

**Community Police Commission
Accountability System Structure Recommendations
Adopted April 30, 2014**

Overview

The values of Constitutional policing and the protection of civil rights are of paramount importance. Civilian oversight of police accountability must be robust because, in the end, the police are answerable to the public for upholding these values.

The Community Police Commission believes its proposed structural changes, combined with its recommended policy and practice changes proposed separately, will significantly strengthen the checks and balances built into the police accountability system.

All of the Community Police Commission's accountability system recommendations—structural, as well as those involving policies and practices—align with key values it has identified as necessary for an effective accountability system: independence, accessibility, legitimacy, transparency, consistency, efficiency and continuous improvement.

The recommended structural changes are substantial. While the Commission believes many aspects of the current structure have been improved over time due to the efforts of many and should be retained, there is a need to strengthen the independence of the office responsible for investigating policy violations and misconduct, provide additional resources to the "auditor" function, and institutionalize accountability of the police to the public. The latter change, greater accountability to the public, is the most far reaching of the Commission's structural recommendations. Since the Commission recommends substantially new responsibilities for the community oversight function, many of these are detailed below. Unless and until the Commission recommends additional specific changes, it recommends maintaining other key aspects of existing ordinances governing the police accountability system.

In addition to the recommended structural changes, the 55 policy and procedure recommendations previously approved by the Commission are also essential to correct past practices that have undermined trust and confidence in the system. All of the Commission's recommendations should be considered together, since they are an integrated set of reforms. The accountability system is complex. To fully reform it, corrections in multiple areas are crucial.

Structural Recommendations

The accountability system should have three civilian-led bodies, and SPD and its Chief should be viewed as a critical fourth component. The Commission recommends that there continue to be an office responsible for investigating alleged policy violations and misconduct by SPD employees, that its work continue to be reviewed by a professional, external, independent, civilian oversight body, but with expanded responsibilities, and that the performance of both, as well as SPD's performance in this area, continue to be assessed by a community oversight commission, with a substantially wider scope than now charged to the Office of Professional Accountability Review Board. This structure provides the checks and balances needed to ensure the system works properly.

The names associated with the Office of Professional Accountability and the Office of the Professional Accountability Auditor should be changed to the Office of Police Accountability and the Office of the Independent Police Monitor. These changes are not merely semantic, but will provide greater clarity (in the case of the OPA), and underscore the independence exercised by the current Auditor and better reflect that this position has responsibilities that go beyond oversight of classifications and investigations to include systemic evaluation. The community oversight responsibilities should be assigned to the Community Police Commission because the Commission already has many of the critical elements needed.

The key structural entities recommended by the Commission are:

- ✓ **Office of Police Accountability:** Responsible for investigating alleged policy violations and misconduct, recommending findings, and discipline when appropriate, supporting the use of alternative resolution processes when appropriate, and for recommending revisions to policies and practices to support improvements in police accountability. This office should prioritize collaboration with the community oversight commission to improve public knowledge of and access to the system, and to make its work more transparent to the public.
- ✓ **Office of the Independent Police Monitor:** Responsible for reviewing the work of OPA, including ensuring all complaints are addressed as they should be and all investigations are properly conducted. This office should also be responsible for assessing the overall performance of the accountability system and the adequacy of SPD policies, practices and programs in supporting and maintaining professional excellence.
- ✓ **Community Police Commission:** Responsible for providing community oversight of the accountability system, as well as other police practices (in addition to its current charge), supporting transparency, engagement and public access to the system, and ensuring community and employee perspectives contribute to making ongoing improvements to the system. The Commission should play a key role in assessing how well the Director and Monitor perform in maintaining the integrity and quality of work done in their respective offices.
- ✓ **Seattle Police Department/Chief of Police:** Responsible for setting and enforcing values and principles, standards, providing training, managing/tracking employee performance, and collecting and maintaining data which are all foundational to an effective accountability system. The Chief should be responsible for ultimately determining findings and imposing discipline in Sustained cases, for revising those findings and discipline only if required by appellate and grievance outcomes, and with authority to veto settlements if the Chief believes a settlement undermines public trust and/or has negative ramifications for supporting

the appropriate performance of other SPD employees. The Chief should also be responsible for making improvements to the accountability system a priority.

Office of Police Accountability/Director

Key principles

- ✓ The OPA should be a hybrid model, functionally independent, operating within SPD to ensure access to needed information and with the Director's chain of command authority for purposes of accountability and disciplinary processes derived from the Chief. Although located in SPD with City employees, the Director must exercise his or her investigatory responsibilities without interference from the Chief and Mayor. The Director and OPA staff should conduct their work with the highest integrity, maintaining fairness and neutrality without bias.

