



Louisville, KY: Toolkit for Confronting FOP Power via Contract Process

January 2022

What's in this toolkit? Why is it important?

This is designed to help you participate in the effort to remove dangerous provisions from the Collective Bargaining Agreements (CBA) between Louisville Metro & Louisville's Fraternal Order of Police (FOP). This document outlines key moments in the coming weeks & months and provides you with the information you need to participate in these activities. Many of the resources here are templates that you can adapt for your own purposes.

[Updates Since Initial Circulation](#)

[Objective](#)

[Key Dates](#)

[How the FOP CBA process works](#)

[Demands/Why](#)

[What Can You Do](#)

[Messaging and Social Media](#)

[Letter to Metro Council](#)

[FAQ](#)

[Contact Info & Resources](#)

[Solidarity Partners](#)

Available at <https://bit.ly/490xFOPCBA>



QR code

(scan code with your phone camera; it will link you to this document)

Updates Since Initial Circulation

Updated: January 7 2022

Disappointingly, Metro Council approved the FOP rank & file contract (R-160-21) on December 16 in a 20-3 vote. The No votes came from Dorsey (D3), Arthur (D4), and Chambers Armstrong (D8). Purvis (D5) voted present. We have a lot of work to do until the next contract comes up for vote. We need to continue demanding accountability and transparency from the Mayor, city leaders, & police officers.

Updated: December 6 2021

On December 2, Metro Council assigned R-160-21 to the LED committee. The LED committee can vote on it. A special meeting is being held today at 4:00pm by the LED committee. 20 citizens are signed up to speak. It's likely LED will vote on it December 7 to send to full Metro Council for a vote on December 16. We need bodies in seats for all these meetings. Check the "What Can You Do" page for details.

Updated: November 30 2021

Disappointingly, Metro Council approved the FOP bosses contract on November 11, in an 18-8 vote. The FOP rank and file approved their latest negotiated contract on November 28. The ONLY change is that it contains EVEN GREATER pay raises. This contract will be assigned to LED committee on December 2 at Metro Council meeting.

A special meeting for public comment is being held by LED Committee on December 6 at 4:00pm. You MUST sign up December 1 at 12:00pm using the [Metro Council Clerk's form](#). You can attend virtually or in-person. If you are uncomfortable speaking, we need bodies in seats in Metro Hall during this meeting. It's likely that this will pass out of committee on December 7, making it available for Metro Council to vote on it on December 16 at 6:00pm. We want to pack this meeting at Metro Hall with all of you who protested last summer.

Updated: November 8 2021

The LED committee voted (5-0) in favor of the FOP bosses contract (R-117-21). It will be voted on by the Metro Council on November 11. Call your council person & ask them to vote no on this contract. If your council person is Fox (D13), Holton Stewart (D25), Mulvihill (D10), Piagentini (R19), Winkler (D17), Benson (R20), or Kramer (R11), ask they withdraw their sponsorship of R-117-21. This FOP CBA is more regressive than state law requires in regards to no layoffs, paid suspension, destruction of informal complaints, and destruction of supervisory files.

Updated: October 26 2021

We need bodies in Metro Council chambers holding signs for an LED committee special meeting on November 3 at 5:30pm EST. It's possible the FOP contract will be voted up or down by committee at this meeting to send it to the full Metro Council for a vote on 11/11.

Updated: October 13 2021

The mayor is addressing public safety with Metro Council on October 14 at 4:00pm EST. We need people to hold signs & show city officials that we are waiting for police accountability.

Updated: October 6 2021

Sign our petition asking Mayor Fischer to allow community involvement in the FOP negotiations process. [Please click here to sign the petition.](#)

Objective

Fraternal Order of Police (FOP) contracts protect corrupt & violent police. The 490 Project is addressing significant issues with the current and future River City FOP contracts. Our goal is to mitigate the harm police cause and hold them accountable for violence.

