



Seattle Human Rights Commission

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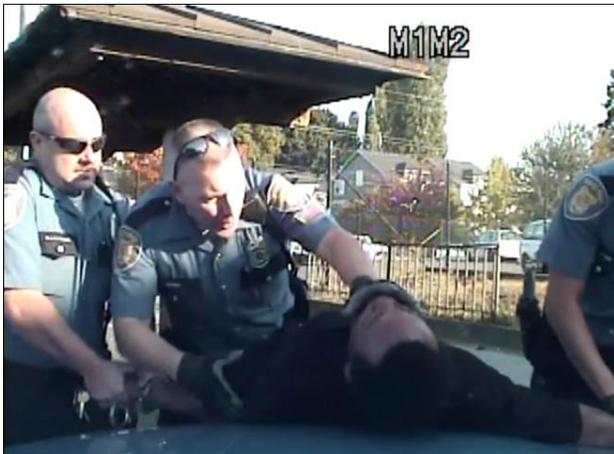
Statement of the Seattle Human Rights Commission

Hearing on an Ordinance and Resolution Relating to Police Accountability

City Council Committee on Public Safety, Civil Rights and Technology July 17, 2013

The Seattle Human Rights Commission thanks Chairman Harrell and Committee Members Licata and O'Brien for calling this important hearing on police reform. Fundamental police reform remains a top priority for the Commission. Unbiased, constitutional, and accountable policing is a human right. We have consistently called for structural reform and we are pleased to have the chance to explain our recommendations and the human rights concerns driving them.

The Commission was founded nearly 50 years ago to protect and advocate for justice, human rights, and the equal treatment of all people who live and work in Seattle.



On December 10, 2012, the City Council declared Seattle to be a Human Rights City by [Resolution 31420](#) and committing to the “progressive realization” of the [Universal Declaration of Human Rights](#) in the City of Seattle. Thus, human rights, must guide the City as it works to reform its police department to best serve its people.

On January 8, 2012, the Seattle Human Rights Commission issued its [Report on Police Accountability and Recommendations](#). The

Commission provided [testimony](#) summarizing its recommendations to the Public Safety Committee on February 15, 2012.

On June 7, 2012, the Seattle Human Rights Commission adopted [Resolution No. 12-01 “Support for Police Reform”](#) calling upon the City Council to enact legislation:

“to establish an independent civilian oversight commission with the power to provide fair and impartial review of police misconduct complaints that have been investigated by the OPA; that such commission shall have resources and professional staff to independently investigate complaints, issue subpoenas, gather necessary evidence, and issue its own findings of misconduct; and that in cases where the commission finds misconduct, it shall also have the power to recommend disciplinary actions to Police Chief.”

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The [International Convention on Civil and Political Rights](#) is the principal human rights instrument in the field of police accountability and reform. The ICCPR sets forth the following basic human rights:

- every person has dignity, is equal before the law, and is entitled to due process
- every person is entitled to feel safe and be safe in his or her person, home, and community
- no one shall be subjected to arbitrary arrest or detention
- no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment
- any person whose rights or freedoms are violated shall have an effective remedy
- injured individuals must have their complaints reviewed by a competent authority, and appropriate remedies applied

The Commission's 2012 Report and Recommendations

Our 2012 report concluded that Seattle's current civilian oversight process does not provide for due process and an effective and appropriate remedy. Human rights principles require that the Seattle police oversight and accountability should include an open process, an impartial decision maker with the independent authority to investigate and impose disciplinary measures, and a right to an appeal.

Based on those principles, our report recommended that the Council create an independent and effective oversight entity. Under our proposal, the Council could restructure the Office of Professional Accountability Review Board (OPARB) or create a new body that would have the power to investigate and review police misconduct complaints in a fair, thorough, and impartial manner. It is critical to its success that the oversight entity has sufficient resources and power. Importantly, the entity must consist of people representing Seattle's diverse communities.