Structure

- ✓ To strengthen independence, access, trust, timeliness, institutional expertise and consistency, the office should be staffed by a balance of professional civilian and sworn personnel, all of whom are City employees, and must have sufficient staff to effectively fulfill its duties. To achieve balance, there should be an additional civilian in-take staff position and two additional civilian investigator positions. As noted in other Commission recommendations, the proposed precinct liaison program should use civilian staff who report to OPA (CPC recommendation #28) and SPD should allow exceptions to usual Departmental sworn staffing practices to better ensure quality and consistency in OPA operations (CPC recommendation #27). Effective service in OPA should be considered a valuable criterion for promotional decisions for sworn SPD personnel.
- ✓ The qualifications of a civilian Director should be as presently specified in the Seattle Municipal Code (SMC), with the explicit addition of certain requirements now detailed in the SMC for the Auditor ("a reputation for integrity and knowledge of the need for and responsibilities of law enforcement and of the need to protect constitutional rights"). The Director should be removed only for cause following a public hearing and majority vote of the City Council. The Community Police Commission should advise on the hiring, re-nomination and removal for just cause of the Director, and conduct and report on its annual public evaluation of the Director. The Community Police Commission should also recommend candidates for the position, serving as a search committee when the position becomes open.
- ✓ OPA's location, communications and other symbols should support and reflect its independence from SPD.
- ✓ The budget should be separate from SPD or any other City department, and the Director should have budget and program control. No changes in staff reporting relationships are proposed, except that the Director should periodically advise the Commission as detailed below, and the authorizing ordinance should remove the provision that the Director "reports to the Chief of Police."

Responsibilities

- ✓ Some changes and strengthening of responsibilities are identified in previously approved Commission recommendations.

Office of the Independent Police Monitor

Key principles

- ✓ The functions of this office serve as a check against potential or actual bias, or other problems in OPA and SPD. The Monitor's office should be wholly independent and external to OPA and SPD, the Monitor and staff conducting their work with the highest integrity, maintaining fairness and neutrality without bias.

Structure

- ✓ The office and Monitor should continue to be entirely outside the City, led by an independent, civilian Monitor, who is not a City employee but is under contract, with qualifications as presently specified in the Seattle Municipal Code, but expanded to include provisions for "a judicial officer or others with similar backgrounds in which objectivity is a required primary attribute, with demonstrated skills in evaluating investigative records and system processes". The Monitor should be removed only for cause following a public hearing and majority vote of the City Council. The Community Police Commission should advise on the hiring, re-nomination and removal for just cause of the Monitor, and conduct and report on its annual public evaluation of the Monitor. The Community Police Commission should also recommend candidates for the position, serving as a search committee when the position becomes open.
- ✓ The function requires additional professional, civilian staff. Specifically, technical staff should be provided, through the City Auditor's office or the Community Police Commission (as City employees or contract staff), to support the Monitor's non-investigative activities; also .50 FTE administrative support should be provided to assist with data, case file and other clerical work related to the review of investigations. The payment terms of the current Auditor's contract should also be evaluated to ensure the Auditor is being appropriately compensated.
- ✓ The budget should be separate from SPD or any other City department, and the Monitor should have budget and program control. Staff report to the Monitor for the duration and to the extent of their assignment to work with the Monitor.

Responsibilities

- ✓ Some changes and strengthening of responsibilities are identified in previously approved Commission recommendations. In addition to responsibilities currently defined in the City code, the Monitor should function as a technical advisor to the civilian Police Commission, coordinating with and advising Commission staff, and attending appropriate meetings.

Community Police Commission

Key principles

- ✓ The police must ultimately be accountable to the public. A civilian community oversight commission, broadly representative of the diverse community, serves as a check to the accountability system, including the OPA and the Monitor, as well as to SPD, to ensure the system works well, responds to and is aligned with the values and expectations of the community.

- ✓ The commission should be independent and external to the Office of Police Accountability, the Office of the Independent Police Monitor and SPD.
- ✓ The commission should conduct its work with the highest integrity, maintaining fairness and neutrality without bias.

