

ATTACHMENT A

Seattle Community Police Commission

Dear Judge Robart:

The Community Police Commission (“CPC”) submits these points for Your Honor’s consideration as you review the City of Seattle’s submission on Consent Decree compliance, and the Monitor’s Compliance Status Report.

The CPC agrees that the Monitor’s ten systemic assessments demonstrate that the City has achieved “full and effective compliance” with the Consent Decree, and that the focus of this case should now shift to the City demonstrating sustained compliance with the Consent Decree. The City, especially the Seattle Police Department (“SPD”), will bear the burden of demonstrating sustained compliance. For its part, the CPC will prioritize fulfilling the remaining duties assigned to it in the Consent Decree during the two year sustained compliance period.

The City has addressed what “full and effective compliance” means in the specific context of the Consent Decree. Rather than repeat that discussion, the CPC emphasizes, not only for the Court, but for the communities that CPC works to serve, that “full and effective compliance” is neither the end of police reform in Seattle, nor a verdict on remaining community concerns about police practices. It does not mean “mission accomplished.” It does mean that the City and SPD have made significant steps toward a goal that likely never will be perfectly or permanently achieved: deploying police to keep people safe while earning and maintaining the trust of every community. “Full and effective compliance” means that Seattle is closer to that goal than we were five years ago -- but the accountability and oversight reforms that the Consent Decree set in motion will help to ensure that the City continues to progress toward that goal, even after the Consent Decree has ended, and with respect to important issues that lie well outside its scope.

“Full and effective compliance” signifies that SPD has met the specific requirements of the Consent Decree. But the Consent Decree does not address every important issue with respect to policing in Seattle. Those measures that the Consent Decree addressed are cornerstones, but other reforms that go beyond the requirements of this case are also important. For example, the City’s recently passed accountability ordinance was not a requirement of the Consent Decree, but it was brought about in large part by the process established by the Consent Decree. The result is an accountability system that can be responsive to any public concern about policing in Seattle, not just the requirements of the Consent Decree. The CPC has a role both in satisfying the terms of Consent Decree and, under the ordinance, working with an independent Inspector General and the Office of Police Accountability, as well as with SPD and other City and community partners, to take reform beyond the Consent Decree.

The Monitor’s Compliance Status Report identifies concerns that closely resemble those the CPC hears about from the communities with which it engages. The CPC agrees that addressing those concerns is not a requirement for “full and effective compliance” with the Consent Decree. Rather, the new accountability system is centered on identifying and addressing such issues. The CPC and other community and City partners stand ready to help SPD navigate these important topics that are either beyond the scope of the Consent Decree or go beyond the Consent Decree’s requirements. Some of that work is summarized here.

Moving Beyond What Was Required by the Consent Decree in Existing Areas of Work

Enforcement Patterns in Stops and Detentions in Certain Enforcement Practices. An area of clear progress under the Consent Decree is that data are now available to allow detailed examination of various enforcement practices with respect to, among other issues, racial disparities that might be avoided by adopting different City responses to certain issues and problems. This represents major progress from years past in which the race of those detained and arrested was a subject of dispute. SPD's thoughtful 2017 report on stops and detentions illuminated areas of notable accomplishment, which we want to acknowledge. These include the promising performance of the "beat" squads (bikes and foot patrol) which had the highest number of detentions, likely due to their high contact volume because of the nature of their assignments, but searched very few of those detained and had high "hit" rates (finding weapons) when they did conduct searches. Also significant is a marked reduction in drug-related detentions and arrests, previously one of the primary drivers of racial disparity in SPD enforcement patterns. SPD's data also pointed to areas that warrant further exploration, as the department acknowledged. SPD is charged under the 2013 Bias-Free Policing Policy to work with the CPC to identify areas of comparatively high racial disparity and consider alternative practices that are likely to reduce racial disparity without compromising public safety. The recently adopted police accountability reform ordinance charges the Inspector General (IG) with the responsibility to devote investigative resources to this work and allows the CPC to identify areas on which the IG should focus. The Monitor pointed to a similar inquiry in his Compliance Status Report, and although CPC believes the City has satisfied any Consent Decree requirements in this area, it welcomes the Monitor's technical assistance as to any data or analysis that SPD produces.

