

MEMORANDUM

To: Gender Equity, Safe Communities and New Americans Committee
From: Amy Tsai, Council Staff
Date: March 17, 2017
Subject: Appointment/Removal and Roles of Oversight Entities

On Wednesday, February 1, 2017, the Mayor transmitted a police accountability reform legislative package to the City Council, including **CB 118907** (the accountability ordinance).

The purpose of CB 118907 is stated as follows:

Because the police are granted extraordinary power, and civilian oversight of police is critically important to enhancing the trust, respect, and confidence of the community, it is the City of Seattle's intent to ensure by law a comprehensive, independent, and sustained approach to civilian oversight of the Seattle Police Department (SPD). The purpose of this Chapter 3.29 is to provide the authority necessary for that oversight to be as effective as possible...¹

The GESCNA committee has embarked on a series of policy issue discussions and deliberations on the accountability ordinance, with a committee vote anticipated in May. A calendar with issue identification deadlines, committee dates and topics of discussion is attached as Attachment 1.

In mid-February, GESCNA Chair González called for Councilmembers to identify specific issues of interest for today's March 17 meeting, particularly with regards to the **roles of the oversight entities and their appointment and removal processes**. This staff memo is organized into three sections:

- I. Review of the final Inspector General **study mission** to New Orleans
- II. Discussion of the **roles** of the oversight entities and related issue identification
- III. Discussion of the **appointment/removal process** and related issue identification

Issues that were raised by Councilmembers that have analysis pending are included in a parking lot as Attachment 2.

¹ CB 118907, Section 6, SMC 3.29.005

I. New Orleans Study Mission

To help inform the committee deliberations, Chair González led a series of three study missions to learn from other jurisdictions about their Inspector General successes and challenges. The visits included New York City, Los Angeles and New Orleans.

From March 8 to 10, GESCNA Chair González led the final study mission to New Orleans. Accompanying her were Councilmember Burgess, Council staff, and individuals from the Community Police Commission and Mayor's Office who were intimately familiar with the history and drafting of the accountability legislation submitted to the Court.

The Seattle delegation met with the following:

Community

- **Norris Henderson**, Executive Director of Voices of the Ex-Offender (VOTE) at Vera Institute, on the search committee for the Superintendent of Police, co-director/creator of Safe Streets/Strong Communities
- **Shaena Johnson**, Co-Director of BreakOUT!, an organization by and for LGBTQ youth of color directly impacted by the criminal justice system
- **Tracie Washington**, President and CEO of Louisiana Justice Institute, a nonprofit human rights organization and law firm fostering social justice campaigns

Government

- **The Hon. Calvin Johnson**, Retired Chief Judge of the Orleans Parish Criminal District Court, established the first Mental Health Treatment Court in the State of Louisiana, and **Jonathan Wisbey**, Service and Innovation Manager, City of New Orleans, former New Orleans Police Department Deputy Chief of Staff
- **Susan Hutson**, Independent Police Monitor, **Ursula Price**, Executive Director of Community Relations, and **Alison McCrary**, Mediation Coordinator
- **Ed Quatrevaux**, Inspector General, and **Howard Schwartz**, Assistant IG for Investigations
- **Susan Guidry**, Councilmember, District "A", Criminal Justice Committee Chair

Budget and population. The New Orleans Police Department (NOPD) adopted 2017 budget was about \$163 million and 1,553 positions, including civilian and sworn.² NOPD has suffered significant decreases in the number of sworn officers in the years since Hurricane Katrina in 2005,³ with 1,271 sworn officers in 2012 compared to 1,452 in 2010.⁴ The City's population has declined as well, with about 390,000 residents in 2015⁵ compared to 485,000 in 2000.⁶

² <http://www.nola.gov/mayor/budget/documents/2017-budget/2017-adopted-budget/>

³ http://www.rand.org/pubs/research_briefs/RB9243-1/index1.html

⁴ <http://www.governing.com/gov-data/safety-justice/law-enforcement-police-department-employee-totals-for-cities.html>

⁵ <https://www.census.gov/quickfacts/table/PST045215/2255000>

⁶ <http://censusviewer.com/city/LA/New%20Orleans>

Inspector General and Independent Police Monitor. NOPD has an internal Public Integrity Bureau (PIB) that investigates complaints of police misconduct. The Independent Police Monitor (IPM) monitors the PIB; the IPM was created in 2008 via a charter amendment that was strongly advocated by the community. In its creation, it was placed under the Office of Inspector General (OIG). The OIG has a citywide mission to prevent and detect fraud and governmental waste in City departments. In 2016, voters approved separating the IPM from the OIG, in the face of significant discord between the IPM and Inspector General. In the process, the budgets were split as well. Both offices are overseen by the Ethics Review Board.

Observations. Some observations from the trip are noted below, with special thanks to the Community Police Commission for their shared perspectives. It is not an exhaustive list, but summarizes thematic takeaways of the visit based on conversations with some members of the delegation.

The history of policing in New Orleans is a difficult, brutal story. On the first day, the Seattle delegation was told the story of a police officer in the mid-90's who directed a third party to kill a young mother because she had filed a complaint against him of police brutality that she had witnessed.⁷ Other stories included many cops who were charged with crimes relating to the deaths of residents post-Hurricane Katrina, and personal present-day stories of police harassment (contributing to community perceptions of the police as an occupying force in neighborhoods). The City's long history led some to remark that the City has come very far, while others reported that the City has far to go. Polling has shown police approval ratings increasing from 36 percent approval in 2009 to 61 percent today.

The Inspector General is viewed largely as a traditional government institution addressing departmental fraud and waste, and has saved the City millions of dollars. The IPM, on the other hand, is very popular with some of the community and praised for the grassroots background of her staff. Indeed, the creation of the IPM was a community-driven effort.

A dichotomy also exists in views of community engagement. Talks by the police held with large groups of kids in schools was put forward as both an example of good community engagement by one person and as an example of shallow community engagement by another person in a different meeting. While they could be talking about two very different events, it illustrates the difficulty of building trust, and was a reminder of how perceptions can differ in a City with a long history.

A challenge experienced by all of the study-mission cities has been how to bring the voice of the government and community together in a way that is trusted by both sides. With the recent separation of the IPM from the Office of the Inspector General, it remains to be seen whether the IPM can build that bridge. There is no equivalent version of the Community Police Commission in New Orleans to facilitate that process.

⁷ http://www.nola.com/crime/index.ssf/2009/12/len_davis_arrest_and_convictio.html

Some other lessons from New Orleans include:

Roles and authority

- Clarity of roles and authority is important. Having an arguably ambiguous reporting structure fed the friction between the IG and IPM. For example, when relations deteriorated, the IG did not have the ability to fire the IPM even though the IPM was housed under the IG. Establishing independence between offices is necessary; establishing independence within an office can cause problems.
- Importance of qualifications – there can be checks and balances but in the end it is the integrity of the people in the positions that matters; there is no structure that cannot be corrupted.
- Performance evaluation - Independent peer review was used to evaluate the IPM but the IPM and IG had issues with the resulting product. In such an approach, the appropriate peer agencies need to be identified, taking into account the myriad roles that might be considered “peers” and the appropriate criteria.
- How to ensure quality reports is also an issue; the IG adheres to national standards.
- Authority to effectuate change - Reporting in Council committees or the court of public opinion is an empowering tool for the IPM.
- The call for sufficient budgeting and staffing for quality work is universal. New Orleans employs a fixed percentage model, with the OIG receiving 0.55% of the General Fund (about \$3 million) and 0.16% going to the IPM (about \$1-1.5 million).

Community Trust and Access

- Grassroots connections are important for building community trust. The grassroots connections of IPM staff was cited as a primary reason for trust of that office.
- When trust is lacking, accessibility of physical locations is important; having to go through glass-enclosure security scanners in order to file a complaint within police headquarters was a strong community deterrent. The current IPM offices are out in the community.
- Giving community-based organizations the ability to accept complaints and forward them to the IPM creates another community avenue, although it should be accompanied by a strong public campaign to make the public aware of it.

