



# City of Seattle

Seattle Police Department

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May 12, 2017

Council President Bruce Harrell  
Councilmember Tim Burgess  
Councilmember Lorena González  
City Hall  
600 4<sup>th</sup> Ave, Second Floor  
Seattle, WA 98104

Dear Council President Harrell and Councilmembers Burgess and González:

I recently had the opportunity to review the latest draft of Council Bill 118907, legislating what reads as a complex web of reforms to civilian and community oversight of the Seattle Police Department. As you know, although I was personally involved in the original discussions on accountability legislation (including one marathon session with prior leads from the Mayor's Office, City Council, the OPA Auditor, members of the CPC, and the City Attorney's Office that extended late into the evening on June 30, 2015 (Pride Sunday)), neither I nor my staff have been asked for formal comment or review of the legislation as it has evolved. I state this as a fact, not as a complaint; I am mindful, and respectful, of the importance of independent, civilian oversight and the role of the Executive and City Council in establishing the same.

At the same time, having led large agencies through reform processes, as a law enforcement officer, as a DOJ consultant, and as a court-appointed monitor; having served on panels tasked to stand up police oversight bodies; and having served as the Chief Inspector responsible for recommending and reviewing reforms to a 17,000-member agency, I would be remiss if I did not speak up to highlight my concerns surrounding four critical points that I fear have become lost as this legislation has evolved. Having long been an advocate for, and practitioner of, independent police oversight, and knowing that it is our shared goal to structure independent oversight in a manner that supports and furthers the department's

commitment to continuing transparent and collaborative reform, please read my comments in the spirit of partnership in which they are offered.

First, a starting point for this legislation should acknowledge the clear distinction between “police reform” and “accountability reform.” Both are equally important, but should not become conflated in the discussion. “Police reform,” in concept, comprises improvements to internal processes, systems, and structures for reporting, review, and critical self-analysis across the spectrum of a police department’s activities; as specific to the Consent Decree, reforms implemented to date include new systems and requirements for reporting, reviewing, and analyzing force; reporting, reviewing, and analyzing crisis contacts and stops and detentions; overhauling the early intervention system; and restructuring first-line supervision. This process of reform, internally driven and accomplished through the hard work of the men and women of the Seattle Police Department, has in turn operated to engrain in the organizational culture a commitment to reflection and accountability.

“Accountability reform,” on the other hand, should be understood as a process of improvement to those systems and structures established to ensure, through independent and unbiased oversight, that as a department carries out its responsibility to meet the public safety needs of its city, it does so in a manner that holds true to principles of law and policy and reflects the values and priorities of the communities it serves. Of note, no improvements to the oversight process are required under the Consent Decree – which reflects the Department of Justice’s determination that the system as it was operating at the time of the DOJ’s investigation was “sound.” As the federal court has made clear, however, to the extent that the City wishes to reform the accountability system, it must do so in a manner that does not materially conflict with the Consent Decree.

In that respect, I have serious concerns about the extent to which this legislation, on its face, seems to overly externalize influence over systems and processes set in place through the Consent Decree that by design must remain internally driven. Public transparency and visibility into these systems, and external auditing or monitoring of the same, are absolutely key to maintaining their legitimacy, but I know well from experience that organizational

reform will remain successful only so long as it continues to be internally driven. Simply put, an independent oversight body is critical to ensuring that SPD remains accountable to principles of reform; but at the same time, it is imperative to the long-term success of the reform process that the structures and systems that SPD has worked tirelessly to cement into practice are not unintentionally undermined or derailed by what are unquestionably good intentions to overhaul external accountability. Thus, to the extent that the legislation contemplates a level of authority (whether explicit or tacitly enabled through political pressure) to change policy, training, or systems for continual reform that were established under the Consent Decree, I question whether the legislation is truly compatible with the intent of the court order.

Second, I am struck by the abject complexity of the proposed model, which seems destined to mire what should be a simple, efficient process for ensuring timely and collaborative dialogue in a tangle of bureaucratic process. For example, as I attempted to graph out the processes described, I was left with a series of arrows pointing every which way between CPC, OPA, and the OIG, each representing either opportunity to advise, an obligation to report, or a duty to assess as between the three; all, eventually, turn to SPD. SPD, in turn, seems contemplated to be the “hub” for receiving input from each of CPC, OPA, and the OIG, with responsibility to marry up (foreseeably conflicting) inputs and report back on an abbreviated timeline either an action plan to change policy, training, or operations – or a full articulation as to its reasons for not doing so.

