

September 18, 2019

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Seattle Community Police Commission
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Re: *Public Input on Effectiveness of the City's Police Accountability System and Request for Inclusion in City's Position During Seattle Police Management Association (SPMA) Collective Bargaining (SMC 4.04.120.F and -.G)*

Dear Chairs and Members of the Seattle City Council Gender Equity, Safe Communities, New Americans & Education Committee, the Seattle City Council Select Committee on Labor Relations, and the Seattle Community Police Commission,

We are submitting this written testimony to your Committees and Commission on behalf of organizations that may have been unable to send a representative to testify in person at this evening's public hearing of community perspectives on the effectiveness of Seattle's police accountability system before beginning contract negotiations with the Seattle Police Management Association (SPMA). The views expressed here are endorsed by all signatories to this letter.

We note that the reason this hearing is happening is because community leaders, some of whom have signed this letter, fought for the unanimous passage, eleven years ago this Sunday, of Ordinance No. 122809, which recognized that “[e]ffective policing depends in part on the public’s confidence in the fairness and integrity of the Seattle Police Department and its policing practices,” and that “elected officials will ... benefit from a public hearing on the effectiveness of the police accountability system before beginning collective bargaining agreement negotiations.” Community leaders have continued to fight for these past eleven years to give those words meaning—for their elected leaders not simply to hold a hearing, but to follow through and bargain effectively on their constituents’ behalves.

We won’t repeat the points we’ve previously raised in letters expressing concern about the City’s response to a federal court ruling that the most recent collective bargaining agreement the City entered into with one of Seattle’s two police unions eliminated important accountability reforms and caused the City to fall out of compliance with the terms of a U.S. Department of Justice settlement agreement. Suffice it to say we very much appreciate that when that contract (with the Seattle Police Officers Guild, or “SPOG”) and the current SPMA contract were proposed by the Mayor for ratification by the City Council, the Community Police Commission (CPC) reviewed and analyzed each of them to assess whether any provisions undercut or weakened Seattle’s police accountability law and could hurt community trust and confidence. We also appreciate that the CPC made sure the community had a voice in the Consent Decree proceedings to raise these issues. We very much agree with the position the CPC has articulated that the community is looking to see City leaders unequivocally commit to addressing these problems so that promised reforms will be fully implemented. That can’t happen unless the City gets its police contracts right.

Since 2014, the CPC has led the way in crafting police accountability system reforms and was key to getting the police accountability law passed in May 2017. The accountability law was hailed by City officials as “landmark” legislation, incorporating significant reforms. The law was the result of years of input by civilian oversight officials, stakeholders, and community leaders. It was specifically intended to strengthen Seattle’s police disciplinary system so that it would be effective, impartial, transparent, procedurally just, and better engender public trust.

Many of us who have worked on these issues for years in our communities partnered with the CPC in its work, as individuals and through our organizations. The reforms resulting from that work should be respected and valued, and the City must finally deliver on its promises to the community and to the Court that the reforms in

the accountability law will, in fact, be fully implemented. The City's baseline bargaining position (not its ceiling) for the accountability sections of the contracts must be to make sure the contracts don't conflict with the accountability law and don't continue to embed barriers to a fair accountability system.

While it was understood that some provisions in the law required collective bargaining, the law was also clear that:

... the police are granted extraordinary power to maintain the public peace, including the power of arrest and statutory authority under RCW 9A.16.040 to use deadly force in the performance of their duties under specific circumstances. Timely and comprehensive implementation of this ordinance constitutes significant and essential governmental interests of the City ... For these reasons, the City shall take whatever steps are necessary to fulfill all legal prerequisites within 30 days of Mayoral signature of this ordinance, or as soon as practicable thereafter, including *negotiating with its police unions to update all affected collective bargaining agreements so that the agreements each conform to and are fully consistent with the provisions and obligations of this ordinance, in a manner that allows for the earliest possible implementation to fulfill the purposes of this Chapter...* (Section 3.29.510.A of the Accountability Ordinance, emphasis supplied.)

But that did not occur. Neither contract even mentions ensuring that there is a fair and effective accountability system in the purpose section of the contract. That sends a message.

While the current SPMA contract does not have as many problems as the SPOG contract (for example, the SPMA contract agrees to long overdue reform of SPD's secondary employment system, to the use of subpoena authority to ensure investigations are thorough, and to excluding excessive force and dishonesty from the statute of limitations for disciplinary action), there are important issues with some contract terms that conflict with the law. Other terms are ambiguous or outdated, so no one can be sure if the related provisions in the law are or are not in effect. We understand the CPC, Office of Police Accountability (OPA), and Office of the Inspector General for Public Safety (OIG), our accountability system's civilian oversight entities, will be providing you a full analysis of all of the contractual problems identified, and we ask that you fully utilize their expertise by including their recommendations in the bargaining agendas. That is one reason why we fought for a system that has these independent voices.

We also fought for a system that applies consistent standards across ranks. While SPMA and SPOG are different bargaining units, the accountability law rightly requires that the same rules apply for everyone, from captain to line officer. So, while you are holding a separate hearing for each contract, we hope that doesn't signal the City's lack of commitment to follow the accountability law mandate and make sure accountability provisions in the two contracts are consistent with one another.