Building positive relationships

- Good police behavior should be rewarded and thereby encouraged; the IPM made commendations for good officer behavior, but those commendations were not being entered into the officers' files, which was viewed as both a missed opportunity as well as a red flag for potentially poor record keeping.
- New Orleans has a strong mediation program for allegations related to professionalism, discourtesy or neglected duty (not use of force). In the first year there were 23 mediations; in the second year there were 41. Both the community and police appear to like the program.

II. Roles Issue Identification

The accountability ordinance would add a new section, SMC 3.29.005, that identifies the component entities of civilian oversight and their roles. Those entities include the following:

1. an **Office of Police Accountability (OPA)** to handle complaints of misconduct,
2. an **Office of Inspector General (OIG)** to provide systemic oversight of the management, practices, and policies of SPD and OPA,⁸ and
3. a **Community Police Commission (CPC)** to provide community input to ensure that police services are delivered in a lawful and nondiscriminatory manner and are aligned with community values and expectations.

Issue #1 Purpose: To set the stage for the importance of the accountability legislation, it was requested that a findings and purpose section be added that more clearly and exhaustively sets City policy for constitutional and effective policing, to reinforce the Council’s desire for a high accountability bar and, in conjunction with adding Whereas recitals, to help set context for the detail that follows in the ordinance. Other potential amendments to the purpose section include expanding on definition of “extraordinary power” and OPA’s responsibility “to handle complaints.”

Next steps: Staff will develop purpose language informed by today’s committee conversation for consideration at the next GESCNA accountability briefing.

Issue #2 Chief of Police Role: It was requested that a new section be added highlighting and affirming the role of the Chief of Police as the final decision-maker on day-to-day operations and discipline; that nothing in the legislation is intended to contravene that authority; and that the Chief holds a responsibility to deliver constitutional, effective policing.

Next steps: Staff will develop proposed language for the next briefing.

⁸ The OIG role in the OIG section SMC 3.29.100 is further identified as including not just oversight of SPD and OPA, but also of “the accountability and criminal justice system operations and practices that involve SPD or OPA.” In other words, the reach of the OIG extends to the auditing of other departments “in areas related to policing and criminal justice matters.” (SMC 3.29.100.H.)

OPA

The primary charge of OPA, both today and in the proposed legislation, is to handle complaints of misconduct. This includes classifying complaints, directing investigations, and certifying and recommending findings to the Chief of Police, plus a host of other related duties that are set forth in Proposed SMC 3.29.020.A.1-.21 (p. 12-15 of CB 118907). The work of OPA is intended to build “confidence and **public trust** in the fairness and integrity of the police accountability system and in the effectiveness and professionalism of SPD.” The goal in handling and investigating misconduct complaints is to promote **constitutional, respectful, and effective policing** that is conducive to the public good (Proposed SMC 3.29.010).

The investigative process is slated for discussion on April 14. As the role of OPA is fairly straightforward, the remainder of the roles discussion in this staff memo focuses on OIG and CPC.

Issue #3 OPA and OIG staff sworn qualifications: OPA staff are collectively required to have the requisite skills to fulfill OPA duties (Proposed SMC 3.29.020.A.2). Should language be added prohibiting the hiring of former SPD employees (but allowing other former sworn personnel)?

During the recent study missions, it was noted in one of the interviews that having law enforcement expertise in investigations can be an asset, but at least one person felt that having former law enforcement from the same agency was not a good idea, perhaps due to the appearance of bias or bias in fact. On the other hand, another study mission interviewee remarked that in their experience, officers on civil service panels were harder on officers than civilians on the panels were. While the use of sworn officers to investigate potential misconduct is not unusual, such as in internal affairs investigations, the closer the police officer is to the subject of the investigation the greater the appearance of bias and potential for bias.

Options: Law enforcement bias, or perception of bias, could be addressed in the legislation language in multiple ways:

- 1) Direct staff to draft language prohibiting front desk and/or investigative staff from being former (SPD) law enforcement,
- 2) Direct staff to add more detailed qualification requirements to investigative or other positions that emphasize empathy and objectivity or other desired characteristics,
- 3) Direct staff to draft language that allows hiring of former SPD law enforcement but requires an evaluation comparing sworn and unsworn investigation outcomes (although it is unknown whether the volume would be high enough for meaningful analysis),

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| <ul style="list-style-type: none">4) Direct staff to conduct further research on law enforcement bias in investigative or other staff roles, or5) Leave status quo language. |
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OIG and CPC

The proposed legislation further defines the purpose for each oversight entity as follows:

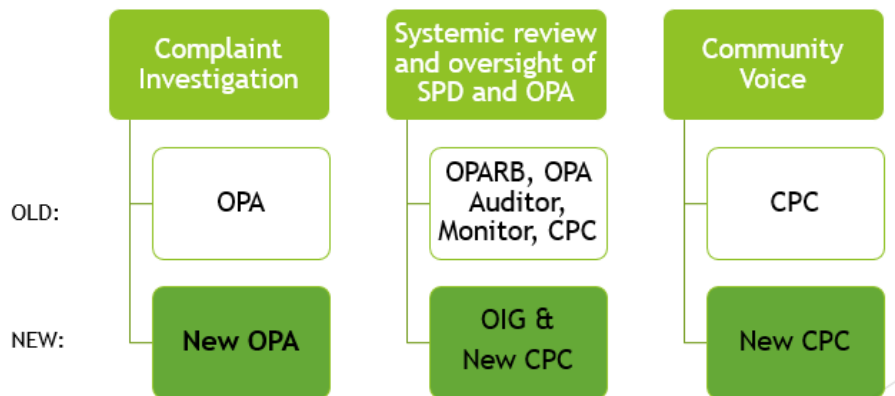
- **OIG** (Proposed SMC 3.29.100.A.) - There is established an independent OIG to provide civilian oversight of the **effectiveness and responsiveness of SPD and OPA management and operations**, as well as of the accountability and criminal justice system operations and practices that involve SPD or OPA. OIG is an essential component of the checks and balances that comprise the police oversight system.
- **CPC** (Proposed SMC 3.29.200) - One of the cornerstones of effective oversight of law enforcement is community involvement. The purpose of CPC is to **provide the public with meaningful participatory oversight** of SPD policies and practices of particular significance to the public or affecting public trust in accord with the purposes of this Chapter 3.29 with the goal that police services are delivered in a lawful and nondiscriminatory manner and are in alignment with the values and expectations of the community. The work of CPC is intended to further instill confidence and public trust in the fairness and integrity of the police accountability system and in the effectiveness and professionalism of SPD.

While these purpose statements are helpful for framing the primary responsibilities of each of these entities, the list of duties and reporting requirements that make up the bulk of the accountability ordinance have a level of detail that at times makes it difficult to see the overall purpose and goals of the accountability framework. This is perhaps nowhere more evident than in the **systemic review** functions that exist for OIG, CPC, and, to a lesser extent, OPA, as depicted in the figure below from the February 23 Central Staff presentation.

Primary Functions: Systemic Review

Who retains primary responsibility for systemic oversight and how the entities relate to and support each other in the performance of those duties, is fundamental to the accountability ordinance.

Figure 1. Accountability Institution Roles: Now and Looking Forward



For example, each of the oversight entities has a duty to:

[a]dvice the Mayor, City Attorney, City Council, Chief of Police, and [each other] on issues related to the purposes of this Chapter 3.29, and recommend and promote to policymakers changes to policies and practices, collective bargaining agreements, city ordinances, and state laws in order to support systemic improvements and other enhancements to SPD performance and in furtherance of community trust. (Proposed SMC 3.29.020.A.19; 3.29.110.A.16; 3.29.215.A.11)

Presumably, each entity would make recommendations derived from issues observed in the course of performing their primary functions, applying their expertise and perspective to the issues. For example, the OIG would identify system issues in the course of auditing aspects of SPD functioning. CPC could offer insights from their community perspective and from the expertise they bring to bear on SPD policy review. However, when the language regarding their recommendation responsibilities does not make these orientations clear, the functions these entities play in making systemic reform recommendations become less clear.

