

1 year to investigate, we would hope we would be
2 given sufficient time to prepare likewise.

3 And as you said, it's a minimum of 96
4 hours. It's not meant to be absolute.

5 But again, I think this is going to also
6 make things go a lot smoother for both Management
7 and the Union.

8 COLONEL CLARK: There's another point.
9 Because I think this parenthesis in here is
10 pretty important. And it says, including all
11 proof to be relied on by the hearing officer.

12 There may be a statement inside of a file
13 that a hearing officer -- when you come in --
14 let's just say you, J.D., come in to review a
15 file. And if I as a hearing officer choose to
16 remove, I give no credence to a statement.
17 Okay? And I tell you I'm removing this one for
18 the record, it will not be used. You understand
19 what I'm saying?

20 MR. SEWELL: How do you know it doesn't
21 have credence if you hadn't already reviewed it?

22 COLONEL CLARK: No, no, no. I've
23 reviewed it -- well, because I won't go on the
24 record -- and maybe I'll write my summary a

1 little bit better. Because first of all -- let's
2 just take our example of a ISB file that comes
3 across. And you've been in hearings with me, and
4 Mike has, too.

5 I use it just like an affidavit. I think
6 that's the way all hearing officers should. The
7 proof is in the charging document.

8 So you may have a file with -- well, we
9 just had one -- with 60 statements in it, that
10 the evidence used to charge the officer was only
11 based on two statements. That's all it was based
12 on.

13 So I mean, some, I may say there's no
14 relevance to this. Obviously, as the officer, I
15 wouldn't remove it. But I'm saying you've got a
16 witness that says an officer slapped somebody,
17 but then there's proof that that person was lying
18 and intoxicated or whatever.

19 And I'm saying on the record, I'm not
20 going to use that. You understand? That has
21 come up.

22 MR. SEWELL: I just want to make sure
23 that -- some other hearing officer might skip
24 something and then it might be exculpatory, that

1 the representative should be allowed to look at
2 anything that's in the file whether the hearing
3 officer looks at it in cases of exculpatory
4 evidence.

5 Now, I think the intent of this is if the
6 hearing officer went somewhere else and found
7 something, that the representative should be
8 allowed to see that, too.

9 COLONEL CLARK: Including all proof to be
10 relied on by the hearing officer.

11 MR. SEWELL: Which could mean anything
12 that the hearing officer has seen.

13 COLONEL CLARK: Debbie, what do you have
14 to say about that? If I'm willing as the hearing
15 officer to say, no, this is out --

16 MS. GODWIN: To me, that should come out
17 during the course of the hearing is that I'm not
18 going to include that. But I think the
19 representative should be entitled to see whatever
20 comes to you. I mean, that's the intent to me.
21 Whatever is coming to you as the hearing officer,
22 the file that you are going to review, we should
23 be able to look at that.

24 Now, you may decide in there that I'm not

1 going to consider this, and you can tell us
2 that. But I think we should be able to see it.

3 COLONEL CLARK: Well, that's certainly
4 the intent that I put up, and I thought we
5 discussed this some at the table. But I'm
6 willing to give.

7 I think that -- I'll just tell you this
8 much: I feel like if I have a hearing with
9 anybody sitting across from me right now, we're
10 probably going to work that out. And I guess I'm
11 trying to help in other hearings. And let's just
12 let it roll the way it is.

13 MS. GODWIN: Yeah. I think we should.

14 COLONEL CLARK: Because we've had that
15 agreement in.

16 MS. GODWIN: And that's fine. If it's
17 agreed upon between the hearing officer and the
18 representative that we're going to agree that
19 this is not going to be considered as a part of
20 the file, then I think that's fine. But I think
21 the intent is that the representative should see
22 everything that's forwarded to you as the hearing
23 officer.

24 COLONEL CLARK: Can we go to the next

1 paragraph just to clarify something?