Structure

- ✓ The Office of Professional Accountability Review Board (OPARB) should be dissolved and replaced by the Community Police Commission. In doing so, certain OPARB functions should be retained and enhanced, principally in the areas of community engagement, supporting access and transparency, monitoring performance and conducting public hearings and others eliminated. (See key responsibilities listed below.)
- ✓ The Commission should continue to be within the Executive Department, but have formal guarantees of independence by ordinance. Its budget should be separate from any City department and its Director and the Commissioners should have budget and program control.
- ✓ Commissioners should be respected, broadly representative of the diverse community, and include police union representatives. The majority should be drawn specifically from communities that have had difficulties in their interactions with SPD. Specifically, members should have expertise on the issues of civil rights and civil liberties; should be from different racial and ethnic groups; should represent youth, LGBT communities, and those who are homeless or who have mental illness and substance abuse disorders; and should provide faith, business and other community perspectives.
- ✓ Collectively, Commissioners should have a deep understanding of community interests and needs, all should have general knowledge of police accountability matters and some should have extensive subject matter expertise. Some members should have expertise on culturally competent and linguistically accessible services. Altogether, there should be a balance that allows the Commission as a whole to benefit from the knowledge and expertise of its individual members. There should be an explicit addition of requirements now detailed in the SMC for the Auditor ("a reputation for integrity and knowledge of the need for and responsibilities of law enforcement and of the need to protect constitutional rights"). The ordinance establishing the Commission will need to be revised to establish qualifications, responsibilities and terms that account for its new and ongoing non-Consent Decree duties. The Commission's bylaws further provide binding guidance on the composition and internal processes of the Commission. The implementing ordinance should provide that nominees to the Commission must be confirmed by the Commission before the nomination is referred to the City Council for confirmation.
- ✓ The Commission should be served by volunteer members, with stipend support, but the Commission requires sufficient professional, civilian staff (City employees and/or under City contract) to fulfill its duties. The current Commission staff (3.0 FTE) should be increased as needed to provide support in the areas of communications, community engagement/outreach and policy/program evaluation. Commission staff should also include complainant advocates available to assist complainants in navigating the complaint process and who can keep complainants updated on the progress and outcomes of investigations and any appeal processes.

Accountability Responsibilities

The accountability oversight function of the Community Police Commission should not be to review the appropriateness of individual case investigations, findings and disciplinary determinations because this is a key responsibility of the Monitor position. Instead, the Commission's role should be to provide public input into improving the accountability system and to represent public values in overseeing the accountability system's effectiveness.

- ✓ The Commission should speak publicly and effectively on issues of concern regarding SPD and its practices. It should work to enhance community engagement in the ongoing work to reform SPD and improve police-community relations. It should protect and advocate for the civilian components of the accountability system and advocate for policy and law reforms based on Monitor, Director, community and other input.
- ✓ The Commission should serve as an advisory council to the OPA Director and Monitor, serving as the lead in identifying problems and possible improvements to the accountability system, including ways the system can be more accessible and transparent to the public. A key responsibility should be to oversee the development, distribution and revision of educational materials and information provided the public that explains the accountability system and the manner in which complaints can be lodged. The Commission should periodically make recommendations to improve the complaint handling system.
- ✓ Community engagement should be a primary focus. The Commission should be the lead in seeking to identify problematic aspects of the police-community relationship and deficiencies in the accountability system from the perspectives of the public and SPD employees. The goal should be to generate multiple sources of recommendations for improvement to supplement those of the Monitor and Director. The level of activity should be extensive, and it should be regular and ongoing. The Commission may propose changes to SPD policies and training, as well as statutory reforms, based on reports from the Monitor and Director but also based on information it obtains from the community engagement process, and from other sources such as practices in other police jurisdictions.
- ✓ The Commission should review and approve any proposed revisions to SPD's accountability system, including processes that intersect with the employee performance management system, and those that occur after cases have been certified and closed by the Director (such as Chief disciplinary decisions, appeals, grievances and settlements). As part of this work, the Commission should review the formal reports and recommendations of the Director and Monitor, and should be the lead in monitoring the status of responses to and follow-up by SPD and City policy-makers on recommendations for improvements made by the Director, Monitor and others.
- ✓ The Director and Monitor should meet quarterly with the Commission, providing information concerning SPD's performance, their own performance and the performance of their offices. Prior to completing and reporting its annual evaluations of the Director and Monitor, the Commission should obtain public and employee perspectives on their performance. The Commission should also be consulted prior to the re-nomination of the Director or Monitor and may serve as a search committee for new applicants for both positions.

- ✓ The Commission should be charged with holding a public hearing on the effectiveness of the City's police accountability system prior to collective bargaining per Ordinance 122809, which is currently the responsibility of OPARB.
- ✓ There is substantial community interest in an avenue for complainants to appeal the outcome of the complaint investigation process. We recognize that the issues and interests involved are complex and require further development. The Commission recommends that the City negotiate for a collective bargaining agreement re-opener to address this need and that a workgroup of interested parties develop a proposal for providing this avenue.