Additionally, embedded within the language of the ordinance are assumptions about the primary roles of the oversight entities that bear further policy discussion and Council direction. Specifically, in regards to the quotation on collective bargaining and other recommendations cited above, while each entity is charged with that duty, there is a corresponding duty assigned solely to CPC to:

Monitor and report on the implementation by City elected officials, SPD, and OPA of policy and practice recommendations made by the OPA Director, the Inspector General, and CPC, including monitoring, tracking, and reporting on the City’s budget, state legislative agenda, and collective bargaining agenda as these relate to advocacy for, and implementation of, recommendations by the oversight entities. (Proposed SMC 3.29.215.A.4.)

In effect, CPC is assigned the responsibility to help ensure that all systemic recommendations, both internally and in outside arenas, are followed through (and a copy of all recommendations are sent to CPC for that purpose). It is a policy choice whether the responsibility of corralling systemic recommendations and ensuring follow-through by the City should be the role of the OIG, which has systemic oversight as its primary charge, or CPC, which has a role in channeling the voice of community oversight over the entire system.⁹

Primary Function: Community Voice, Engagement, and Oversight

A separate but related policy choice concerns the role of CPC in ensuring that the oversight entities are able to do their jobs effectively. CPC duties are proposed to include:

Meet[ing] with the OPA Director and the Inspector General, no less than four times a year, to review information they wish to provide CPC concerning the effectiveness of SPD or any obstacles to the OPA Director's or the Inspector General's abilities to perform their duties. (SMC 3.29.215.A.6.)

The direction that OPA and OIG are to come to CPC regarding obstacles that OPA and OIG face implies that CPC is empowered to be able to address these obstacles. This particular requirement would benefit from clarification of what the OPA/OIG ask is, and what CPC is offering in return. CPC is more likely to be able to effectuate process change to help OPA and OIG at the macro level, by bringing the weight of public opinion to bear on any major obstacle that is preventing the oversight system from working as intended. If that is the goal, this provision could be reframed to make that clear.

CPC also has a role to play in engaging the community, conducting outreach, and providing community feedback to oversight entities. Proposed SMC 3.29.020.A.16 presently directs OPA to engage both CPC and "other community stakeholders." The duties of OPA include to:

Obtain information about community perspectives and concerns germane to OPA access and OPA's oversight responsibilities by means including, but not necessarily limited to, seeking support from CPC **and other community stakeholders** on community outreach and receiving feedback on issues surfaced as a result of its community outreach activities.

A policy question for the Council is whether the CPC should be the primary or sole community engagement conduit/resource for the oversight entities, or whether the other oversight entities should have their own roles to play in directly engaging the community as well. In the study

⁹ CPC can be characterized as having two main functions: 1) providing a sounding board for the voice of the community and assisting with effective community engagement, and 2) applying a community lens to provide input into SPD policies and systemic recommendations.

missions, the internal community engagement functions of the oversight entities have been limited, with poor community visibility; this may be due to lack of resources, lack of will, and/or lack of expertise.

Primary Functions: Clarity of Roles

Issue #4 Clarity of Roles: Create a clear set of authorities, requirements and expectations of who is in charge of what function and who will be held responsible.

Options:

- 1) Direct staff to clarify the language throughout the ordinance, based on the policy direction from today's discussion regarding primary roles and responsibilities for:
 - a. ensuring follow-through on the multiple oversight entity recommendations flowing from ordinance requirements and
 - b. conducting community engagement and interfacing with the community.
- 2) Direct staff to highlight roles and responsibilities language in the proposed legislation requiring further policy direction and clarification and bring options back to the next GESCNA accountability briefing.

Ideally, one would expect the entities to communicate and/or coordinate with each other on what they have observed and would recommend for improvement. A large part of coordination and communication in the accountability ordinance comes in the form of required reports and meetings with each other. These aspects of the accountability ordinance will be discussed further at the next GESCNA accountability meeting on March 29.

Issue #5 Reporting and Consultation: Consolidate reporting requirements into one section per entity, perhaps shortened, to create better understanding and accountability. Likewise, consolidate consultation requirements into one section that focuses on the rationale and benefits of working together rather than focusing on details.

Next steps: Staff will reorganize purpose language, reporting, and consultation references for clarity, applying any policy direction from Council on the respective roles of the oversight entities that come out of today's conversation.

Performance Evaluation (Oversight) of Oversight Entities

A related issue to the matter of which entity has primary responsibility for ensuring recommendation follow-through, is whether any one entity should have evaluation responsibility over the other. The Inspector General has some direct oversight responsibilities over the OPA Director in that the IG reviews OPA classifications and investigations. CPC also has responsibilities in the accountability ordinance that involve weighing in on the performance of the other two entities. For example, CPC is charged with advising the Mayor, City Attorney, City Council, and Chief of Police on “the performance and functions of OPA and SPD” (3.29.225.B.). CPC also has an annual public meeting requirement for the CPC to report to the community on the status of any previously recommended improvements.

The accountability ordinance is silent on who would conduct performance reviews of any of these entities.¹⁰ Performance evaluations are an additional means of accountability. Dr. Samuel Walker, a national expert on police accountability, notes that they are not uniformly done across the country for oversight entities. In the proposed accountability legislation, accountability is achieved through other dynamics, such as required reports with recommendation status updates, online publication, and meetings that keep the offices accountable to the public.

Dr. Walker has suggested that peer review could be one effective means of conducting an impartial review.¹¹ As mentioned above, New Orleans has tried such an approach, with mixed reviews about the process. The difficulty of finding comparable peers and need to develop appropriate evaluation criteria were among the challenges discussed. In the absence of performance review language, the heads of the oversight entities might not receive a formal performance evaluation per se, and performance accountability would fall to the other mechanisms of reporting and consultations.

Issue #6 Performance Evaluation: Should annual performance evaluation of the oversight entities be codified?

Options:

- 1) Direct staff to draft peer review language for committee consideration. This could include identification of appropriate peer categories and how to develop the appropriate criteria for performance evaluation;
- 2) Direct staff to assign performance evaluation responsibilities to particular entities, or require further research on such options;

¹⁰ Language in a previous draft that would have had CPC evaluate the performance of OIG’s management and leadership was removed in the version transmitted to the Council.

¹¹ Personal communication, 3/10/17.

- a. As one scenario, direct that the IG annually evaluates the performance of OPA and its management and leadership after soliciting Mayor, City Attorney, Council, Chief of Police, SPD employee and CPC perspectives; direct that CPC annually evaluates the performance of OIG and its management and leadership after soliciting perspectives.
- 3) Status quo; remain silent on performance evaluations of the oversight entity director positions.

Police Intelligence Auditor Duties

The proposed language directs the IG to perform the functions of the current police intelligence auditor (Proposed SMC 3.29.110.A.13.). An issue that has been raised is whether the Inspector General as a person possesses the capacity to perform this function. One option would be to assign the role to the Deputy Inspector General in code. The other option would be to leave it uncodified and up to the discretion of the IG how to assign that work. Having it be a dedicated position would formalize the assignment and potentially allow the ordinance to be more specific about desired qualifications of a Deputy Inspector General to match that body of work. However, it also would act as a constraint on the authority of the IG within the OIG. New Orleans is one example of the strife that can result when there is a function within an office that is not entirely within the control and direction of the head of that office.

Issue #7 Police Intelligence Auditor function: Should the police intelligence auditor function be assigned in code to the Deputy Inspector General, in order to maintain clear lines of work within the office to manage resource allocation?