Opening the Agenda of the Crisis Intervention Committee to Community-Identified Concerns. The Settlement Agreement required the establishment of a Crisis Intervention Committee (CIC), bringing together the SPD Crisis Response Team with community experts on behavioral health issues and mental illness to address policy and practice issues. SPD complied with this requirement immediately and the CIC has been in operation for four years. We see an opportunity to improve upon this completed requirement of the Consent Decree. Several leading community organizations working with people with behavioral health challenges, including Asian Counseling & Referral Service, the Downtown Emergency Service Center and Sea Mar Community Health Centers, have asked that the CIC, currently run by SPD, open its agenda to allow community experts to bring forward issues or events of concern for critical review by the full CIC. The CPC urges that the CIC evolve beyond its original role as a sounding board and supportive audience for SPD crisis intervention efforts, to become a collaborative forum for dialogue and critical incident review.

Critically Examine Training on Taser Use and on Engaging Individuals Armed with Knives. In the aftermath of the killing of Charleena Lyles, many community members have questioned the training and strategies available to officers responding to situations in which officers are confronted with a person seemingly armed with a knife or sharp object. One officer involved in the shooting of Ms. Lyles stated in his interview after the incident that his Taser training directed that the Taser *not* be used if engaging an individual with a knife. Another local case causing community concern involved a report that, before Tommy Le was shot, King County Sheriff's deputies used a Taser on him, but it was ineffective. Many community observers have noted that, if there are concerns about the effectiveness of tasers under circumstances such as those in the Lyles and Le cases, it is important to identify effective alternate strategies for disarming a person who appears to be wielding a knife, rather than leaving officers with only the firearm option. Development of, and training on, additional options for officers in these scenarios, and clarity with the community about those options, is widely supported in the community. Although this is beyond the requirements imposed on the City by the Consent Decree, the CPC will advocate for review of training and policy in this area.

Explore Alternatives to Internal Investigation of Serious Uses of Force. The 2016 shooting of Che Taylor by SPD officers put in sharp focus the credibility issues that arise in the community when the investigation of the scene and incident is handled by SPD in an entirely internal process. While SPD has clear competency to investigate the scene and circumstances of violent incidents, the Obama Administration Task Force on 21st Century Policing recommended against wholly internal investigations of serious uses of force by the departments whose officers were involved in the incidents. This is in recognition of the fact that even high quality internal investigations inherently undermine public credibility and legitimacy when their findings validate actions of officers under controversial circumstances. The City Council Resolution accompanying the police accountability reform ordinance adopted in June 2017 called on the CPC to convene stakeholders to examine possible alternatives to the existing internal SPD Force Review Board process. This exploration is to be done in consultation with the Monitor Team and the U.S. Attorney's Office and will generate proposals for consideration by Seattle leaders and, ultimately, this Court, during the sustained compliance period.

Topics Beyond Those Addressed in the Consent Decree

Secondary Employment. Changing the framework for secondary employment by SPD officers is a longstanding recommendation of Judge Anne Levinson (ret.), the former Office of Professional Accountability (OPA) Auditor and a CPC recommendation since 2014. Local authorities are now engaged on this issue, which is outside the scope of the Consent Decree and yet is a matter of pressing public concern. SPD has taken action to address allegations of abuses in the secondary employment market, including price fixing, by requesting an FBI investigation, and Mayor Burgess issued an executive order directing a task force to make recommendations on restructuring secondary employment along the lines of Judge Levinson's and the CPC's recommendations. The CPC will consult with that task force as laid out in Mayor Burgess's Executive Order.

Complainant Appeal Process. There have been longstanding community calls for a channel through which individuals who make complaints about police conduct may "appeal" a finding by OPA and/or the Chief of Police that appears to vindicate officers' actions. Public employees have vested interests in the outcome of a disciplinary determination reached through processes required under applicable labor law, and a civilian "appeal" at that point raises important due process issues. It still may be possible for complainants or others to bring policy and practice issues forward in an appeal process that does not violate due process, and allows for a form of redress and validation of legitimate complaints. The City Council Resolution accompanying the police accountability reform ordinance adopted in June 2017 called on the CPC to convene stakeholders to explore the possibility of a complainant appeal process.

