A Community Collaborative Process for the City of Seattle

A Proposal

Submitted by the OPA Review Board

June 16, 2011

A Community Collaborative Process

Introduction

"We can be human only…in community…in peace." Desmond Tutu

This is a proposal prepared by the Office of Professional Accountability Review Board for Phase I of a facilitated community collaborative process. This process would address the tensions between the Seattle Police Department and Seattle's communities of color with the goals of cultivating healing and reconciliation; strengthening the police accountability system and making the community a partner in proactive policing and problem-solving. This proposal identifies two facilitators for this process, Jay Rothman, Ph.D., and Marvin Johnson, J.D. Rothman is President of the ARIA Group and former Special Master appointed by U.S. Federal Judge Susan J. Dlott to guide the parties involved in a class action racial profiling suit in Cincinnati in developing a collaborative process to resolve the city's social conflict and improve its police-community relations. Johnson is founder of The Center for Alternative Dispute Resolution in Maryland and has been appointed by the Chief of the Maryland Court of Appeals to federal and state dispute resolution panels and boards. The proposal outlines the current state of relations between the Seattle Police Department and the communities of color; the enduring history of these tensions; the Cincinnati example of a successful collaborative process; reasons why OPARB should launch this effort; and the steps for Phase I of the process.

Seattle in Crisis: Conflict & Violence between Police & Communities of Color

Over the course of 16 months, from June 2009 through October 2010, the City of Seattle became the stage for a significant number of hostile interactions between its police department and individuals within various communities of color. Each unfortunate event had a deeply debilitating effect on the already strained relationship between the Seattle Police Department and the communities of color within the city.

The incidents have been characterized by allegations of excessive use of force. This collection of events prompted the ACLU of Washington, supported by 34 community organizations in Seattle, to submit a letter to the U.S. Department of Justice Civil Rights Division dated Dec. 3, 2010, requesting that they begin a "pattern or practice investigation" into the alleged incidents of excessive force by the Seattle Police Department, particularly as it relates to people of color. [1]

[1] American Civil Liberties Union of Washington letter to United States Department of Justice Civil Rights Division dated December 3, 2010.

On March 31, 2011, the Civil Rights Division of the U.S. Department of Justice, in conjunction with the U.S. Attorney's Office, Western District of Washington, announced an investigation into the allegations of the use of excessive force and discriminatory policing by members of the Seattle Police Department, pursuant to the pattern or practice provision of the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. sec. 14141 ("Section 14141"), as well as the anti-discrimination provisions of the Omnibus Crime Control and Safe Streets Act of 1968 ("Safe Streets Act"), 42 U.S.C. sec. 3789d, and Title VI of the Civil Rights Act of 1964, 42 U.S.C. sec. 2000d. [2]

This investigation was finally called for in the wake of the killing of a Native American wood carver who was shot and killed by a Seattle Police Officer in August 2010. Ruled by the department's Firearm Review Board to be an "unjustified" killing, this unfortunately is not the first time for such an act by a Seattle Police Officer but another incident in a long history of tension between the police and communities of color in Seattle.

An Enduring History of Tension & Violence between SPD & Communities of Color

Tension between the SPD and communities of color in Seattle is not new. Unfortunately, allegations regarding police excessive use of force on people of color in Seattle have been circulating for many years. One example is an incident that occurred nearly 50 years ago. On June 20, 1965, an African-American man named Robert L. Reese was shot and killed by an off-duty Seattle police officer named Harold J. Larsen during a brawl in a tavern.[3] Following this tragic incident, the ACLU of Washington called for a grand jury investigation and the chairman of the local chapter of the civil rights organization CORE (The Congress of Racial Equality) called for the establishment of a permanent police review board.[4] This recommendation was not a new idea. A Citizen Investigating Committee appointed by the mayor had made the same recommendation in 1956.[5]

Reese's death was ruled "excusable homicide" and the officers involved in the shooting were suspended for thirty days. The recommendation for a police review board was not followed. Shortly after that incident, a group of local civil rights leaders formed a "Citizens Committee on Police Practices." Its goal was to have the Reese case investigated by a Federal or county grand jury and to have an outside agency study and

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[2] United States Department of Justice Civil Rights Division letter to American Civil Liberties Union of Washington dated March 31, 2011.

