

Office of Professional Accountability Review Board (OPARB)
Minutes of Thursday, January 15, 2009 Meeting
6:00 pm – 8:00 pm

Patrick Sainsbury, Chair:	P	Steve Freng, Member:	P
Tina Bueche, Vice Chair	P	Martha Norberg, Member:	P
George Davenport, Member:	A (E)	David Wilma, Member:	P
Sharon Dear, Member:	P*	Michael Pendleton, Consultant:	P
Nancy Roberts, Staff	P		

*(Absent = A, Present = P, E = Excused, U = Unexcused, * = Present by Phone)*

Guest(s): Jennifer Shaw, ACLU; Kathryn Olson and John Fowler, OPA; Kate Pflaumer, OPA Auditor

Old Business/Administrative:

The meeting was convened at 6:00 p.m.

Jennifer Shaw of the ACLU gave a brief background of the ACLU with regard to police accountability. As an organization, they have been involved in police accountability since inception. They take a big picture view of the police – they are public servants given the authority to use deadly force, which requires that they be held to a higher standard. THE ACLU wants to ensure that the police department is transparent and takes accountability for its mistakes. There is no perfect model of police accountability, and the ACLU feels that Seattle's multi-layered system is unique. The ACLU has had active input into the formation of the system.

The ACLU has followed OPARB's history, forming a sense of what has worked and what has not worked, as well as how things could be. They feel that they have maintained good relations with OPA, the Auditor, and OPARB along the way. In the course of their business, the ACLU frequently contacts OPA or the chief, and have always found them responsive.

ACLU's concerns are coordination between the three entities, and consistency. Reports from the various oversight entities have not been responsive to each other, and there has not been consistent follow up.

Independence needs to be balanced with access. An internal director has great access, but the degree of independence is often questioned. The current auditor has credibility and stature, not solely because of her role, but because of her professional reputation. The goal is a balance of external and internal access.

The Mayor's Panel on Police Accountability, PAPP, on which Jennifer was a panel member, sought to strengthen the independent auditor and OPA director's roles. They wanted to avoid duplication of effort and increase coordination between the three entities. The review board, while autonomous and independent, is restricted as to its access to information. The panel saw the board as providing additional transparency and accountability. They wanted a larger board in part to decrease the influence that individual personalities could exert on the group.

ACLU's vision for OPARB? That they get out in the community, learn about issues and trends, and not concern themselves with specific incidents. Review policies to determine if they work or not. Review the need for training, increased staffing (or perhaps different deployment of staffing). Are SPD's priorities and emphases appropriate, based on community input and other data?

OPARB should then loop this information back to OPA. They should also promote the system throughout the community, and educate the community about the system and resources. This is also

Office of Professional Accountability Review Board (OPARB)

the same goal they have for the OPA director, but the board's role in this regard has specific value because of their independent role.

There was a discussion about police investigations in which OPA is not involved, for example, allegations of criminal conduct on the part of an officer (in another jurisdiction/off duty, etc.). What is the Board's role, if any, in such cases?

Jennifer stated that the criminal process is open to the public, unlike the OPA process, so it has that element of transparency already. The PARP recommended that OPA administrative investigations be totally separate from the criminal investigation, a recommendation that the ACLU supported.

Kathryn Olson stated that every criminal investigation of an officer prompts an OPA administrative investigation, although OPA's process is subsequent to the criminal investigation. This ensures that the processes don't taint each other, and the criminal files are then made available to OPA. Kate Pflaumer noted that the full criminal file isn't always available, and the sequential aspect is sometimes problematic, as the often long lapses of time hamper people's memories. On the other hand, parallel investigations can be hamstrung by delays, creating the 180 day dilemma. Kate felt that the parallel system was more effective. She has asked NACOLE member jurisdictions how they handle such situations, and has found that bigger cities largely wait until the criminal investigation is complete, and smaller cities tend to do parallel investigations.

