

**MEMORANDUM**

**To:** Councilmembers  
**From:** Amy Tsai, Central Staff  
**Date:** February 8, 2017  
**Subject:** Briefing on Mayor's Proposed Police Accountability Legislation (CB 118907)

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**Police Reform in Seattle**

The accountability legislation pending before the Council, **CB 118907**, represents a significant milestone in Seattle's police reform efforts. Since August 2012, the City has been operating under a federal Consent Decree that was entered into 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 public and officer safety, and promotes public confidence in the Seattle Police Department ("SPD") and its officers."<sup>1</sup>

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...<sup>2</sup>

The lack of, and need for, public trust was highlighted in the 2011 Department of Justice investigation that led to the Consent Decree. An example from that report of a police interaction with the public is presented below along with a recent report from the federal Monitor that shows SPD's progress today.

As an example of excessive force, the DOJ report described an incident where an officer observed a man in a stressed mental state yelling at traffic lights while holding a stuffed animal. When the man did not respond to an order to move to the side of the road, he was sprayed with pepper spray. After a physical exchange with the officer where the man reportedly balled up his fist and was struck on the arm with a baton, the man ran and was chased by four officers who delivered approximately 14 to 18 punches, five to seven elbow or knee strikes, and four baton strikes. The man was arrested for pedestrian interference and obstruction.

Four years later, by February 16, 2016, the Court-appointed Monitor reported that SPD had reached initial compliance with requirements of the Consent Decree related to crisis

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<sup>1</sup> See U.S. v. City of Seattle, 12-CV-1282, Settlement Agreement and Stipulated [Proposed] Order of Resolution, Exhibit A, p. 1, lines 2-7.

<sup>2</sup> CB 118907, Section 6, 3.29.005

intervention.<sup>3</sup> The Monitor commended efforts by SPD to effectively engage individuals in behavioral crisis, including training all officers in some level of crisis intervention training, creating new policies and organizational changes to support a new Crisis Intervention Team program with dedicated command staff, and implementing a new data tracking system.

More recently, at a status conference on January 4, 2017, Judge Robart noted that since the Consent Decree was signed, progress has been made in a number of areas, including use of force, crisis stops and detentions, bias-free policing and supervision. He further stated, “Major changes have been made by the Seattle Police Department under the enlightened leadership of Chief O’Toole and her staff, assisted by Mr. Bobb and his staff as the federal court monitor.”

One significant piece of achieving full compliance will be for the City to institute a police accountability structure that can help ensure constitutional and effective policing that builds public trust, now and into the future.

### **Accountability Legislation Timeline**

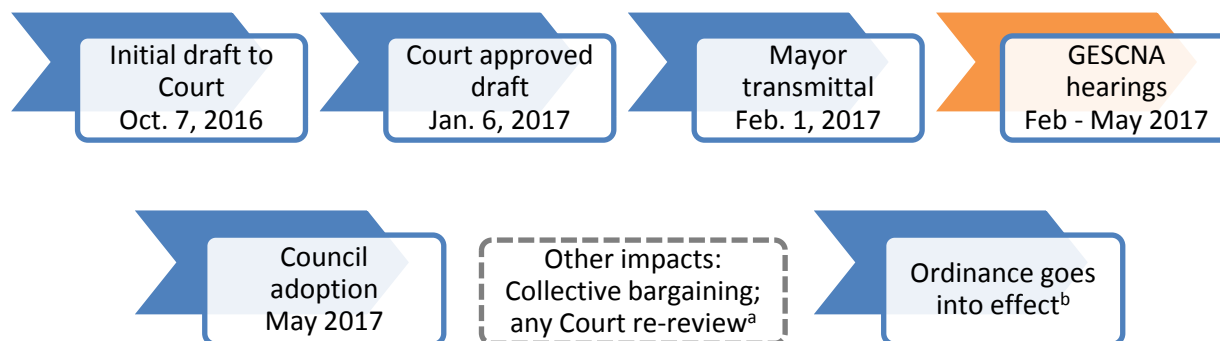
On Wednesday, February 1, 2017, the Mayor transmitted a police accountability reform legislative package to the City Council, including **CB 118907** (the accountability ordinance) and **CB 118908** (an accompanying supplemental budget request). Today’s briefing focuses on CB 118907. Budget issues, including CB 118908, will be discussed in upcoming Gender Equity, Safe Communities and New Americans Committee (GESCNA) meetings.