Options:

- 1) Direct staff to draft Deputy Inspector General language for the police intelligence auditor function, including job qualifications;
- 2) Use status quo language.

III. Appointments and Removals

Appointments, removals, and terms of office are integrally related to the independence of the oversight entities. Part of being independent is the freedom to act without fear of reprisal.

CPC Executive Director (Proposed SMC 3.29.206, p. 60)

The Seattle Ethics and Elections Commission (SEEC) is probably the City's most analogous existing commission to the CPC. The SEEC is a City Commission with a need for and reputation of independence. The SEEC administers the City's ethics code, election campaign code, campaign matching fund program, and whistleblower code, in addition to publishing the City's election pamphlets (SMC 3.70.010). It is an independent agency; it does not reside in either branch.

The CPC Executive Director and the Executive Director of the SEEC have some similarities in their functions. Both manage the functions of their offices, including budget preparation, although the SEEC requires commission approval for the Executive Director's appointment or removal of staff while the CPC does not. The SEEC Executive Director has investigation handling responsibilities; the CPC Executive Director has the duty and authority to represent the CPC, along with the Commissioners, in providing testimony and expertise on issues of constitutional policing. The greater the non-administrative responsibilities of the Executive Director, the greater would be the need to be independent, just as the Commission itself needs independence to effectively perform its functions.

The difference between the proposed CPC Executive Director and SEEC Executive Director appointment processes are summarized in the table below. The CPC ED appointment is Mayoral centric, and the SEEC ED appointment is Commission centric.

| | CB 118907 CPC Executive Director | SEEC Executive Director |
|----------------------|---|---|
| Term | Four years | Six years |
| Appointing authority | Mayor, initially subject to Council confirmation | Commission, initially subject to Council confirmation |
| Removal | Mayor for cause, confirmed by majority of Council | Majority of Commission for cause |
| Vacancy | Mayor appoints interim ED within 10 days | |

Issue #9 Appointment and Removal of CPC Executive Director: Should the CPC Executive Director be ultimately responsible to the Mayor or to the Commission? Issues have been raised in regards to the appointing/removal authority, term of office (for the current and future Executive Director), and whether Council confirmation should be required for reappointments.

Options:

- 1) Direct staff to create appointment and removal language for the CPC Executive Director that follows the SEEC approach
- 2) Direct staff to develop alternative or hybrid approaches – should the CPC Executive Director be entitled to a public hearing as with removal of the IG or OPA Director?
- 3) Status quo, leave language as is.

CPC (Proposed SMC 3.29.215.C., p. 70)

The SEEC appointment process has some similarities to the CPC in that the Mayor, Council, and Commission each have some appointing authority, although the Commission appointing authority is broader for the CPC than the SEEC. The difference between the proposed CPC Commissioner appointment process and SEEC Commissioner appointment processes are summarized in the table below.

| | CB 118907 CPC Commissioners | SEEC Commissioners |
|----------------------|---|---|
| Term | Three years, up to a maximum of three terms (9 years total), except continuing commissioners are limited to one term beyond the initial continuing term. | Three years, can be reappointed |
| Appointing authority | (15 members) Mayor appoints 5, Council appoints 5, and CPC appoints 5 including a public defense representative and civil liberties law representative – all confirmed by a majority vote of Council. | (7 members) Mayor appoints 3 subject to Council confirmation; Council appoints 3 by two-thirds vote of the Council; SEEC appoints seventh member subject to Council confirmation. |
| Removal | By the appointing authority for cause, subject to confirmation by a majority vote of Council. Removal of the CPC appointees requires a three-quarters vote of CPC’s membership. | By the appointing authority for cause, subject to confirmation by a majority of the Council. Removal of the SEEC appointee requires five of seven votes of the SEEC members. |

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| Appointment Criteria | 12 of 15 must live within Seattle; 3 are not required to live in Seattle so long as they work within Seattle. | |
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The CPC has a process for reappointment of continuing CPC members with term limits. The continuing members draw their position number by lottery, which determines who their designated appointing authority is. Five positions including the public defense representative have terms that end at the end of this year, Dec. 31, 2017. Five positions including the civil liberties law representative have terms ending at the end of 2018. The remaining positions have terms ending at the end of 2019. Continuing commissioners are eligible to be reappointed to serve one subsequent 3-year term.

There are multiple issues surrounding the CPC Commissioner appointment process, including:

- Number of members
- How to appoint and remove them
 - Who does it
 - If there is a search committee, who is on it
- Membership and qualifications, including subject matter expertise, law enforcement presence on the Commission, or geographic parity/representation
- Term limits on current Commissioners

The issue of qualifications is also deeply connected to the question of what CPC’s role is in the oversight system. Membership qualifications, including the issue of geographic representation, are slated for discussion at the **March 29 GESCNA meeting**. In advance of that conversation, there are some examples of approaches by other jurisdictions in the West Coast 7 comparisons included in Attachment 3, including Long Beach which appoints Commissioners by Council District. The caveat to these comparisons is that no one has a model like the Community Police Commission, and the roles of the community-based commissions for the other jurisdictions vary greatly.

OPA (Proposed SMC 3.29.020.C., p. 16)

OPA is currently appointed by the Mayor and confirmed by a majority of the Council. It is a three-year term up to a maximum of three terms (or 9 years total).

- Appointments and reappointments – by Mayor, selecting from three finalists identified by a national search committee. A representative from CPC serves as one of the search committee co-chairs. The Mayor appoints from the finalists or can initiate a new search. The appointee is confirmed by a majority of the Council.
- Reappointments – Mayor consults with CPC.

- Term – Four years, up to a maximum of three terms (total of 12 years), with terms staggered from the Mayor’s term of office.
- Vacancy – Mayor has 90 days to fill a vacancy or start a new search, otherwise a 3-member special committee of the Council assigned by the Council President will appoint the OPA director subject to confirmation by a majority of the Council.
- Interim – Mayor has 10 days to designate an interim OPA Director, or else the Council President designates.
- Removal – by Mayor for cause, with an opportunity to request a hearing and be represented by publicly-funded counsel. In either case, removal requires a majority of the Council.

There are some clean-up issues with the OPA appointment. The language appears to require a national search for reappointments; it is also vague as to whether the CPC representative on the search committee has to be from the CPC, and it is unclear how the remainder of the search committee is appointed. Language regarding the Council not confirming the Mayor’s appointee is ambiguous, and appears to be intended to refer to Council rejection of the Mayor’s appointee.

There is a potential separation of powers issue with the vacancy and interim provisions that have a Council appointing role. The Law Department reports that there are no department heads in the Legislative or Executive branch that are appointed by the other branch, although many Executive department heads are subject to Council confirmation.

OIG (3.29.114, p. 50)

The OPA Director and IG appointment/removal processes proposed in the accountability ordinance are very similar to each other, except that the Mayor is the primary appointing and removal authority for the OPA Director and a Special (i.e., Select) Committee of the Council is the primary appointing and removal authority for the IG.

- Appointment and reappointment – Three-member Special Committee of the Council, who select from up to three national search finalists. A representative of the CPC serves as one of the search committee co-chairs. The Special Committee appoints from the finalists or can initiate a new search. The appointee is confirmed by a majority of the Council.
- Reappointments – Special Committee consults with CPC.
- Term – Six years, up to two terms (for a total of 12 years)
- Vacancy – Special Committee has 90 days to fill a vacancy or start a new search, otherwise the Mayor will appoint the OPA director subject to confirmation by a majority of the Council.

- Interim – Council President has 10 days to designate an interim OPA Director, or else the Mayor designates.
- Removal – by majority Council to initiate for-cause removal, with an opportunity to request a hearing and be represented by publicly-funded counsel. Removal requires a two-thirds vote of the Council.

As with the OPA appointment process, there are similar clean-up issues with the OIG appointment search language. The accountability ordinance does not specify in which branch the OIG resides; it is not known at this time whether the appointments potentially switching between branches raises separation of powers issues as it does with the OPA Director.