2 MS. GODWIN: We can.

3 COLONEL CLARK: Because that's where that
4 parenthesis came from.

5 MS. GODWIN: And that there are
6 certain -- I know that there are certain
7 statements that may not be provided.

8 COLONEL CLARK: So I mean, it's really in
9 the second paragraph, and it has been for years.

10 MS. GODWIN: Right.

11 COLONEL CLARK: That if, for example --
12 there's a lot of examples I won't go into. But I
13 mean, it's kind of old language inserted into new
14 language that we agreed upon. And we'll just let
15 it come out the way it comes.

16 I'm going on record that that could be a
17 possibility that a hearing officer may say y'all
18 can deal with it on a case-by-case basis. I know
19 it has come up with me with Officer Kirk when he
20 was a utility rep. And he was allowed to review
21 redacted --

22 MS. GODWIN: Right.

23 COLONEL CLARK: -- in full. But after I
24 told him it was not going to be used, it was

1 agreed to move on based on old language.

2 MS. GODWIN: Well, I mean, it may be that
3 both parties feel it's better not to have it in
4 the file for one reason or another.

5 COLONEL CLARK: Well, the only difference
6 in the old language is no pending or anticipated
7 criminal charges. Now, that takes a whole
8 different flip to all evidence in the file. But
9 we didn't -- we didn't change anything there --

10 MS. GODWIN: Right.

11 COLONEL CLARK: -- that's existing. I
12 don't think we need to go into existing language.

13 MS. GODWIN: Right.

14 COLONEL CLARK: Redacted and expunged.

15 MS. GODWIN: Right.

16 COLONEL CLARK: We know what that means.

17 MS. GODWIN: And if there needs to be
18 some more discussion on this, we can do it in the
19 labor management meeting.

20 COLONEL CLARK: I agree.

21 MS. GODWIN: Okay.

22 COLONEL CLARK: All right. Everybody
23 agree on the changes on this one?

24 MR. WILLIAMS: Agreed.

1 MS. GODWIN: Has the secondary employment
2 policy been issued formally?

3 COLONEL CLARK: Secondary employment
4 policy that we agreed upon. I don't have the
5 final signature on it, but other city
6 representatives, I've been told, that it will be
7 okay, that we will be able to do that.

8 MS. GODWIN: And so my understanding of
9 the policy that you proposed that you're saying
10 is not quite final yet is that you will not be
11 prohibited from working secondary employment for
12 30 days unless it has to do with sick abuse?

13 CHIEF HARVEY: The proposed language is
14 that you will not be kept from working second
15 employment unless there's sick abuse involved or
16 it's a licensing issue with the State. So --

17 MR. SEWELL: For security?

18 CHIEF HARVEY: For security. Sure.

19 MS. GODWIN: Okay. We're good on that.

20 COLONEL CLARK: Debbie, is there a date
21 on top of this?

22 MS. GODWIN: There is a date on top of
23 this.

24 COLONEL CLARK: Ready, Debbie?

1 MS. GODWIN: Yes.

2 COLONEL CLARK: Article 22 down to the
3 very last paragraph. It's actually the second
4 from last now. But we agreed to strike out -- to
5 strike chief administrative officer, to replace
6 that with director of police services. We agreed
7 to a new sentence which is on paragraph all
8 proposed changes to the uniform shall be reviewed
9 by the labor management committee. That's it.

10 MS. GODWIN: That's agreed.

11 COLONEL CLARK: For the record, that's
12 Mike's favorite article. Right?

13 MS. GODWIN: Right. That paragraph has
14 to do with the current method of uniform
15 acquisition.

16 COLONEL CLARK: Yes.

17 MS. GODWIN: And then the last sentence,
18 I mean, it's pretty -- to me, it's pretty self-
19 explanatory. But all proposed changes shall be
20 -- all proposed changes shall be reviewed by the
21 labor management committee.

22 COLONEL CLARK: Or if we agree to do a
23 subcommittee of labor. But that would be
24 something that both sides would have to agree.

