told, the restrictions have resulted in close to \$200 million in waste over the course of the 10-year Teamsters contract.

The 2017 CBA negotiations should take a close look at the viability of "traditional-work" provisions. The question should be approached on the basis of a detailed, position-by-position analysis of current responsibilities, inefficient and archaic outcomes, and operational imperatives, as well as a comprehensive understanding of constraints imposed by arbitration awards. One response the City might expect from the union were it to propose lifting traditional-work protections is that such change would put dedicated City employees out of work as a result of efficiency-based staffing reductions. However, this outcome is avoidable. Such changes need not happen overnight; a reasonably gradual phasing-out process, accomplished in significant part through ordinary attrition (e.g., retirements and resignations) or incentives (e.g., buyouts) would allow the City to move toward more efficient operation without unduly disrupting the current unionized workforce.

### C. Inadequate Reopener Provisions

The City's fiscal condition is a fundamental consideration in framing and maintaining a sustainable and productive relationship with its workforce. The inclusion of general provisions allowing the reopening of CBAs in the event the City's finances fall to specified negative benchmarks would allow operational restructuring to deal with budget deficits, changing demands for service, and evolving technology.<sup>20</sup> Again, most of the current City CBAs—those

<sup>19</sup> See Review of the Efficiency of the Job Duties of Motor Truck Drivers, accessed May 16, 2017,

<http://chicagoinspectorgeneral.org/wp-content/uploads/2011/03/IGO-Review-of-the-Efficiency-of-the-Job-Duties-of-MTDs-March-30-2011.pdf>.

<sup>20</sup> Some of the current CBAs allow for reopening for limited purposes. See, e.g., Fire CBA, Section 12.1(I)(2)

(health care reopener), accessed May 16, 2017, <http://www.cityofchicago.org>

/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/POLICE-FIRE-Local2CBA2012-

2017final.pdf; City of Chicago, "Collective Bargaining Agreement Between International Brotherhood of Electrical

Workers Local Union No. 9 (AFL-CIO) and City of Chicago Effective July 1, 2007 through June 30, 2017" (IBEW

Local 9 CBA), Article 22 (reopener provisions regarding health care; non-prevailing wages; and emergencies,

cataclysmic events, and similar unforeseen exigencies affecting City finances), accessed May 16, 2017,

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with the COUPE unions-were ratified in 2007, the year City revenues peaked. In the intervening years, the national economy suffered a severe downturn, and the City's financial condition deteriorated dramatically. The ensuing economic recovery has been gradual and inconsistent across sectors, resulting in an upturn in revenues that still has not reached the economic-bubble-based peaks of a decade ago. In recent years, the City has made significant strides in reducing the substantial operating deficit it inherited from the prior administration. However, debt obligations remain at concerning levels, and the historical underfunding of pension obligations leaves the City's overall financial situation considerably less than optimal. While the City bit the bullet on the revenue side through substantial increases to property taxes, it has yet to escape poor bond ratings that raise the cost of borrowing, in part because of the well-documented even worse financial condition of one of its sister agencies.

The past several years have illustrated that the City's finances can drastically affect its ability to meet certain CBA provisions consonant with best practices in the area of public finance. Given this, the parties should consider including a general reopener provision in the 2017 CBAs. For example, a provision could require mandatory midterm reopening if the City's operating revenue drops a certain negotiated percentage, or allow the City to reopen in event of "fiscal emergency." We acknowledge that many of the COUPE unions and the City reached an interim mid-term agreement in 2009, implementing furlough days to save costs and prevent layoffs. While this demonstrated an admirable willingness to work together, some unions did not agree to the amendment. Including CBA provisions' allowing for reopening based on financial condition would allow the City to undertake a comprehensive effort to respond to a fiscal crisis, rather than dealing only with those unions that agree to return to the bargaining table.

#### **D. Excessive Contract Durations**

In 2007, the City and the 34 trade unions that constitute COUPE agreed to a package of 10-year CBAs.<sup>22</sup> While long-term contracts may appear advantageous to negotiating parties when executed, here, too, the likelihood of significant changes in the City's financial condition, and operational needs and work requirements, make such contracts unduly restrictive. Furthermore, this sort of agreement limits not only the current management of City government, but extends into (and even past) the elected terms of future administrations and City Councils. The parties should be mindful of this concern while negotiating the 2017 CBAs.<sup>23</sup>

<https://www.cityofchicago.org/content/OCAL9.pdf>

<<https://www.cityofchicago.org/content/OCAL9.pdf>>

<sup>21</sup> For an account of the history and cost-savings of the City's furlough program, see OIG's Report on the Impact of the City of Chicago's 2009-2011 Furloughs on Employee Pensions, February 8, 2011, accessed May 16, 2017, <<http://chicagoinspectorgeneral.org/wp-content/uploads/2011/02/Impact-of-the-City-of-Chicago-2009-2011-Furloughs-on-Employee-Pensions-Final.pdf>>

<sup>22</sup> See National Electrical Contractors Association, "News Release: Chicago Guarantees Prevailing Wages to Building Trade Employees for 10 Years" (August 15, 2007), accessed May 16, 2017, <<http://www.necanet.org/news/news-release-archive/news/2007/08/15/chicago-guarantees-prevailing-wages-to-building-trade-employees-for-10-years>>

<sup>23</sup> See Review of the Efficiency of the Job Duties of Motor Truck Drivers, at 53-54, accessed May 16, 2017, <<http://chicagoinspectorgeneral.org/wp-content/uploads/2011/03/IGO-Review-of-the-Efficiency-of-the-Job-Duties-of-MTDs-March-30-2011.pdf>>

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#### E. Formalized Practice of Paying the Prevailing Wage

The CBAs with the COUPE unions formalized the City's longstanding practice of paying its hourly unionized tradesmen the Cook County prevailing wage.<sup>24</sup> This tradition "is extremely costly because it pays city tradespeople for a full workweek at the highest rate paid to similar tradespeople in private practice. Most private tradespeople are paid the prevailing hourly wage only for work performed, such as plumbers who come to a person's home or outside carpenters hired by firms to perform specific jobs." As Tom Villanova, president of the Chicago and Cook County Building and Construction Trades Council, recognized at the time, "Chicago is the only large city left in which building trades employees get the prevailing wage."<sup>26</sup> Because public-sector tradesmen, even those paid by the hour, receive a guaranteed annual income, it is arguably unnecessary to treat them the same as their private-sector counterparts who generally lack such income security for the purpose of setting hourly wages. In negotiating the 2017 CBAs, the parties should consider making all wages and salaries subject to predetermined scheduled increases.

### III. Specific Elements of the City's CBAs

#### A. Elements Found in Multiple CBAs

The City's 44 CBAs cover employees engaged in a wide variety of work, both sworn and civilian, and their terms vary greatly. There are, however, a number of common elements throughout the agreements.

##### 1. Wage increases

A principal element of each CBA is the commitment by management to wage increases over the life of the agreement. In negotiating the 2017 CBAs, the parties should take a realistic approach to this issue that accounts for the City's current financial and economic situation. For example, they might consider pegging any pay raises to increases in the Consumer Price Index (CPI) or another similar economic indicator. Alternatively, in this area in particular, it may be prudent to include reopener provisions that allow for renegotiation of salaries in the event the City's financial situation unexpectedly worsens to a specified degree.

To provide context for the 2017 negotiations, we summarize below the wage increases provided in the City's current CBAs with its largest unions.

<sup>24</sup> Under the Illinois Prevailing Wage Act, the "prevailing wage" is "the hourly cash wages plus annualized fringe benefits for training and apprenticeship programs approved by the U.S. Department of Labor, Bureau of Apprenticeship and Training, health and welfare, insurance, vacations and pensions paid generally, in the locality in which the work is being performed, to employees engaged in work of a similar character on public works." 820 ILCS 130/2.

<sup>25</sup> Robert Davis, "Daley Sets Pattern for Union Pacts," Chicago Tribune (October 9, 1992), accessed May 16, 2017, <<http://articles.chicagotribune.com/1992-10-09/news/9204010307>> I union-pacts-mayor-dalcy-unionized-city.

<sup>26</sup> National Electrical Contractors Association, "News Release: Chicago Guarantees Prevailing Wages to Building Trade Employees for 10 Years" (August 15, 2007), accessed May 16, 2017, <<http://www.necanet.org/news/news->releasc-archive/news/2007/08/15/chicago-tuarantecs-prvailinu-waues-to-bui-1-cl-i-ng-trade-emplovecs-for-10-vcars>>.

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### Sworn Employees

- The FOP CBA includes a cumulative basic salary increase of 11.52% between July 1, 2012 and June 30, 2017.<sup>27</sup>
- The CBAs with the CPD sergeants, lieutenants, and captains include cumulative basic salary increases of 8.25% between July 1, 2012, and June 30, 2016.<sup>28</sup>
- The Fire CBA includes a cumulative salary increase of 11.52% between July 1, 2012, and June 30, 2017.<sup>29</sup>

### Civilian Employees

- The Unit II CBA includes a cumulative salary increase of 8.28% between January 1, 2013 and June 30, 2017.<sup>30</sup>
- The AFSCME CBA includes a cumulative salary increase of 10.45% between July 1, 2013, and June 30, 2017.<sup>31</sup>

See City of Chicago, "Agreement between the City of Chicago Department of Police and the Fraternal Order of Police Chicago Lodge No. 7 Effective July 1, 2012 through June 30, 2017" (FOP CBA), Section 26.1, accessed May 16, 2017, <https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3> <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3>>/FOPCBA2012-2017 2.20.15.pdf. Here, and below, we take into account the compounding effect of periodic increases.

<sup>28</sup> See City of Chicago, "Agreement between the City of Chicago and the Policemen's Benevolent & Protective Association of Illinois, Unit 156 - Sergeants Effective July 1, 2012 through June 30, 2016" (Sergeants CBA), Section 26.1, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement2/SgtsPBPACBA-2012-2016Final.pdf>>: City of

Chicago, "Agreement between the City of Chicago and the Policemen's Benevolent & Protective Association of Illinois, Unit 156 - Lieutenants Effective July 1, 2012 through June 30, 2016" (Lieutenants CBA), Section 26.1, accessed May 16, 2017, s <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement2/LieutenantsCBA2012-2016final.pdf>>: City of

Chicago, "Agreement between the City of Chicago and the Policemen's Benevolent & Protective Association of Illinois, Unit 156 - Captains Effective July 1, 2012 through June 30, 2016" (Captains CBA), Section 26.1, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/POLICEFIRE-PBPACaptainsCBA2012-2016final-c.pdf>>.