Demonstration Policing Issues. The CPC has periodically raised concerns about certain SPD responses to public demonstrations. These include six areas of concern raised in 2015 about SPD's response to Black Lives Matter demonstrations, and a 2016 proposal for a moratorium on the use of blast balls. In 2017, additional concerns were identified by a wide-ranging community coalition about perceived different response by SPD toward right-wing or anti-Muslim demonstrators as compared to those who have rallied to protect and defend the rights and security of Muslims, and challenges that arise when SPD tries to manage politically opposed demonstrations in the same public space. While these issues lie outside the scope of the Consent Decree, the CPC will continue to address them, as they are a priority for many of its community partners.

Being Responsive to Emergent Community Issues. There are often critical issues raised by community members that the CPC must address quickly. For example, on August 30, 2017, Chairman Leonard Forsman of the Suquamish Nation reached out to Commissioner Colleen Echohawk-Hiyashi regarding an interaction between a Native community member and SPD officers, flagging a concern of racial bias. The CPC discussed the incident and potential responses. Some Commissioners noted that many in the Native

community do not feel safe filing a complaint. As a result of that conversation, the Interim OPA Director, noting the fear that was discussed at the CPC meeting, decided to open an intake. In addition, the CPC responded to Chairman Forsman and offered to meet with him and others from the Native community to discuss ongoing concerns regarding their interactions with police. The response also served to notify him that the OPA had opened an intake and ask that those involved respond to the OPA's request for more information.

Coercive Interrogation Techniques. The CPC received an analysis from King County Department of Public Defense attorneys suggesting that it is likely SPD employs coercive interrogation techniques, which, although known to be widespread across the country, and not unlawful, have been shown to generate unreliable confessions that can lead to unjustified convictions (and failure to identify actual perpetrators). This is another important issue that lies outside the scope of the Consent Decree. We see the next step on this issue as inviting SPD to respond to the public defense analysis and then to consider possible recommendations for policy change.

Compliance with Court Rule 3.1 on Access to Counsel for Individuals in Custody. The CPC also has received information from the Department of Public Defense that, except in DUI cases, SPD does not adhere to court rule requirements to facilitate access to counsel at the earliest point after a person is taken into custody. This may stem in part from lack of training and awareness of this requirement, and in part from the public defense sector not having previously raised this issue. The CPC looks forward to examining this issue further and considering possible recommendations for policy change.

The topics listed here are by no means exhaustive of the issues deserving critical examination and in which policy and practice changes are likely needed. That said, and notwithstanding the seriousness of the issues called out here, the existence of these issues does not detract from the important milestone achievements of SPD in meeting the Consent Decree requirements. We also believe it important to recognize that SPD has developed the capacity and shown support for partnering with civilian experts and to community leaders to identify issues in need of attention and to pursue reform strategies.

In conclusion, we concur that the City has achieved "full and effective compliance" with the specific benchmarks in the Consent Decree. We understand the United States does not dispute this.¹ The CPC commends the progress that has been achieved during the Consent Decree process under the supervision of this Court and appreciates the contributions to this progress made by the Monitor Team, the parties, SPD rank and file, SPD leadership, community members, and other involved stakeholders. The CPC looks forward to working within the bounds of the Consent Decree to assist the parties, the Court, and the Monitor as they demonstrate and verify over the next two years that the City has sustained compliance.

It now falls to the City to maintain fidelity with the reforms achieved under the Court's supervision, with the Monitor's technical assistance, and yet also build on those improvements in ways that extend beyond the Consent Decree. We look forward to working in partnership to stand up comprehensive local accountability and oversight mechanisms that are responsive to community concerns going forward. It

¹ It is important to call out our belief that the United States' position in this case at this juncture is fully consistent with the mandate and approach brought to bear from the outset in 2011 by the Civil Rights Division and the local U.S. Attorney's Office. The legal team representing the United States is in the same hands that directed their approach from the inception of the consent decree. These partners have faithfully continued to shepherd this Settlement Agreement on the course that they set at the outset: requiring change and transitioning oversight of policing to the structures put in place by the City of Seattle at the appropriate juncture. That latter step is an important component in the legitimacy and value of Settlement Agreements with police departments of the sort that the Civil Rights Division has pursued across the country. We commend the United States legal team for its resolve in seeing this process through, consistent with the original goals of the Settlement Agreement.

takes sustained and purposeful practices to transform the culture of policing and produce lasting change. Much of this work now lies outside the scope of the Consent Decree, though it was made possible in significant part by the work done under the Decree, for which we express appreciation to all involved in that process.

Respectfully submitted,



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