Michael asked for a better definition of when the 180 day clock begins. Kathryn clarified that it starts either 1) when OPA gets the complaint, or 2) when a sworn supervisor receives a complaint. Kathryn stated that as a result of a recent settlement of an appeal involving the issue, there is a new definition of what it means for a sworn supervisor to receive a complaint, for purposes of calculating the 180 day deadline.

Question for Jennifer:

Were there issues the Mayor's panel did not agree on that are important? Jennifer - The report was a consensus.

What was the panels view of the respective roles of the board, auditor and OPA director? How might this inform the OPARB going forward? Jennifer – Coordination between the roles was key.

What police accountability issues are important for the board to consider going forward? Jennifer – Determine issues of importance, trends, examine practices. Look at how to improve provisioning of SPD resources, for example, can response times be improved by reallocating resources? Increase follow-up on issues, increase research on practices across the country. What problems seem consistent? Would a policy change improve the situation? Making proactive improvements to policy and practice is as important to making sure individual investigations are done properly. Recurring ACLU complaints are often around use of tasers, racial profiling, especially in south Seattle. They have an ongoing concern about obstruction charges – bystanders being arrested but not charged; the power of arrest being used inappropriately.

They have concerns about honesty – is there a need for a bright line? This issue created a lot of debate on the PARB. Some felt gradations are more appropriate. ACLU's position was related to materiality.

Do you have suggestions for the board's outreach strategy? National Alliance for Mentally Ill, Jim Adams. Disability Rights Washington, David Lord. Asian Pacific Islander group (get clarification from Jennifer). High school groups and teenagers will give a different perspective. Highly recommend the

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Office of Professional Accountability Review Board (OPARB)

many minority bar associations. John Hayes and Adrian Diaz of SPD are connected to the Youth Violence Initiative. Nancy and Jennifer will go over their respective contact lists to ensure complete listing of resources.

Auditor's Report – Kate Pflaumer has placed the report on hold, awaiting a decision from the board whether they will provide input or not. She is leaving at the end of March and this needs to be released prior to then. The board declines to participate, primarily from a timing standpoint – we are not yet organized enough to get out and gather the information in time for the report. The board is comfortable with Kate producing the report without the community outreach report. The board may have a more concrete plan in place for its outreach program in time for Kate to include their plan in the final report.

OPARB Outreach – Letters to Groups – The group decided to submit suggestions for any unrepresented groups to Nancy for inclusion on the outreach/stakeholders list. Each board member should rank the listed groups with a “1” (highest priority) or “2” (secondary priority), based on their known involvement with police issues. From the compiled information, we will prioritize our outreach. Plan is to send letters to each group, asking them to answer targeted questions. We will follow up and prioritize based on the rankings and response. The goal is to pursue all, but focus primarily on those groups who are most interested and engaged.

How do we ensure that everyone is aware of this effort and is included? Issuing a “come one, come all” invitation is dicey and nonproductive. We will continue to ask interested people for referrals. We will follow up on every interest shown, and send out subsequent letters. Over time, the core group of contacts will be apparent.

Quarterly Meetings with OPA – This meeting tonight constitutes the first of the 2009 quarterly meetings. Nancy will work with OPA staff to determine the dates of future quarterly meetings.

Deferral of Items - The issues of Timing and Process for Reviewing and Issuing Regular Reports and Topics for Auditor's Review in 2009, and Meet & Greet Meetings were deferred to the February 4 meeting.

Notes: Keep OPA and the Auditor informed of any planned meetings with community groups so they have the opportunity to attend. Nancy will keep a log of meetings held with various groups.

OPA has planned an open house on Thursday, January 22. He will send the invitation out to all members.

The group adjourned at approximately 8:00 pm.

Notes taken by Nancy Roberts

The next meeting will be held on Wednesday, February 4 from 11:30 am – 1:30 pm in the Boards & Commissions Room, City Hall.