<sup>29</sup> See Fire CBA, Section 5.1, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/POLICEFIRE-Local2CBA2012-2017final.pdf>>.

<sup>30</sup> See Unit II CBA, Section 9.1, accessed May 16, 2017, <[https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/UNIT 11 CONTRACT.PDF](https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/UNIT%20II%20CONTRACT.PDF)>; Unit II extension (02016-7961), accessed May 16, 2017,

<<https://chicago.legistar.com/LegislationDetail.aspx?ID=2872072&GUID=4DB9S6E6-0251-4CD5-9FD2-1E24A2D09DA0&Options=Advanced&Search=>>. This contract includes an additional 1% increase on July 1, 2017. For purposes of this report, in order to allow direct comparison with the other CBAs, we do not account for that forthcoming raise.

<sup>31</sup> See AFSCME CBA, Section 5.1, accessed May 16, 2017, <[https://www.cityofchicago.org](https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreements/afscme_fully_excuted_cba_2012-2017.pdf)>/content/dam/city/depts/dol/Collective%20Bargaining%20Agreements/afscme\_fully\_excuted\_cba\_2012-2017.pdf.

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- *The COUPE salary increases are not susceptible to simple description. For certain COUPE employees, the 10-year contracts include cumulative increases of 29.27% between July 1, 2007, and June 30, 2017.<sup>31</sup> As mentioned above, the CBAs pegged other salaries to the pertinent Cook County prevailing wages, resulting in an array of increases across the ten-year lives of the contracts."*

The following table compares salary increases under the CBAs to the increase in the CPI for All Urban Consumers (Chicago-Gary-Kenosha) over periods of time covered by the contracts.

Contract(s)	Contract Dates	Contract(s) Wage Increase	Increase in CPI	Contract Wage Increase Above CPI
COUPE (Non-Prevailing Wage)	7/1/2007-6/30/2017			29.27%
FOP and Fire	7/1/2012-6/30/2017	11.52%	3.75%	+7.77%
AFSCME	1/1/2013-6/30/2017	10.45%	3.89%	+6.56%
CPD Sergeants, Lieutenants, and Captains	7/1/2012-6/30/2016	8.25%	1.86%	+6.39%
Unit II	1/1/2013-6/30/2017	8.28%	3.89%	+4.39%

Sources: City of Chicago CBAs, accessed May 16, 2017, <[https://www.cityofchicago.org](https://www.cityofchicago.org/content/dam/city/en/depts/dol/supp_info/city_of_chicago_collectivebargainingagreements.html)>/content/dam/city/en/depts/dol/supp\_info/city\_of\_chicago\_collectivebargainingagreements.html; CPI Table, accessed May 16, 2017, <<https://www.bls.gov/regions/midwest/data/consumerpriceindexhistorical>> Chicago table.pdf. Because the last salary increase in the FOP, Fire, AFSCME, and Unit II contracts occurred on January 1, 2017, we use CPI data through December 2016 for our calculations. For the Sergeants/Lieutenants/Captains contracts, we use CPI data through June 30, 2016.

## 2. Health benefits

Each CBA provides that City employees who enroll in the City's health insurance plan must contribute toward the cost. Under the current policy, the contribution toward health insurance required from a City union employee with a family is capped at \$2,228.88 per year, regardless of

See, e.g., Teamsters Local 726 CBA, Sections 4.3 and 4.4, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement2/BU8TEAMST>ERSLocal700.pdf>.

<sup>33</sup> By way of example, from January 1, 2007, through January 1, 2017, the salaries of the following ten titles have increased by approximately the following percentages: Plumbers - 23%; Carpenters and Lathers - 26%; Machinists and Construction Laborers - 30%; Hoisting Engineers and Glaziers - 31%; Bricklayers - 32%; Sign Painters - 33%; and Linemen - 36%. We derived these figures by beginning with the July 2007 Cook County Prevailing Wages for each position, accessed May 16, 2017, <<https://www.illinois.gov/idol/Laws-Rules/CONMED/rates/07-07Jul/COOK9999.htm>, and calculating the percentage increase through the end of 2016 using City financial records.

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salary. For comparison, the national average contribution in 2016 for family coverage at firms with 200 or more employees was \$4,917 per year.<sup>14</sup>

Virtually all City employees contribute for each of the 24 annual pay periods in the following amounts:

Annual Salary	Single	Employee +1	Family
Up to \$30,000	\$15.71	\$23.88	\$27.65
\$30,001 to \$89,999	1.2921% of payroll	1.9854% of payroll	2.4765% of payroll
Union Employee, \$90,000 and above; Non-Union Employee, \$90,000 to \$ 119,999	1.2921% of payroll	1.9854% of payroll	2.4765% of payroll
Non-Union Employee, \$120,000 and above	1.2921% of payroll	1.9854% of payroll	2.4765% of payroll

Sources: <[https://www.cityofchicago.org/content/dam/city/depts/fin/supp info/Benefits/OpenEnrollment/2017/2017 Open Enrollment Guide Plan A.pdf](https://www.cityofchicago.org/content/dam/city/depts/fin/supp%20info/Benefits/OpenEnrollment/2017/2017%20Open%20Enrollment%20Guide%20Plan%20A.pdf)>; <[https://www.cityofchicago.org/content/dam/city/depts/fin/supp info/Benefits/OpenEnrollment/2017/2017 Open Enrollment Guide Plan B.pdf](https://www.cityofchicago.org/content/dam/city/depts/fin/supp%20info/Benefits/OpenEnrollment/2017/2017%20Open%20Enrollment%20Guide%20Plan%20B.pdf)>.<sup>35</sup>

Health benefits are an integral part of City employees' compensation, and should be structured in a manner that provides robust coverage. However, aspects of the parties' current agreements might merit revision. The City and its unionized workforce, working together in the Labor Management Cooperation Committee (LMCC), have identified and implemented numerous health care reforms, including promoting the use of generic drugs in lieu of more expensive brand-name medications and incentivizing providers to charge less for standard diagnostic lab tests.<sup>36</sup> These worthwhile efforts should continue. The parties might also consider reasonable across-the-board increases to union and non-union employees' premium contributions. At the level of principle, there should not be a radical misalignment for City employees compared to premiums paid for benefits received by major municipal (and other public sector) employees nationally, or similarly situated employees in the private sector. Other options include increasing the contribution rate for the highest-paid union employees to mirror the schedule applicable to the highest-paid non-union employees; implementing increases specific to employees who smoke or regularly partake in similarly unhealthy activities that increase their risk profiles; and/or adopting a program with multiple tiers of coverage-from basic to "Cadillac"-and corresponding levels of employee and City contributions. This last approach would allow employees the flexibility to decide for themselves the plan that best suits their needs and finances, which might be preferable to a one-size-fits-all increase to the contribution levels.

<sup>34</sup> See Kaiser 2016 Employer Health Benefits Survey, accessed May 16, 2017, <<http://kff.org/report-section/ehbs-2016-section-six-worker-and-employer-contributions-for-premiums/>>.

<sup>35</sup> This table does not cover crossing guards hired before 2006, who are subject to special rules.

<sup>36</sup> See City of Chicago's Annual financial Analysis 2016 - City Workforce, accessed May 16, 2017, <<http://chicago.github.io/annual-financial-analysis/Expenditures-History/Workforce/#personnel-costs>>.

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### 3. Uniform allowances

Employees of CPD, Fire, and various other City departments are required to wear uniforms. The pertinent CBAs include provisions meant to defray uniform costs. It is reasonable for the City to subsidize the proper outfitting of its employees. But the amounts provided should be determined on the basis of actual need. In negotiating the 2017 CBAs, the parties should look closely at this issue from a practical, fact-based perspective.

To provide context for the 2017 negotiations, we summarize below the uniform allowances provided in the current contracts.

### *Sworn Employees*

- Every CPD member receives a uniform allowance of \$1,800 per year. The City also pays for the first issue of any uniform change or modification. If incumbent CPD members are required to obtain additional clothing or protective gear as part of their uniform, the City  
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pays for the additional items the first time they are purchased." In addition, CPD issues to each sergeant, lieutenant, and captain "a voucher that shall be used to purchase uniforms and personal equipment items which are identified by the Superintendent in accordance with the Department's Uniforms and Personal Equipment Program and which are not currently possessed by" the sworn member. This additional allowance is "subject to available funding."<sup>38</sup>
- The City provides Firefighters with dress uniforms and protective gear. Worn uniforms and gear are replaced at the City's expense on an exchange basis. In addition to replacing worn uniforms and gear, the City pays yearly uniform allowances of \$1,250 to Non-EMS platoon Firefighters and \$1,500 to 40-hour Firefighters.

See FOP CBA, Article 21, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/FOPCBA2012-2017.2.20.15.pdf>>.

<sup>38</sup> Sergeants CBA, Article 21, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement2/SgtsPBPACBA-2012-2016Final.pdf>>.

Lieutenants CBA, Article 21, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement2/PBPALTSBCBA2012-2016final.pdf>>.

Captains CBA, Article 21, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/POLICEFIRE--PBPACaptainsCBA2012-2016final-c.pdf>>.

<sup>39</sup> See Fire CBA, Section 16.9, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/LOCALICEFIRE-Local2CBA2012-2017final.pdf>>. In April 2016, OIG published an audit of Fire's uniform reimbursement process. See Chicago Fire Department Commissary Transactions Audit, accessed May 16, 2017, <<http://chicagoinspectorgeneral.org/wp-content/uploads/2016/04/Audit-of-CFD-Commissary.pdf>>. According to Fire management, the uniform allowance is

intended to pay for uniform maintenance and cleaning. Its value, however, is not based on an analysis or estimate of the actual annual costs, nor does Fire monitor how members spend their allowance once it has been disbursed. Moreover, it bears noting that members are permitted to do their laundry in their companies' firehouses.

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- Certain AFSCME members receive a uniform allowance ranging from \$200 to \$500 per
- A subset of civilian public safety employees in Unit II receive an annual allowance ranging from \$50 to \$550.<sup>43</sup>
- Nurses (Illinois Nurses Association and Teamsters) receive an allowance of \$600 per

As of April 11, 2017, the City had spent a total of \$27,852,785 in uniform allowances for fiscal year 2016.<sup>43</sup>

#### 4. Tuition reimbursement provisions

Many CBAs entitle covered employees to reimbursement for continuing their education while working for the City.<sup>44</sup> This is a longstanding and laudable tradition. Nevertheless, in negotiating the 2017 CBAs, the parties should look at the expenses related to these provisions and consider whether they are sustainable in today's financial climate. Short of complete removal, the provisions may be susceptible to redesign, perhaps by reducing the percentages covered and/or requiring that the education program bear a closer relation to the nature of the particular employee's City employment, thereby amending this taxpayer-funded subsidy to ensure that it operationally benefits the City and its residents (a concept already enshrined in at least four of the contracts).