Police contracts dictate how the city and the LMPD respond to the behavior of officers, the compensation of officers, how funds are allocated for equipment, as well as other employment matters. River City FOP contracts have historically been written only twice a decade. The current contract protects officers from liability by:

- Destroying misconduct complaints
 - Informal complaints are rarely logged.
- Erasing police misconduct records
 - Personnel performance files are not maintained
- Limiting oversight and discipline
 - Officers are provided suspensions with pay while under investigation
- Restricting or delaying interrogations
- Giving officers unfair access to information
- Allowing “no layoffs” clauses
- Issuing riot gear
- Lack of accountability
 - Contracts are negotiated without public input

Any CBA the city agrees to with the FOP should not include any clauses or provisions that have the above functions.

The CBA tentatively agreed to in November 2021, maintains all the listed problematic provisions, except:

- *Informal complaints will be logged but not included in the file of the complained of officer*
- *The City will have the opportunity to surveil officers except for by activating body cameras when the officer is off duty*
- *Officers no longer have the ability to review body camera footage before questioning about an incident*

These incremental changes were brought about by sustained community pressure on the Mayor and Metro Council. If further changes are not won (by letting Metro Council know we need more change) then we will have to wait until at least June 2023 to advocate for further change that is needed immediately, not at a later time.

Key Dates

Intricacies of timeline can be viewed [here](#).

Date	Item
2018	
June	<i>Previous FOP CBAs expire</i>
2021	
January 21	<i>Negotiations between Mayor's office & FOP contract committee begin</i>
August 20	<i>Tentative CBAs reached between Mayor's office & FOP contract committee</i>
September 14	<i>Public comment meeting held by the Labor & Economic Development Committee on CBAs between Louisville Metro & River City FOP</i>
September 20	<i>Public comment meeting held by the Labor & Economic Development Committee on CBAs between Louisville Metro & River City FOP. Additionally, River City FOP members voted to REJECT officers & sergeants CBA and APPROVE captains & lieutenants CBA.</i>
October 11	<i>FOP contract submitted as new business</i>
October 14	<i>Metro Council approves the assignment to the Labor and Economic Development Committee</i>
October 19	<i>Labor and Economic Development did NOT discuss FOP contract business at this meeting. Chair announced a special meeting would be planned to allow more time for discussion of the FOP caps & its contract by LED committee</i>
November 3	<i>Special Meeting of Labor and Economic Development committee to discuss FOP contract (R-117-21) A disappointing vote of 5-0, LED committee members voted yes to contract: Holton Stewart (D25), Piagentini (R19), Dorsey (D3), Winkler (D17), Mulvihill (D10) 2 abstained or were not present: Benson (R20) and Purvis (D5)</i>
November 11	<i>Metro Council votes in favor on FOP captains & lieutenants contract. A disappointing vote of 18-8 passes out of council. NO votes are: Arthur, Green, Shanklin, Dorsey, Purvis, McCraney, Chambers-Armstrong, & Ackerson</i>
November 29	<i>River City FOP members vote to ACCEPT officers & sergeants CBA</i>

<i>December 2</i>	<i>Metro Council assigns R-160-21 to Labor and Economic Development Committee</i>
<i>December 6</i>	<i>Public comment meeting held by the Labor & Economic Development Committee on CBAs between Louisville Metro & River City FOP</i>
<i>December 7</i>	<i>LED Committee voted in favor of R-160-21. It will go Metro Council for a vote.</i> <i>A disappointing vote of 5-0, LED committee members voted yes to contract: Benson (R20), Holton Stewart (D25), Piagentini (R19), Winkler (D17), Mulvihill (D10)</i> <i>2 abstained: Dorsey (D3) and Purvis (D5)</i>
<i>December 16</i>	<i>Metro Council votes in favor 20-3 of R-160-21, FOP officers & sergeants contract. No votes were Dorsey (D3), Arthur (D4), and Chambers Armstrong (D8). Purvis (D5) voted present.</i>

How the FOP CBA process works

The Mayor's office & Fraternal Order of Police agree to keep the bargaining process secret. Because of this lack of transparency, we have very little information about how the process works. Here is what we know.

