



# Seattle City Attorney

Peter S. Holmes

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May 12, 2017

Council President Bruce Harrell  
Councilmember M. Lorena González,  
    Chair, Gender Equity, Safe Communities & New Americans Committee  
Councilmember Tim Burgess,  
    Chair, Affordable Housing, Neighborhoods, & Finance Committee

Subject: Council Bill 118907

Dear Councilmembers:

Seattle City Council is now considering legislation that will overhaul the way we hold our Seattle Police Department (SPD) accountable. As I've said repeatedly in public statements and federal court filings, this may be our last, best opportunity to reform the fundamental *culture of policing in Seattle*. We must get this right.

A clear path forward is unfortunately clouded by Seattle's tendency to overly complicate and bureaucratize important issues. The executive has proposed a legislative package that reflects a compromise among competing interests, and Council is being lobbied extensively by these same interests. The final product will determine whether meaningful, lasting reform takes hold amid difficult bargaining between the City and its two police unions—the Seattle Police Officers Guild (SPOG) and Seattle Police Management Association (SPMA)—over labor contracts that expired four and six years ago, respectively. Litigation initiated by SPMA last October seeks to overturn the same legislation now under Council consideration. And with the new Trump/Sessions Justice Department second-guessing federally monitored police reforms—five years into Seattle's federal Consent Decree—the country is watching to see whether accountable, constitutional policing is just a pipe dream.

The proposed legislation's basic structure is thoughtful and maps out necessary components of police reform in Seattle. The **Office of Police Accountability** (OPA) needs civilian investigators to replace the sworn, union members presently called upon to investigate *individual misconduct complaints* against fellow union members. A new **Inspector General** (IG) is warranted to address *systemic SPD issues*, filling the role of the Monitor once the City is no longer under federal oversight. Both the OPA Director and the IG should be experts in policing and police accountability. As supported by best practices and research in the field, the legislation must encompass, at its core, a strong **Chief of Police** who remains the *final word in discipline*. There is wide agreement among police accountability experts that the appointed Chief is the ultimate measure of a police force's accountability, discipline and constitutional policing, simply because the Chief is held accountable by a city's *elected* appointing authorities.

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Successful, permanent police accountability in Seattle should also:

- *Stress simplicity with clear lines of accountability.* Overlapping duties should be kept to a minimum and each of the three accountability components (OPA, IG and CPC) should answer directly to its respective appointing authority.
- *Centralize inputs and recommendations concerning SPD policies, practices and training.* The Inspector General is the ideal conduit through which these inputs and recommendations can be channeled.

No modern police accountability system is complete, however, unless it is ultimately responsive and accountable to the communities it serves. Strong, institutionalized civilian oversight is a prerequisite to meaningful, lasting reform. Stated another way, with top-notch, professional expertise installed in the OPA Director, Inspector General and Chief of Police positions, the final necessary element is a sound method for matching policing services with the needs and cultural realities of communities throughout the City—the *civilian oversight system*. Since its inception in 2012 under the Consent Decree, the **Community Police Commission (CPC)**—set to expire upon completion of Consent Decree reforms—has emerged as the natural successor to the OPA Review Board (OPARB) I formerly chaired. The legislation under consideration by City Council, however, proposes a larger, less-focused and much more expensive CPC, which could undercut the reform progress made to date. This conclusion is based not only on my OPARB experience beginning in 2002, but also on tried and failed accountability efforts elsewhere and my work shepherding the City through the Consent Decree itself.

Seattle's ideal civilian oversight system should:

- *Be comprised of and responsive to the communities it serves.* CPC commissioners should live within the City and be apportioned based on the seven Council districts—perhaps even directly elected by their constituent communities.
- *Be a megaphone for community input about the quality of police services as delivered.* This should be the CPC's primary mission—not to "interpret" community opinion, decide who are the "legitimate voices" of the community, or tell the community what it believes. The issue of body cameras is instructive because the current CPC opposes this tool for accountability and constitutional policing despite nearly 90% community support.
- *Be comprised of diverse community representatives residing throughout the City.* CPC should not be a bureaucracy staffed by "subject matter experts." There are more than enough qualified Seattle residents willing and able to give voice to the hopes and concerns of their communities.
- *Be accountable to the electorate.* As proposed, the CPC would itself select a third of its own fellow commissioners and its executive director, with no checks from the public or any branch of government. I strongly urge that all commissioners should be appointed by either the Mayor, the City Council, or a combination of the two.

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- *NOT include sworn law enforcement personnel or union representation on the CPC.* Police officers have other avenues to express their views, including the able representation of their unions. CPC can seek and does receive technical advice and expertise from SPD. While law enforcement commissioners were originally contemplated for the CPC when the Consent Decree was entered between the City and the Department of Justice for the reform phase, we are now focused on a *permanent* CPC that will continue after the Consent Decree ends. Moreover, the CPC is seeking an expanded role in setting legislative and collective bargaining agendas. Having union representatives on the CPC raises the specter, even with best intentions, of unworkable conflicts over sensitive and confidential bargaining information.
- *The CPC, like the OPA Director, Inspector General and Chief of Police, must all continue to be represented by the City Attorney's Office.* Every other City department receives expert, unbiased and confidential legal representation from my office. Separate legal counsel as urged by CPC is not only unnecessary but inadvisable—and would require a City-wide vote to amend the City Charter.

I am deeply committed to police reform. It is why I ran for City Attorney in 2009. It would be easier for me to remain silent and let legislative and litigation processes unfold without comment—especially in an election year—but I must speak up for an accountability system focused, effective and responsive to the people of Seattle.

Very truly yours,



CC: Councilmember Sally Bagshaw  
Councilmember Lisa Herbold  
Councilmember Rob Johnson  
Councilmember Debora Juarez  
Councilmember Mike O'Brien  
Councilmember Kshama Sawant  
Mayor Ed Murray  
Chief of Police Kathleen O'Toole