To provide context for the 2017 negotiations, we summarize below the tuition reimbursement provided in the current CBAs.

#### *Sworn Employees*

- Both CPD and Fire provide tuition reimbursement for courses taken through an accredited college or university, provided that the employee is accepted into a "degree program," and that each course is "job-related or necessary for a degree." The departments reimburse 100% of tuition payments for courses in which the employee

See AFSCME CBA, Article 17, accessed May 16, 2017, <[https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreements/afscme\\_fully\\_executed\\_cba\\_2012-2017.pdf](https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreements/afscme_fully_executed_cba_2012-2017.pdf)>

<sup>41</sup> See Unit II CBA, Section 9.4, accessed May 16, 2017, <[https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/UNIT II CONTRACT.PDF](https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/UNIT%20II%20CONTRACT.PDF)>

<sup>42</sup> See City of Chicago, "City of Chicago Agreement with the Illinois Nurses Association Effective July 1, 2012 through June 30, 2017" (INA CBA), Section 4.6, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/INACBA-09252014.pdf>>; City of Chicago, "Collective Bargaining Agreement Between the City of Chicago and the International Brotherhood of Teamsters, Teamsters Local Union No. 743 Effective March 11, 2014 through June 30, 2017" (Teamsters Local 743 CBA), Section 4.12, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/CBATeamsters743NursesandCity03132014.pdf>>

<sup>43</sup> This figure includes payments to employees as well as to uniform vendors.

<sup>44</sup> This subsection relates to reimbursement for degree programs, not training and continuing job-related education.

earned an A grade, and 75% for a B grade "and other grades classified by the school as passing." Tuition reimbursement is limited to two courses per school term. The reimbursement is contingent on the employee remaining with CPD/Fire for at least 2 years, otherwise they must pay back to the department 50% (if resigning after 1 year) or 100% (if earlier than 1 year) of the reimbursed tuition.<sup>45</sup>

### *Civilian Employees*

- The AFSCME, Unit II, and nurses' CBAs include tuition reimbursement provisions offering essentially the same terms as those provided in the CPD and Fire contracts. The one substantive difference is that civilian employees are entitled to reimbursement only for courses of study that are "related to [their] current work or probable future work with the City of Chicago."<sup>46</sup>

As of April 11, 2017, pursuant to the current CBAs, the City had spent a total of \$6,698,751 in tuition reimbursement for fiscal year 2016.

### 5. "Acting up"

"Acting-up" (or "out of grade pay") policies provide increased compensation for an employee who performs the work generally performed by a higher-paid worker. In principle, this approach makes sense. However, it may also impede flexibility to meet short-term and unexpected contingencies. There are, therefore, reasonable questions about how exactly an acting-up policy should work. Under some versions of the acting-up provision, the increase in pay comes after the employee has performed the higher-paid work for a certain amount of time. This amount of time varies from contract to contract. Required lengths of service of greater duration afford the City

FOP CBA, Article 24, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/FOPCBA2012-2017.2.20.15.pdf>>; Sergeants CBA, Article 24, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement2/SgtsPBPACBA-2012-2016Final.pdf>>; Lieutenants CBA, Article 24, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement2/PBPALTSBA2012-2016final.pdf>>; Captains CBA, Article 24, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/POLICEFIRE-PBPACaptainsCBA2012-46>>; AFSCME CBA, Exhibit K, accessed May 16, 2017, <[https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreements/afscme fully executed cba 2012-2017.pdf](https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreements/afscme%20fully%20executed%20cba%202012-2017.pdf)>; Unit II CBA, Appendix A, accessed May 16, 2017, <[https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/UNIT 11 CONTRACT.PDF](https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/UNIT%20II%20CONTRACT.PDF)>; INA CBA, Exhibit H, accessed May 16, 2017, <[https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/IN ACBA-09252014.pdf](https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/INA%20CBA-09252014.pdf)>; Teamsters Local 743 CBA, Appendix E, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/132014.pdf>>

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more managerial and operational flexibility to meet relatively short-term exigencies without disproportionate financial consequences. In negotiating the 2017 CBAs, the parties should consider whether the current length-of-service triggers are optimal from operational, fairness, and financial-feasibility perspectives.

To provide context for the 2017 negotiations, we summarize below the acting-up policies in the current contracts.

### *Sworn Employees*

- For CPD members, there are several pay grades that reflect the different responsibilities of different members. Pay increases as the grade numbers increase. For police officers, there are three grades: D-1, D-2, and D-2A. For sergeants, lieutenants, and captains, there is one grade for each rank: D-3, D-4, and D-5, respectively. Police officers who are paid at the D-1 salary rate and perform substantially all of the duties of a Field Training Officer (FTO) for two or more hours in one day are paid the D-2 (FTO) rate for all straight-time hours worked during that day. As a result, a provision intended to assure that personnel are not paid less than grade pay for work actually performed may operate to pay them at rate more than the grade pay for work actually performed—an officer can earn multiple hours of D-2 pay for performing D-1 level work. Similarly, police officers paid at the D-1 or D-2 rate who perform the duties of a sergeant or Forensic Investigator for two or more hours are paid at the D-3 rate, the sergeants' rate, for all straight-time hours worked. And sergeants, lieutenants, and captains directed to perform substantially all of the duties and to assume substantially all of the responsibilities of higher ranks for two or more hours within a single tour of duty, are likewise paid at the rate of the higher rank for all straight-time hours worked.<sup>47</sup>
- Firefighters may be temporarily assigned to a higher or lower rank "to avoid the shutdown of companies due to unexpected or unscheduled absences . . . that cannot be immediately covered." They receive, the compensation level of the higher rank while acting up and receive their regular compensation if acting in a lower rank. The contract states the Firefighter is not to act out of their classification for more than four hours absent certain exceptions. Fire is required to "diligently attempt to fill the manpower" during the four-hour period. To reassign a Firefighter to become a Training Instructor, the

See FOP CBA, Section 26.3, accessed May 16, 2017, <https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/FOPCBA2012-2017%202.20.15.pdf>; Sergeants CBA, Section 26.3, accessed May 16, 2017, <https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement2/SgtsPBPACBA-2012-2016Final.pdf>; Lieutenants CBA, Section 26.3, accessed May 16, 2017, <https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement2/PBPALTSABA2012-2016Final.pdf>; Captains CBA, Section 26.3, accessed May 16, 2017, <https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/POLIC17.r-MR1^PBPACaptainsCBA2012-2016Final-c.pdf>.

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City is required in most cases to pay that Firefighter at the next higher rank/classification  
■ -is salary.

### Civilian Employees

- The AFSCME contract provides that an employee "who is directed to and does perform, or who is held accountable for, substantially all of the duties and responsibilities of a higher-rated bargaining unit job for four (4) working days shall be paid at the higher rate for all such time, retroactive to the first day of the assignment."<sup>49</sup>
- The Unit II CBA is similar to the AFSCME contract on this point, but the acting-up trigger is five days rather than four.<sup>M)</sup>
- Like the Unit II contract, the nurses' CBAs provide for acting-up pay after five days.<sup>51</sup>

- The majority of COUPE CBAs provide, essentially, that an employee "who is directed to and does perform and who is held accountable for substantially all of the duties and responsibilities of a higher-rated job shall be paid at the higher rate, retroactive to the first day of the assignment."<sup>52</sup>

As of April 11, 2017, pursuant to the current CBAs, the City had spent a total of \$921,820 in acting-up pay for fiscal year 2016.

## 6. Contracting out

Most of the CBAs address whether, when, and how the City is permitted to engage subcontractors to perform work covered by the contract. These "contracting-out" provisions generally place strict limits on the practice, impairing the City's ability to secure even reasonably

Fire CBA, Section 16.3, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/POLICEFIRE-Local2CBA2012-2017final.pdf>.

<sup>49</sup> AFSCME CBA, Section 12.9, accessed May 16, 2017,

<<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreements/arsinc%20fully%20executed%20cba%2012-2017.pdf>.

<sup>50</sup> See Unit II CBA, Section 9.2, accessed May 16, 2017, <https://www.cityofchicago.org>

<[http://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/UNIT II CONTRACT.PDF](http://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/UNIT%20II%20CONTRACT.PDF).

<sup>51</sup> See INA CBA, Section 6.10, accessed May 16, 2017,

<[https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/IN ACBA-09252014.pdf](https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/IN%20ACBA-09252014.pdf); Teamsters Local 743 CBA, Section 4.11, accessed May 16, 2017,

<[https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/CBA Teamsters743 Nurses and City03132014.pdf](https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/CBA%20Teamsters743%20Nurses%20and%20City03132014.pdf).

<sup>52</sup> Teamsters Local 726 CBA, Section 8.11, accessed May 16, 2017,

<<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement2/BU8TEAMSTERSLocal700.pdf>. A version of this provision resides in the CBAs with Bargaining Units (BUs) 12, 13, 14, 15, 16, 18, 19, 21, 22, 23, 24, 25, 29,

32, 33, 34, 35, 36, 39, 41, 42, 43, 46, 47, 48, 49, 50, and 28/53/54. There are also the following variations: more than

five days performing higher paid work triggers acting-up pay (BU 31); five days or more performing higher-paid

work triggers acting-up pay (BU 44); more than one day performing higher-paid work triggers acting-up pay (BU

45); acting up for full shift earns two hours compensatory time (BU 57); regular rate paid for acting up, but all

except least senior employee have right to refuse assignment (BU 59). See City of Chicago Collective Bargaining

Agreements, accessed May 16, 2017,

<[https://www.cityofchicago.org/content/dam/city/en/depts/dol/supp\\_info/cilv\\_ol~\\_chicago\\_collective\\_bargaining\\_agreements.html](https://www.cityofchicago.org/content/dam/city/en/depts/dol/supp_info/cilv_ol~_chicago_collective_bargaining_agreements.html).

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short-term supplemental staffing or services in lieu of hiring additional employees or incurring excessive overtime and compensatory time expenses, to the possible detriment of operationally and fiscally optimal outcomes. In negotiating the 2017 CBAs, the parties should consider allowing more flexibility in this area as a means of increasing efficiency and lowering costs.