The chief negotiator for the Mayor's office, the chief negotiator for the Fraternal Order of Police, and their negotiating teams plan in advance of the initial meeting for what proposals they will suggest to change or add. The Mayor's negotiating team includes his chief negotiator from the County Attorney's office, another lawyer from the County Attorney's office, a lawyer who is a representative of the LMPD, and a paralegal. The Mayor's office also includes others who are knowledgeable about a particular subject at the meetings when they negotiate provisions related to that subject.

We do not know who is on the FOP negotiating team. Each party has an absolute right to include whomever they want on their negotiation team. The Mayor has thus far declined to include community members on the Metro negotiation team.

Before the initial meeting, the Mayor's office and the FOP agree to ground rules. These are simply promises they make to each other that they do not have to abide by but elect to do so. In the case of the most recent round of negotiations in Louisville, the agreed-to ground rules prevented community members from observing negotiations, and prevented the media from knowing anything about negotiations.

In the case of Louisville's most recent negotiations, the Mayor's team has continually used the ground rules as an excuse to justify a lack of transparency.

For instance, the Mayor's administration has repeatedly declined to speak with Metro Council or the public about negotiations, despite the fact that the ground rules do not prevent them from doing this.

The parties meet as frequently or infrequently as they wish. The Mayor and FOP elected in the past negotiation session to first address economic issues before non-economic issues. At each meeting, when they tentatively agree to a change or addition to the contract, they initial off on it. That agreement is tentative until the entire contract is agreed upon.

The contract is voted on by the FOP membership. If they vote "no," negotiations recommence. If they vote "yes," the Metro Council votes on it, and the timeline above clicks in. If the Metro Council votes "no," negotiations recommence. They negotiate and go through the same process, or they negotiate and fail to reach agreement. That is called impasse.

If the parties negotiate to impasse, then the Kentucky Labor Cabinet will try to get the parties to reach agreement. If the Cabinet fails, a three member panel with an impartial chair will hold hearings that are open to the public. The panel will make recommendations which must be released to the public.

Demands/Why

Demands	Why	Article	Section
<i>Add community experts to the City's negotiation team</i>	Transparency is key to community building. If the community is on the team, the community can give input.	ground rules	ground rules
<i>Renegotiate for observers in FOP contract negotiation process</i>	Transparency is key to community building.	ground rules	ground rules
<i>Renegotiate to permit the parties to reveal and discuss proposals with the public and media</i>	Transparency is key to community building. This begins to provide accountability to the community.	ground rules	ground rules
<i>Clarify when discipline and other grievances go through grievance/arbitration to Police Merit Board or to court</i>	The public should know what happens if an officer engages in misconduct.	12 17	2.4 1
<i>Remove no layoffs clause</i>	This hinders police department divestment. Virtually no other CBA, private or public sector, has this clause.	14	9
<i>Stop providing riot gear</i>	Police should not be militarized. Who are they at war with?	15	8
<i>Stop erasing police misconduct records</i>	Misconduct complaints are destroyed after two years and are not included in an officer's disciplinary record. Tracking officer misconduct is difficult if complaints aren't connected to a particular officer's file.	17	1.g-i
<i>Remove suspension without pay pending language</i>	Police who are under investigation should not be given what is essentially paid time off.	17	2
<i>Stop restricting or delaying interrogations</i>	Officers are not interviewed right away. They are given >48 hours. This gives them time to work with a union representative & others involved to corroborate a story.*	17	2.A
<i>Clarify to ensure that all unjustified use-of-force is a fireable offense</i>	Unjustified use-of-force is always a fireable offense.	17	3.e
<i>Clarify to determine the nature of and efficacy of the proposed training.</i>	It isn't clear what type of training or that the training required will assist police in overcoming explicit or implicit racial and gender bias. Research indicates that	17	4