[3] Joan Singler, Jean Durning and Bettylou Valentine, *Seattle in Black & White* (Seattle: University of Washington Press, 2011), 210.

[4] Id. at 211.

[5] Id.

analyze police training and performance.[6] The Citizen Committee on Police Practices petitioned the U.S. Civil Rights Commission to hold hearings and also relayed other complaints of police misconduct.[7] From this committee emerged the "Freedom Patrols" which were comprised of citizens who moved throughout the city observing police officers and documenting their misconduct.[8] The patrols were described as "walking citizen review boards" and they were the closest thing Seattle had to a civilian police review board at that time.[9]

With almost predictable regularity over the decades since as far back as 1939, Seattle Police have had violent encounters with the public that brought into question policies as to use of force, discretion exercised by individual officers, and, in particular, what we call today race-based or biased policing. Because of official findings of "justified" and "exonerated" as to officer conduct, communities of color and marginalized groups have been left with the firm sense that police services are unevenly and unfairly delivered and, further, that officers are not held accountable for misconduct.

Beginning in 1992, civilian oversight of the Seattle Police Department's accountability system began with the appointment of a civilian auditor. When this approach was found lacking, a three-prong system of accountability was put in place in 2002 to include a civilian auditor, a civilian director of the Office of Professional Accountability, and an OPA Review Board. The system was further refined in 2008, and, in many ways, Seattle's system of civilian oversight is far more advanced than the systems in other communities in the nation.

Nonetheless, because of a number of high-profile incidents during the period of June 2009 through October 2010, a gulf remains between the police and segments of the Seattle community.

The Need for Leadership: A Call for Collaboration & Reconciliation

Seattle has reached a critical period that calls for the emergence of strong leadership to guide the city through a process that explores ways to help the city heal from the past and to reduce the current tensions between the SPD and communities of color. The Reese case is just one example from Seattle's difficult history of police and community interaction. Unfortunately, nearly fifty years later, SPD and communities of color are still grappling with the same questions about police practices. The events throughout the noted period build upon a foundation of racial tension that has been

[6] Id.

[7] Id. at 213.

[8] Id at 211.

[9] Id at 212.

growing for decades. If these issues continue to linger and the racial tensions are not addressed, the city of Seattle could be in store for major civil unrest when the next hostile interaction between SPD and a citizen of color occurs. Seattle would benefit from a collaborative process that could be the vehicle for healing and reconciliation that this city so desperately needs.

What Seattle Can Learn from Other Cities: The Cincinnati Story

There is a city that Seattle can look to for an example of a successful community collaborative process that transformed police-community relations. Cincinnati, Ohio experienced years of severe tension between the police and the African-American community, the city's largest minority group. During the period of 1995 through 2001, Cincinnati police officers killed fourteen African Americans. In March of 2001, the Cincinnati Black United Front, and the ACLU of Ohio Foundation, Inc., filed a lawsuit on behalf of a class of African-American citizens alleging racial profiling and discriminatory law enforcement against the City of Cincinnati and the police officer bargaining unit the Fraternal Order of Police. In an effort to improve community relations and avoid polarizing litigation, the Federal Judge assigned to the case, United States District Judge Susan J. Dlott, directed the parties to engage in an alternative dispute resolution process.[10] Judge Dlott appointed Jay Rothman, Ph.D., an expert in identity-based conflict resolution, as Special Master to facilitate this process. Rothman was charged with helping the parties to define the problems, identify solutions, and work together to implement them.

On April 7, 2001, less than a month after the lawsuit, a 19-year-old African-American male was unarmed and running away when he was shot and killed by a Cincinnati police officer. His death was the tipping point for the African-American community in Cincinnati and it sparked several days of civil unrest in the city. This painful period prompted the mayor of Cincinnati to request that the U.S. Department of Justice conduct a "pattern or practice investigation" into the Cincinnati Police Department's use of force. The Department of Justice decided to conduct an investigation pursuant to its authority under the Violent Crime Control and Law Enforcement Act of 1994, U.S.C. sec 14141. Subsequently, the Department of Justice and the City of Cincinnati engaged in a separate negotiations process (not facilitated by Rothman) that resulted in a City-Department of Justice Agreement.

