



City of Seattle

Office of Professional Accountability

November 30, 2015

Judge Anne Levinson (Ret.)
Independent Auditor
Office of Professional Accountability
Seattle, WA

Dear Judge Levinson,

Thank you for your semi-annual report dated July 20, 2015, covering the period of January through June, 2015. In accordance with SMC 3.28.860, we discussed the report in draft format within the required 10-day period prior to your final submittal in August. My staff and I then reviewed the recommendations and initial OPA responses with you and the Community Police Commission (CPC), as requested by the CPC. As discussed, below is a summary of the status of each recommendation where OPA has primary responsibility for follow through. Those where SPD is the lead we understand will be addressed by the Chief of Police.

Recommendation #1

Conduct an Audit of Training Referrals. *OPA and SPD should conduct a thorough audit of cases where training was directed through a finding of Training Referral in 2014 or 2015 to ensure that effective training was conducted and its completion documented in SPD and OPA databases. This review, and report, should also assess whether systems are now in place so that OPA can ensure with sufficient confidence that the use of Training Referrals meets public expectations for improving performance and changing organizational culture. Because there has not been rigorous tracking of these cases, the public's trust that OPA and SPD are fairly and appropriately using training as a legitimate alternative to traditional disciplinary approaches may be undermined.*

OPA Response: OPA agrees with this recommendation; the audit and collection of necessary documentation for all 2014 and 2015 Training Referrals is well underway. All 2015 Training Referrals are being tracked and documentation of completion is being collected by OPA on an ongoing basis. With the assistance of SPD, we are tracking down the necessary documentation to show completion of the required training for a handful of Training Referrals that went out in the first part of 2015. Similarly, SPD is collaborating with OPA to locate and provide documentation for those Training Referrals made in 2014 for which OPA currently lacks documentation of completion. A full accounting of all 2014 and 2015 Training Referrals will be included in the OPA Annual Report for 2015. Subsequent Annual Reports by OPA will include information about SPD's response to all Training Referrals made during that year.

Recommendation #4

Improve OPA Closure Timeline on SA Cases and Reporting on SA Timeliness. *Because more than half of the cases in any given reporting period are addressed through referral to supervisors rather than through investigations, it is important that SAs are resolved in a timely manner.*

OPA Response

OPA agrees with this recommendation and is actively tracking the time it takes for SPD supervisors to complete the recommended actions and return the completed file to OPA. SPD is providing helpful support in this effort through its own communications with supervisors. In our Annual Report for 2015, OPA intends to include information to show the time it takes for Supervisor Action referrals to be completed by SPD supervisors.

Recommendation #5

Change the OPA Notice Requirement from 5 to 10 or More Days. *Allowing OPA 10 or more days, rather than the five-day requirement in the collective bargaining agreements, before sending notice to named employees that a complaint has been initiated, would provide OPA time to gather initial information that could potentially obviate the need to initiate investigations where an incorrect referral is made.*

OPA Response

While implementation of this recommendation is subject to collective bargaining between the City and affected bargaining units, OPA is supportive of this recommendation.

Recommendation #6

Use a Rapid Adjudication Alternative. *OPA and SPD should use a “rapid adjudication” alternative for certain types of policy violations, such as training, ICV, or secondary employment permits, where an employee can either self-report or quickly acknowledge a policy violation rather than triggering an OPA investigation. The employee would sign a one-page document agreeing to the pre-determined discipline for that type of violation, waiving the right to an interview, a due process hearing and an appeal, and avoiding a drawn-out investigation. OPA could then focus its resources on other, more serious violations. The case would be documented as a finding made through rapid adjudication so that it would be clear in SPD systems that the employee responded in this way, strengthening the Department’s culture of accountability by making it clear that acknowledging mistakes is encouraged.*

OPA Response

While implementation of this recommendation is subject to collective bargaining between the City and affected bargaining units, OPA is supportive of this recommendation.