To provide context for the 2017 negotiations, we summarize below the contracting-out policies in the current contracts.

### Sworn Employees

- Fire is forbidden from subcontracting any work that is subject to its CBA: "[N]on-bargaining unit personnel or persons may only perform such work or work similar and related to that which they performed since January 1,

1984, strictly provided that any work performed by non-bargaining unit personnel or persons shall not limit any bargaining unit employee's promotional opportunities, cause any bargaining unit employee's classification to be lowered or eliminated, or cause any bargaining unit to be laid off or displaced."<sup>53</sup>

### *Civilian Employees*

- The majority of COUPE CBAs require:
  - no less than 30 days' detailed written notice to the union of any potential contracting out;
  - that, if "bargaining unit employees would be laid off by the proposed subcontracting," then the City "shall make available, on a seniority basis, equal-rated permanent jobs;" and
  - that, "[p]rior to sub-contracting of bargaining unit work, the [City], the Union, and the proposed sub-contractor [ ] meet to discuss the employment of employees subject to layoff," and that "[d]uring that meeting the Employer [ ] request and urge that the sub-contractor hire laid off employees."<sup>54</sup>

Fire CBA, Section 16.8, accessed May 16, 2017, <<https://www.cityofchicago.org/content/darrVcity/depts/dol/Collective%20Bargaining%20Agreement3/POLICEFIRE-Local2CBA2012-2017final.pdf>>. This prohibition against subcontracting potentially prevents Fire from undertaking prudent steps to civilianize positions currently staffed with sworn personnel. OIG addressed this issue in a January 2016 audit, which, among other things, and by way of example, noted CFD's position that the current Fire CBA prevented the Department from civilianizing mail carrier positions currently staffed with trained, sworn firefighters. See Audit of Opportunities For Civilianization in the Chicago Fire Department, accessed May 16, 2017, <<http://chicagoinspectorgeneral.org/vvp-content/uploads/2017/06/01/Audit-of-Opportunities-for-Civilianization-at-CFD.pdf>>

<sup>54</sup> City of Chicago, "Collective Bargaining Agreement between International Association of Heat and Frost

Insulators and Asbestos Workers, Local NO. 17 and City of Chicago Effective July 1, 2007 through June 30, 2017,"

Section 14.8, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dain/city/depts/dol/Collective%20Bargaining%20Agreement2/BU13ASBF.STOSWK.RSLOCAL17.pdf>>

A version of this provision resides in the CBAs with BUs 14, 15, 16, 18, 19, 21, 22, 24, 25, 29, 31, 32, 33, 34, 35, 36, 39, 41, 42, 43, 46, 47, 48, 49, and 50. There are also the following variations: standing subcommittee evaluates subcontracting proposals (BU 2S/53/54); parties meet 90 days before subcontracting (44); City required to give 30-

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- The AFSCME CBA provides that it is City policy "to involve the Union in a Department's decision making process concerning potential contracting out in order for the Union to provide its view as to the desirability and feasibility of proposed contracting out, and to suggest alternatives to the Department." When the potential for subcontracting arises,
  - the City is required to form a subcommittee with AFSCME for the purpose of "work[ing] cooperatively with the Union so that the Union may submit suggested alternatives and/or proposals[;]"
  - the City must give at least 45 days' notice of its intent to subcontract and meet with AFSCME on the subject within 10 days of providing notice;
  - "during the period prior to giving Public Notice to potential contractors, the affected department shall work with the Union to review and discuss any Union proposals to avoid contracting out the work. Such discussions may include but not be limited to reorganization of department operations, consolidation or modification of job classifications, market and other analyses in order to identify improved methods of service delivery;"
  - if the City decides to enter into a contract with an outside contractor, it must give detailed written notice

to AFSCME at least 30 days prior to entering into a contract;

- the City is required meet with the union, at its request, for informational purposes within three days of receipt of such request;
  - within 14 days of receipt of the notice requesting such meeting, "the subcommittee will meet, review any proposals the Union wishes to make to the Employer and compare such proposals to any bid or proposal being considered for acceptance," and the City is required to "give the subcommittee its final response on contracting out not later than 10 calendar days following this meeting;" and
  - if AFSCME members would be laid off as the result of the proposed contracting, the City is required to "make available, on a seniority basis, equal-rated permanent jobs," and, "[p]rior to the contracting of bargaining unit work," the City is required to meet with the union and the proposed sub-contractor "to discuss the employment of employees subject to layoff." During that meeting the City is required to "request and urge that the contractor hire laid off employees."<sup>53</sup>
- The CBA with the Teamster nurses requires no less than 30 days' detailed written notice to the union of any potential contracting out and that, if "bargaining unit employees

day notice and then meet at union's request (BU 57; BU 59); and City required to give 60-day notice and then meet at union's request (BU 58). See City of Chicago Collective Bargaining Agreements, accessed May 16, 2017, <[https://www.cityofchicago.org/city/en/depts/dol/suppinfo/cityofchicago\\_collective\\_bargaining\\_agreements.html](https://www.cityofchicago.org/city/en/depts/dol/suppinfo/cityofchicago_collective_bargaining_agreements.html)>. <sup>55</sup> AFSCME CBA, Article 22, accessed May 16, 2017, [https://www.cityofchicago.org/city/en/depts/dol/Collective%20Bargaining%20Agreements/afscme\\_fully\\_executed\\_cba\\_2012-2017.pdf](https://www.cityofchicago.org/city/en/depts/dol/Collective%20Bargaining%20Agreements/afscme_fully_executed_cba_2012-2017.pdf). Article 22 also sets out distinct requirements for entering into outside "term contracts."

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would be laid off by the proposed subcontracting," then the City "make available, on a seniority basis, equal-rated permanent bargaining-unit jobs."<sup>56</sup>

- The CBA with the INA nurses requires at least 45 days' detailed written notice to the union of any potential contracting out and allowance for the union to submit a counterproposal. "If bargaining unit employees would be displaced by the proposed subcontracting, the [City] shall make available, on a seniority basis, equal-rated permanent jobs," and "[p]rior to contracting out of bargaining unit work," the City, the union, and the proposed contractor "shall meet to discuss the employment of employees subject to layoff." At this meeting, the City must "request that the contractor hire laid off employees."<sup>37</sup>

## 7. Disciplinary provisions

Each CBA contains multiple provisions establishing union members' rights when faced with potential discipline, as well as the procedural requirements for disciplinary adjudications." In some cases, the extent and complexity of these provisions make it extremely difficult for the City to discipline employees who commit even the most serious legal and personnel-rule violations.<sup>39</sup> This difficulty creates two related risks: that employees engaging in misconduct will avoid discipline, and that the threat of discipline will thereby cease to serve as an effective deterrent to misconduct.<sup>60</sup> As a matter of principle, workplace disciplinary procedures should operate in a manner not only fair to the employees, but also sufficiently efficient and expedient to protect the employer's interests. Moreover, particularly in a large public operation like the City, where its employees regularly interact with the public, an ineffective disciplinary system can play a role in

Teamsters Local 743 CBA, Article XII, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/CBATeamsters743NursesandCitv03132014.pdf>>.

<sup>57</sup> INA CBA, Article 14, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/INACBA-09252014.pdf>>. <sup>58</sup> See, e.g., FOP CBA, Articles 6-9 and Appendix L, accessed May 16, 2017, <[https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/FOPCBA2012-2017\\_2.20.15.pdf](https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/FOPCBA2012-2017_2.20.15.pdf)>; Fire CBA, Section 16.2 and Article X, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/POLICEFIRF-Local2CBA2012-2017final.pdf>>; AFSCME CBA, Articles 20 and 21, accessed May 16, 2017, <[https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreements/afscme\\_fully\\_executed\\_cba\\_2012-2017.pdf](https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreements/afscme_fully_executed_cba_2012-2017.pdf)>.

<sup>59</sup> See generally Chicago Police Accountability Task Force, Recommendations for Reform: Restoring Trust between the Chicago Police and the Communities they Serve, at 70-75, accessed May 16, 2017, <[https://chicagopatf.org/wp-content/uploads/2016/04/PATF\\_Final\\_Report\\_4\\_13\\_16-1.pdf](https://chicagopatf.org/wp-content/uploads/2016/04/PATF_Final_Report_4_13_16-1.pdf)>; Investigation of the Chicago Police Department, United States Department of Justice Civil Rights Division and United States Attorney's Office Northern District of Illinois, at 52; 57-59, accessed May 16, 2017, <https://www.justice.gov/opa/file/925846/download> <<http://www.justice.gov/opa/file/925846/download>>.

<sup>60</sup> The current FOP contract allows officers to "cash in" vacation, personal, and compensatory time to avoid serving unpaid time off imposed as discipline, thereby undermining the intended effect of such disciplinary actions. See FOP CBA, Section 7.1, accessed May 16, 2017, <[https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/FOPCBA2012-2017\\_2.20.15.pdf](https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/FOPCBA2012-2017_2.20.15.pdf)>; see also CPD Special Order S08-01-05, Section IV.C - Summary Punishment, effective November 30, 2016, accessed May 16, 2017, <<http://directives.chicagopolice.org/directives/data/a9fe0202-12ce5c17-7e612-cc5e-cb33ealb62e896de.html?hl=true>>; CPD Special Order S08-01-04, Section II.D - Sustained Complaint Options, effective March 13, 2013, accessed May 16, 2017, <<http://directives.chicagopolice.org/directives/data/a9fe0202-12ce5c17-7e612-cc5e-c89e9add877a4t7d.html?hl=tmc>>.