	more training does not always result in less police misconduct.		
<i>Mandate release of public records in police personnel files without the officer's express permission</i>	The public should have access to public records regardless of where they are stored. Why does the officer have to give permission? Why are these records not included in Open Records Law?	18	2
<i>Change this provision to retain all supervisory records in a permanent personnel file.</i>	Patterns of misconduct and poor performance cannot be tracked if supervisory records are destroyed.	18	4
<i>Stop requiring the city to pay for officers' misconduct</i>	Your tax dollars go towards legal fees, settlements, etc. for bad officers.*	23	5
<i>Clarify volunteer clause; what organizations qualify for volunteering, etc?</i>	The way this article is currently written will allow officers to volunteer wherever, whenever, and for whoever. This could include very problematic organizations or events.	39	1
<i>Mandate Metro Council ratifies all police contracts and all police contract extensions</i>	Without Metro Council's ratification, the entire process could be held in secret by the Mayor & FOP.	41	

* This would require additional changes at state level.

[Proposed LMPD CBA- Captains & Lieutenants \(Expires 06/30/23\)](#) -- voted UP by FOP bosses
~~[Proposed LMPD CBA- Officers & Sergeants \(Expires 06/30/23\)](#)~~ -- voted DOWN by FOP rank & file
[Updated Proposed LMPD CBA- Officers & Sergeants \(Expires 06/30/23\)](#) -- voted UP by FOP rank & file

[Metro Govt/FOP Synopsis of Changes](#)

[The 490 Project's Full Memo on the Changes](#)

What Can You Do?

- Write, email, and call your council person
 - A sample letter/script can be found [here](#).
 - Please BCC or CC the490projectky@gmail.com in your message so we can report the number of people who have contacted Metro Council.
- Post on social media
 - A sample post can be found [here](#).
- Circulate this toolkit with peers and within your organization's communication channels
 - <https://bit.ly/490xFOPCBA>
 - [QR code flyer](#) - print this out; post on community boards
 - Use our [virtual background](#), too, if you like!
- **Sign up to speak at a Metro Council meeting**
 - Meetings are Thursday at 6:00pm EST. [Dates](#)
 - TBD
 - [How to Sign Up & Rules](#)
 - *You must sign up with the Clerk to speak the Friday AFTER the previous meeting. Set a calendar reminder!*
 - Example: If you want to speak at the 12/16 meeting, you should call the clerk between 12/3 and 12/13 to sign up.
 - Call 502-574-3902 (Clerk's office) to sign up.
 - Clerk will ask what you will talk about
 - FOP Contract- Oppose
 - Use the [sample letter](#) or these [talking points](#), but personalization always makes it more meaningful
- **Sit in Metro Council meetings**
 - Not ready to speak? We need people to sit in seats for meetings and encourage you to bring an 8.5x11 inch sign with you. If you want a sign, DM @the490project on a social channel.
 - TBD
 - All meetings are in Metro Council Chambers
- **Sign our petition** demanding Mayor Fischer change the ground rules to include community involvement.
 - Sign [the petition here](#).

Messaging and Social Media

Messaging:

On “Police Union” terminology:

It is important to note that whenever you speak about these contracts, that you mention these are Fraternal Order of Police contracts, **not** police unions. Policing as an institution should not be considered part of the labor movement as they exist to protect property and capital for the bosses, not to “protect and serve” the people. They are also the first to harass and shut down a picket line, sometimes using deadly force. They also experience preferential treatment in how the city negotiates with their organizations in comparison to how the city negotiates with other public sector unions, often receiving much more protections and benefits. In addition, the River City FOP are not members of the Greater Louisville Central Labor Council. Instead, you can say:

Fraternal Order of Police	Frat
Police Organization	FOP

On Changes in the CBA:

While there have been some positive changes made to this tentative FOP contract, there are still not enough to warrant the passage of this CBA through Metro Council. Instead, Metro Council should vote ‘No’. New ground rules for negotiations would be written and Metro Council needs to push to ensure that community experts are on the negotiation team, as well as write the rules to allow the public and media to be in the room as observers.