The Rothman process engaged the entire Cincinnati community in a constructive dialogue that has resulted in an ongoing commitment to building positive relations between the police and the community.[11] The process involved reaching out to the community through eight stakeholder groups which included African-Americans, social service and religious organizations, businesses and philanthropic groups, police line officers and spouses, City officials, white citizens, other minorities and youth. Over

[10] Collaborative Agreement, In Re Cincinnati Policing, United States District Court Southern District of Ohio Western Division No. C-1-99-317 (2001) 2.

[11] Id.

3,500 people participated in this process. The participants created the "Collaborative on Police Community Relations" (Collaborative Agreement).[12]

The ultimate goal of the Collaborative Agreement is to reduce the tension and hostility between the community and the Cincinnati Police Department and to create a safer environment where "mutual trust and respect is enhanced among citizens and police."[13] Based upon the responses of the 3,500 citizens involved in the process, the following five goals were adopted:

- Establish police officers and community members as proactive partners in community problem-solving;
- Build relationships of respect, cooperation and trust within and between police and communities;
- Improve education, oversight, monitoring, hiring practices and accountability within the police department;
- Ensure fair, equitable, and courteous treatment for all;
- Create methods to enhance the public's understanding of police policies and procedures and to recognize exceptional service in an effort to foster support for the police.[14]

The Collaborative Agreement includes a provision stating that the City shall abide by the terms of the agreement that it entered into with the Department of Justice.[15]

On a recent visit to Seattle, former Cincinnati Police Chief Thomas Streicher spoke with OPARB members about the differences between the Collaborative Agreement and the agreement that the City entered into with the Department of Justice. Chief Streicher was Cincinnati's chief during the events that led to the DOJ intervention and the Collaborative Agreement and during the entire time that Cincinnati's police department operated under the DOJ Agreement.

First, according to Chief Streicher, the community did not participate directly in negotiating and writing the DOJ Agreement. A limited number of members of the community provided input to DOJ at the outset, but DOJ negotiated and enforced the agreement. Chief Streicher was emphatic that the DOJ Agreement was valuable, but not nearly as valuable as the collaborative agreement that formed as a result of the face-to-face interactions between the police and the community.

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[12] Id.

[13] Id. at 3.

[14] Id.

[15] Id. at 16.

Second, the DOJ Agreement is limited to police practices and does not really involve the community except as the police practices affect the community. The Cincinnati Agreement was fairly typical. It required new policies on use of force, reporting and investigating use of force and citizen complaints, and new requirements for training, early intervention, and risk management. In contrast, the Collaborative Agreement focused on the issues raised by both the police and the community, and represented a commitment by all to work together to resolve those issues. The community thus had a major say in how the community would be policed and in turn agreed to work with the police to achieve more effective policing. A key provision adopted by the parties was the Community Problem Oriented Policing approach which they agreed would be the principal crime fighting approach. The agreement emphasized more effective, efficient, community-based policing rather than the usual practice of gathering and analyzing race statistics, sensitizing officers, etc. However, it does contain a police commitment to address issues of bias-free policing via policy, training, and data collection and analysis.

Finally, Chief Streicher explained that the DOJ Agreement is overseen by a court-appointed monitor who reports to the judge, the city and DOJ. The reports arise in the context of an adversary proceeding and the community is merely an observer. In contrast, the progress under the Collaborative Agreement is evaluated periodically by academics from the University of Cincinnati, and the evaluations are made public. The evaluations are credible because they are conducted by respected, professional third parties. They are public documents, so the facts are available for people to react to and comment. The community is directly involved and there are provisions for revisiting and revising issues that arise from the evaluations or otherwise. The working relationships established through the process can continue as long as necessary.

For Chief Streicher, one of the best outcomes of the Collaborative Agreement process was to establish and strengthen police relationships with key leaders all over the city. When something happens, he knows exactly who to call and how to get the truth of the matter out for people to react to. The other major benefit was to get the community much more involved in policing. The DOJ process did not produce either of these benefits.