To be clear: the public absolutely deserves, and should demand, visibility into police activities and input into the priorities and practices of this department. SPD welcomes, in fact affirmatively solicits, community engagement, whether through a robust network of ethnic, cultural, and neighborhood advisory groups, its micro-community policing partnership, or more formally through the CPC or local and national advocacy groups. SPD honors the community’s right to visibility into its activities through a commitment to transparency that is second to none, including the proactive release of raw data across myriad metrics to the City’s open data portal, providing public-facing dashboards that

allow members of the public to visualize and explore data relating to both officer activity and crime statistics, and by committing to a rigorous schedule of annual reporting on its activities. My concern with the legislation is not with SPD's obligation to consider and respond to recommendations for improvement, but rather with the process; setting aside consideration as to the sheer number of staff that would be needed to manage the mechanics of this process, I worry that the department's ability to timely implement substantive change – regardless of whether driven through internal mechanisms or external review – will inevitably become buried in an administrative quagmire of back-and-forth between all of the four entities in the equation.

A much simpler model, I would propose, particularly with the level of expertise that is contemplated for the OIG, would be one that (1) tasks the OIG to gather and aggregate recommendations from the CPC, OPA, or any other stakeholder that may reach out; (2) requires the OIG, based upon review of these recommendations, to distribute on a manageable schedule to SPD and the Executive those recommendations it believes align with best practices and the City's interests; and (3) obligates SPD, in turn, to report back to OPA, the CPC, the OIG, and the Executive its determination as to each. Coupled with the department's separate commitment to report out on, and publish data relating to, core topics addressed through the Consent Decree, this more streamlined approach to accountability would be consistent with principles of governance that have proven effective in other organizations.

Third, as a separate practical consideration, I am concerned that in the effort to foresee and capture all nuances and the full scope of an expanded, multi-layered oversight structure, this legislation may in fact serve to stifle the very ability of the department and the system it establishes to hold true to core principles of reform. Reform is not an end goal; it is – and should remain – an inherently agile and cyclical process of continual self-reflection and improvement. I.e., data begets analysis, which begets systemic review, which begets systemic change, which generates new data, and so on. Thinking back to the general convention urging brevity in legislative drafting, I worry that by effectively over-codifying

the mechanics of a process that should by definition remain flexible enough to evolve independent of legislative action, this legislation may not only impede the ability of either SPD or the oversight structure to implement timely and relevant change, but worse, risk losing its force altogether through its unworkability.

Fourth, but perhaps most critically, and speaking primarily from the perspective of having served as the Chief Inspector of an independent oversight body in a highly charged political climate, I cannot stress enough how important it is that the external oversight structure generally – and particularly the role of the IG – be, truly, independent, objective, and fair. Policing is, and should be, an apolitical industry; so too should be the structures for oversight and accountability. I know the union has raised concerns (which I understand) about the selection process and qualification criteria for the IG and OPA Director.<sup>1</sup> To the extent that the legislation, and the mechanisms for selecting the oversight agents, have the potential to politicize these critical positions, I share the union's concern that this legislation may unintentionally set up accountability processes that would ultimately measure the department's performance *not* in terms of its adherence to law, public safety, and the principles of reform that underlie its operational and administrative practices but, rather, in terms of the extent to which the department shifts policy, priorities, or practices to align with the (potentially conflicting) political positions of each of the CPC, OPA, and the OIG. Simply put, it is critical to the legitimacy of everything the department and city are working towards in reform efforts that those tasked to lead this department and city into the future be honest brokers and not beholden to a particular political agenda.

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<sup>1</sup> I am also aware of the unions' significant concerns regarding the extent to which this legislation encroaches upon subjects that, under the laws of this state, are subject to the collective bargaining process. I understand and respect their concerns, and, as I note, share in certain of their points to the degree that they implicate the politicization of police reform and accountability. It is not my place nor privilege, however, to weigh in on issues of law concerning the collective bargaining process, and I do not intend to do so. Rather, I limit the issues I raise here to those that I believe stand to significantly bear upon systems and structures for internal reform that were established pursuant to the Consent Decree.

I close this letter with the final point that, this spring, the Monitor will complete the last in a series of assessments of the reforms prescribed under the Consent Decree, which thus advances SPD rapidly toward full and effective compliance and, consequently, the end of federal oversight. At this critical juncture, and going forward, it is incumbent on the department to demonstrate its commitment not only to maintaining the integrity of its work to date, but to ensuring that the department continues to generate internally the momentum that has solidly positioned SPD as a leader in modern police reform. Independent oversight is unquestionably key to assuring that these reforms continue in a spirit that is consistent with law and the priorities of this city, and I offer my observations here simply in the hope of being invited to engage in a broader dialogue that focuses on our shared goal to ensure the integrity of the reform process.

I look forward to an opportunity for further discussion.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kathleen O'Toole".

Kathleen O'Toole

Chief of Police

Cc: Mayor Edward B. Murray  
Councilmember Sally Bagshaw  
Councilmember Lisa Herbold  
Councilmember Rob Johnson  
Councilmember Debora Juarez  
Councilmember Mike O'Brien  
Councilmember Kshama Sawant  
City Attorney Peter Holmes