

February 26, 2013

To: Public Safety, Civil Rights & Technology Committee  
From: Peter Harris, Central Staff  
Re: Ordinance to create Office of the Community Police Commission

## **Introduction**

On February 12 the Mayor transmitted a Council Bill to create an Office of the Community Police Commission. The purpose of the Office would be to provide staffing for the new Community Police Commission called for by the agreements with the U.S. Department of Justice (DOJ). The Office would contain three positions. The bill also would transfer funding for the new office from the amount reserved in Finance General for implementing these agreements.

This memo discusses these questions:

What do the two agreements with DOJ say about staffing the Commission?

Why does the Commission require three staff?

Why create a new Executive office? To whom would the staff report?

Will the new office be permanent?

The Council may want to state its expectations on the last two questions.

## **What do the two agreements with DOJ say about staffing the Commission?**

The settlement agreement is the agreement enforced by the U.S. District Court. It calls for the creation of the Community Police Commission and lists its primary responsibilities. The memorandum of understanding (MOU) is a side agreement that elaborates the role of the Commission. Both say the Commission “will be . . . provided such staff support as the City of Seattle deems necessary to perform the duties and responsibilities identified in the Agreements.”

## **Why does the Commission require three staff?**

The three positions created by the proposed ordinance include a Strategic Advisor 3 (SA 3), a Strategic Advisor 2 (SA 2) and an Administrative Staff Assistant (ASA), all full-time. The SA 3 would be the Executive Director for the Commission. The ASA would provide administrative support. The SA 2 would “provide high level program support [and] be responsible for communicating program, procedural, and policy information to internal and external audiences, including SPD Commanders, the Monitor, and the Community Police Commission.”

The ordinance would transfer \$362,865 to the new office from the Finance General reserve for implementation of the DOJ agreements. This amount would support the three positions for the 10 months remaining in 2013 and provide \$75,000 for Commission operating costs.

For comparison, the Ethics & Elections Commission has 4.0 FTE staff, the Planning Commission effectively has about 2.5 FTE, the Design Commission soon will have 3.0 FTE, and all other City boards and commissions have fewer than 2.0 FTE staff.

### **Why create a new Executive office? To whom would the staff report?**

The proposed ordinance would create a new Executive Department office, alongside the City Budget Office, Office of Intergovernmental Relations and others. The Executive Director would be appointed by the Mayor and confirmed by the Council, and could be removed by the Mayor. The other two positions would be hired by the Executive Director.

Most City boards and commissions are staffed by employees of departments with corresponding missions. The department with the corresponding mission to the Community Police Commission is the Police Department. The Mayor may have declined to recommend staffing the Commission from the Police Department in order to avoid an appearance of conflict of interest, or to avoid confusion about the role of Commission staff in comparison to the SPD Compliance Coordinator, Professional Standards Section and Office of Professional Accountability (OPA), all of which have roles in implementing the DOJ agreements.

The direct reporting relationship of the Executive Director to the Mayor may contain the potential for a different kind of conflict. Section 5 of the proposed ordinance says the purpose of the new office is “to provide staff support to the Community Police Commission” (page 4, lines 11-13), but Section 1 says this:

“The purpose of the Office of the Community Police Commission BCL is to leverage the ideas, talents, experience, and expertise of the community to provide ongoing community input into the development of Seattle Police Department reforms, the establishment of police priorities, and facilitation of police/community relationships necessary to promote public safety.” (Page 2, lines 10-19)

What happens if the Commission and Mayor come to differ in their views on policing reforms and police priorities and on the role of the new office in pursuing these? To whom would the Executive Director be responsible? It would be good for the Council to make clear its own expectations on this.

### **Will the new office be permanent?**

Section 1 of the proposed ordinance sets the minimum term of the new office:

“Termination of this BCL may not occur prior to the termination of the settlement agreement . . .” (page 2, lines 20-21)

Regarding the maximum, Section 4 amends the ordinance creating the Commission by adding this:

“Within six months of the termination of the settlement agreement by the Federal Court, the Mayor and City Council will assess the need for continuation of the [Community Police Commission] and the Office of the Community Police Commission.” (Page 3, lines 23-26)

And Section 5 adds this:

“It is intended that if the Community Police Commission is terminated, this staff support will be terminated.” (Page 4, lines 13-14)

The DOJ settlement agreement says the main responsibility of the Commission is to assist and advise on implementation of the agreement and on other efforts related to the reforms called for by the agreement. This implies that the primary reason for the Commission will end when the settlement agreement ends. The MOU, however, is not entirely clear on this point. In addition to repeating the main responsibilities listed in the settlement agreement, the MOU identifies topics for Commission review, but does not say explicitly that these reviews should be completed within the life of the settlement agreement.

This is important because agencies sometimes find reasons to exist even when the original reasons no longer apply, and because one major topic for Commission review is the structure of the police accountability system. It would be easy for the Commission and the new Executive office to become part of the police accountability system rather than being reviewers of it. At minimum it could have this appearance, because all the topics the MOU identifies for Commission review are also within the purview of the existing system. If so, the Commission and staff would be the fourth arm, or perhaps the fourth and fifth arms, of a system that already includes the civilian OPA Director, the OPA Auditor and the OPA Review Board. In particular, the Commission’s heavy emphasis on community engagement combined with its non-involvement in the review of individual misconduct complaints and officer discipline make its duties very similar to those of the OPA Review Board.

This also is a topic on which the Council should make its expectations clear. Does the Council see the Commission and the new office as temporary bodies assisting with the implementation of the settlement agreement in the manner described in the MOU? Or does it see them as potentially permanent parts of the police accountability system? This need not be a final decision now, but it may be useful for the Commission, its staff and the public to know the Council’s current intent.

## **Conclusion**

None of the features of the proposed new office appear to be fatal flaws, but this does not mean the proposed ordinance could not be amended to reflect the Council’s views on the organizational questions discussed above.

If you have any questions, please let me know.