On the new “reforms”:

The new “reforms” the Mayor’s Office and FOP are touting are not only vaguely written, but data has shown that these strategies have proven to be ineffective.

Slogan:

Send It Back

Hashtags:

#SendItBack	#CommunityNotCops
#AbolishLMPD	#StopTheFOP

Sample Post:

Louisville’s FOP contracts encourage dangerous behavior. The mayor and FOP negotiated the contract behind closed doors. Why are they letting the public know what is in it only AFTER it is done? Do you think there’s any real change? #senditback #communitynotcops

Social Media

Please tag us (@the490project) in any social media post so we can share it. We are on Twitter, Instagram, and Facebook as @the490Project

Accounts for the FOP:

Twitter: @KYFOP614	Facebook: @RiverCityFOP
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Letter to Metro Council

- Find your metro council person [here](#).
 - Send a message to [your council person](#).

Send a message to the clerk and ask her to circulate materials (such as a letter) to all council persons. metrocouncilclerk@louisvilleky.gov

- Send a message to the Labor and Economic Development committee. Copy & paste email all addresses:

amy.stewart@louisvilleky.gov

anthony.piagentini@louisvilleky.gov

donna.purvis@louisvilleky.gov

keisha.dorsey@louisvilleky.gov

markus.winkler@louisvilleky.gov

patrick.mulvihill@louisvilleky.gov

stuart.benson@louisvilleky.gov

Dear [insert Official's name(s)],

My name is [your name/organization]. I am a resident of District [insert #]. Given the urgency around this issue, I want to ensure meaningful changes are made to the FOP contract.

Transparency begins with the community. *While the ground rules prohibit a lot of things, they can be renegotiated.*

I request that you create a special education session(s) for members not familiar with the process that includes a police contracts expert.

If these contracts are ratified by the FOP and the Metro Council, then the first step of the 2023 negotiations should be agreeing on different ground rules that ensure the transparency needed to quickly reform every other dangerous provision in the contracts that is not affected by state law. Metro Council will ratify this proposed CBA, but it will not be precedent if the FOP refiles their lawsuit challenging Metro Council's authority in the next round of negotiations.

I hope that you will vote "NO" on **BOTH** proposed CBAs until we:

- Add community experts to City's negotiation team
- Make negotiations open to Public
- Suspend officers *without* pay
- Start retaining personnel performance files
- Stop issuing riot gear
- Remove the "no layoffs" clause
- Make unjustifiable use-of-force **ALWAYS** a fireable offense
- Release officer open records without requiring their consent
- Clarify language in new volunteer clause

I look forward to seeing change and to your office facilitating the conversations. I look forward to a timely response and a commitment to next steps. Change is needed now.

Sincerely,

[Your Name]

FAQ

If you have an unanswered question, comment on the document with your question.

Q: What is the Police Officer's Bill of Rights, and how does it interact with the contract?

A: The Police Officer's Bill of Rights ([67C.326](#), [KRS 15.520](#)) is state law in Kentucky. Similar laws exist in 14 other states.

The law gives officers extra-constitutional rights, like mandating that officers not be questioned after use of force incidents until at least 48 hours has passed. The law also governs aspects of officer discipline that make discipline very challenging.

It can be helpful to think of the Police Officer's Bill of Rights as an older and more entrenched protective inner shield around officer misconduct. The contract forms another layer of protection. The contract reiterates many things that are already in the Police Officer's Bill of Rights.

Because of the ultra-conservative nature of current state politics in Kentucky, the 490 Project has chosen to focus on changing the contract — something we can do by pressuring our local politicians in Louisville — before we attempt to change state law.

If we wish to really dismantle corrupt and dangerous policing and make Kentucky a safer state for all, we must eventually find a way to remove the Police Officer's Bill of Rights from KY state law.

Q: Why does Louisville have to pay for LMPD lawsuits?