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increasing municipal exposure to civil liability in the form of monetary judgments and settlements. In numerous instances where an employee has engaged in misconduct that is legally imputed to the City, hindsight has revealed missed opportunities for earlier discipline that might have prevented the misconduct. Over the past year, both the Mayor's Police Accountability Task Force and the United States Department of Justice issued extensive findings regarding the historical ineffectiveness of the City's police accountability system, and made recommendations concerning what reforms are needed, including numerous changes to the FOP CBA.<sup>61</sup> In negotiating the 2017 CBAs, the parties should work in a collaborative fashion to ensure that the disciplinary systems established by the agreements reflect the values of the community and foster public trust and confidence, while both treating employees fairly and providing the City with effective tools to maintain a disciplined workforce.<sup>62</sup>

## B. Elements Found in Police and Fire Department CBAs

### 1. Common provisions

#### (a) Duty availability pay

In addition to salaries, the City issues lump sum quarterly payments, referred to as "duty availability pay," to sworn public safety employees. The CBAs are silent on the exact purpose of duty availability pay, but it is generally understood

to compensate for the fact that CPD and Fire personnel are often called to duty on their days off and, with respect to CPD personnel, that they are required to take action while off-duty if they see a crime in progress. CPD sergeants and lieutenants receive an \$805 duty availability payment per quarter, for an annual total of \$3,220, while captains receive \$730 quarterly, for an annual total of \$2,920. Other CPD members, and all Fire members, receive a quarterly duty availability payment of \$900, or \$3,600 annually. These payments are pensionable, and "entitlement to duty availability pay is not dependent on an

<sup>61</sup> See generally Chicago Police Accountability Task Force, Recommendations for Reform: Restoring Trust between the Chicago Police and the Communities they Serve, at 14-15; 70-75, accessed May 16, 2017, <<https://chicagopal.f.org/wp-content/uploads/2016/04/PATF>> Final Report 4 13 16-1 .pdf; Investigation of the Chicago Police Department, United States Department of Justice Civil Rights Division and United States Attorney's Office Northern District of Illinois 52; 57-59, accessed May 16, 2017, <<https://www.iusticc.gov/opa/file/925846/download>>. For a comprehensive overview of how police union contracts limit investigations of officer misconduct, see Stephen Rushin, Police Union Contracts, 66 DUKE. L.J. 1191 (2017), accessed May 25, 2017, <<http://scholarship.law.duke.edu/cgi/vicwcontent.cgi?article=3890&context=dli>>.

<sup>62</sup> In preparation for negotiations, the City should review and be prepared to deal with past arbitration decisions reaching constrictive outcomes that are adverse the public interest and governmental accountability, based either on the arbitrator's interpretation of existing CBA provisions, or resulting from rulings that the City must abide by a particular procedural mechanism due to past practice, without regard to what the contract actually requires. For example, the City has recently found itself in court challenging an arbitrator's determination - based on a dubious interpretation of the FOP contract - that the Police Board lacks jurisdiction to review any discipline short of termination. In another case, FOP has taken the frankly unreasonable position that CPD's management rights do not include the right to adopt a new "disciplinary matrix" for complaints against members and to expand the body-cam program - two reforms recommended by both DOJ and the PATF. To prevent these and similar issues from being resolved in the uncertain realms of arbitration and litigation, the parties should ensure that the new CBAs clearly and comprehensively define the contours of the parties' rights, and establish fair and effective disciplinary procedures.

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officer being present for duty for an entire pay period."<sup>61</sup> As of April 11, 2017, pursuant to the current CBAs, the City had spent a total of \$56,271,253 in duty availability pay for fiscal year 2016. In negotiating the 2017 CBAs, the parties should consider the prudence of continuing this practice.

*(b) Pension payments during time off for union work*

Under the CPD and Fire CBAs, the unions are allowed to place up to nine CPD members and five Firefighters on leave to work exclusively on union business. While the specific provisions vary somewhat, generally, the unions reimburse the City for the cost of these employees' salaries and benefits, with the exception that the City pays the employer's share of the pension contributions.<sup>64</sup> In negotiating the 2017 CBAs, the parties should explore whether this pension cost should be borne, in whole or in part, by the unions.

*(c) Fitness pay*

The FOP and Fire contracts both allow members to take a voluntary physical fitness examination once a year and receive a bonus upon successful completion. For FOP, this bonus is \$350; for Fire, it is \$450.<sup>65</sup> As of April 11, 2017, pursuant to the current CBAs, the City had spent a total of \$1,913,050 in fitness pay for fiscal year 2016.

Arguably, this "all carrot, no stick" approach to physical fitness is misplaced, given that fitness should generally be regarded as a baseline job requirement for holding physically demanding

FOP CBA, Section 20.13, accessed May 16, 2017, <[https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/FOPCBA2012-2017\\_2.20.15.pdf](https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/FOPCBA2012-2017_2.20.15.pdf)>; Sergeants CBA, Section 20.11, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement2/SgtsPBPACBA-2012-2016Final.pdf>>; Lieutenants CBA, Section 20.10, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement2/PBPALTSCBA2012-2016final.pdf>>; Captains CBA, Section 20.10, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/POLICEFIRE-PBPACaptainsCBA2012-64>> See FOP CBA, Section 17.2, accessed May 16, 2017, <[https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/FOPCBA2012-2017\\_2.20.15.pdf](https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/FOPCBA2012-2017_2.20.15.pdf)>; Sergeants CBA, Section 17.2, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement2/SgtsPBPACBA-2012-2016Final.pdf>>; Lieutenants CBA, Section 17.2, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement2/PBPALTSCBA2012-2016final.pdf>>; Captains CBA, Section 17.2, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/POLICEFIRE-PBPACaptainsCBA2012-2QI6final-c.pdf>>; Fire CBA, Section 3.4, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/POLICEFIRE-Local2CBA2012-2QI7final.pdf>>.  
<sup>65</sup> See FOP CBA at 99-100, "Physical Fitness Incentive," accessed May 16, 2017, <[https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/FOPCBA2012-2017\\_2.20.15.pdf](https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/FOPCBA2012-2017_2.20.15.pdf)>; Fire CBA, pdf pages 206-07, Side Letter Agreement re: Physical Fitness Program, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/POLICEFIRE-Local2CBA2012-2017final.pdf>>.

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public safety positions. As such, it appears to be misaligned with operational imperatives, as well as inequitable compared to the "all stick, no carrot" approach applicable to the rest of the City workforce under the mandatory Chicago Lives Healthy wellness program. In negotiating the 2017 CBAs, the parties should consider whether this benefit is appropriate and sustainable. More specifically, the parties should consider whether a mandatory fitness standard is appropriate from an operational perspective, and, if so, what that standard should be. If a standard is imposed, it might be more effective, equitable, and financially responsible to utilize penalties for failure to comply rather than incentives for compliance.

(c) *Health fairs*

The FOP and Fire CBAs each provide for an annual payment of \$75,000 to the unions to fund a health fair.<sup>66</sup> This may once have been a cost-effective way of encouraging officers to maintain their health. However, it may now be an anachronistic holdover that provides extra money to the unions, which presumably can provide such support to their members through programs funded by check-off dues and the activities of their health and welfare funds, to say nothing of the City's own employee-wellness programs.

(e) *Vocational training*

The FOP and Fire contracts both provide that the City will appropriate funds for vocational training for members on duty disability. Currently, the annual appropriation is at least \$55,000 for Fire and at least \$120,000 for FOP.<sup>67</sup> The decision

whether to continue this program should be based on a showing of its effectiveness.

**2. Police-specific provisions**

*(a) Compensatory time buybacks*

In exchange for working non-Fair Labor Standards Act (FLSA) overtime,<sup>68</sup> a CPD member may choose to receive either pay or compensatory time.<sup>69</sup> There is no cap on the amount of

<sup>68</sup> See FOP CBA at 117, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/FOPCBA2012-2017.2.20.15.pdf>>; Fire CBA, at pdf page 197, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/POLICEFIRE-Local2CBA2012-2017final.pdf>>.

<sup>69</sup> See FOP CBA at 118, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/FOPCBA2012-2017.2.20.15.pdf>>; Fire CBA, pdf page 205, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/POLICEFIRE-Local2CBA2012-2017final.pdf>>.

<sup>68</sup> "Non-FLSA overtime" refers to any hours worked in addition to a CPD member's normal work week up to the FLSA threshold, which is 171 hours of work in a 28-day period. Any hours worked beyond this threshold constitute FLSA overtime. Both FLSA and non-FLSA overtime pay time-and-a-half. For example, if over the course of four weeks, a police officer worked 20 hours of overtime in addition to their normal 40-hour work week, the officer would be paid for 160 hours at the regular rate, 11 hours at the rate of time-and-a-half for non-FLSA overtime, and 9 hours at the rate of time-and-a-half for FLSA overtime.

<sup>69</sup> See FOP CBA, Section 20.2, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/FOPCBA2012-2017.2.20.15.pdf>>; Sergeants

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compensatory time a CPD member can accumulate, nor any specified period within which a member must use or receive pay for the time, meaning compensatory time can accumulate throughout a member's entire career.

Sergeants, lieutenants, and captains are entitled to cash in up to 200 hours of accrued compensatory time each year.<sup>70</sup> In addition, the City allows all CPD members to cash in compensatory time upon retirement.<sup>71</sup> The City pays the member's wage or salary rate at the time the hours are cashed in, rather than at the time the compensatory time was earned; this generally results in a higher rate, due to promotions and salary increases. When a member cashes in compensatory time upon retirement, the City makes payments in this manner:

Sworn Rank	Paid at Retirement	Paid on or Before March 1 of the First Calendar Year Following Retirement	Paid on or Before March 1 of the Second Calendar Year Following Retirement	Paid on or Before March 1 of the Third Calendar Year Following Retirement
Police Officer	Value of accrued compensatory time up to \$20,000	Value of remaining accrued compensatory time up to \$15,000, plus one-third of the value of the remainder (if any)	Value of remaining accrued compensatory time up to \$15,000, plus one-third of the value of the remainder (if any)	Value of any remaining accrued compensatory time
Sergeant, Lieutenant, or Captain	Value of accrued compensatory time up to \$20,000	Value of remaining accrued compensatory time up to \$15,000, plus one-third of the value of the remainder (if any)	Value of remaining accrued compensatory time up to \$15,000, plus one-third of the value of the remainder (if any)	Value of any remaining accrued compensatory time

Sources: FOP CBA at 123-24, accessed April 26, 2017, <https://www.cityofchicago.org> <http://cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/FOPCBA2012-2017\_2.20.15.pdf> Captains CBA at 84, accessed April 26, 2017, http://directivcs.chicagopolice.org/contracts/PBPA <http://vcs.chicagopolice.org/contracts/PBPA> CaptContract.pdf.