1 If we wanted a longer term look at
2 something, we could all -- we could agree to get
3 a subcommittee together. Ready?

4 MS. GODWIN: Yes.

5 COLONEL CLARK: I'm going to defer back
6 to Gerald on this one. It's the wage article.

7 MR. THORNTON: Right. For the record,
8 the Association has submitted an Article 46 of
9 wages. And the City of Memphis -- well, it was
10 substituted with the approval of the Mayor. And
11 the HR director has actually written a letter in
12 lieu of this language right here.

13 Also, the City has a the wage article
14 that I need to pass to you. And we did leave a
15 paragraph off unintentionally. So we will have
16 to add that on if it's approved.

17 But the letter from Quinton Robinson in
18 lieu of this language right here says -- and I
19 think you have this letter, don't you, Debbie?

20 MS. GODWIN: What?

21 MR. THORNTON: Do you have this letter
22 here?

23 MS. GODWIN. I do have this letter.

24 MR. THORNTON: Okay.

1 MS. GODWIN: You're saying a paragraph
2 was left off of what?

3 MR. THORNTON: No. On the one we're
4 proposing, the one you have there in front of you
5 now, right there. It's unintentional.

6 Okay. That's the City's proposal right
7 there for a --

8 COLONEL CLARK: The tentative 46.

9 MS. GODWIN: Yeah.

10 COLONEL CLARK: Well, they've got -- we,
11 I guess, have the wage listed proposal.

12 MR. THORNTON: Right.

13 MS. HEASTON: The paragraph -- just for
14 clarification, the paragraph that was
15 inadvertently left off -- and I don't know if it
16 really matters at this point -- was the one that
17 says the City shall adjust the monthly base pay
18 of all employees covered by this agreement with
19 three years of more -- or more of commissioned
20 service by the sum of \$40.84, effective July 2nd,
21 2009. That's the paragraph that was left out of
22 our Article 46 proposal.

23 MS. GODWIN: Why would you leave that --
24 why would you not leave that out?

1 MS. HEASTON: That's why I said it may be
2 irrelevant now because that was effective in '09,
3 something that we should have done in '09.

4 MS. GODWIN: Right.

5 MS. HEASTON: So as it's written now, I
6 guess it's fine. So strike the --

7 MS. GODWIN: Okay.

8 COLONEL CLARK: You're talking about
9 this, though.

10 MS. HEASTON: Right.

11 MR. THORNTON: Right.

12 MS. GODWIN: Okay.

13 MR. THORNTON: To be consistent with the
14 language of the contract.

15 MS. GODWIN: Well, we don't want to be
16 consistent with that language if it applies to a
17 previous MOU.

18 MR. THORNTON: No, no, no. Exactly.
19 No. To be consistent with the way it looks in
20 your present contract, we asked you to strike
21 that out and drafted that as the replacement
22 language. If you --

23 MS. GODWIN: I understand.

24 COLONEL CLARK: You're talking about this

1 becoming the language. Right?

2 MR. THORNTON: Right. That becoming the
3 language.

4 COLONEL CLARK: How about I read this
5 into the record?

6 MS. GODWIN: That would probably be
7 good.

8 COLONEL CLARK: All right.

9 MS. GODWIN: In our proposal -- in our
10 proposal, we struck out --

11 MR. THORNTON: Right. And we rewrote it
12 with the corrected dates in it.

13 MS. GODWIN: Right. So the third
14 paragraph that was left out of the old -- the old
15 MOU is purposefully gone because it's moot.

16 MR. THORNTON: Correct. And we also
17 added another sentence in there to say for wage
18 reopener, we should follow the impasse procedures
19 next year, which gives you like February 1st of
20 next year.

21 MS. GODWIN: Yeah. I think that would be
22 understood in that --

23 MR. THORNTON: You would think that.

24 MS. GODWIN: -- it's law. But I don't