Commissioners,

Thank you for your reaction to the surprise news last week that -- unbeknownst to the Commission or the public -- DHR had reached a tentative agreement with the SFPOA on a new contract that, if approved by the Board of Supervisors, would be binding on the City, the Police Commission, SFPD management and the DPA for nearly three more years. Thank you for committing to scheduling a public hearing on the proposed contract.

Not surprisingly, the SFPOA membership voted overwhelmingly over the weekend to approve the deal. (https://www.sfexaminer.com/news/police-union-contract-moves-forward-as-officers-agree-to-delayed raises/.) The Board of Supervisors received some sort of closed session briefing on this yesterday. At this point, seemingly only the public and the Commission remain completely in the dark about the specific proposed terms. I hope you will take immediate steps to:

1. Obtain and publicly release the full proposed contract language; and,
2. Announce the date your hearing on the proposed contract will take place.

By failing to ensure full transparency and opportunities for timely Commission and public input in these negotiations, DHR has thus far pursued a course of action that runs directly counter to the very broad consensus -- spanning police executives, mayors, the nation's leading civil rights organizations, activists, academics and legal experts -- about how contract talks with police unions must now be handled in an era of reform. The time for secret negotiations and little to no public scrutiny of the proposed contracts is over. That is simply no longer acceptable to anyone who seriously claims to be in favor of meaningful police reform. If San Francisco truly wants to be known as national police reform leader, it cannot handle its new police union contract in a manner that is directly counter to what seemingly everyone is now recommending -- (everyone, that is, except the police unions themselves that have benefited from little meaningful scrutiny of contracts that provide generous financial rewards while needlessly preserving barriers to accountability and reforms they oppose).

Last Wednesday evening, I noted that Chief Scott and 64 of his fellow chiefs of police for the country's largest law enforcement agencies had signed an open letter in the wake of the killing of George Floyd sponsored by the Major Cities Chiefs Association emphasizing that --

"The balance of labor and management is often out of calibration. Contracts and labor laws hamstring efforts to swiftly rid departments of problematic behavior and as law
enforcement executives, we call for a review of those contracts and laws."


The very next day, the United States Conference of Mayors released their long awaited police reform recommendations that found --

"Over the years, police contracts — union CBAs (collective bargaining agreements) — have evolved into much more than standard labor contracts. They cover the expected areas—hours, wages, benefits—but many have grown to include substantial barriers to basic accountability....

The goal of this section of our Report is to help mayors and police chiefs assess whether certain CBA provisions in their jurisdictions are obstacles to achieving the right balance, and encourage cities not to bargain away management rights as a trade-off for raises sought by police unions....."


Also on August 13th, the NAACP Legal Defense and Education Fund launched a major new campaign on police union contracts stating --

"Police union contracts frequently contain provisions that shield officers from discipline and create barriers to the timely, thorough investigation of police misconduct complaints. This toolkit will help guide the public through the process of inquiring about the status of police union contracts in their localities, with the goal of promoting transparency and accountability by encouraging the removal of these provisions."


On Monday, Campaign Zero -- the well-respected research and advocacy organization that arose out of the Black Lives Matter protests in Ferguson and that previously promoted the "Eight Can't Wait" policies that SFPD used recently to measure and tout its own reform progress -- launched its own campaign targeting police union contracts. The "Nix the Six" or #Nixthe6 campaign calls for an end to --

"Negotiations without Community Representation. Police union contracts are usually negotiated behind closed doors. Cities should include representatives from community organizations on the negotiating committee to ensure communities have a voice in the process that ultimately shapes policing in their city."

(https://nixthe6.org/no-more, emphasis added. See also - "Police reform advocates scrutinize police unions, calling them obstacles to reform," Los Angeles Times, August 18, 2020)
Finally, a group of prominent retired judges, law professors and labor law experts -- including retired federal judge Thelton Henderson, retired California Supreme Court justice Joe Grodin, and long-time police union lawyer Ronald Yank -- recently published a piece calling for --

"Transparency for All Law Enforcement Contract Proposals

We propose that, before a public entity commences negotiations with law enforcement union, that entity must conduct a public hearing on its bargaining proposals with sufficient notice and opportunity for public comment.... After a collective bargaining agreement or memorandum of understanding with the law enforcement union is negotiated, the public entity must conduct a public hearing, with sufficient notice and opportunity for public comment, before the agreement is ratified.

These reforms will enable the public to know the possible or likely terms of a collective bargaining agreement before such an agreement is negotiated or signed. This information will aid the public in holding elected and appointed officials accountable for the police contracts they negotiate. It will also provide the public the opportunity to ensure that the contracts serve the common good."

( http://www.californialawreview.org/reforming-law-enforcement-labor-relations/, emphasis added.)

The Police Commission is the public body most directly responsible for pursuing the long-promised and long-delayed comprehensive reform of SFPD. The Charter requires the Commission to set policy and manage the department so it is also the body most directly impacted by the non-economic terms of any contract with the SFPOA. It is unfathomable to me that the Commission would not be consulted about the terms of the contract long before any tentative deal is reached. It is unconscionable at this point for the Commission and the public to remain in the dark about the terms of this proposal.

I believe each of you are sincere in your desire to reform the SFPD and, in the process, to boost both the effectiveness of and public confidence in policing in this City. Yet, your efforts will continue to be undermined if you allow yourselves and the members of the public you represent to be shut out and treated as irrelevant bystanders to secret backroom negotiations between DHR and the SFPOA. That should never take place on policies beyond the scope of the SFPOA's state law labor rights -- like with your Bias-Free Policing DGO. It should certainly not take place with a new contract that will bind the City through mid-2023, award SFPOA members with two additional 3% pay raises while seemingly not even considering changes in contract terms that could speed and improve the reform process.

Thank you.

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cc. Police Commission Office  
Malia Cohen, Police Commission nominee