CBA, Section 20.2, accessed May 16, 2017, http://www.cityofchicago.org <http://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement2/SgtsPBPA2012-2016Final.Ddf> Lieutenants CBA, Section 20.2, accessed May 16, 2017, <https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement2/PBPALTS2012-2016final.pdf> Captains CBA, Section 20.2, accessed May 16, 2017, <https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/OLICEFIRE-PBPACaptainsCBA2012-2016final-c.pdf>

<sup>70</sup> See Sergeants CBA, Section 26.6, accessed May 16, 2017, <https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement2/SgtsPBPA2012-2016Final.pdf> Lieutenants CBA, Section 26.6, accessed May 16, 2017, <https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement2/PBPALTS2012-2016final.pdf> Captains CBA, Section 26.6 accessed May 16, 2017, <https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/POLICEFIRE-PBPACaptainsCBA2012-2016final-c.pdf>

<sup>71</sup> See Sergeants CBA, Section 26.5, accessed May 16, 2017, <https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/FOPCBA2012-2017\_2.20.15.pdf> Lieutenants CBA, Section 26.5, accessed May 16, 2017, <https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement2/SgtsPBPA2012-2016Final.pdf> Captains CBA, Section 26.5, accessed May 16, 2017, <https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement2/PBPALTS2012-2016final.pdf>

CBA, Section 26.5 accessed May 16, 2017, https://www.cityofchicago.org <https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/POLICEFIRE-PBPACaptainsCBA2012-2016final-c.pdf>

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In 2013 and 2014, a total of 630 retiring CPD members began the three-year process of cashing in accrued compensatory time. OIG calculated the value of compensatory time paid out to those officers from 2013 through 2017 as exceeding \$23 million. As shown in the table below, for more than one-third of those retiring members (214 out of 630), individual compensatory time payouts, including final annual buybacks, exceeded \$50,000. Nineteen CPD members who retired in 2013 and 2014 each received payment for more than \$200,000 worth of accrued compensatory time. One of these members, a sergeant who retired in 2013 after 40 years' service, received \$799,427 in compensatory time payouts, which, when combined with other accrued time compensation, resulted in total payments of \$829,598 between 2013 and 2016—an average of more than \$200,000 per year.

Retirement Year	Range of Compensatory Time Buyback	Number of CPD Members in Range	Total Paid between 2013 and 2017
2013	over \$50,000		
	\$100,000-\$199,999	30	\$3,588,814
	\$200,000-\$499,999	1	\$799,427
2014	\$500,000+	66	\$3,235,562
			\$3,390,340

\$200,000-8299,999	6	\$1,234,013
		///;-^ST\$348,45^ \.
Total	102	\$8,208,369
W/ G RAND; TOT AL /'...;		' • ! \$18,995;3;i3' -;•

Source: OIG analysis of CPD payroll records.

These annual expenditures will continue far into the foreseeable future, as active members reach retirement. According to an actuarial report prepared by an outside vendor, as of December 31, 2015, the City's long-term liability for accrued CPD compensatory time was approximately \$259 million. This particularly expensive element of the CPD contracts should be carefully evaluated in the 2017 CBA negotiations.

*(b) Payments for unused leave time*

In addition to vacation (in CPD parlance, "furlough"), members with at least one year of CPD service receive three to six days of additional leave referred to as "Baby Furlough Days" (BFDs).<sup>72</sup> Members may carry over up to four BFDs to the next calendar year, or receive

<sup>72</sup> See FOP CBA, Section 29.1, accessed May 16, 2017,

[https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/FOPCBA2012-2017\\_2.2Q.15.pdf](https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/FOPCBA2012-2017_2.2Q.15.pdf); Sergeants

CBA, Section 29.1, accessed May 16, 2017,

<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement2/SgtsPBPACBA-2012-2016Fmal.pdf>;

Lieutenants CBA, Section 29.1, accessed May 16, 2017,

<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement2/PBPALTS CBA2012-2016final.pdf>; Captains

CBA, Section 29.1 accessed May 16, 2017, <https://www.cityofchicago.org>

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payment for them in the year after they are awarded.<sup>73</sup> As is the case with compensatory time, payment for BFDs is "based upon the salary schedule in effect at the time of payment," meaning that when a member receives a salary increase between the date a BFD is awarded and the date payment is made, the payment is made at the higher salary rate.<sup>14</sup> Police officers also receive four paid personal days annually; sergeants, lieutenants, and captains receive six. CPD members are paid for unused personal days by April of the following year.<sup>73</sup> The CBAs are silent on the pay rate applicable to cashed-in personal days. Here, again, in negotiating the 2017 CBAs, the parties should undertake a clear-eyed assessment of the sustainability of these practices.

*(c) Quarterly differential for sergeants, lieutenants, and captains*

Each year, the City pays CPD sergeants, lieutenants, and captains a lump sum quarterly "differential" payment. This supplemental pay was originally intended to compensate supervisors for overtime. When the policy was implemented, these positions did not receive overtime like their subordinates. Now, however, they do. Currently, the quarterly payment

ranges from \$3,536 to \$6,693 for sergeants; from \$3,673 to \$8,462 for lieutenants; and from \$3,718 to \$10,812 for captains.<sup>76</sup> As of April 11, 2017, pursuant to the current CBAs, the City

[/content/danycitv/depts/^2016final-c.pdf](#)

<sup>73</sup> See FOP CBA, Sections 29.2, accessed May 16, 2017, <https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/FOPCBA2012-2017.2.20.15.pdf>; Sergeants CBA, Sections 29.2, accessed May 16, 2017, <https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement2/SgtsPBPACBA-2012-2016Final.pdf>; Lieutenants CBA, Sections 29.2, accessed May 16, 2017, <https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement2/PBPALTS CBA2012-2016final.pdf>; Captains CBA, Sections 29.2, accessed May 16, 2017, <https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/POLICEFIRE-PBPACaptainsCBA2012-2016final-c.pdf>.

<sup>74</sup> See FOP CBA, Sections 29.3, accessed May 16, 2017, <https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/FOPCBA2012-2017.2.20.15.pdf>; Sergeants CBA, Sections 29.3, accessed May 16, 2017, <https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement2/SgtsPBPACBA-2012-2016Final.pdf>; Lieutenants CBA, Sections 29.3, accessed May 16, 2017, <https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement2/PBPALTS CBA2012-2016final.pdf>; Captains CBA, Sections 29.3 accessed May 16, 2017, <https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/POLICEFIRE-PBPACaptainsCBA2012-2016final-c.pdf>.

<sup>75</sup> See FOP CBA, Section 11.3, accessed May 16, 2017, <https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/FOPCBA2012-2017.2.20.15.pdf>; Sergeants CBA, Section 11.3, accessed May 16, 2017, <https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement2/SgtsPBPACBA-2012-2016Final.pdf>; Lieutenants CBA, Section 11.3, accessed May 16, 2017, <https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement2/PBPALTS CBA2012-2016final.pdf>; Captains CBA, Section 11.3 accessed May 16, 2017, <https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/POLICEFIRE-PBPACaptainsCBA2012-2016final-c.pdf>.

<sup>76</sup> See Sergeants CBA, Section 26.2 & Appendix M, accessed May 16, 2017, <https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement2/SgtsPBPACBA-2012-2016Final.pdf>; Lieutenants CBA, Section 26.2 & Appendix M, accessed May 16, 2017, <https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement2/PBPALTS CBA2012-2016final.pdf>; Captains

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had paid a total of \$9,339,722 in quarterly differential pay for fiscal year 2016. In negotiating the 2017 CBAs, the parties should consider whether to continue this arguably outdated practice.

(c) "Rank credit "for sergeants, lieutenants, captains

For each day a CPD sergeant, lieutenant, or captain works at least 4 hours, they are awarded 45 minutes of compensatory time.<sup>77</sup> The current contracts place no cap on the amount of compensatory time an employee can accumulate under this provision. In negotiating the 2017 CBAs, the parties should seek to determine whether this sort of benefit is sustainable in light of the City's finances.

(e) Detail pay for sergeants

If CPD reassigns a sergeant assigned to District Law Enforcement to a district outside their area of assignment, the Department must pay the sergeant at the rate of time-and-a-half.<sup>78</sup> Here, too, negotiations on the 2017 CBA should revisit whether the City can afford to continue this practice.

(j) *Secondary employment*

The current FOP CBA provides that CPD "reserves the right to restrict secondary employment when it has reasonable cause to believe that the number of hours which the Officer spends on secondary employment is adversely affecting their performance as a police officer. The Employer retains the existing right to limit, restrict or prohibit the nature or type of secondary employment that an Officer undertakes."<sup>79</sup> Nevertheless, CPD has yielded much of its authority to regulate secondary employment, relying instead on a self-enforcement approach with no

CBA, Section 26.2 & Appendix M, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/POLICEFIRE-PBPACaptainsCBA2012-2016final-c.pdf>>

<sup>77</sup> See Sergeants CBA, Section 20.10, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement2/SglsPBPACBA-2012-2016Final.pdf>> Lieutenants CBA, Section 20.9, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement2/PBPALTSCBA2012-2016final.pdf>> Captains

CBA, Section 20.9, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/POLICEFIRE-PBPACaptainsCBA2012-2016final-c.pdf>>

<sup>78</sup> See Sergeants CBA, Section 23.8.D, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement2/SgtsPBPACBA-2012-2016Final.pdf>>

<sup>79</sup> FOP CBA, Section 16.1, accessed May 16, 2017, <[https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/FOPCBA2012-2017\\_2.20.15.pdf](https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/FOPCBA2012-2017_2.20.15.pdf)> pdf; see also Sergeants CBA, Article 16, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement2/SgtsPBPACBA-2012-2016Final.pdf>> Lieutenants CBA, Article 16, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement2/PBPALTSCBA2012-2016final.pdf>> Captains

CBA, Section 16.1, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/POLICEFIRE-PBPACaptainsCBA2012-2016final-c.pdf>>

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reporting requirement.' By comparison, civilian City employees generally, including civilian employees in CPD,<sup>81</sup> must report and receive permission for engaging in secondary employment. Because the policy of allowing police officers to engage in unreported secondary employment has been formalized in a departmental directive, it may qualify as a past practice that can be altered only via contract negotiations.

Research suggests that secondary employment is a significant risk factor for law enforcement performance. It can lead to excessive stress, exhaustion, and burnout.<sup>82</sup> Allowing unreported secondary employment by police officers also deprives CPD of "a key tool for identifying red flags that can be indicators of corruption, such as unexplained income."<sup>83</sup> Finally, even when operating in a private capacity, an off-duty officer might act in a manner arguably constituting law

enforcement. This is not to say the mere fact that someone is employed by a police agency transforms all of their conduct into official law enforcement action. To establish a clear line, however, some departments require employers providing secondary employment to police officers to sign agreements releasing the government from responsibility in the event an off-duty officer acts unlawfully during a secondary shift.<sup>84</sup> Currently, CPD cannot utilize this tactic, because, absent disclosure, officers' secondary employers are unknown. This leaves the City with avoidable legal exposure. In fact, from 2011 to date, City attorneys have represented CPD members in at least four lawsuits arising from the members' conduct while engaged in outside jobs.<sup>85</sup> For these reasons, in negotiating the 2017 CBA, the parties should consider adopting a more rigorous, secondary employment policy.<sup>86</sup>

See Chicago Police Department, Employee Resource E01-11 "Secondary Employment," Section VLB, accessed May 16, 2017, <<http://directives.chicagopolice.org/directives/data/a7a57be2-128f45e0-23612-8f5b->36a7dlQJ4fbdcf8d.pdf?hl=true>. CPD not only allows unreported secondary employment; it places no cap on the number of hours an officer may work on a daily, weekly, or monthly basis. In contrast, nationally, as of 2007, approximately 75% of sworn officers worked for a department that imposed maximum hour restrictions. See Department of Justice Office of Justice Programs, Bureau of Justice Statistics, Local Police Departments, 2007, at 13, accessed May 16, 2017, <<https://www.bis.gov/content/pub/pdf/lpd07.pdf>>.