Recommendation #7

Increase Use of Mediation. *OPA should re-institute a robust mediation program, integrating recommendations made in a 2012 OPA mediation review.*

OPA Response

OPA agrees with this recommendation. OPA has been consistent in its position that mediation and other forms of conflict resolution are an essential part of any effective public complaints system. The reform and expansion of OPA’s legacy mediation program has been a goal of the current OPA Director since his appointment. The collaboration of SPD, the CPC, relevant Bargaining Units, the OPA Auditor and others will be sought in this effort. Due to factors beyond the control of OPA,

the timing of this project remains unclear. In the meantime, the OPA Director continues to recommend mediation where appropriate.

Recommendation #8

Allow OPA Sergeants to Interview SPMA Members.

OPA Response

Since this practice is currently not permitted by virtue of the Collective Bargaining Agreement between the City and SPMA, OPA is unable to address this particular recommendation.

Recommendation #10

Document in Case Files Information Regarding Decertification for Termination or Retirement/Resignation in Lieu of Termination and Ensure H.R. Takes Additional Steps. For sworn employees who are terminated or resign in lieu of termination as a result of an OPA investigation, documentation should be included in the case file verifying: a) a letter was sent by SPD to the WSCJTC requesting de-certification; b) whether action was taken by the WSCJTC; c) that the Chief will not grant the employee authorization to serve in a Special Commission capacity, as a reserve officer, or as a retired officer in a private company that provides flagging, security or related services; and d) that the Chief will deny a request from the employee to be granted the privilege of carrying a concealed firearm. The latter two actions should also be considered when an officer resigns or retires with a pending complaint and does not fulfill an obligation to fully participate in the OPA investigation. This recommendation builds on one I made in 2014, that investigation files include documentation of all aspects of the case, including what occurs after the case transitions from OPA to the Chief's Office for the Chief's determination on findings and discipline; any appeal or grievance; and final results, so that the complainant and the public have accurate information on the final outcome of any OPA investigation. Similarly, it is important that there be an accurate accounting of actions after termination or retirement in lieu of termination.

OPA Response

OPA has taken steps to include post-OPA investigation materials in OPA records and will continue to do so with respect to SPD actions following the OPA investigation. It is less clear whether the case file of an OPA investigation is the appropriate place for documentation relating to actions SPD or the City might take following an employee's separation from service. Post-employment documents are sometimes not directly related to an OPA investigation, resulting findings or subsequent discipline and may be reflective of the former employee's total tenure with SPD, not just a specific OPA investigation. Further study of this recommendation and consultation with the Seattle City Attorney's Office will need to be undertaken before a final answer can be given.

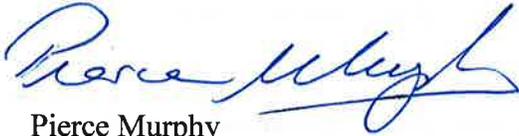
Recommendation #12

Establish a Policy Review Master List and Schedule. SPD's Audit, Policy & Research Section (APRS) should have a schedule for policies it plans to update or initiate to ensure proposed policies or revisions receive timely input not only from the line, but also from the Chief's Office, the OPA Auditor, the CPC and the OPA Director prior to finalization ... Similarly, OPA should have a schedule for review of its required submittal to the Federal Court of proposed updates to the OPA Manual and to the policies involving reporting of misconduct and retaliation.

OPA Response

The schedule for review and submittal to the Court of proposed revisions to the OPA Manual and to the policies involving reporting of misconduct and retaliation is not within the control of OPA. That schedule is proposed by the Monitor and confirmed by the Federal Court. OPA will fully cooperate with and fulfill its obligations under the Settlement Agreement and any related Court order.

Sincerely,

A handwritten signature in blue ink, appearing to read "Pierce Murphy", with a stylized flourish at the end.

Pierce Murphy
Director

cc: Mayor Ed Murray
Seattle City Council
Chief Kathleen O'Toole
Seattle Community Police Commission