OPARB has identified another reason to go forward with a collaborative process in Seattle. Recently in Pittsburgh, Pa., the Department of Justice declined to prosecute three officers who arrested, beat and seriously injured an unarmed, teen-aged African-American. According to the Pittsburgh Post-Gazette, the community was in an uproar for 17 months as the matter was investigated. When DOJ declined to prosecute, the community was hugely disappointed and was left with nowhere to turn. It is possible that the same thing could happen in Seattle with regard to the killing of John T. Williams. The collaborative process would give the community and the police a positive alternative.

Transforming Police-Community Relations: Working Together to Craft Solutions

Although the community police conflict in Seattle is not on the same scale as the conflict in Cincinnati ten years ago, the conflict here is significant and spans over many, many decades. The recent events that prompted the call for the DOJ investigation have brought to the surface old concerns about excessive force and have polarized the SPD and communities of color even more. These communities have expressed their pain and their desire for change. A collaborative process specifically tailored to address the needs of Seattle with the goal of reducing the tension and hostility between members of the communities of color and the SPD and creating a safer environment where mutual trust and respect is enhanced among citizens and police, would be transformative for this city. It would be a balanced process that would take into account the needs and concerns of all of the communities involved, including the Seattle Police Department which has also experienced tragedy during this period following the assassination of one of its officers in October 2009. Many of their officers are also beleaguered as a result of the on-going tensions involving the communities of color.

Currently, there are a number of community groups and organizations engaging in efforts to try to address the community-police conflict in Seattle. The SPD is making active efforts to address the conflict as well. Through Rothman's community collaborative model, the entire Seattle community can be involved in a process that brings everyone together for constructive dialogue about ways to reach their shared goals and to create a pathway for healing and reconciliation.

The Power of Reconciliation and Forgiveness

"…I think some people can even benefit from being forgiven, being given another chance…We have no alternative."[16] *Paul Kagame, President of Rwanda*

The idea of cultivating healing and reconciliation between the Seattle Police Department and communities of color may seem like an insurmountable task. However, the success in Cincinnati is an encouraging example of what communities can accomplish when polarized groups come together and commit to resolving their conflicts and building peace. Additionally, there are many examples of nations throughout the world which are being transformed through reconciliation and forgiveness following periods of extreme violence and unrest. One example is Rwanda, which today is remarkably thriving just seventeen years following the genocide that resulted in the death of nearly one million people over the course of about one hundred days. The conflict in Rwanda was between the two dominant groups, the Hutus and the Tutsis. It was rooted in the false racial ideology that promoted the Tutsis as being "racially superior" to the Hutus, which was a legacy of colonization. Hutus murdered nearly one million Tutsis, and Hutus who were considered Tutsi sympathizers. But

[16] John Rucyahana, *The Bishop of Rwanda: Finding Forgiveness Amidst A Pile of Bones,* (Nashville: Thomas Nelson, 2007), 156.

today, Rwanda is considered to be one of the most peaceful and stable nations in Africa. The country has been healing through its commitment to reconciliation and forgiveness. One of the vehicles for reconciliation and forgiveness was the Gacaca Court system, a traditional community justice system that had been used to resolve every day disputes in the community. After the genocide, the Rwandan government utilized these courts to prosecute low level genocide offenders. The courts were comprised of a group of well-respected members of the community who served as the judges. The system was intended to address the significant back log of genocide offender cases that needed to be tried, but it was also designed to help restore the community and to make it possible for genocide offenders and victims to live together in the same community. The offenders had the opportunity to confess their crimes to their victims' families and to ask for their forgiveness. An important goal of this community justice system was to cultivate national reconciliation and forgiveness. Additionally, through faith-based reconciliation workshops and trainings, survivors of the genocide are learning how to forgive genocide offenders and offenders are learning how to forgive themselves and are seeking forgiveness from the families they harmed. Reconciliation and forgiveness are a part of Rwanda's national agenda. The country has a National Unity & Reconciliation Commission which "strives for a peaceful, united and prosperous nation."[17] Rwanda is a contemporary example of the transforming power of reconciliation and forgiveness and of the potential within any community that is committed to healing.

