

MEMORANDUM OF UNDERSTANDING BETWEEN
THE UNITED STATES

AND

THE CITY OF SEATTLE

July 27, 2012

I. INTRODUCTION

1. The United States and the City of Seattle (collectively “the Parties”) enter into this Memorandum of Understanding (hereinafter “MOU”) with the goal of ensuring that police services are delivered to the people of Seattle in a manner that fully complies with the Constitution and laws of the United States, effectively ensures officer and public safety, and promotes public confidence in SPD and the services that it delivers. This MOU is part of a comprehensive settlement between the parties that also includes a Settlement Agreement and Stipulated Order of Resolution (the “Settlement Agreement”) that will be filed with the Court (collectively, the “Agreements”).

II. DEFINITIONS

2. Unless otherwise noted, the terms and definitions of this MOU will be the same as those in the Settlement Agreement.

III. COMMUNITY POLICE COMMISSION

3. Implementation of the MOU will be overseen by the Parties and a Community Police Commission (the “Commission”). The Commission creates an important opportunity for Seattle’s diverse communities to participate in the implementation of the MOU and certain aspects of the Settlement Agreement, and to promote greater transparency and public understanding of the Seattle Police Department.

A. Formation

4. The City will establish the Commission by Executive Order within 90 days of the Effective Date. The Executive Order will establish the number of members, a mechanism to ensure that membership is representative of the many and diverse communities in Seattle, including members from each precinct of the city, police personnel, faith communities, minority,

ethnic, and other community organizations, and student or youth organizations. The members and the Chair will be appointed by the Mayor and confirmed by the City Council and be provided such staff support as the City of Seattle deems necessary to perform the duties and responsibilities identified in the Agreements.

B. Responsibilities

5. The Commission will have the following distinct roles:
 - a. The Commission will undertake the responsibilities as assigned to the Commission in the Agreements.
 - b. The Commission will review the reports and recommendations of the Monitor, described below, and may issue its own reports or recommendations to the City on the implementation of the Settlement Agreement.
 - c. The Commission may review and issue reports or recommendations as to the implementation of SPD's 20/20 initiative and other initiatives of SPD and the City to support the reform process.
 - d. The Commission may consider other issues as referred by the Parties in Section III.C below.
6. The Commission will maintain regular contact with the City to ensure effective and timely communication regarding its responsibilities under the Agreements.
7. The Commission will hold public meetings at regular intervals to discuss the Monitor's reports and to receive community feedback about SPD's progress or compliance with the Agreements. The City will provide the Commission with reasonable administrative support,

including meeting space. In addition, the Monitor may provide advice and technical assistance, as determined by the City.

8. The Commission's reports and recommendations will be posted on the City's website. The City will consider and respond to the Commission's recommendations in a timely manner.

9. In the event that a member of the Commission is no longer able to perform his/her functions, the Mayor will appoint a replacement in a timely manner, subject to City Council approval.

10. The Commission will not review or report on specific cases of alleged misconduct, review or comment on discipline, and will not seek to influence the course or outcome of a specific complaint investigation or the discipline of specific police officers. The Commission will not have access to any non-public information regarding an individual police officer or allegation of misconduct or disciplinary action.

C. Issues Identified by DOJ and the City

11. In the course of negotiating the Agreements, the Parties identified the following topics that would benefit from Commission review:

(1) Community Engagement

12. SPD needs strong community relationships and sustainable dialogue with Seattle's diverse communities to ensure constitutional and bias-free policing, to closely interact with the community to resolve neighborhood problems, and to increase community confidence in the Department.

13. The Commission, with the support of SPD, will engage in an assessment of the Department's community activities. This assessment should include a reliable and representative

survey of members of the Seattle community, including civilians and SPD officers, regarding their experiences with and perceptions of SPD's community outreach, engagement, and problem-oriented policing. This comprehensive community survey will include measures to ensure input from a statistically valid sample size from various demographic categories. The Commission may also consider the number and variety of community partnerships, with particular consideration of partnerships with youth, and qualitative assessment of the depth and effectiveness of those partnerships.

14. Within 12 months of the appointment of the Commission, if the Commission so chooses, annually thereafter, SPD and the Commission will issue a report to the City, with a copy to DOJ regarding: (a) an assessment of SPD's outreach efforts and initiatives; and (b) strategies that can be employed by SPD to increase community engagement and community confidence in SPD.