<sup>81</sup> See Chicago Police Department, Employee Resource E01-11 "Secondary Employment," Section VI.A, accessed May 16, 2017, <<http://directives.chicagopolice.org/directives/data/a7a57be2-128f45e0-23612-8f5b->36a7dl014fbdcf8d.pdf?hl=true>.

<sup>82</sup> See, e.g., Perry L. Lyle, "Moonlighting Police: Policies That Regulate Secondary Employment - Possible Stress and Job Burnout Issues" (PhD diss. Cappella University, 2015), accessed May 16, 2017, <<http://pqdtopen.proquest.com/doc/1709243672.html?FMT=AI>>.

<sup>83</sup> Chicago Police Accountability Task Force, Recommendations for Reform: Restoring Trust between the Chicago Police and the Communities they Serve, at 73, accessed May 16, 2017, <[https://chicagopatf.org/vvp->content/uploads/2016/04/PATF\\_Final\\_Report\\_4\\_13\\_16-1.pdf](https://chicagopatf.org/vvp->content/uploads/2016/04/PATF_Final_Report_4_13_16-1.pdf).

<sup>84</sup> The Cook County Sheriff's Department requires this sort of waiver. See Jonah Newman, "When Chicago cops moonlight, no one is watching," The Chicago Reporter (May 8, 2017), accessed May 9, 2017, <http://chicagoreporter.com/when-chicago-cops-moonlight-no-one-is-watching/>; see also, e.g., Baltimore Police Department, Policy 1702, at 3, accessed May 16, 2017, <[https://www.baltimorepolice.org/sites/default/files/Policies/1702\\_Secondary\\_Employment.pdf](https://www.baltimorepolice.org/sites/default/files/Policies/1702_Secondary_Employment.pdf): Office of the City of San Jose Auditor, "Police Department Secondary Employment: Urgent Reform and a Cultural Change Needed to Gain Control of Off-Duty Police Work," at 5-6, accessed May 16, 2017, <<https://www.sanioscca.gov/DocumentCenter/View/3133> (describing requirements in San Jose Municipal Code).

<sup>85</sup> See Jonah Newman, "When Chicago cops moonlight, no one is watching," The Chicago Reporter (May 8, 2017), accessed May 9, 2017, <http://chicagoreporter.com/when-chicago-cops-moonlight-no-one-is-watching/>. This article further notes the identification of "at least 11 complaints of excessive force and unnecessary display of a weapon

(g) *City sticker and state vehicle licensing compliance*

The FOP contract creates a special rule for police officers with regard to compliance with state vehicle licensing and City sticker laws. In essence, an officer who is found to be violating one or both of these laws is not treated like other motorists. Instead, they are subject to a one-day suspension, and given time to come into compliance. This evidently extralegal practice should be abandoned in the 2017 CBA or, to the extent it is maintained, should be recalibrated to provide for a sanction consonant with the law enforcement mission of the Department generally and sworn police officers individually.<sup>87</sup>

**3. Fire-specific provisions**

a) *Bonus vacation days upon separation*

The Fire CBA provides that employees who separate from Fire after 20 years of service are entitled to either 7 or 21 additional vacation days, depending on their work status. This provision contains an exception for cases of "discharge by reason of a felony conviction relating to or

arising out of or in connection with [a Firefighter's] service." ' In negotiating the 2017 CBA, the parties should consider reducing this benefit and/or expanding the exception to cover discharge for any cause.

b) Holiday on furlough or "Daley Day" <sup>89</sup>

Under the "Holiday on Furlough" provision of the Fire contract, a Firefighter who is scheduled to be on vacation during a paid holiday is paid for that day "as if he/she had worked on the holiday."<sup>90</sup> The Firefighter is therefore paid for both the holiday and their vacation on that date.

from 2014 to 2016 that appeared to involve moonlighting, based on records from the Independent Police Review Authority."

<sup>86</sup> For a summary of potential reforms in this area, see Jonah Newman, "Five ways Chicago could regulate moonlighting cops," The Chicago Reporter (May 8, 2017), accessed May 9, 2017, <<http://chicagoreporter.com/five-wavs-chicago-could-rcgulate-moonlighting-cops/>>.

<sup>87</sup> See FOP CBA at 113-14, accessed May 16, 2017,

<<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/FOPCBA2012-2017.2.20.15.pdf>>. CPD has agreed to extend the same "courtesy" to AFSCME members working for CPD. See AFSCME CBA at 229 (side letter 29), accessed May 16, 2017,

<[https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreements/afscme fully executed cba 2012-2017.pdf](https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreements/afscme%20fully%20executed%20cba%202012-2017.pdf)>. This, too, should be abandoned.

<sup>88</sup> Fire CBA, Section 7.1.C, accessed May 16, 2017, <<https://www.cityofchicago.org/content/d3m/city/depts/dol/Collective%20Bargaining%20Agreement3/POLICEFIRE-Local2CBA2012-2017final.pdf>>.

<sup>89</sup> "Daley Days" are two additional regular days off per month granted to fire suppression Firefighters working the 24-hour shift. This term is not defined in the Fire CBA.

Fire CBA, Section 7.2.C.2, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/POLICEFIRE-Local2CBA2012-2017final.pdf>>. It also bears noting that while most City employees receive 12 paid holidays per year. Fire and CPD employees receive 13. See Fire CBA, Section 7.2.A, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/POLICEFIRE-Local2CBA2012-2017final.pdf>>; FOP CBA, Section 11.1, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/FOPCBA2012-2017.2.20.15.pdf>>. Sergeants

Similarly, the "Holiday on a Daley Day" section provides that if a holiday falls on the Firefighter's Daley Day, they receive 24 hours of holiday pay.<sup>91</sup> When a holiday coincides with a platoon Firefighter's Daley Day and that employee is "rehired," i.e., called to service due to staffing needs, they are paid 24 hours of holiday premium pay plus time-and-a-half for all hours worked.<sup>92</sup> Further, platoon Firefighters on the medical roll are paid 24 hours of holiday pay when a holiday falls on their Daley Day, and Firefighters on the medical roll with duty-related injuries, illnesses, or disabilities receive 24 hours of holiday pay for holidays falling on their regularly-scheduled work days. In negotiating the 2017 CBA, the parties should consider simplifying these provisions and reassessing their financial feasibility, and similarly consider bringing the number of paid holidays into equitable parity with the rest of the City workforce.

c) Paid administrative days

The Fire CBA provides that 40-hour Firefighters receive four paid administrative days per year. Administrative days are

days on which Firefighters can elect to take paid leave. For Fire' Prevention Bureau employees, an administrative day is ten hours, rather than the eight hours provided all other 40-hour Firefighters. Firefighters may take payment in lieu of the time off, i.e., a "buyback."<sup>93</sup> As of April 11, 2017, pursuant to the current CBA, the City had spent a total of \$133,405 in administrative-day "buy backs" for fiscal year 2016. In negotiating the 2017 CBA, the parties should reconsider whether this benefit is sustainable given the City's dire financial situation.

d) *Manning*

The Fire contract's minimum-manning provision mandates how many Firefighters must be assigned to each Fire apparatus, as well as the minimum number of each type of apparatus the Department must maintain. The interaction of these two minimums means that the CBA effectively sets a floor on the number of Firefighters the City must employ. Additionally, ambulance manning requirements mandate one EMS Field officer and at least eight EMS field chiefs per EMS district on a daily basis. There are also minimum manning requirements for paramedics and EMTs, as well as dual-trained Paramedic/Firefighters. The CBA allows the City

CBA, Section 11.1, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement2/SgtsPBPACBA-2012-2016Final.pdf>>; Lieutenants CBA, Section 11.1, accessed May 16, 2017, <https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement2/PBPALTSBA2012-2016final.pdf>; Captains CBA, Section 11.1, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/POLICEFIRE-PBPACaDtainsCBA2012-2016final-c.pdf>>

<sup>91</sup> See Fire CBA, Section 7.2.C.3, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/POLICEFIRE-Local2CBA2012-2017final.pdf>>

See Fire CBA, Section 7.2.C.5, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/POLICEFIRE-Local2CBA2012-2017final.pdf>>

<sup>93</sup> See Fire CBA, Section 7.6.A, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/POLICEFIRE-Local2CBA2012-2017final.pdf>>

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to have up to 35 "variances" per day from the manning requirement, increased from 30 variances in the previous contract. A variance permits the City to staff an apparatus with one less Firefighter than the contract requires.<sup>94</sup>

While it is unquestionably necessary for Fire to have at its disposal a sufficient number of adequately manned apparatuses to fulfill its public safety mission, OIG cannot discern whether the numbers locked in by the current CBA meet that standard. In negotiating the 2017 CBA, the parties should consider taking a rigorous empirical look at this issue and devising a manning requirement based on an independently verifiable standard to increase flexibility while serving the City's actual needs. If the numbers are too low, they should be increased as necessary to allow CFD to operate effectively; if they are too high, they should be decreased to conserve resources.

(e) *Contributions to Employee Assistance Program providers*

Fire "has historically maintained an Employee Assistance Program [EAP] to assist employees who may suffer from alcoholism, drug dependency, or other illnesses which should be treated."<sup>95</sup> The Fire CBA commits the City to contributing "the annual sum of \$65,000 in the first quarter of each year to the following recipients in the following amounts: Rosecrance, \$30,000; Guildhaus, \$25,000; and Labor Assistance Professionals, \$10,000."<sup>96</sup> Because these providers are specifically identified in the CBA, they are guaranteed multiple years of City business without having to acquire it through the typical procurement processes. Fire's EAP may be a valuable program. However, in negotiating the

2017 CBA, the parties should look at the City's required contribution to ensure that it does not exceed (or, for that matter, fall below) the necessary amount.