There is precedent in housing an office with auditing functions within the Legislative Branch. The City Auditor resides in the Legislative branch, has a four-year term, and is appointed and removed for cause by a majority of the Council. For an office charged with auditing an Executive department, housing it in a separate branch of government would add a layer of independence.

Inspector General Appointment/Removal Benchmarking

At the February 23 GESCNA meeting, Councilmembers asked for a comparison with benchmark jurisdictions. The Inspector General appointment processes of select jurisdictions are summarized in the table below. Additional detail on these jurisdictions is provided in Attachment 4.

An interesting aspect of this sampling of jurisdictions is that it is not uncommon for the Mayor to play a significant role in the appointment of the Inspector General, unless there is an alternative entity to whom the IG reports. This is somewhat surprising, since the role of the IG is to audit the police department, an Executive department. Protections for independence in these appointment and removal processes come through having search committees that assist in the identification of candidates, and in having terms of office with for-cause removal provisions.

As has been noted previously in regards to the Inspector General study missions, ultimately each jurisdiction has many different variables and dynamics that contribute to its level of success in achieving an independent, effective office. It was also noted during the study missions that the person who is selected for the job is as important as the process that selected them. And in the event a bad person is inadvertently hired, the process needs to have sufficient checks and balances to correct itself.

Summary of Inspector General Benchmark Jurisdictions – Appointment/Removal

| Entity | Officers ¹² | IG Appointment | IG Termination | Notes |
|--|------------------------|--|---|--|
| New York City NYPD IG | 35,395 | Appointed by Department of Investigations Commissioner, ¹³ who is appointed by Mayor | Same for removal | |
| City of Chicago IG | 11,944 ¹⁴ | Mayor appoints from selection committee names, council confirms ¹⁵ | For cause by Mayor with Council majority approval. IG can request Council hearing. | There is a new deputy IG for police. ¹⁶ |
| (Chicago cont.) - Deputy IG for Police ¹⁷ | | IG appoints from 10-20 names by nationally recognized organization in oversight, approved by Council | IG for cause with notice to Mayor and chair of public safety committee. DIG can request Council hearing/approval. | |
| City of Los Angeles OIG | 9,863 | Board of Police Commissioners ¹⁸ | Board of Police Commissioners | BOPC can be vetoed by 2/3 vote of Council. ¹⁹ BOPC appointed by Mayor |

¹² <http://www.governing.com/gov-data/safety-justice/police-officers-per-capita-rates-employment-for-city-departments.html> (2015 data except where otherwise noted)

¹³ <http://www1.nyc.gov/assets/doi/downloads/pdf/Report/New%20York%20City%20Charter.DOI.pdf>; Chapter 34, sec. 801

[http://library.amlegal.com/nxt/gateway.dll/New%20York/admin/newyorkcityadministrativecode?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:newyork_ny](http://library.amlegal.com/nxt/gateway.dll/New%20York/admin/newyorkcityadministrativecode?f=templates$fn=default.htm$3.0$vid=amlegal:newyork_ny)

¹⁴ 2012 data.

¹⁵ The Selection Committee consists of five members, three of whom shall be selected by the mayor and two of whom shall be selected by the city council. Their candidate for IG requires approval of 4 members. Mayor can continue to reject names and request another.

¹⁶ <https://chicago.legistar.com/LegislationDetail.aspx?ID=2822852&GUID=E91C9715-C6C1-4B86-A0C3-8394F941EC62&Options=Advanced&Search=>

¹⁷ Chicago ordinance establishing deputy IG

<https://chicago.legistar.com/LegislationDetail.aspx?ID=2822852&GUID=E91C9715-C6C1-4B86-A0C3-8394F941EC62&Options=Advanced&Search=&FullText=1>

¹⁸ Los Angeles Charter sec. 571

[http://library.amlegal.com/nxt/gateway.dll/California/lamc/municipalcode?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:losangeles_ca_mc](http://library.amlegal.com/nxt/gateway.dll/California/lamc/municipalcode?f=templates$fn=default.htm$3.0$vid=amlegal:losangeles_ca_mc)

¹⁹ Los Angeles Charter sec. 245

[http://library.amlegal.com/nxt/gateway.dll/California/lamc/municipalcode?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:losangeles_ca_mc](http://library.amlegal.com/nxt/gateway.dll/California/lamc/municipalcode?f=templates$fn=default.htm$3.0$vid=amlegal:losangeles_ca_mc)

| | | | | |
|------------------------------|---------------------|--|--|---|
| | | | | confirmed by Council. |
| City and County of Denver IM | 1,468 | Mayor appoints from 3+ ²⁰ names by screening committee ²¹ with Council confirmation. | Mayor at will, after consultation with Council and Citizen Oversight Board (COB) | This is an OPA-like position with some system review; the COB oversees IM, but is a volunteer with a stipend. |
| City of New Orleans OIG | 1,270 ²² | Ethics Review Board by majority vote after national search ²³ to a four-year term | 2/3 majority of Ethics Review Board after public hearing ²⁴ | ERB has 1 appointed by mayor + 6 appointed by mayor from university lists, with Council majority confirmation |

Next Steps

The memorandum of Chair González’s timelines for the next round of issue identification is included in Attachment 1, with upcoming deadlines excerpted in the table below.

| March 22, 12:00 p.m. | DUE: Proposed amendments Round #1 |
|-----------------------------|---|
| March 23 | Evening public hearing, Thurs., 6:00 pm |
| March 29 | GESCNA Special Committee Hearing: Discussion and vote on Amendments Identified in Round #1 Discussion and Issue Identification Related to following categories: <ul style="list-style-type: none"> • CPC Membership <ul style="list-style-type: none"> ○ Qualifications ○ Residency Requirements • Required reports • Budget |

Attachment 1 – GESCNA memo of deadlines

Attachment 2 – Parking Lot Issues

Attachment 3 – West Coast 7 accountability models

²⁰ Mayor can request more names if he doesn’t like the first three.

²¹ Five-person screening committee is Chair of Citizen Oversight Board (COB), Councilmember picked by Council President, judge or ex-judge picked by Mayor, Director of Career Service Authority, and person with knowledge picked by Mayor. COB has 7 members appointed by Mayor and confirmed by Council.

²² 2012 data

²³ Chair of the Ethics Review Board appoints any interim IG from among OIG management staff.

²⁴ Eligible for cause reasons are listed in code; ERB must report the reasons for termination to City Council.

Attachment 4 – Inspector General benchmark jurisdictions

cc: Kirstan Arestad, Central Staff Director
Dan Eder, Central Staff Deputy Director