OPARB's Mandate for Community Outreach

OPARB's charge is to organize and conduct public outreach and to help strengthen the system of police accountability by soliciting community input regarding police accountability and police practices. Serving as one of the entities to support a community collaborative process that cultivates healing and reconciliation falls within the scope of its mandate. During outreach visits to communities of color, OPARB hears repeated concerns from citizens about the strained relations with the police department and their desire for change. Initiating a collaborative process would be a powerful and innovative way for OPARB to respond to its charge and to contribute to an endeavor that has the potential to strengthen the police accountability system and to ultimately transform police – community relations within Seattle.

This is a proposal for OPARB to approve and initiate Phase I of a facilitated community collaborative process in the City of Seattle. This process will be implemented by city staff, i.e. city council staff and the mayor's staff; the police department's community affairs division; community groups and OPARB.

[17] See www.nurc.gov.rw

Phase I: Scoping and Assessment

Jay Rothman and Marvin Johnson's Initial Visit

Event Summary: Jay Rothman and Marvin Johnson will spend two days in Seattle, to do the following three things:

1. Deliver a half day public presentation to community groups, SPD and city officials and discussion about the Cincinnati community engagement process to include outcomes and lessons learned from that experience. This presentation ideally should reflect on how Seattle might benefit from a facilitated community process.

2. Meet with community groups and leaders during the remaining one and a half days to obtain a more detailed understanding of the history, issues and key participants in Seattle, to inform the design and implementation of a proposed Community Engagement Process (Phase II) in Seattle.

3. Write and deliver to OPARB and others in Seattle a report on the proposed Phase II, to include a judgment of the "readiness" of Seattle for a facilitated community process (Phase II) and an outline of the process.

Pre-event Process:

1. Identify the dates and location(s) for both public meetings and small group meetings.

2. Develop roster of community members/groups to be invited to the public presentation.

3. Identify AND schedule individual or small group meetings over a day and half with the following: **NOTE: It will be important to confer with Jay and Marvin to ask them if they have a preference on how, where etc. they meet with individuals and/or groups. OPARB members may be able to accompany Jay and Marvin at meetings if appropriate therefore gaining an intimate understanding of community concerns and positions (ultimate outreach). In some cases they may wish not to have OPARB members along, or want private one-on-ones with key leaders etc.**

-OPARB (lunch perhaps) -Key community groups such as MEDC and El Centro, Native American Community groups, NAACP, and others willing to meet individually or in small group setting.

-May wish to reach out to John T. Williams family to see if they would be willing/interested in meeting.

-Chief of Police and key members of SPD

-President of the Police Guild, Guild members and family members. The President of the Guild can advise on this.

-Mayor

-Chair of the Seattle Council Public Safety Committee-committee members

Event process:

1. Conduct event: The Mayor and OPARB Chair should formally welcome and introduce Jay and Marvin.

2. During event have someone assigned to record actual event perhaps for the Seattle Channel.

3. Have assigned individuals as assessors of the event to gauge and collect impressions to inform the "readiness" of Seattle discussion for a phase II. (Board members, OPARB staff consultant etc).

4. Consider a feedback and/or comment form, email invite, etc. to gain impressions from community participants. Use sign-in sheets for both the public presentation and the small group events to facilitate this.

5. Schedule Board Members to accompany Jay and Marvin during their time here in Seattle.

Note: As a public event it is possible that there may be people who wish to disrupt this meeting. The normal steps should be taken to insure safety. An alternative to a totally open meeting is a meeting by invitation only. Of course that approach has draw backs as well.

Post event process:

1. Schedule OPARB debrief discussion for next board meeting.

2. Review feedback and comment forms and solicit reactions from the community participants

3. Receive and review report from Jay and Marvin.

4. Move forward accordingly.

Phase I Costs Estimation:

Professional fee = $2500 per person Total=$5000.00 (firm)

Travel/lodging/meals = $3000.00 (estimate)

Cost to reserve meeting space/refreshments: $2000 (estimate)

Total= $10,000.00