A: Louisville has to pay for LMPD lawsuits because of Kentucky state law — [KRS 65.200](#) — the Claims Against Local Government Act (CALGA).

Q: Are “no layoffs” different from officer discipline?

A: Layoffs refer to the downsizing of a department because of need or funding and is separate from officer discipline or being fired ‘for cause.’

There is currently a clause in the pending LMPD contract that stipulates that no layoffs are permitted over the course of the contract (Article 14, Section 9).

The fact that LMPD is able to retain the size of their force no matter how the needs of the city might change over the course of the contract is a serious problem.

Picture this: what if Louisville, for whatever reason, were to shrink in population size? We would still be forced to have the same size police force, even though the tax base to pay them would be diminished and there would ostensibly be less policing to do.

Q: I have heard y'all voice opposition to ‘community policing’ reforms, such as the reform that gives officers who live in more heavily-policed neighborhoods a \$5,000 bonus, or the reform that encourages officers to volunteer at an organization of their choosing during work hours. Why the opposition?

A: Any reform that gives cops more money is not a reform that will make Louisville safer for all. We believe that the institution of policing is inherently violent and harmful; therefore, any attempt to 're-brand' police will be at most a surface-level change that will have no impact on making police less dangerous.

What is more, these reforms allow politicians to claim 'success' — and deflect attention from more serious attempts to reform police.

Finally, [there is no evidence that cops who live in the communities they police are any less violent or corrupt than police who live elsewhere.](#)

The volunteer clause is also a poor reform because it is written so vaguely as to allow officers to volunteer at any organization of their choosing. That could include the Crisis Pregnancy Center next to Kentucky's sole abortion clinic, or even the police foundation itself.

These are NOT wins for the community!

Here's a helpful rubric for determining if a reform should be rejected (taken from Mariame Kaba's 2014 essay 'Police Reforms You Should Always Oppose'):

Always oppose if:

- The police will get more money.
- The reform will result in more police presence.
- Euphemisms such as 'community policing' are used.
- The focus of the reform is on dialogue with, or the identity of, individual officers.
- The reform will make police abolition more difficult.

Q: What is qualified immunity?

A: In the context of policing, qualified immunity is a legal doctrine that essentially forbids individual officers from being held personally liable under federal law when they infringe upon someone's constitutionally-protected rights (i.e., the right to freedom from excessive force) — UNLESS it can be proved that the officer in question violated "clearly-established law."

Say you are beaten by a police officer and tried to sue them for damages.

What the court would require you to do in order to overcome the officer's defense of qualified immunity is this: Find a case from the past where the fact pattern is almost identical to the case you are pressing. This standard is grossly unfair to victims of police brutality. Cops have avoided paying damages in instances such as these because of minor differences like the following:

Plaintiff was kneeling on the ground instead of sitting on a curb when they were kicked in the face;

Plaintiff was sitting in the back seat of a cop car instead of the front seat when they were beaten.

In sum, qualified immunity is generally considered to be BAD DOCTRINE that the Supreme Court created out of thin air to protect law enforcement officers. Over the decades since its creation, it has only gotten more regressive.

What can we do? Pass a local ordinance — [like New York City did a few months ago](#). Qualified immunity only protects officers under federal law. We have local rights in Louisville as well, and we could pass an ordinance that would allow us to press our local rights when suing LMPD officers.

Qualified immunity is an overwhelming and confusing topic, but it is possible for us to both understand it, and organize to surmount it — at least, for now, at the local level.

Contact Info & Resources

The 490 Project is 100% volunteer run & receives no funding. We are a group of grassroots organizers dedicated to fighting police power. We envision a Louisville where everyone has what they need to thrive and are safe from police violence.

Email us

the490projectky@gmail.com

Facebook

<https://www.facebook.com/the490project>

Instagram

<https://www.instagram.com/the490project/>

Twitter

<https://twitter.com/The490Project>

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Solidarity Partners

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Email us! the490projectky@gmail.com