ATTACHMENT 1

**CB 118907 POLICE ACCOUNTABILITY ORDINANCE ISSUE
IDENTIFICATION AND AMENDMENT DEADLINES**

| DATE | ACTIONS (and known issues) |
|-----------------------------|--|
| February 23, 2:00 pm | GESCNA Special Committee Hearing: In-Depth Briefing of Police Accountability Ordinance by Central Staff; CPC available for questions |
| March 8, 12:00 p.m. | DUE: Issue identification Round #1 Requests for additional information and staff analysis transmitted to Amy Tsai & GESCNA Chair |
| March 9-11 | New Orleans Study Mission |
| March 17 | GESCNA Committee Hearing: Discussion of Staff Identified Issues and Issues Identified in Round #1 Discussion and Issue Identification Related to following categories: <ul style="list-style-type: none"> • Independence mechanisms <ul style="list-style-type: none"> ○ Appointment and Removal Process for Directors and/or members of OPA, OIG, CPC ○ Terms • Roles and oversight |
| March 22, 12:00 p.m. | DUE: Proposed amendments Round #1 |
| March 23 | Evening public hearing, Thurs., 6:00 pm |
| March 29 | GESCNA Special Committee Hearing: Discussion and vote on Amendments Identified in Round #1 Discussion and Issue Identification Related to following categories: <ul style="list-style-type: none"> • CPC Membership <ul style="list-style-type: none"> ○ Qualifications ○ Residency Requirements • Required reports • Budget |
| April 5, 12:00 p.m. | DUE: Issue Identification Round #2 Final requests for additional information and staff analysis transmitted to Amy Tsai & GESCNA Chair |
| April 14 | GESCNA Special Committee Hearing: Discussion of Issues Identified in Round #2 Discussion and Issue Identification Related to following categories: <ul style="list-style-type: none"> • Investigations and Disciplinary processes • Technical Amendments (if time permits) • Other (if time permits) |
| April 19, 12:00 p.m. | DUE: Proposed amendments Round #2 |
| April 26 | GESCNA Committee Hearing: Discussion and vote on Amendments Identified in Round #2 Discussion and Issue Identification Related to following categories: <ul style="list-style-type: none"> • Technical Amendments • Other |
| May 3 | Evening public hearing, Wed., 6:00 pm |
| May 5 | GESCNA Committee Hearing: Vote on technical amendments and final committee vote on CB 118907, as amended |
| May 8 | Full Council Vote on CB 118907 |

ATTACHMENT 2: Parking Lot Issues

Membership/Qualifications/Geographic Representation (3/29)

- How many members should CPC have – while this is related to who appoints them, it is also closely tied to what qualifications are desired which is slated for discussion on 3/29
- What should CPC membership requirements be (on geographic parity/representation, subject matter expertise, union/law enforcement or other requirements); not calling out African-Americans as a specific racial category; why public defense and civil liberties expertise versus others
- Are the qualification requirements for the IG and OPA Director strong enough?

Reporting (3/29)

- Streamline reporting requirements

Budget (3/29) – and independence

- Should the oversight entities have dedicated budgets set in code
- What is the appropriate level of OIG staffing – additional analysis requested
- Should OPA and OIG have authority to submit budget requests directly to Council – carry-over language from current ordinance
- Use of civilians in operational areas (3.29.315.C.) – check with SPD on other potential units to include
- Should CPC have separate legal counsel

Investigations (4/14)

- When should the 180-day clock begin (3.29.026.B.)
- Clarify language around what triggers tolling and restarting for administrative investigative steps
- Is a civilian observer on the Force Review Board still needed
- Should investigations into serious and deadly use of force be conducted externally, informed by a stakeholder assessment to be led by CPC?

Disciplinary Processes (4/14)

- What should be the evidence standard for discipline cases
- Should the disciplinary appeal process be one-track or two
- Can the discipline bar be reset through legislation by creating a new benchmark for “consistent with previous practices”?
- Clarify the default evidentiary standard for misconduct cases
- Be clear on implementation of discipline when imposed or “shortly thereafter” – 3.29.310.A.3.
- In making disciplinary processes fair, reviewing other jurisdictions may be beneficial, such as use of disciplinary matrices

Other

- Should oversight entities, CPC in particular, have a role during the bargaining process (while this is a “role” issue, staff do not have analysis available at this time)
- Examine existing OPARB and other code provisions for any language that should be preserved, such as regular transmittal of unredacted files to OIG or access to cases under active litigation
- Discuss wisdom and logistics of protocols for referring criminal cases to prosecutors outside of the county – 3.29.325.A.
- Can hiring processes needed for the IG be set in motion in advance of the ordinance effective date?
- Technical clean-up comments, e.g.,
 - streamlining of “intent” type statements
 - defining “tolling”
 - 3.29.110.A.4.b. IG response to scenes language is confusing
 - 3.29.315.E. reference to ethical standards be clear if it is the Ethics Code
 - 3.29.345.A. retaliation section unclear
 - verify 3.29.401.B. effectiveness date language
- Clarification of provisions, e.g.,
 - 3.29.010.G. - civilian staff assisting supervisors
 - 3.29.020.A.15 – any desired elaboration on language translation requirements
 - 3.29.026.A. – nondisclosure of names of complainants who aren’t a member of the public

Legal

- Is subpoena power by OPA and OIG lawful?
- How to address, synchronize, or eliminate past side agreements, practices and policies that are in conflict with the accountability ordinance?
- Open bargaining

ATTACHMENT 3: WEST COAST 7 Accountability Models

At the February 23 GESCNA meeting, Councilmembers asked for benchmark jurisdictions for comparison. Below are general descriptions of the accountability systems of the seven West Coast jurisdictions that the City of Seattle has historically used for wage and benefit comparisons (the “West Coast 7”). Included are the following jurisdictions and their number of sworn officers, with Seattle listed for comparison:

| West Coast 7 | Sworn Officers (2015 data) ²⁵ |
|----------------|--|
| San Francisco | 2,236 |
| San Diego | 1,887 |
| <i>Seattle</i> | <i>1,350</i> |
| San Jose | 939 |
| Portland | 908 |
| Long Beach | 771 |
| Oakland | 734 |
| Sacramento | 646 |

These examples make it abundantly clear that, not only is there no standard approach, but no two jurisdictions are alike. This is particularly true if one considers the community context and political climate in which each accountability model exists.

This summary provides a sense of the variety of approaches that exist along the West Coast, but it is not an evaluation of the effectiveness of these particular approaches. Staff can provide further evaluation of any of these jurisdictions upon request.

San Francisco (2,236 sworn)

The Police Commission is the governing body of SFPD and oversees the Office of Citizen Complaints.²⁶

- Authority to discipline sworn officers for discipline exceeding 10-day suspension; Chief of Police imposes discipline not exceeding 10-day suspension.
- Commission also hears appeals of discipline imposed by Chief.
- Appointed by Mayor and Board of Supervisors

Dept of Police Accountability (formerly Office of Citizen Complaints), created by Board of Supervisors charter amendment in 1983, is like OPA

- Sole jurisdiction over civilian-initiated complaints
- Classifies and investigates with civilian investigators

²⁵ <http://www.governing.com/gov-data/safety-justice/police-officers-per-capita-rates-employment-for-city-departments.html>

²⁶ http://www.nacole.org/agency_profile_san_francisco

- Makes policy recommendations, conduct community outreach
- DPA Director appointed by Mayor from nominees selected by the Police Commission, confirmed by Board of Supervisors
- DPA submits budget directly to the Mayor without having to get Police Commission approval.
- Minimum staffing level of no fewer than one line investigator for every 150 sworn members
- No previously sworn SFPD officer may join DPA staff

San Diego (1,887 sworn)

Community Review Board on Police Practices²⁷ (CRB) created by charter amendment in 1988

- Reviews serious complaints against officers, all officer-involved shootings and in-custody deaths, and reviews the administration of discipline from sustained complaints.
- 23-member volunteer panel trained in case review
- Up to 23-nonvoting members are also appointed to fill vacancies as they occur.
- The Board can make policy and procedure recommendations to the Chief of Police.
- Mayor appoints members to one-year terms and appoints Executive Director

San Jose (939 sworn)

Office of the Independent Police Auditor created by 1993 ordinance and then voted-amended City Charter²⁸

- Reviews complaint investigations for being thorough and fair
- Makes policy and procedures recommendations
- Conduct public outreach to educate community on role of IPA and assist community with complaint investigation process
- Appointed by Council
- Four-year term
- Council may remove for cause by vote of 10 of 11 members, with an opportunity for the IPA to be heard

Portland (908 sworn)

Portland City Auditor's Independent Police Review Division (IPR)

- Independent, civilian oversight agency that investigates and monitors allegations of police misconduct.²⁹
- The IPR Director reports directly to the City Auditor, an independently elected official.

