

Seattle
Community
Police Commission

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August 14, 2014

Dr. Bernard Melekian, Special Advisor to the Mayor

Scott Lindsay, Mayor's Office

VIA EMAIL

RE: Requirements for a Civilian Oversight Body for Seattle's Police Accountability System

Dear Dr. Melekian and Mr. Lindsay:

In late April 2014, the Community Police Commission (CPC) proposed a substantial number of policy and procedural, as well as structural, reforms to the City of Seattle's accountability system for Seattle Police Department (SPD) employees.

Dr. Melekian, the Mayor's Special Advisor on SPD, recently asked the CPC to provide additional information on its recommendations for civilian oversight of SPD's accountability system, in particular with regard to proposed changes to the system oversight function that both the CPC and Dr. Melekian propose to strengthen. The CPC welcomes the opportunity to confirm the critical role of the system oversight body, clarify its key responsibilities and identify essential characteristics that are required to ensure its effectiveness.

Because Seattle already has a civilian director of its internal investigations unit who is in charge of the handling of complaints, investigations and other aspects of the accountability system, and a civilian auditor with legal or judicial expertise (entirely independent of both SPD and the City) who also reviews all complaints and investigations, a civilian oversight body for Seattle should not duplicate their work, but instead serve to strengthen the independence and robustness of those roles, to ensure an open and accessible system for all members of the community, and to be the community's voice for continued improvement of police practices and policies. This body should not perform oversight of individual discipline cases, but rather, of the accountability system and its parts.

The ultimate success of other recommended reforms depends on a strong civilian oversight body that is trusted and respected as knowledgeable, broadly representative of the community, fair in considering all viewpoints when assessing complex issues, but strongly advocating for and insisting on Constitutional, effective and just policing.

Essential Characteristics of an Effective Civilian Oversight Body

The civilian oversight body represents the public's values and ensures that the accountability system for Seattle's police is open, accessible, fair and transparent. Critically, it must be viewed by the public and police employees as having legitimacy. That legitimacy depends on it being broadly representative, deeply knowledgeable and highly skilled in finding ways to meet the needs of many diverse interests.

1. Broadly Representative of Seattle Diverse Communities

- The size of the civilian oversight body must be sufficient to provide for a wide range of public perspectives and to perform the large body of work assigned to the body, but not so large as to be unwieldy.
- Many members should be drawn from communities that have had difficulties in their interactions with SPD. They should be from different racial and ethnic groups; represent youth, LGBT communities, and those who serve the homeless or who community members who have mental illness and substance abuse disorders.
- Members should also include a representative of the Seattle Police Officers Guild and a representative of the Seattle Police Management Association, as well as representatives from the faith and business communities.

2. Skills and Expertise

- To be effective, members of a civilian oversight body must also each bring a depth of expertise and/or previous involvement in these issues, and should be committed to Constitutional policing, with a deep understanding of the interests and needs of both the broad community and law enforcement.
- Members should have a reputation for integrity and significant standing in each of their respective communities.
- The body should include members with sufficient ongoing credibility on issues of policing and civil rights to ensure that those who have been skeptical or critical of law enforcement feel that they have a strong voice at the table.
- All should have substantial knowledge of police accountability matters and police-community issues in Seattle, and some should have extensive subject matter expertise, including backgrounds in civil rights and civil liberties, and knowledge of the importance of culturally competent and linguistically accessible services and of crisis intervention approaches to engaging people with mental illness.

- Members should be open-minded, have a collaborative, problem-solving orientation, and believe strongly in consensual decision-making. The collective membership should achieve a balance that allows the group as a whole to benefit from the knowledge and expertise of its individual members.

3. Responsibilities

Over the years, the Office of Professional Accountability Review Board (OPARB) has had four responsibilities: 1) to review the OPA's complaint handling process by reviewing OPA complaint forms and closed OPA complaint files; 2) to organize and conduct public outreach; 3) to advise the City on SPD policies and practices related to police accountability and professional conduct; and 4) to recommend topics for review by the OPA Auditor.

The first function is fulfilled by the OPA Auditor. The OPARB playing this role caused it to assume a quasi-judicial character and limited its ability to comment on emerging issues and events. Because that function is both limiting and duplicative of the OPA Auditor function, the CPC did not recommend that this activity continue under the new civilian oversight body. At one time access to closed files required an ordinance and was a major step forward in community review of the discipline process, but under recent court decisions those files are now publicly available. Preserving access to them for an oversight body is no longer necessary through ordinance or the collective bargaining agreement.

The second function—public outreach and engagement—is particularly important because in Seattle's system neither the OPA Director nor the OPA Auditor have a prescribed role to assess community sentiment or bring community concerns into the policy reform process.

Going forward, in order to strengthen the system as the CPC, Dr. Melekian, the OPA Auditor and others have recommended, the civilian oversight body should have substantially expanded responsibilities to ensure the effectiveness of the overall accountability system and the performance of those responsible for it. It should also be more deeply engaged in community outreach in order to identify what is needed to make ongoing improvements to the system.