See Fire CBA, Section 16.4, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/POLICEFIRE-Local2CBA2012-2017final.pdf>>.  
Fire CBA, Section VI.B.1, accessed May 16, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/POLICEFIRE-Local2CBA2012-2017final.pdf>>.  
Fire CBA at pdf page 236, accessed April 18, 2017, <<https://www.cityofchicago.org/content/dam/city/depts/dol/Collective%20Bargaining%20Agreement3/POLICEFIRE-Local2CBA2012-2017final.pdf>>.

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**IV. Appendix A: City CBAs With Unions Constituting The Coalition of Unionized Public Employees**  
**<<http://Employf.es>> (COUPE)**

Union(s)	Bargaining Unit (s)	Employees Covered by CBA
Teamsters Local 726	BU 8	Truck drivers, street sweepers, tire repairers, equipment dispatchers/coordinators, ground transportation monitors, equipment training specialists, garage attendants, automotive parts men, chauffeurs, booters, airport parking employees/terminal monitors, Skyway workers, auto pound employees, service writers
International Union of Operating Engineers Local 399	BU 12	Operating engineers
International Association of Heat and Frost Insulators and Asbestos Workers Local 17	BU 13	Asbestos workers
Pipefitters' Association Local 597	BU 14	Cooling plant inspectors, mechanical equipment inspectors, gas meter inspectors, steamfitters
Journeyman Plasterers' Protective and Benevolent Society of Chicago Local 5	BU 15	Plasterers
Chicago Journeymen Plumbers' Local 130	BU 16	Water distribution employees, water pipe construction employees, pipe location machine operators, caulkers, hydrant inspectors, plumbing test laboratory employees, inspectors, water rate takers, plumbers, sewer workers, house drain inspectors

United Union of Roofers, Waterproofers and Allied Workers Local 11	BU 18	Roofers
International Union of Operating Engineers Local 150	BU 19	Deck hands
International Organization of Masters, Mates and Pilots - Great Lakes & Rivers Maritime Region	BU21	Marine engineers, marine pilots, fire boat pilots
Pointers, Cleaners and Caulkers Local 52	BU 22	Tuck pointers
National Conference of Firemen & Oilers Local 7	BU 23	Stationary firemen, boiler washers
International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers Local 1	BU 24	Blacksmiths, boiler inspectors
Sign and Pictorial Painters Local 830	BU25	Sign painters
International Brotherhood of Electrical Workers (IBEW) Local 9	BU 29	Linemen, lamp maintenance men/repairers, load dispatchers, electrical surveymen, street light repairmen, traffic signal repairmen, equipment training specialists, coordinating fire communications operators
International Union of Operating Engineers Local 150	BU31	Bridge operators
IBEW Local 134	BU 32	Electrical mechanics, electronic technicians, electrical inspectors
Cement Masons' Local 502	BU 33	Cement finishers, concrete supervisors
Glaziers, Architectural Metal and Glass Workers Local 27	BU 34	Glaziers

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Union(s)	Bargaining Unit (s)	Employees Covered by CBA
Window Cleaners Union, Service Employees	InteBU 35	Window washers
International Association of Machinists and Aero	BU 36	Air mask technicians, machinists, parking meter mechanics, water meter machinists, public vehicle inspectors, police motor maintenance service writers
Painters' District Council No. 14	BU39	Painters
Sheet Metal Workers' International Association	LBU 41	Ventilation and furnace inspectors, sheet metal workers, sign hangers
International Union of Operating Engineers Local	BU 42	Construction equipment inspectors, hoisting engineers, fleet shop/service mechanics
International Union of Elevator Constructors Local	BU43	Elevator inspectors
Carpenters Local 13	BU44	Building inspectors, construction inspectors, zoning investigators
Service Employees International Union (SEIU)	LBU 45	Custodial workers, metal caretakers, watchmen, branch custodians, station laborers
International Association of Bridge, Structural and	BU 46	Bridge and structural ironworkers/inspectors
Architectural and Ornamental Iron Workers Local	BU47	Architectural ironworkers/inspectors
Sprinkler Fitters and Apprentices Local 281	BU48	Sprinkler fitters
United Order of American Bricklayers and Stone	BU 49	Bricklayers, mason inspectors
Chicago and Northeast Illinois District Council	UBU50	Carpenters, general tradesmen, lathers, locksmiths
America - Cement Workers Local	BU 28 BU 53 BU 54	Various positions; see Appendix B for list
Employees, Supervisor's 1001 - Water Pipe Extension Engineering Laborers Local		
Teamsters Local 700 (CBA 1)	BU58	Supervising police communications operators

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**Appendix B: COUPE Positions Represented by BUs 28,53, and 54**

ADMINISTRATIVE ASSISTANT I AIRPORT MAINTENANCE FOREMAN AIRPORT OPERATIONS SUPERVISOR I  
AIRPORT OPERATIONS SUPERVISOR II ASPHALT CUTOUT FOREMAN ASPHALT FOREMAN ASPHALT HELPER  
ASPHALT RAKER ASPHALT SMOOTHER ASPHALT TAMPER  
ASST CHIEF AIRPORT OPERATIONS SUPERVISOR ASST DIRECTOR SECURITY  
ASST DISTRICT SUPERVISOR OF RODENT CONTROL  
ASST FORESTRY SUPERVISOR  
ASST SHOP SUPERVISOR  
ASST SUPERINTENDANT OF FORESTRY  
ASST SUPERVISOR OF STREET CLEANING  
CEMENT MIXER  
CHIEF ORDINANCE ENFORCEMENT OFFICER  
CHIEF STOREKEEPER  
CHIEF TIMEKEEPER  
CONSTRUCTION LABORER  
CRIB KEEPER  
DISPATCHER - ASPHALT  
DISPATCHER - CONCRETE  
DISTRICT ASPHALT SUPERVISOR  
DISTRICT CLERK  
DISTRICT FOREMAN OF LANDSCAPE MAINTENANCE DISTRICT SUPERVISOR - GRAFFITI REMOVAL SERVICES DISTRICT  
SUPERVISOR TRANSPORTATION, DISTRICT SUPERVISOR OF RODENT CONTROL DISTRICT TREE FOREMAN DIVER  
DUMP FOREMAN  
DUMP FOREMAN  
EMERGENCY CREW DISPATCHER  
ENGINEERING TECHNICIAN IV  
ENGINEERING TECHNICIAN IV  
FIELD PAYROLL AUDITOR  
FIELD SERVICE SPECIALIST I  
FIELD SERVICE SPECIALIST II  
FIELD SERVICE SPECIALIST III

FIELD SUPERVISOR  
FIELD VEHICLE INVESTIGATOR  
FOREMAN OF CONSTRUCTION LABORERS  
FOREMAN OF LABORERS  
FOREMAN OF LABORERS  
FOREMAN OF PIPE YARD  
FORESTRY SUPERVISOR  
GENERAL FOREMAN OF CONSTRUCTION LABORERS GENERAL FOREMAN OF DUMPS GENERAL FOREMAN OF LABORERS  
HAND LABORER  
LABORER-AVIATION  
LABORER - BUREAU OF ELECTRICITY  
LABORER - POLICE  
LABORER-REVENUE  
LABORER - SANI TATION  
LABORER - TRANSPORTATION  
LABORER - WATER  
LABORER AS ESTIMATOR IN CHARGE  
LABORER AS ESTIMATOR  
LABORER ON REPAIRS  
MATERIALS DISPATCHER  
MATERIALS INSPECTOR  
ORDER FILLER  
PARK LABORER  
PLASTER HELPER  
POWER TRUCKER  
PRINCIPAL STOREKEEPER  
PUBLIC WAY INSPECTOR I  
PUBLIC WAY INSPECTOR II  
PUBLIC WAY INSPECTOR III  
PUBLIC WAY INSPECTOR IV  
QUALITY ASSURANCE SPECIALIST  
REFUSE COLLECTION COORDINATOR  
SAFETY SPECIALIST  
SECTION FOREMAN  
SENIOR STOREKEEPER  
CONSTRUCTION LABORER  
SUBFOREMAN  
SHOP LABORER  
SOLID WASTE REPORTING SYSTEM  
SPECIALIST  
STORE KEEPER  
STORES LABORER  
STREET REPAIR FOREMAN  
SUPERVISING TIMEKEEPER  
SUPERVISOR OF FIELD VEHICLE  
INVESTIGATORS  
SUPERVISOR OF LOT CLEANING  
SUPERVISOR OF PAYROLL  
SUPERVISOR OF STREE T CLEANING  
TRAFFIC MAINTENANCE SUPERVISOR  
TRAFFIC SURVEYMAN  
TRAINING AGENT I  
TRAINING AGENT II  
TREE TRIMMER I  
TREE TRIMMER II  
TREE TRIMMER III  
WARD CLERK  
WATCHMAN  
WEIGHMASTER  
YARD LABORER

City of Chicago Office of the Inspector General

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To Report Fraud, Waste, and Abuse in City Programs	Call OIG's toll-free hotline 866-IG-TIPLINE (866-448-4754). Talk to an investigator from 8:30 a.m. to 5:00 p.m. Monday-Friday. Or visit our website: < <a href="http://chicagoinspectorgeneral.org/get-involved/fight-waste-fraud-and-abuse/">http://chicagoinspectorgeneral.org/get-involved/fight-waste-fraud-and-abuse/</a> >

Mission

The City of Chicago Office of Inspector General (OIG) is an independent, nonpartisan oversight agency whose mission is to promote economy, efficiency, effectiveness, and integrity in the administration of programs and operations of City government. OIG achieves this mission through,

administrative and criminal investigations; audits of City programs and operations; and reviews of City programs, operations, and policies.

From these activities, OIG issues reports of findings and disciplinary and other recommendations to assure that City officials, employees, and vendors are held accountable for the provision of efficient, cost-effective government operations and further to prevent, detect, identify, expose and eliminate waste, inefficiency, misconduct, fraud, corruption, and abuse of public authority and resources.

Authority

The authority to produce reports and recommendations on ways to improve City operations is established; in the City of Chicago Municipal Code § 2-56-030(c), which confers upon the Inspector General the following power and duty:

*To promote economy, efficiency, effectiveness and integrity in the administration of the programs and operations of the city government by reviewing programs, identifying any inefficiencies, waste and potential for misconduct therein, and recommending to the mayor and the city council policies and methods for the elimination of inefficiencies and waste, and the prevention of misconduct.*