

Seattle Community Police Commission

Our City. Our Safety. Our Police. **Better Together.**

November 25, 2014

VIA EMAIL

Merrick Bobb
Federal Monitor

J. Michael Diaz
U.S. Department of Justice

Peter Holmes
Seattle City Attorney

RE: SPD Use of Force Policy

Dear Monitor and Parties,

The Settlement Agreement between the United States and the City of Seattle states that all policies created and implemented as a result of Settlement Agreement requirements must undergo a review 180 days following implementation, and annually thereafter. The intent of a policy review is “to ensure that the policy or procedure continues to provide effective direction to Seattle Police Department (SPD) personnel and remains consistent with the purpose and requirements of the Settlement Agreement and current law.”¹

Strengthening policies for officer use of force is a high priority for the community.² As the body created to represent community interests in SPD reform, the Community Police Commission (CPC) sought to ensure that the review of the Use of Force policy, implemented in early 2014 and subject to the 180-day review, was thorough. We are optimistic that this review will lead to policy clarifications and revisions that some officers maintain are necessary for them to be effective stewards of public safety.

In order to achieve a thorough review of the policy, the CPC sought to supplement the evaluation efforts already underway by SPD and the City Attorney’s Office. We felt it was important to capture as much feedback as possible from officers across SPD; consequently, the CPC worked closely with the Department of Justice, the Seattle Police Officers Guild (SPOG) and the Seattle Police Monitor (with support from Chief O’Toole, Precinct Captains and others from SPD Command Staff) to offer a variety of avenues through

¹ Exhibit A (Settlement Agreement and Stipulated [Proposed] Order of Resolution), United States Attorney, July 27, 2012, Section IV D-2 (page 52).

² The CPC’s definition of “community” includes police officers.

which officers could give specific feedback on how the Use of Force policy works in practice. We requested that officers provide as many details as possible, particularly about operational issues or unintended consequences that they experienced directly. Individual cases were referred to Assistant US Attorney Mike Diaz for follow up and potential use as examples.

Officers were informed of the opportunity to provide feedback via a verbal announcement made at the SPOG membership meeting, flyers posted in all five precincts, and various emails sent to all SPD officers. Three in-person listening sessions were held in the East, South and North precincts and one listening session was held at SPOG offices. Overall, we interacted with approximately 20-25 different officers over the course of eight hours. Please see *Exhibit A* for details about how the CPC and its aforementioned collaborators sought feedback. The CPC may distribute an electronic survey to all officers in the coming weeks as a final feedback collection effort. If that occurs, a summary of the findings will be submitted as a supplement to this report.

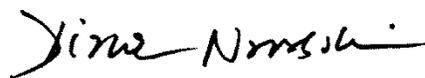
The feedback collected from officers is organized into two categories: Policy Clarifications and Implementation and Administration. The Policy Clarifications section includes references to the SPD Directive clarifying the Use of Force policy, less lethal tools and protected classes, handcuffing, swallowing, and the Performance Mentoring Program. The Implementation and Administration section includes issues with reporting/paperwork, lack of consistency in internal training/messaging, the Force Investigation Team, and mass demonstrations. Please see *Exhibit B* for details about the concerns mentioned most frequently by responding officers.³

Again, the CPC's goal in gathering feedback was to supplement the Use of Force policy review already being conducted. We hope our efforts will be helpful. In the future, the CPC looks forward to reviewing and commenting on any suggested revisions to the policy. We appreciate the opportunity to continue to collaborate on these crucial matters.

Sincerely,



Lisa Daugaard, Co-Chair
Community Police Commission



Diane Narasaki, Co-Chair
Community Police Commission

Cc:

Mayor Ed Murray
Chief of Police Kathleen O'Toole
Seattle City Council
Community Police Commission

³ These are not CPC recommendations. The CPC is simply presenting the opinions of the officers in an effort to collect the most information possible for the purposes of the policy review.

Exhibit A: CPC Feedback Collection Efforts

1. SPOG President Ron Smith announced at the August 27 SPOG membership meeting that the CPC was seeking feedback on the Use of Force policy. Feedback generated as a result of the announcement was sent to Officer Kevin Stuckey (CPC Commissioner and SPOG Board Member), who then forwarded the information electronically to CPC staff. Please see *Exhibit C* for copies of the correspondence received from officers.
2. A “greenie” (key information for officers printed on green paper) was posted on September 3 in all precincts with a message to contact the CPC with any feedback. CPC staff contact information was provided. Please see *Exhibit C* for copies of the correspondence received from officers.
3. An email was distributed to all officers on September 29 via Ron Smith stating that the CPC would be hosting three listening sessions at different precincts to discuss the Use of Force policy. Dates, times, and locations were provided.
4. A listening session was held at the East Precinct on October 1.
 - a. Fé Lopez (CPC Executive Director), Anne Bettsworth (CPC Policy Analyst), Mike Diaz and Christina Fogg (Assistant US Attorney) attended.
 - b. Feedback was provided by one officer, who stopped by when he saw his colleague, Kevin Stuckey, in the room. Upon discovering that we were seeking input on the Use of Force policy, he volunteered information about his experiences.
5. A listening session was held at the South Precinct on October 1.
 - a. Kevin Stuckey, Fé Lopez, Anne Bettsworth, Mike Diaz and Christina Fogg attended.
 - b. Feedback was provided by eight officers. David Proudfoot, South Precinct Captain, stopped by the forum and noticed there were not very many participants. He subsequently sent a reminder email encouraging officers to attend, which increased attendance.
6. A listening session was held at the North Precinct on October 2.
 - a. Lisa Daugaard (CPC Commissioner/Co-Chair), Jennifer Shaw (CPC Commissioner), Fé Lopez, Anne Bettsworth and Mike Diaz attended.
 - b. Feedback was provided by 13 officers.
7. An email was distributed to all officers on October 3 via Ron Smith stating that the CPC would be hosting another listening session at the SPOG office. In addition, the email stated that if officers were unable to attend the last forum, they could get in touch with CPC staff however was convenient for them. Contact information was provided.
8. A listening session was held at the SPOG office on October 8.
 - a. Kevin Stuckey, Fé Lopez and Mike Diaz attended.
Feedback was provided by one officer, who stopped by when he saw his colleague, Kevin Stuckey, in the room. Upon discovering that we were seeking input on the Use of Force policy, he volunteered information about his experiences.