²⁷ <http://www.voiceofsandiego.org/topics/public-safety/activists-push-city-to-give-police-oversight-more-power/>

²⁸ <http://www.sanjoseca.gov/index.aspx?NID=695>

²⁹ http://www.nacole.org/agency_profile_portland

- IPR can conduct independent investigations, refer the case to internal affairs, dismiss, refer elsewhere, or arrange mediation with the consent of the parties

Citizen Review Committee (CRC),³⁰ formed at the same time as the IPR in 2001

- Gathers community concerns, helps the IPR Director develop policy recommendations on patterns of problems, review and advise IPR and IA on complaint handling, and hear appeals from complainants
- 11 volunteer members appointed by the Council
- A search committee of 3 prior CRC representatives, 2 community members, and the IPR Director recommend nominees to the City Auditor, confirmed by the Council.
- Consideration is given to current composition to best reflect the demographics of the community.

Long Beach (771 sworn)

Citizen Police Complaint Commission^{31, 32} created by charter amendment in 1990:

- Directs investigations of allegations of police misconduct by an independent investigator³³ appointed by the City Manager. Internal Affairs also investigates and both render findings to the City Manager who makes recommendations to the police.
- This is an OPA-like entity overseen by volunteer Commissioners; there is no IG equivalent.³⁴
- 11 members appointed by Mayor confirmed by Council
- One Commissioner representing each of 9 City Council districts nominated by the Councilmember of that district and 2 at large; broadly representative of the demographics of the City; must reside in the City
- Max of 2 two-year terms
- Removal by Council majority for cause

Oakland (734 sworn)

Citizens' Police Review Board,^{35,36} implemented in 2001 by ordinance

- Can investigate and review complaints, and recommend policy changes; Oakland PD internal affairs may conduct a concurrent investigation.
- 12-member civilian oversight

³⁰ <https://d3n8a8pro7vhm.cloudfront.net/nacole/pages/110/attachments/original/1458085071/8-Port-Citizen-Review-Committee-IPR-Process-for-Appointment-and-Reappointment-to-CRC.pdf?1458085071>

³¹ <http://www.longbeach.gov/citymanager/cpcc/>

³² <http://www.longbeach.gov/citymanager/cpcc/supporting-information/#charter>

³³ Staff include an Executive Director for the Commission, one full-time investigator, and one part-time investigator. <http://www.longbeach.gov/citymanager/media-library/documents/cpcc/annual-report/2014---2015-annual-report/>.

³⁴ Personal communication, CPCC staff, 3/15/17

³⁵ <http://www2.oaklandnet.com/oakca1/groups/police/documents/webcontent/oak060901.pdf>

³⁶ <http://www2.oaklandnet.com/oakca1/groups/cityadministrator/documents/policy/oak047742.pdf>

- Like any other commission under Oakland’s charter, members are recommended by Council members, appointed by the Mayor and confirmed by the Council; removal is for cause by vote of six of eight Councilmembers; Council can fill vacancy if Mayor doesn’t fill within 90 days.
- Two 2-year term limits
- Civilian investigator staff are to be one investigator per 100 officers.
- There is an Office of Inspector General that provides the Chief with analysis of OPD policies and procedures, conducts audits and reviews, and ensures compliance with a negotiated settlement agreement on pattern and practice claims, but it appears to be a small operation within the police department.³⁷

Sacramento (646 sworn)

Office of Police Accountability established in 1999

- Monitor investigation of “citizen complaints.”
- Under the direction, control and supervision of the City Manager.³⁸

Community Police Commission³⁹ created by Council in 2015

- Evaluates bias-free policing and strengthens community-police relations
- 11 members including faith, civil rights and business communities, former law enforcement official, and police union appointee
- Appointed by the Mayor, confirmed by the Council

³⁷ <http://www2.oaklandnet.com/government/o/OPD/o/OfficeofChief/>

³⁸ <http://www.cityofsacramento.org/City-Manager/Public-Safety-and-Accountability>

³⁹ <http://www.sacbee.com/news/local/news-columns-blogs/city-beat/article31528499.html>

ATTACHMENT 4: Inspector General Benchmark Jurisdictions

New York City NYPD-OIG

NYPD-OIG scope - There is an Office of the Inspector General for the department which is part of the New York City Department of Investigation. The OIG evaluates systemic issues and makes recommendations for departmental improvements. Although the Department of Investigations has been around since the 1870s, an Inspector General for NYPD did not exist until Local Law 70 mandated its creation in 2013. The impetus for its formation was Mayor Bloomberg's stop and frisk policies,⁴⁰ which had led to a federal class action lawsuit filed in 2008, *Floyd v. City of New York*. Stop and frisks peaked in 2011 at 685,724 (about eight percent of the population of NYC), with over half black, a third Latino, and almost half youth.⁴¹ By 2015, that number had dropped to 22,939.

Budget - The New York City Police Department (NYPD) has an annual budget of roughly \$5.1 billion, employs nearly 50,000 persons including approximately 34,500 uniformed officers, and serves almost 8.5 million residents across five boroughs. The Mayor is responsible for preparing an annual expense and capital budget, which are submitted to the City Council for review. The Mayor and Council then negotiate an adopted budget.⁴² From conversations in NYC, the Mayor holds considerable power over the final budget package.

The OIG's Fiscal Year 2017 budget allocation is over \$7.2 million (approximately \$5.2 million in payroll and \$2 million in additional operating funding). The OIG consists of about 40 investigators, attorneys, analysts, auditors and support staff. OIG staff conducts data analysis and investigations to compile evidence for the office's reports and recommendations, and has a director for community outreach. The DOI is largely focused on systemic issues relating to the operations, policies, programs and practices of the NYPD.

City of Chicago Inspector General^{43, 44}

Scope - The mission of the City of Chicago Office of Inspector General (OIG) is to root out corruption, waste, and mismanagement, while promoting effectiveness and efficiency in City government.

⁴⁰ In *Floyd v. City of New York* (2008), a federal judge in 2013 found NYPD liable for a pattern and practice of racial profiling and unconstitutional stops; <http://ccrjustice.org/home/what-we-do/our-cases/floyd-et-al-v-city-new-york-et-al>

⁴¹ <http://www.nyclu.org/content/stop-and-frisk-data>

⁴² <http://council.nyc.gov/budget/process/>

⁴³ Chicago OIG homepage <http://chicagoinspectorgeneral.org/>

⁴⁴ Chicago OIG municipal code <http://chicagoinspectorgeneral.org/wp-content/uploads/2013/09/MCC-Chp-2-56-Office-of-Inspector-General-20160826.pdf>

On October 5, 2016, the City Council approved amendments to the Municipal Code, which created “a Deputy Inspector General for Public Safety to audit and review the policies, procedures, and practices of the Chicago Police Department, the Police Board, and the Civilian Office of Police Accountability, and thereby enhance transparency, accountability and quality of oversight.” The legislation became effective on November 11, 2016.⁴⁵

Budget of the overarching OIG - On March 18, 2015, amendments established that, “appropriations available to pay for the expenses of the office of inspector general during each fiscal year shall be not less than one tenth of one percent (0.1%) of the annual appropriation of all funds contained in the annual appropriation ordinance, as adjusted...” and provided OIG the jurisdiction to, “engage in activities that are both authorized by and carried out under the direction of the Illinois Attorney General, the Cook County State’s Attorney, the United States Department of Justice and other agencies authorized to investigate and prosecute violations of criminal law...”^{46,47}

On March 16, 2016, further amendments extended OIG’s jurisdiction to City Council to “ensure the allegations of misconduct against aldermen and their employees are thoroughly investigated and addressed.”⁴⁸

Budget of the Civilian Office of Police Accountability – The budget for this office is not less than 1% of the police department budget exclusive of grants. Note that a prior draft version of the deputy IG ordinance appears to have proposed not less than 1% of the police budget for the deputy IG and at least 1 FTE for every 250 sworn officers.⁴⁹

City and County of Denver Office of Independent Monitor⁵⁰

Scope – The Office of the Independent Monitor is responsible for: (1) actively monitoring and participating in certain investigations of uniformed personnel in the City and County of Denver’s Police, Sheriff, and Fire Departments; (2) making recommendations to the Manager of Safety (who is responsible for discipline within the three departments) regarding administrative action, including possible discipline, for such uniformed personnel; and (3) making recommendations regarding broader policy.