Our proposal would allow citizens to appeal the outcomes of police misconduct cases. Specifically, a citizen would have the right to appeal the findings of the Office of Professional Accountability (OPA) that are accepted by the Police Chief. Cases qualifying for appeal could include use of force, discrimination, retaliation, harassment, and coercion.

The new oversight agency would have the power to conduct an independent review of the case on a *de novo* basis. Citizens will be notified of this right upon receiving the OPA decision. The new agency will have the power and sufficient staff resources, including professional investigators, to fully investigate the cases it hears on appeal. That will include subpoena power. The Council should require the Seattle Police Department to cooperate fully with the agency and provide complete, unrestricted and immediate access to records and all information available to the OPA Director.

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We believe that civilian insight is extremely valuable, offering new views and insights to the investigative process and the ability to challenge assumptions or biases that may sometimes limit an investigation. We further believe that enhanced civilian involvement will help rebuild community trust in SPD and further improve the overall quality of SPD investigations.

The Independent Police Oversight Review Board

The proposed ordinance would rename OPARB the Independent Police Oversight Review Board (IPORB). The IPORB would increase in size from seven to nine members. The IPORB would assume three additional responsibilities. Those include (1) assessing public satisfaction with Seattle's police accountability system; (2) conducting an annual performance review of the OPA Director; and (3) conducting an annual review of SPD's compliance with the regular recommendations of the OPA Director, OPA Auditor, and the IPORB.

The City Council Resolution

The proposed resolution announces that the City Council will evaluate options to strengthen police accountability in Seattle, including an expansion of civilian oversight of the police. The proposed resolution commits the City to negotiating in good faith with the police unions any mandatory bargaining subjects associated with enhanced civilian accountability. Importantly, the resolution does not concede that all structural reforms would be subject to collective bargaining. The resolution recognizes the mission of the Community Police Commission (CPC) which is set forth in the [Memorandum of Agreement](#):

“Section 3(D):

“The CPC may consider other issues as referred by the DOJ and the City in section III. C. of the MOU related to the following:

“b. Accountability

“i. Review of Office of Professional Accountability (OPA) structure”

Under the proposed resolution, the City Council requests that if the CPC considers the OPA structure that it also consider the recommendations of the OPA Review Board contained in its August 29, 2012 [Policy Report](#). In particular, the resolution provides: “The commission is requested to specifically consider the IPORB's recommendations concerning opportunities for civilian review of investigatory findings before a final disposition is determined.”

Analysis

The Seattle Human Rights Commission believes that both the proposed Ordinance and Resolution reflect sound public policy. The Commission has repeatedly called for the City

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Council to make substantial and fundamental reform to the police oversight structure to give citizens a real say and a right to review and change the disciplinary decisions of OPA and the Chief of Police. Thus, we would prefer that the proposed ordinance go further and actually provide OPARB (renamed the IPORB) with new powers to investigate, review, and propose different disciplinary outcomes for OPA decisions. Nevertheless, the Commission recognizes that change, even under a Consent Decree, to the institution of the Seattle Police Department and the OPA system is intrinsically difficult. But it still must happen.

The limited additional responsibilities handed to OPARB such as conducting an annual performance review of the OPA Director and annual reviews of SPD's compliance with reform recommendations are important but do not significantly expand the current responsibilities of OPARB. For instance, OPARB is still prohibited from gaining access to information regarding ongoing investigations. Nor is OPARB tasked with auditing SPD's compliance with the Consent Decree itself. The fundamental structure of OPARB remains the same as does its relationship to OPA and the OPA Auditor.

The proposed resolution signals the Council's intent to go further and for that reason the Commission believes it is very important. While the resolution does not have the effect of an ordinance, the resolution would mark a significant change in direction for the City. The resolution would at least commit the City to seriously examine the very changes we have been advocating for over a year and a half. We strongly support that discussion and thus we strongly support the resolution's premise in Section 1 of increasing civilian oversight of SPD.

It is time for fundamental police reform and for the City to safeguard the human right to unbiased, constitutional, and accountable policing.