Exhibit B: Common Use of Force Policy Concerns Mentioned by Officers

Policy Clarifications:

1. SPD Directive clarifying the Use of Force policy
 - a. Most officers thought the September 26, 2014 [Directive](#) from Chief O'Toole was helpful in clearing up some confusion about the Use of Force policy. One officer called it a "huge relief."
 - b. Another officer said similar directives should be distributed more frequently to ensure that command staff and officers are on the same page.
 - c. A different officer said: "It's nice that she put that out [the directive] but it's not going to change things just like that. We've been trained to not use force."
2. Less lethal tools and protected classes⁴
 - a. Two officers noted confusion and frustration with this provision. They requested clarification of the terms "other techniques" and "active aggression."
 - b. Some officers said that certain "protected classes" were too vague in policy. There was particular concern with the terms "visibly frail" and "known or suspected to be disabled."
 - c. In the case of the latter term, "known or suspected to be disabled," officers sought clarity as to whether mental illness was considered a disability. They also pointed out that mental illness is not always visible/discernable and that it could be related to the need to use force under some circumstances.
3. Handcuffing⁵
 - a. Officers are frustrated that a Type I Use of Force report is required if an individual expresses mild discomfort when handcuffed. They explained that being in handcuffs is uncomfortable, by design, so unwarranted complaints are constantly being made.
 - b. Some officers are not applying handcuffs as they've been trained in order to avoid necessitating a Type I report. This has resulted in unsafe/too loose handcuffing that has compromised officer safety.
 - c. One of the issues addressed in the Chief's Directive was "handcuffing with complaint of pain but no apparent injury." Officers said they found that clarification useful.
4. Swallowing⁶
 - a. Some officers sought clarification on the policy provision prohibiting them from stopping a subject from swallowing a substance, particularly in a situation where the officer is trying to prevent a drug overdose. This provision is not limited to neck holds, which was the context in which swallowing prevention was discussed during policy development.
5. Performance Mentoring Program⁷
 - a. Officers expressed concern with regard to the implications of having multiple Use of Force investigation reports on their personnel records for the remainder of their career. They worried

⁴ Seattle Police Manual 8.200-Use of Force Tools (number 5 and first bullet). This section reads: "Officers Are Prohibited from Using Less-Lethal Tools or Other Techniques in the Following Circumstances, Absent Active Aggression by the Suspect That Cannot be Reasonably Dealt With in Any Other Fashion: When the suspect is visibly pregnant, elderly, pre- adolescent, visibly frail, or known or suspected to be disabled unless deadly force is the only other option.

⁵ Seattle Police Manual 8.300-POL-1—Use of Force Reporting.

⁶ Seattle Police Manual 8.100—Using Force (number 2, bullet 4).

⁷ Seattle Police Manual 3.070—Performance Mentoring (POL-2).

that this would trigger a Performance Mentoring Assessment, even if they were simply proactive officers who were doing their jobs. They noted that this tended to discourage use of force even if it was clearly within the bounds of the policy.

Implementation and Administration:

1. Reporting/paperwork
 - a. Some officers say they hesitate to take action in the field, or know others who have hesitated to take action, because of the length of time it takes to fill out the necessary paperwork.
 - b. Officers are over-reporting because they feel the need to protect themselves. They are worried about checking the wrong box or misstating something that will be used against them later.
 - c. Second and third watch supervisors are spending a lot of time reviewing force documentation. This takes time away from direct supervision of their officers.
 - d. Reporting requirements differ based on the supervisor, leading to inconsistency and confusion.
 - e. There was a stated desire for a single point of contact or ombudsman to give definitive guidance about what reporting is required in particular circumstances.
2. Lack of consistency in internal training/messaging
 - a. Officers noted that Use of Force training and messaging are often inconsistent from supervisor to supervisor. The different interpretations of the policy and receipt of mixed signals is confusing to officers. One officer said: "Training and expectations don't match the policy."
3. Force Investigation Team (FIT)
 - a. The FIT sometimes comes back to the officer who has submitted a statement per the guidelines of his/her superior with different instructions, saying the officer has completed the statement incorrectly.
 - b. There was also mention that FIT had altered the force classification, resulting in hours and hours of paperwork for something very minimal that was already approved by the officer's supervisor.
4. Mass demonstrations
 - a. We heard that officers had to file Use of Force statements at mass demonstrations where force had occurred, even if they personally had not witnessed it. This resulted in statements from officers who had no information to offer. Other officers were concerned more generally about streamlining the process of Use of Force reporting during mass demonstration situations.

Exhibit C: Electronic Correspondence Received from Officers

Please see attachments.