- The civilian oversight body's foremost responsibilities are to ensure the independence and comprehensiveness of civilian oversight, to assess the performance of OPA and the accountability system, and to recommend and approve changes.¹ The civilian oversight body should:
 - ✓ Serve as a search committee for the OPA Director and OPA Auditor positions and recommend candidates to the Mayor and Council.
 - ✓ Review the performance of the OPA Director and OPA Auditor and annually and publicly evaluate them after obtaining public and SPD employee perspectives on their performance.

¹ References throughout to civilian oversight responsibilities related to the OPA Auditor should be understood to apply to either the OPA Auditor or to the Inspector General, the latter of which has been proposed as a possible alternative structure.

- ✓ Recommend to the Council and Mayor the re-nomination or termination of the OPA Director and OPA Auditor at the end of their terms.
- ✓ Review and support the OPA Director's budget requests (which should be proposed separate and apart from SPD's budget).
- ✓ Meet with the OPA Director and OPA Auditor quarterly to review information they provide concerning SPD's performance, their own performance and the performance of their offices.
- ✓ Review any reports and recommendations of the OPA Director and OPA Auditor.
- ✓ Hold meetings for SPD and City policy-makers to provide status updates on the implementation of recommendations for improvements made by the OPA Director, OPA Auditor and others.
- ✓ Review and approve any proposed revisions to SPD's accountability system, including processes that intersect with the employee performance management system and the disciplinary system.
- ✓ Review proposed revisions and provide input on any major changes to SPD's policy manual and training curriculum on police accountability and related topics.
- ✓ Serve as an advisory council to the OPA Director and OPA Auditor, identifying problems and recommending improvements to the accountability system.
- ✓ *Not* act as a quasi-judicial body, nor review individual case investigations, findings and disciplinary determinations since this is a key responsibility of the OPA Auditor.
- Community engagement and representing the interests of the community should be a primary focus of the civilian oversight body.
 - ✓ The level of outreach activity should be extensive, regular and ongoing, with the goal of identifying problematic aspects of the police-community relationship and deficiencies in the accountability system from the perspectives of both the public and SPD employees.
 - ✓ Part of the community engagement work should be to support 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 civilian oversight body should help enhance accessibility of the system, such as overseeing the activities of designated advocates who help complainants navigate the system and reviewing the effectiveness of OPA's written and website materials, and other public communication vehicles.
 - ✓ The civilian oversight body should be the lead in collaborating with SPD, the OPA Director and the City Attorney's Office in improving system transparency, specifically updating public disclosure procedures and providing for online posting of information about the status of investigations and their outcome.

- ✓ The civilian oversight body should continue to be responsible for holding a public hearing on the effectiveness of the City's police accountability system prior to collective bargaining per Ordinance 122809, but also annually.

4. Structural Requirements

The civilian oversight body requires professional, civilian staff to help it fulfill its duties, particularly in the areas of communications, community engagement/outreach and policy/program evaluation. It should also include staff who can assist complainants in navigating the complaint process and who can keep complainants updated on the progress of their cases.

Structurally, the civilian oversight body should be independent of City policymakers so as to not have public concern that political considerations will influence its work. While the civilian oversight body may reside within the City's Executive or Legislative Departments, enabling legislation should ensure that it operates independently.

- ✓ The civilian oversight body should have independent budget and program control.
- ✓ Nominees to the civilian oversight body should be confirmed by the body itself before the nomination is referred to the City Council for confirmation.
- ✓ In order to ensure a broad range of community participants in its membership, its volunteers should receive stipend support based on financial need and whether they work for an organization or business that pays them for the time they spend serving in this volunteer role.

The Role of the CPC

The CPC recommends that the system oversight functions be bolstered and responsibility for them transferred from the OPARB to the CPC, and that individual case review not be performed by the oversight body, but rather solely be the responsibility of the OPA Auditor.

The CPC is uniquely positioned to assume the role of providing system oversight of SPD's accountability system. It was created under the settlement agreement to ensure broad community involvement in the police reform process. Its members represent and have significant standing in Seattle's diverse communities, as well as substantial background and expertise in issues of policing and police accountability.

Over the last 18 months, the CPC has established a proven track record of extensive community engagement and built an internal culture that values and has demonstrated highly collaborative, inclusive problem-solving with all its partners in the reform process. The CPC's extensive activities in reviewing critical SPD policies, practices and training curricula also has provided it with a good understanding of many components to the accountability system and a base on which to continue to assess its performance.

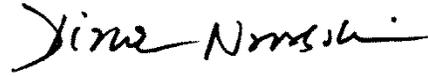
The responsibilities and configuration of the current CPC align well with the responsibilities and essential characteristics needed for an effective civilian oversight body.

Thank you for this opportunity to provide additional information on our recommendations for civilian oversight of SPD's accountability system. Please contact us if you have any questions.

Sincerely,



Lisa Daugaard, Co-Chair
Community Police Commission



Diane Narasaki, Co-Chair
Community Police Commission

cc: Mayor Ed Murray
Seattle City Councilmembers
Pete Holmes, City Attorney
Kathleen O'Toole, Chief of Police
Pierce Murphy, OPA Director
Judge Anne Levinson (ret.), OPA Auditor
Elizabeth Holohan, OPA Review Board Chair
Community Police Commission