Today’s briefing is the first of a series of discussions that will take place in GESCNA to finalize the accountability package. If any substantive revisions result from Council deliberations and/or collective bargaining, the modified legislation will be resubmitted to the Court for approval. Any provisions that require collective bargaining would not become effective until the City satisfies any collective bargaining obligations or the City and affected police unions mutually agree that a provision may be implemented. Likewise, any provision that required an amendment to the consent decree would not become effective until successful amendment of the consent decree language.

The process is summarized in the figure below:

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<sup>3</sup> Seattle Police Monitor (February 2016). Fifth Systemic Assessment: Crisis Intervention. <http://www.seattlemonitor.com/reports-resources/>



<sup>a</sup> Any substantive changes made since the Court’s last review trigger additional Court review.

<sup>b</sup> Provisions become effective contingent upon any necessary steps related to amending the consent decree, collective bargaining, or satisfaction of collective bargaining obligations.

### Committee Schedule

To help inform the upcoming committee deliberations, GESCNA Chair González is leading a series of three site visits to learn from other jurisdictions about their successes and challenges. The first visit to New York City recently concluded (discussed further below), with Los Angeles and New Orleans remaining.

The planned schedule includes seven meetings on the accountability legislation with public comment at each meeting (see table below). This includes two public hearings devoted to hearing from the community, and a final vote at full Council anticipated in May.

Table 1. GESCNA Planned Schedule (subject to change)

<b>January - February: Legislation Transmittal, Research on Accountability Models, Issue Identification and Discussion</b>	
January 18-21	Chair González, CM Burgess, CPC, Mayor’s Office, and staff visit <b>New York City</b> for Office of Inspector General study mission.
January 23	Council Briefing on Consent Decree, GESCNA work plan, legislative process, and Court’s Jan. 6 order regarding accountability legislation.
February 1	Transmittal of Accountability Legislation by Mayor’s Office
February 8	<b>(1) GESCNA meeting, Wed. 9:30 a.m.</b> – Briefing and discussion on Mayor’s proposed accountability legislation; debrief of Office of Inspector General study mission to New York City

February 9-10	Chair González, CM Burgess, CPC, Mayor’s Office, and staff visit <b>City and County of Los Angeles</b> for Office of Inspector General study mission.
February 23	<b>(2) Special GESCNA meeting, Thurs. 2:00 p.m.</b> – Briefing and discussion on issue identification related to the roles of CPC, OPA and OIG; debrief of Office of Inspector General study mission to Los Angeles
<b>March: Research Accountability Models, Issue Identification and Outreach</b>	
March 9-11	Chair González, CM Burgess, CPC, Mayor’s Office, and staff visit <b>New Orleans</b> for Office of Inspector General study mission.
March 17	<b>(3) Special GESCNA meeting, Fri. 9:30 a.m.</b> – Briefing, discussion, identification of additional issues and consideration of initial amendments; debrief of Office of Inspector General study mission to New Orleans
March 23	<b>(4) Special GESCNA meeting, Thurs. 6:00 p.m. – PUBLIC HEARING</b>
<b>April: Committee Discussion and Possible Action</b>	
April 26	<b>(5) GESCNA meeting, Wed. 9:30 a.m.</b> – Briefing, discussion and possible vote on Accountability Ordinance as amended
<b>May: Outreach and Full Council Discussion and Possible Action</b>	
May 3	<b>(6) Special GESCNA meeting, Wed. 6:00 p.m. – PUBLIC HEARING</b>
May 8	<b>(7) Full Council, Mon. 2:00 p.m.</b> – Full Council possible vote on proposed accountability legislation as amended

### Accountability Model

The accountability structure proposed in **CB 118907** is composed of three main entities. Each of the entities represents a fundamental principle of reform:

- **Community Police Commission** - A strong, active community voice in police oversight
- **Office of the Inspector General** - Independent systemic oversight of SPD and OPA
- **Office of Police Accountability** - Meaningful individual officer accountability

As noted above, Chair González is leading three study missions to examine Inspector General systems in three other jurisdictions.

### New York City Study Mission

From January 18 to 21, GESCNA Chair González led a police accountability study mission to New York City (NYC). 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:

NYC Government

- **Councilmembers Brad Lander and Jumaane Williams** – sponsors of the legislation creating the Office of the Inspector General for the New York City Police Department (OIG-NYPD)
- **Thomas Giovanni**, Executive Assistant for Government Policy and Chief of Staff for Law Department – counsel for NYPD with a policy focus on police reform
- **Mark Peters**, Commissioner of Investigations, Department of Investigations (DOI), **Philip Eure**, Inspector General, OIG-NYPD, and OIG-NYPD senior staff – DOI is the head agency housing all Inspectors General of NYC departments.