We also ask that the City follow through on the CPC's recommendation to use an advisor in bargaining who has expertise in accountability system reform and police contract reform. This recommendation was made more than five years ago and discussed when the accountability law was passed. The City should use an advisor during bargaining who has this specific expertise, and who is deeply fluent in recommendations made by the community and Seattle's oversight entities.

Under the accountability law, the Mayor and Council now must receive input from the accountability entities when bargaining agendas are being developed, which is an important improvement, along with the community input required by Ordinance 122809. But as we see each time bargaining is concluded, the City also needs someone to assess the agendas before they are finalized as well as proposals offered throughout negotiations. The advisor should be recommended by the oversight entities' leadership (the CPC Executive Director, the OPA Director, and the Inspector General) so the community can have confidence in the advisor's commitment to and understanding of reform. This is especially important because the advisor will be subject to the confidentiality requirements of the collective bargaining process.

Let us be clear on an important point: we strongly support collective bargaining rights. We know that collective bargaining has secured basic rights to safe conditions, fair wages, and job stability for workers. But police contracts also need to align with social justice principles. Collective bargaining agreements should treat officers fairly, but they should not create unfair systems that disadvantage, harm, and sanction the violation of constitutional rights of community members impacted by police misconduct. It is up to City leaders to make sure the City's bargaining agenda and its final contracts reflect a commitment to fairness for community members as well as employees.

In our experience, good officers, just like civilian members of the community, also want to know that the system works fairly for everyone. We all know the community-wide impact that just one or two bad incidents can have, and thus the value in having a system that can address those swiftly, fairly, and transparently. However,

over time police contracts here and elsewhere have embedded barriers to reform—barriers that the public is often unaware of until misconduct comes to light and appropriate discipline isn't imposed or gets overturned. With every personal experience or media report of such cases, community confidence that police also want fairness, transparency, and accountability erodes.

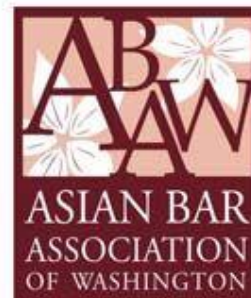
You have no doubt heard some of us say, if Seattle can't get this right—while under federal court oversight, after spending a tremendous amount of money to reform SPD, and with a unanimous vote approving a strong accountability law supported by the community—what chance does any community have? Many of our organizations and other organizations before us have advocated for reforms for decades. Now in late 2019, as the City is about to begin another round of bargaining with SPMA and SPOG, we ask again for the City to follow through on promises to reform the police accountability system that it made to our communities, our families, our organizations—and to the federal court. We should not have to continue to make the same appeals. We need you, our elected representatives, to understand this history, and to advocate, in the strongest terms possible, on behalf of us.

Sincerely,

ACLU
Washington



Michele Storms
Executive Director



Aileen Tsao
Board Member



Asian Counseling and Referral
Service

Michael Byun
Executive Director



Joanne Alcantra
Executive Director

Supporting Survivors,
Strengthening Communities



Asian Pacific Islander Coalition of Washington S
Celebrating Unity and Civic Participation

APIC of King County

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Diane Narasaki & Tony Lee
Co-Chairs



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Andrea Caupain Sanderson
CEO



Council on American-Islamic
Relations

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Masih Fouladi
Executive Director



Marcos Martinez
Executive Director



Michael Ramos
Executive Director



BRIDGING CULTURES
COMMUNITIES & GENERATIONS

Chinese Information and Service
Center

Michael Itti
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Mark Stroh
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Rev. Paul Benz & Elise DeGooyer
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Fred T. Korematsu Center for
Law and Equality

Robert S. Chang

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John T. Williams
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Louise Chernin

Jay Westwind Wolf
Hollingsworth
Chair

Louise Chernin
President & CEO



Latino Civic Alliance
empower your community to achieve greatness

Nina Martinez

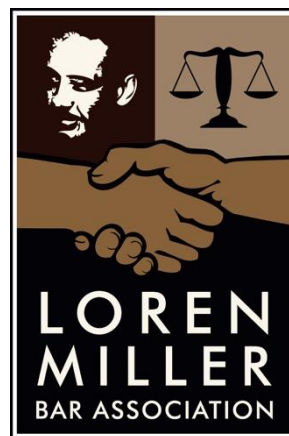
Nina Martinez
Board Chair





Legacy of Equality, Leadership
and Organizing

Garry Owens
Board Member



Raina V. Wagner
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Rev. Harriett Walden
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Director of Advocacy & Public
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Co-Founder & Executive
Director



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Rich Stolz
Executive Director



A handwritten signature in black ink, appearing to read "Corey Guilmette".

Corey Guilmette
Staff Attorney



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Matt Etter
President



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J. Denise Diskin
Executive Director



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Tim Harris
Founding Director



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Alison Eisinger
Executive Director



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& Dr. Katrina Sanford
Co-Chairs

Sadiqa Sakin
President



Idabelle Fosse, Darya Farviar,
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Vietnamese Community
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Cc: Lisa Herbold, Seattle City Councilmember
Kshama Sawant, Seattle City Councilmember