(2) Accountability

i. Review of the OPA Structure

15. The Commission will review Seattle's current three-prong civilian oversight structure to determine if there are changes it would recommend for improving SPD accountability and transparency. Though the DOJ found that the overall system is sound, the Commission may consider alternative civilian oversight models and whether clarifications or changes in roles and responsibilities for the OPA Director, the OPA Auditor, and/or the OPA Review Board would improve the confidence of the community and officers in the system. The Commission may consider the following:

- a. The Role of the OPA Director: The lynchpin of the City's OPA system is an independent civilian director housed in the Seattle Police Department

who independently reviews and oversees investigations police misconduct complaints. The Commission may consider whether the proper balance has been struck between civilian influence within the SPD and the director's oversight function.

- b. The Role of the OPA Auditor: The OPA Auditor performs a significant oversight function that further enhances civilian review of allegations of police misconduct. The Commission may consider whether the role of the Auditor should be clarified and whether additional responsibilities should be assigned to the Auditor.
- c. The Role of the OPA Review Board: The Board provides an additional layer of oversight over police conduct. The Commission may consider whether the Board's functions should change in order to enhance its role in the civilian oversight system.

ii. Investigation Timelines

16. In consultation with the Commission and the Monitor, OPA will continue to assess ways to reduce its investigative timelines.

iii. Public Education

17. The City and SPD will develop and implement, in coordination with the Commission, a program to broadly educate the Seattle community about the various methods for making misconduct complaints. The topics below should be considered for incorporation into the outreach program.

- a. Making complaint forms and informational materials, including brochures and posters, available at appropriate city government properties and at the offices or gathering places of community groups.
- b. Continuing to require all officers to assist any person who wishes to file an OPA complaint and to provide their name and badge number upon request, if feasible under the circumstances.
- c. Making complaint forms and related informational materials available in the foreign languages appropriate to the local community.

18. In consultation with the Commission, SPD will consider additional metrics to measure community satisfaction with OPA.

(3) Investigatory Stops and Data Collection

19. The Parties recognize that investigatory stops are important to public safety, but also may affect community confidence and trust in SPD. SPD will assess its data collection systems for investigatory stops, including the Street Check database and the CAD system, to determine whether its policies and procedures are clear. SPD will consult with the Monitor to clarify its policies, procedures, training, and practices regarding the data collection for investigatory stops as needed, and to consider whether further data collection of investigatory stops will be beneficial. SPD will report on this consultation to the Commission. The Commission may then make recommendations to SPD regarding any changes to policy or training, including (a) whether additional data should be collected (whether on a pilot or permanent basis); and (b) procedures for retention, reporting, and analysis of that data.

(4) Officer Assistance and Support

20. SPD will work with the Commission to assess SPD's current mentoring programs and consider whether to implement a pilot volunteer patrol officer mentoring program to provide better mentoring and support to officers. Among the mentoring options that SPD and the Commission may consider are: (a) a pilot program pairing officers with five or more years of experience with officers with less than five years of experience; and (b) a pilot mentoring program for aspiring sergeants.

(5) Transparency and Public Reporting

21. The Parties recognize that transparency is essential to community confidence in SPD. SPD will work with the Commission to overcome impediments to the release of information consistent with law and public safety considerations. As part of this effort, SPD and the Commission should consider SPD's policies and practices regarding disclosure of documents, videos, and other materials.

22. To ensure transparency in the implementation of the Agreements, all SPD audits and reports related to the implementation of the Agreements will be made publicly available online and at the Department, OPA, and City Hall to the fullest extent permissible under law. The datapoints of such audits and reports will be posted on SPD's website in a readily accessible format, displayed as interpreted and not raw data.

IV. CRISIS INTERVENTION COMMITTEE

A. Formation

23. SPD currently meets and coordinates with other mental health providers within the City of Seattle. SPD will use best efforts to formalize and expand this coordination with other mental health providers through the creation of a Crisis Intervention Committee ("CIC").

The CIC will include representation from SPD command leadership, SPD's Training and current CI Team units. SPD will also seek representation from: the civilian leadership of the City government; Public Health-Seattle & King County; King County's Sheriff's Office; King County Prosecutor's Office; City of Seattle Municipal Court; the City Attorney's Office; Washington State Department of Social and Health Services' Division of Behavioral Health and Recovery; the Washington affiliate of the National Alliance on Mental Illness; the Downtown Emergency Services Center; professionals from the emergency health care receiving facilities; the King County Jail; and mental health and homeless services professionals and advocates or others.

B. Responsibilities

24. The CIC should serve as a problem-solving forum for interagency issues and may review any relevant data that may be collected by each agency. In addition to the data collected by SPD, such as use of CI trained officers and CI event disposition data, the CIC should evaluate and determine the other outcome indicators it wishes to monitor, which may include: jail booking data; the number of individuals with a mental health diagnosis at the jail; the disposition and voluntary referral rates between SPD, emergency receiving facilities, community agencies, and jails; officer and agency staff satisfaction with the transfer process; the recidivism rate in calls for service; the use of the mental health commitment law; the availability of appropriate treatment options; and the eventual resolution of dispositions and referrals.