Community

- **Marbre Stahly-Butts**, Policy Advocate, Center for Popular Democracy (CPD) and NYPD Civilian Complaint Review Board member – CPD is a national organization that generates base-building organizing momentum with partner organizations to support equity and democracy advocacy.
- **Dr. Divine Pryor**, Executive Director, and **Kyung-Ji Kate Rhee**, Juvenile Justice Director, Center for NuLeadership on Urban Solutions (CNUS) – CNUS provides research, advocacy and leadership training to formerly and currently incarcerated people and allies to reduce reliance on incarceration and transform attitudes towards and solutions for the incarcerated.
- **Joo-Hyun Kang**, Lead Organizer, Communities United for Police Reform (CUPR), and **Jose Lopez**, Director of Community Organizing, Make the Road NY (MTR) – CUPR is a campaign to end discriminatory policing in NYC with partners and supporters from 200 organizations. Make the Road organizes people in low-income and immigrant communities to advocate for neighborhood improvements.

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.<sup>4</sup> From conversations in NYC, the Mayor holds considerable power over the final budget package.

Inspector General. 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.

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<sup>4</sup> <http://council.nyc.gov/budget/process/>

The impetus for its formation was Mayor Bloomberg's stop and frisk policies,<sup>5</sup> 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.<sup>6</sup> By 2015, that number had dropped to 22,939.

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.

Observations. The Mayor appoints the Commissioner of Investigations who in turn appoints the OIG-NYPD Inspector General. Between the Mayor's budget authority and appointment powers, the New York oversight system is Mayor-centric; a theme which recurred during the study mission. Despite NYC's larger size, there were common concerns expressed during the visit that resonate with Seattle's issues, including how to achieve independence, ensure effective oversight, and have meaningful community input.

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.

#### Independence

- OIG-NYPD has the support of the current Mayor, but in a City with a Mayor who has strong budgetary and appointing authority, the ability of the OIG-NYPD to be an effective independent entity under a "bad" Mayor is unclear.

#### Office Functions

- The Police Commissioner is not obligated to implement OIG-NYPD recommendations but must timely respond in writing. Many OIG-NYPD recommendations have been agreed to in principle but have not been implemented. The OIG-NYPD's annual reports summarize what has been implemented and what hasn't. Transparency and accountability through public reporting is also a theme seen in the proposed Seattle legislation.
- OIG-NYPD does systemic oversight, but it also claims to do some individual misconduct investigations even though the Civilian Complaint Review Board and Internal Affairs

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<sup>5</sup> 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>

<sup>6</sup> <http://www.nyclu.org/content/stop-and-frisk-data>

Bureau generally handle such cases. It was unclear whether this was a source of confusion or value-added. The Seattle legislation will need to determine priority functions of each oversight entity and what areas of overlap should exist.

- OIG-NYPD emphasized the importance of being able to access data. OIG-NYPD benefits from being under the auspices of the institutional DOI which has strong access to city employee information, and OIG-NYPD has subpoena power.
- OIG-NYPD has its own legal counsel. It was noted that this helps to avoid legal conflicts.

#### Community interaction

- Since OIG-NYPD is relatively new, its true effectiveness remains to be seen, but the signs are encouraging according to city councilmembers. The jury is still out as to OIG-NYPD's utility from the perspective of activist and community organizations.
- OIG-NYPD generally sets its own work plan, but the City Council or Mayor can direct that an investigation be undertaken. There is limited transparency about the work plan (it is not publicly posted) and no formal provisions for developing the work plan with input from the community. Several times community representatives agreed it would be helpful to have an organized citizen oversight body that could contribute to the OIG-NYPD work plan.
- OIG-NYPD has one community engagement staff. In conversations with government and community, there did not appear to be well-established structures for cross-communication. Although NYC's community advocacy organizations appear very active and representative of many segments of the community, NYC lacks an entity such as the CPC that bridges government and community.
- All community groups highlighted the need to have power in the process. At least one advocate felt that police union representation on a community commission would be counterproductive and have a chilling effect on community expression. How to empower the community and hear its voice is a key issue in Seattle's accountability legislation.

#### **Today's Presentations**

In today's briefing, the Community Police Commission will present a community vision of accountability and what it sees as key principles for true reform. The Mayor's Office will summarize the content of the Mayor's transmitted legislation (CB 118907).

cc: Kirstan Arestad, Central Staff Director  
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