

Date: August 30, 2021

Subject: Agreement between City and SM POA to Restrict Public Safety Reform Oversight Commission

Dear Council Members:

I learned recently from interim City Attorney Cardona that the City Council voted in private on August 24, 2021 to deliver a gut punch to civilian oversight in Santa Monica, and an insult to the many community members who have worked hard to bring improvements to public safety over many years. I assume Council acted in good faith, based on information provided by the interim City Attorney, and that the Council believes in the goals of independent civilian oversight. Nevertheless, the agreement leaves the Public Safety Reform and Oversight Commission unable to fulfill its duties under the Ordinance that established it.

Council agreed to a negotiated agreement with the Santa Monica Police Officers' Association that amounts to a total capitulation to the POA's demands for injunctive relief. The agreement is vastly more intrusive than was required and ties the hands of the Commission in numerous ways, both absurd and telling, purporting to prohibit the Commission from:

- making written reports to the City Council;
- making any recommendations (to the Police Chief, City Council or City Manager) regarding any SMPD policies and practices;
- making any recommendations regarding the proposed SMPD budget;
- seeking any information from any SMPD officer.

What are they afraid of? While the POA claims to be in support of civilian oversight, their actions belie their true intention. POA members participated in the work of an advisory committee last year, and, in my opinion, worked from the outset to undermine any attempts at reform or oversight. They had full access to City officials, and ample opportunity to express their objections. I continue to marvel at how the POA and SMPD leadership claim to be proud of their purported progressive best-in-class policing, yet work so hard to prevent anyone from actually looking inside to see what is really happening.

Despite significant resistance from SMPD, the City Council last year unanimously adopted the recommendations of the advisory committee formed in the wake of George Floyd's murder by Minneapolis police and the massive nationwide protests that followed. The Santa Monica community overwhelmingly expressed the view that our city should be on the side of ending systemic racism and taking numerous steps to re-examine longstanding institutional and structural mechanisms that contribute to inequities in our city. The City Council agreed. Civilian oversight of the SMPD was one of the significant recommendations that emerged from that process, reflecting a demand from the community that had existed since at least 1993.

Following the September 8, 2020 City Council approval, City and SMPD officials resisted the recommendations in several ways. No attempt was made to continue engagement with the community members who had fashioned the numerous recommendations. Significant delays were experienced in preparing the ordinance to create the Commission, and more delays were involved in getting the initial Commissioners appointed. After that, the Commission has been under-resourced,

with extremely limited staff support, and the promised Inspector General has not been hired. SMPD leadership and the City Attorney have refused to provide information reasonably requested by the Commission, and the City has provided little to no help to support the Commission's needs. Despite some happy talk, the interim Chief and her leadership team have made no attempt to develop a working relationship or plan to ensure the Commission's success. In short, the City has behaved in a manner that makes the Commission's job difficult.

Notwithstanding these roadblocks, the Commission has been proceeding with its work. We have pressed ahead in evaluating the OIR Group report, which detailed in chapter and verse the problems that were inherent in the SMPD that were manifest under the stress of an emergency situation, as it unfolded last year on May 31. We have pressed for information on the handling of widespread non-compliance with body-worn cameras, for example. Under close questioning, the interim Chief finally revealed details about how many officers were actually subjected to some form of discipline, but has been evasive on follow up questions. We have pressed for information about the complaints process, and for public records concerning complaints, discipline, and misconduct that are required to be made public under State law. We are moving forward on potential recommendations for changes to the system of accountability. SMPD's resistance to our efforts helps reveal why reform is necessary, and why some form of oversight is sorely needed.

Civilian oversight is a fundamental tenet of contemporary policing practice. It is essential to building legitimacy and trust within any community. Civilian oversight is also a widely accepted best practice among law enforcement policy organizations and officials. Indeed, the absence of a civilian oversight mechanism is a sign of potential weakness in a given community's system of public safety.

Independent civilian oversight is also a tool of good governance for local city government, and essential to maintaining a vigorous well-functioning local democratic institution. There is an inherent tension built into law enforcement. We, the citizens, grant the police the power to use state-sanctioned violence to keep us safe. Yet, these same powers can be used improperly, and can lead to police having disproportionate political influence. Civilian oversight is a check and balance against these anti-democratic tendencies.

The presence and growth of police unions over the past several decades has also become a threat to democratic process. The unions have developed substantial and disproportionate political influence and have achieved legislative protections, not to mention Supreme Court cover, that makes it very difficult to hold officers accountable for even egregious abuses of their power. Civilian oversight is an essential element of providing local communities and their governing elected bodies additional opportunities to help mitigate these anti-democratic tendencies.

The POA and others have suggested that no reform is necessary. That Santa Monica is different. That SMPD is progressive and does everything well, and so no one needs to double check or confirm what they are doing, or how they are doing it. But those assertions ring hollow in the face of the activities of SMPD over the past year.

Civilian oversight is the beginning of reform.

The community should rally and demand that the City Council take a strong stand in support of independent civilian oversight. You should not be cowed by the union. You should not be deterred in your quest to make our city better, safer and more welcoming for all.

The agreement purporting to deny rights and powers to the Commission (and conflicting with the City's Ordinance) nominally expires on September 27, 2021. But its terms allow an indefinite extension.

The City Council should act immediately to fix the problems created by the agreement approved behind closed doors.

Council should empower the Public Safety Reform and Oversight Commission to conduct its business in accordance with the Ordinance creating the Commission, which Ordinance was not altered by the agreement. I urge you to:

- Conduct a public session for community input on this matter with the maximum transparency allowed under relevant laws
- Vote to modify the agreement to reinstate PSROC's intended powers and enable the Commission to conduct its activities in the fullest and most effective manner possible
- Authorize City staff to expedite the hiring of the Inspector General.

In taking these steps, the Council will reaffirm its support for public safety reform and oversight and respect the constituent engagement that led to the Commission's creation.

Indeed, your actions will support the SMPOA's own website Policy Platform: "We want our department to be a model of the kind of meaningful reform that can be achieved through a call to community collaboration."

We and the Santa Monica community look forward to your transparency and leadership on these critical matters.

Respectfully yours,

George Brown
Commissioner and Chair, Public Safety Reform and Oversight Commission