⁴⁵ See also news article <http://www.usatoday.com/story/news/2016/10/04/chicago-set-create-new-oversight-agency-probe-police-misconduct/91573346/>

⁴⁶ March 2015 Amendments MCC-Chp-2-56 - <http://chicagoinspectorgeneral.org/wp-content/uploads/2013/09/March-2015-Amendments-MCC-Chp-2-56-.pdf>

⁴⁷ News article – “With the ordinance to create COPA, Emanuel agreed to setting a minimum guaranteed funding level—1% of the annual appropriation of all non-grant funds that the police department receives—an assurance that some council members said was necessary to safeguard the independence of the agency.” <http://www.usatoday.com/story/news/2016/10/04/chicago-set-create-new-oversight-agency-probe-police-misconduct/91573346/>

⁴⁸ March 2016 Amendments MCC-Chp-2-56 - <http://chicagoinspectorgeneral.org/wp-content/uploads/2013/09/March-2016-Amendments-MCC-Chp-2-56.pdf>

⁴⁹ <https://www.communityrenewalsociety.org/sites/default/files/FAIR%20COPS%20Ordinance.pdf>

⁵⁰ <https://www.denvergov.org/content/denvergov/en/office-of-the-independent-monitor/about-us.html>

The jurisdiction of the Office of the Independent Monitor is focused on uniformed personnel: (1) who are involved in duty-related incidents which result in serious bodily injury or death; (2) who are charged with felonies or certain other crimes; (3) against whom various citizen complaints are brought; and (4) about whom the Citizen Oversight Board or Manager of Safety has requested the Monitor's involvement.

The Citizen Oversight Board replaced Denver's Public Safety Review Commission. The Citizen Oversight Board is responsible for: (1) assessing whether the Office of the Independent Monitor is effectively performing its duties; (2) making recommendations regarding policy and training issues; (3) making recommendations as to whether rule violations have occurred in certain types of cases; (4) directing the Monitor to monitor or review certain cases; and (5) addressing other issues of concern to the community and other interested stakeholders.⁵¹

Staffing - The OIM is staffed by fourteen employees including six monitors, primarily attorneys: the Monitor, the Senior Deputy Monitor, and four Deputy Monitors. The other eight include a Policy Director and three Analysts, Community Relations Ombudsman, Youth Project Coordinator, Office Manager and Case Manager.⁵²

Monitor Review – The Citizen oversight board (COB) reviews the monitor. COB has 7 members appointed by the Mayor and confirmed by the Council.⁵³

City of Los Angeles OIG⁵⁴

OIG scope - The OIG reviews investigations specific to officer-involved shootings and significant uses of force, reviews complaint investigations of police officer misconduct, and conducts its own performance-related audits; the OIG can look at anything within LAPD, including internal or criminal investigations.

Review of OIG – The IG reports to the Board of Police Commissioners. The Board of Police Commissioners (LAPC) is a five-member civilian volunteer panel that oversees the LAPD and is staffed by an Executive Director. The Inspector General, Executive Director of LAPC, and the Chief of Police essentially act as peers responding to the LAPC.

The LAPC adopts LAPD policies and adjudicates serious use of force incidents. The use of force review division prepares a report to the police commission that includes a recommendation from Chief of Police and independent analysis from OIG. The Commission votes on whether

⁵¹ <https://www.denvergov.org/content/denvergov/en/office-of-the-independent-monitor/operating-documents.html>

⁵² <https://www.denvergov.org/content/denvergov/en/office-of-the-independent-monitor.html>

⁵³ <https://www.denvergov.org/content/denvergov/en/citizen-oversight-board/governance.html>

⁵⁴ LAPD IG web site http://www.lapdonline.org/police_commission/content_basic_view/1076

actions were in policy, and then the Chief imposes discipline. The Mayor and City Council can overrule the commission but that hasn't happened. LAPC has five members, currently a law professor, former dean of law school, community nonprofit advocate, entertainment lawyer, and city developer. The LAPC members are appointed for five-year terms by the Mayor of Los Angeles and confirmed by the City Council.

OIG Staffing – The OIG has 32 employees consisting of lawyers, professional auditors, and law enforcement executives.⁵⁵

New Orleans OIG

Scope – The OIG conducts investigations, audits, inspections, and performance reviews to provide increased accountability and oversight of all departments, city entities or entities receiving funds through the city, and to assist in improving agency operations and deterring and identifying, fraud, waste, abuse, and illegal acts.⁵⁶

Independent Police Monitor's Scope (formerly housed under OIG then split by charter amendment last fall) - The independent police monitor is charged with monitoring the New Orleans Police Department, particularly in the areas of: civilian and internally-generated complaints; internal investigations; discipline; use of force; and in-custody deaths. The independent police monitor reviews and analyzes the numbers and types of complaints; assesses the quality and timeliness of New Orleans Police Department investigations; reviews the adequacy of data collection and analysis; reviews the public integrity bureau's policies, procedures, and resource needs; conducts risk management reviews; reviews the operations and effectiveness of New Orleans Police Department "early warning system"; reviews specific issues regarding supervision, training, and discipline; conducts relevant pattern analysis; and performs other tasks to ensure New Orleans Police Department accountability, transparency, and responsiveness to the community it serves.⁵⁷

Review of OIG - Pursuant to City Code § 2-1120(16),⁵⁸ the OIG is subject to an external review every year by the Quality Assurance Review Advisory Committee for the Office of Inspector General (QARAC) and a peer review every three years by the Association of Inspectors General. QARAC has three members, including one mayoral appointee, one by City Council and one by

⁵⁵ <https://lasentinel.net/andre-birotte-jr-inspector-general-of-the-lapd.html>

⁵⁶ New Orleans charter creating the OIG -

https://www.municode.com/library/la/new_orleans/codes/code_of_ordinances?nodeId=PAI_HORUCH_ARTIXGEP_R_CH4OFINGEETREBOOFINPOMO_S9-401OFINGE

⁵⁷ Sec. 2-1121

⁵⁸ New Orleans city code creating the OIG – but note that it appears not to have been updated with their charter amendment during the last election cycle that split the OIG and Independent Police Monitor. Further research would be needed to determine whether the office is housed within a particular branch of government.

https://www.municode.com/library/la/new_orleans/codes/code_of_ordinances?nodeId=PTIICO_CH2AD_ARTXIIIIFINGEOI_S2-1120OFINGE

the Ethics Review Board. The Mayor, City Council, and Ethics Review Board did not appoint members to the Quality Assurance Review Committee in 2014, therefore no report is available for 2013.⁵⁹

Budget - Section 9-404. - Shared Funding - The OIG, the Ethics Review Board, and the Office of the Independent Police Monitor receive an annual appropriation from the Council in an amount not less than 0.75% (three-quarters of one percent) of the General Fund operating budget, adopted pursuant to Section 3-115(2). That individual appropriation may not be vetoed by the Mayor, notwithstanding the Mayor's authority pursuant to Section 3-113(4) to disapprove or reduce any item or items of appropriation, and also notwithstanding the Mayor's authority pursuant to Section 3-113(2) to disapprove any ordinance in its entirety. The Council may by ordinance, adopted by unanimous vote of a quorum, provide for deviation from this percentage in cases of natural disaster or other extreme circumstances. Of that budget percentage, .04% is allocated for the operation of the Ethics Review Board and .16% is allocated for the operation of the Office of Independent Police Monitor. The local ethics entities may by memorandum of understanding reallocate these funds between or among themselves as they deem adequate to implement their functions efficiently and effectively.

⁵⁹ <http://www.nolaoig.gov/records/reviews>