



U.S. Department of Justice

Civil Rights Division

JMS:TDG:MLL:mrh
DJ 207-82-1

Special Litigation Section - PHB
950 Pennsylvania Ave, NW
Washington DC 20530

May 16, 2012

Via Email and Electronic Mail

Peter S. Holmes
Seattle City Attorney
Seattle City Attorney's Office
600 4th Avenue, 4th Floor
P.O. Box 94769
Seattle, WA 98124-4749

Re: Investigation of the Seattle Police Department

Dear Mr. Holmes:

We are in receipt of the City of Seattle's response to our settlement proposal including a draft reform agreement and a memorandum. Our preliminary review of these documents suggests that there is a very dramatic gap between the parties. As indicated in an email sent earlier today, we received these documents only a little while ago and do not believe that it would be productive to meet later today. After we have given the City's response further study, we will be in a position to advise you whether there is enough common ground that it makes sense to conduct the discussions currently scheduled for tomorrow. We are particularly troubled and surprised that the City has not included any measures to respond to the issues of discriminatory policing, community engagement, or the City's accountability system.

We have been very discouraged by the way that these negotiations have been handled by the City. To facilitate a candid and meaningful dialogue, we agreed that proposals would remain confidential and both sides would refrain from negotiating "in the press." At the City's request, we took measures to maximize confidentiality – from delivering only the requested number of paper (and no electronic) copies to confirming the existence of exemptions from state public disclosure laws.

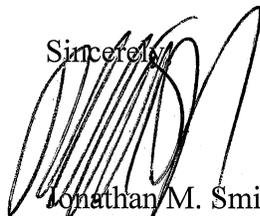
We understand that elected leaders need to address the public. However, contrary to the express commitment that was made at our March 30, 2012 meeting, we read news reports of repeated "leaks" of the supposed substance of our draft proposal. The leaks and statements have ranged from mischaracterizations of the role of the monitor (dubbed a "shadow chief"), and continued with flat misstatements on requirements and costs of our draft proposal from documents solely in the possession of the City. **And yesterday, we learned the press was given the entirety of our draft proposed consent decree** together with a SPD "analysis". We urge the City to cease these leaks and press statement. We have been restrained in our response, but should this practice continue, we will be required to more fully explain our proposed resolution to the community and stakeholders and to refute factual misrepresentations.

We believe that the "Confidential Settlement Memo" that you provided separately this morning was the "SPD Analysis" leaked to the press yesterday. As such, it loses the protections of Rule 408. To the extent that you dispute this, please provide us a copy of the document that was given to the press so that we can compare them.

We stand at a critical crossroads. People from every corner of Seattle have shared ways they believe the Seattle Police Department can and must improve. The Mayor, the Council and the Chief of Police have all affirmed the need for reform. In fact, the Department has stated it agrees with the vast majority ("44 of 59") of our proposed December recommendations and has stated it is already implementing many of them. The City has made this process unnecessarily contentious and personal. The City's conduct will make a negotiated resolution much more difficult and raises the risk of unnecessary litigation. It sends the wrong message to SPD and will make the implementation of reform more difficult.

The commitment to reform does not negate the great service of SPD officers. Every SPD officer promises to "Serve and Protect." Day in and day out, our community depends and relies on that promise. Day in and day out, as we confirmed in our report, officers deliver on that promise. But the City has acknowledged there are systemic problems to be fixed. If we do not address the issues, we betray both the officers and the community they serve.

Sincerely,

A handwritten signature in black ink, appearing to read "Jonathan M. Smith". The signature is stylized with overlapping loops and a long horizontal stroke at the end.

Jonathan M. Smith
Section Chief