25. The CIC should use best efforts to:

- a. develop a checklist of resources available to refer individuals in crisis;
- b. develop policies and procedures for the disposition or voluntary referral of individuals to jails, receiving facilities, and local mental health and social

service agencies that clearly describe the roles and responsibilities of these entities and of SPD CI trained officers in the process;

- c. evaluate SPD's current 40-hour curriculum and eight-hour annual in-service training on crisis intervention and make recommendations to SPD regarding any changes to that training;
- d. evaluate SPD's current training for non-CI trained officers on crisis events, as well as SPD's current dispatcher training on identifying calls for service that involve behavioral or mental health crisis events; and
- e. evaluate SPD's current crisis intervention program, study national models, and make recommendations to SPD on whether SPD should modify the design and structure of its crisis intervention program.

V. IMPLEMENTATION, TERMINATION, AND ENFORCEMENT

26. This MOU will become effective upon the Effective Date of the Settlement Agreement (the "Effective Date"). The DOJ has the same rights and access as it does under the Settlement Agreement Paragraphs 204-206.

27. The United States reserves the right to seek enforcement of the provisions of the MOU if it determines that the City and SPD have failed to comply with any provision of the MOU. The United States agrees to consult with the City before commencing enforcement proceedings, and to provide opportunity to cure consistent with the informal dispute resolution procedure set forth above.

28. The MOU will be binding on all successors, assignees, employees, and all those working for or on behalf of the City or the United States.

29. The Parties agree to defend the provisions of the MOU. The Parties will notify each other of any court or administrative challenge to the MOU. In the event any provision of the MOU is challenged in any state, county, or municipal court, removal to a federal court will be sought by the Parties.

30. The City and SPD agree to promptly notify DOJ if any term of the MOU becomes subject to collective bargaining consultation. DOJ agrees to work in good faith to accomplish the goals through alternate means, if necessary.

31. Failure by any party to enforce this entire agreement or any provision thereof with respect to any deadline or any other provision herein will not be construed as a waiver of its right to enforce other deadlines or provisions of the MOU.

32. The MOU is enforceable only by the Parties. No person or entity is intended to be a third-party beneficiary of the provisions of the MOU for purposes of any civil, criminal, or administrative action, and accordingly, no person or entity may assert any claim or right as a beneficiary or protected class under the MOU.

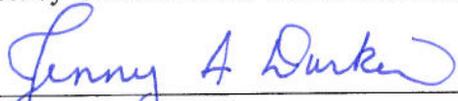
33. All Parties agree that, as of the date of entry of the MOU, litigation is not “reasonably foreseeable” concerning the matters described in the MOU. To the extent that either Party previously implemented a litigation hold to preserve documents, electronically stored information, or things related to the matters described in the MOU, the Party is no longer required to maintain such a litigation hold. Nothing in this paragraph relieves any Party of any other obligations imposed by the MOU, including the document creation and retention requirements described herein.

34. The Parties anticipate that the City will have reached compliance with the MOU within three years of its Effective Date. Any action for enforcement of this MOU must be

commenced within four years of the Effective Date. The Parties may jointly agree to terminate the MOU prior to this date, provided the City has been in compliance with the MOU for two years.

For the UNITED STATES OF AMERICA:

ERIC H. HOLDER, JR.
Attorney General of the United States of America



JENNY A. DURKAN
United States Attorney for the
Western District of Washington

Kerry J. Keefe, Civil Chief
J. Michael Diaz, Assistant United States Attorney
Rebecca S. Cohen, Assistant United States Attorney



THOMAS E. PEREZ
Assistant Attorney General
Civil Rights Division

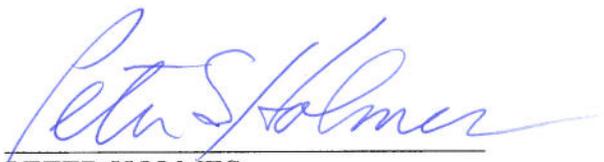
Jonathan M. Smith, Chief
Timothy D. Mygatt, Special Counsel
Michelle L. Leung, Trial Attorney
Michael J. Songer, Trial Attorney

For the CITY OF SEATTLE:



HON. MICHAEL MCGINN
Mayor

Carl Marquardt, Counsel to the Mayor



PETER HOLMES
Seattle City Attorney

Jean Boler, Civil Chief