

THE HONORABLE JAMES L. ROBART

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

CITY OF SEATTLE

Defendant.

No. 2:12-cv-01282-JLR

STIPULATED MOTION AND
[PROPOSED] ORDER REGARDING
SEATTLE POLICE DEPARTMENT
ACCOUNTABILITY SYSTEMS
LEGISLATION

NOTED FOR: JULY 11, 2016

STIPULATED MOTION

The United States of America and the City of Seattle (the “Parties”) submit this Stipulated Motion in furtherance of and consistent with the accountability work groups and the resulting briefing by the Parties and other participants:

1. On February 25, 2016, the Court approved the City Attorney’s proposal to convene a working group of City participants along with counsel for the United States and the Court-appointed Monitor to engage in a discussion of the characteristics of the optimal police accountability system for the City of Seattle.

1 2. This process spanned six weekly work group meetings, during which the
2 participants engaged in robust discussion, focusing on the questions posed by the Court and also
3 on questions posed by the Parties.

4 3. There was meaningful discussion amongst the Parties and other stakeholders
5 concerning significant elements of a future accountability system. Even where consensus could
6 not be reached, participants engaged in deliberations of the advantages and disadvantages of
7 competing proposals.

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9 4. At the conclusion of the accountability work group meetings, the Parties
10 submitted separate filings: the City filed its submission on May 10, 2016, and the United States'
11 filed its submission on May 24. The Community Police Commission ("CPC") filed an amicus
12 submission on May 23.

13 5. While these filings differed somewhat in describing the Parties' and CPC's
14 perceptions of the discussions during the accountability process and the history that led to that
15 process, they were in large part consistent as to the results of that process and the next steps
16 forward.

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18 6. Notably, the Parties and all stakeholders agreed that the City's legislative
19 authority should have the ability and power to draft, consider and pass legislation incorporating
20 some or all of the accountability elements discussed by the Parties and stakeholders.

21 7. The Parties and all stakeholders further agreed that while many of the
22 accountability system elements discussed were not specifically referenced in the Consent Decree,
23 any legislative proposal must not conflict with either the terms or purpose of the Consent Decree.
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1 8. The Parties and all stakeholders agreed that any elements of the legislative
2 proposal that did, in fact, implicate provisions of the Consent Decree would require Court
3 approval.

4 9. The Parties identified the following areas of Seattle's potential future
5 accountability system as implicating the Consent Decree:

6 A. Modifications to the OPA Manual or to the related SPD Policies 5.002 and
7 5.003;

8 B. Modification of the OPA Auditor role;

9 C. Modification of OPARB's role or termination of that entity;

10 D. The creation of a permanent civilian oversight body or alterations to the
11 present role, functions or permanence of the CPC;

12 E. Modification of any other internal SPD components relating to
13 accountability addressed by the Consent Decree, including the Force
14 Review Board, the Force Investigation Team, Early Intervention System,
15 and the Collision Review Board, or alterations to the interplay of those
16 components with each other.

17 10. If this Court enters this proposed order, the Parties anticipate that proposed
18 accountability legislation will be introduced in 2016.

19 11. The Parties further anticipate that the legislative process will include the
20 following components: (i) the introduction of proposed accountability legislation from the
21 executive; (ii) discussion of accountability legislation in the Gender Equity, Safe Communities
22 and New Americans committee over a number of meetings, which are transparent, televised and
23 open to public participation and comment; (iii) committee passage of accountability legislation
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1 that will proceed to the full Council for possible action; (iv) full Council action, accompanied by
2 additional opportunity for public comment; and (v) Mayoral signature.¹ The City will also
3 engage in discussions with the Seattle Police Officers' Guild and Seattle Police Management
4 Association regarding the proposed legislation. If adopted, the resulting accountability structure
5 likely will require budget appropriation legislation to support implementation costs.

6 12. The Parties agree that, during its legislative process, the City will utilize the
7 technical assistance of the United States, the Monitoring Team, and others with expertise in
8 police accountability approaches and systems.

9 13. The Parties further stipulate that any such legislation shall not take effect until
10 after the Court has had an opportunity to review the legislation to determine if it poses any
11 conflict to the terms or purpose of the Consent Decree.

12 14. The Parties request that the Court conduct this review within 90 calendar days of
13 the date the legislation is passed, finalized and provided to the Court. The Parties further request
14 that at the completion of that review, the Court issue an order (of the kind referenced in the
15 proposed order provided herein), identifying the aspects of the legislation, if any, that the Court
16 believes to be in conflict with the terms or purpose of the Consent Decree.

17 15. Based on the above stipulated facts, and for the reasons asserted in the Parties'
18 respective filings, the Parties jointly, respectfully request that the Court grant the proposed order
19 referenced below and endorse the City's plan to proceed through the legislative process.
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25 ¹ For more information concerning the City's legislative and budget processes, the Court is referred to the following
26 links: <http://www.seattle.gov/cityclerk/legislative-process-guide/legislative-process>;
<http://www.seattle.gov/cityclerk/legislative-process-guide/the-city-budget-process>;
<http://www.seattle.gov/council/committees/budget>. The Parties will provide further detail concerning specifics of
the legislative and budget processes at the Court's request.

1 DATED this 11th day of July, 2016.

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[PROPOSED] ORDER

The Court has reviewed the Parties' stipulation and enters the following Order:

The Court approves the City of Seattle's plan for its legislative authority to draft and consider legislation concerning the City's police accountability system.

The Court grants the City leave to consider and adopt legislation in the six areas identified as explicitly implicating the terms of the Consent Decree.

Any such legislation shall not take effect until after the Court has had an opportunity to review the legislation. Within 90 calendar days of the adopted legislative package being provided to the Court, the Court intends to review the legislation to ensure that it does not conflict with the terms or purpose of the Consent Decree. If the Court finds that such conflict exists, the following shall occur:

(1) The Court will issue an order advising the Parties of: (a) which aspects of the legislation, if any, it believes conflict with the *terms* of the Consent Decree, and (b) which aspects of the legislation, if any, it believes conflict with the *purpose* of the Consent Decree;

(2) With respect to group (a), the City shall advise its legislative authority of the Court's identification of the portions of the legislation that conflict with the terms of the consent decree so that the City can either modify the legislation to remedy the conflict or move the Court to revise the terms of the Consent Decree necessary to accommodate the proposed legislation;

(3) With respect to group (b), the City shall advise its legislative authority of the Court's identification of the portions of the legislation that conflict with the purpose of the Consent Decree so that the City can either modify the legislation to remedy the conflict or seek other legal redress.

If the legislative authority modifies the legislation, the City shall then resubmit the proposed legislation to the Court for additional review and approval.

Dated: _____, 2016.

THE HONORABLE JAMES L. ROBART
UNITED STATES DISTRICT JUDGE