

September 27, 2007

To: Police Accountability Review Panel
From: Peter Harris, Legislative Department
Re: Recommendations by the OPA Auditor and OPA Review Board

Introduction

Below is a list of the recommendations made by the Office of Professional Accountability (OPA) Auditor and OPA Review Board in their reports since 2002 and in their recent communications to you, and also the recommendations of the former OPA Director in her August 20 comments to the Panel. I have sorted them into four groups:

- A. Recommendations about the structure of the civilian oversight system
- B. Recommendations about procedures within the civilian oversight system
- C. Recommendations about Police Department policies and procedures
- D. Other recommendations

They are listed chronologically within the groups. The references are these:

Auditor 2002: Internal Investigations Auditor Report to the Mayor & City Council, 9/02

Auditor 2004a: Report of the Civilian Auditor for April-December 2003

Auditor 2004b: Report of the Civilian Auditor for January-September 2004

Auditor 2005: Report of the Civilian Auditor for October 2004-March 2005

Auditor 2006: Report of the Civilian Auditor for October 2005-March 2006

Auditor 2007a: Report of the Civilian Auditor for October 2006-March 2007

Auditor 2007b: Kate Pflaumer's comments to Panel, 8/20/07

Review Board 2002: OPA Review Board, First Quarterly Report, 9/02

Review Board 2003: OPA Review Board Briefing to City Council, 4/7/03

Review Board 2004: OPA Review Board 2003 Year End Report, 4/30/04

Review Board 2006: OPA Review Board Status Report, 12/5/06

Review Board 2007a: OPA Review Board 2007 Mid-year Report, 7/2/07

Review Board 2007b: Letter from OPA Review Board to Terrence Carroll, 9/6/07

Pailca 2007: Sam Pailca's comments to Panel, 8/20/07

The list begins on the next page.

Recommendations of the OPA Auditor and OPA Review Board, 2002-present			
What is the recommendation?		Source?	Implemented?
A.	Recommendations about the structure of the civilian oversight system		
A.1	The Police Department should create a pilot program for complaint mediation.	Auditor 2002; Auditor 2004a	Mediation program began in August 2005.
A.2	The City should restructure OPA Director's role for greater autonomy from Police Department.	Review Board 2003	
A.3	The City should review overlap in functions of OPA Director, Auditor and Review Board.	Review Board 2003	
A.4	The City should consider implementing appeals from OPA decisions, possibly to the Review Board.	Review Board 2004	See also A.15.
A.5	The City Council should hold hearings prior to negotiations with SPOG to determine what the citizens perceive as important issues that may be subject to bargaining.	Review Board 2006	City Council has held such hearings.
A.6	Complaint investigations should be kept in the Police Department.	Auditor 2007	Status quo.
A.7	The City should review the different functions of and demands on the OPA Director.	Auditor 2007	
A.8	The Mayor and Council should clarify the role of the Review Board.	Auditor 2007	
A.9	The Police Chief should not be able to reverse an OPA Director's certified disposition based on exculpatory evidence that contradicted officer's interview or was available during the OPA investigation.	Review Board 2007b	
A.10	The Police Chief should be able to reverse OPA Director's certified disposition only for cause.	Review Board 2007b	

A.11	The Auditor should be required to be civilian.	Review Board 2007b	
A.12	The OPA should serve as investigatory arm of the Firearms Review Board.	Review Board 2007b	
A.13	The Auditor or a Review Board member should be considered for inclusion on the Firearms Review Board	Review Board 2007b	Firearms Review Board currently has one civilian member.
A.14	The budget authority for the OPA should be separate from the Police Department.	Review Board 2007b; Pailca 2007	The OPA budget is one of 26 specific appropriations within the Police Department.
A.15	Civilian complainants should be able to appeal OPA decisions to an independent agency, possibly the Review Board.	Review Board 2007b	
A.16	The Review Board should be expanded and compensation for members should be increased.	Review Board 2007b	
A.17	Reporting relationship of OPA Director to Executive should be clarified and strengthened. Executive should be more engaged with and supportive of OPA.	Pailca 2007	
A.18	OPA should respond directly to and review officer-involved shootings and other critical incidents.	Pailca 2007	
A.19	Responsibilities of Review Board should shift from reviewing and reporting on individual cases to executive or advisory board.	Pailca 2007	
B.	Recommendations about procedures within the civilian oversight system		
B.1	The Review Board should have access to unredacted OPA files.	Auditor 2002; Review Board 2002 & 2004	Implemented.

B.2	The time limit for OPA complaint classifications should be increased from 5 to 20 days.	Auditor 2002	Implemented; current labor agreement allows 30 days for complaint classifications.
B.3	Closed case files provided to the Review Board should include the ultimate disposition and any input from the Auditor.	Review Board 2004	Implemented.
B.4	The OPA should provide civilian intake personnel to assist complainants in framing misconduct complaints	Review Board 2004	Citizens Service Bureau can receive initial complaints. OPA allows complainants to bring representatives to OPA interviews.
B.5	When Police Chief and OPA Director do not agree about complaint disposition, Chief should state his reasons in writing.	Review Board 2004 & 2007a	Legislation pending.
B.6	The OPA should eliminate criminal record searches on complainants as a routine part of complaint investigations.	Review Board 2004	Implemented.
B.7	Leading questions should be prohibited in OPA interviews.	Review Board 2004	OPA believes leading questions may sometimes be useful.
B.8	The OPA should develop written guidelines for resolving officer vs. complainant credibility issues.	Review Board 2004	
B.9	The OPA should reexamine its Findings definitions, mainly by shifting “unfounded” and “exonerated” to “not sustained.”	Review Board 2004	Findings definitions are mainly for internal use in the formal disciplinary system. The OPA now gives complainants simple descriptions of the reasons for complaint dispositions.
B.10	The Review Board should be able to issue meaningful reports without fear of legal liability or censorship.	Review Board 2004	Ordinance 122126 revised confidentiality and indemnification requirements for Board.

B.11	The OPA should have presumptive dates for completion of various aspects of an investigation	Auditor 2004b	No timelines have been instituted. Investigations are managed case by case.
B.12	The OPA's role in investigating claims of dereliction of duty by supervisors should be clarified.	Auditor 2004b	
B.13	The OPA's administrative investigations should not be delayed while criminal investigations of officers proceed.	Auditor 2004b & 2007a	These conflicts are addressed case by case. Some administrative and criminal investigations are concurrent and others not.
B.14	City and Police Department risk assessment mechanisms should be coordinated with OPA process.	Auditor 2005	Implemented. OPA Director and Associate Director are on Department's Risk Management Advisory Team. OPA and Law Department coordinate oversight of claims that may involve misconduct.
B.15	The Police Department should improve timeliness of line investigations.	Auditor 2005	Auditor reported in Fall 2005 that timeliness of line investigations had improved. Timeliness is monitored by Chief of Police.
B.16	OPA staffing should be increased to handle increased workload and improve timeliness of investigations.	Auditor 2006	One Sergeant-Detective was added to the OPA in 2007.
B.17	OPA investigators should receive standardized training in best investigative practices.	Review Board 2006	Significant improvements have been made and others are under consideration.
B.18	OPA investigators should be evaluated on the thoroughness of their OPA investigations.	Review Board 2006	OPA investigators receive annual performance evaluations.
B.19	The OPA should institute performance standards for non-OPA complaint investigations, and carefully evaluate the proposed disposition of all non-OPA investigations.	Review Board 2006	OPA Lieutenant classifies all complaints. OPA Director and Auditor review proposed dispositions from line investigations.

B.20	The OPA Director's function must be kept separate from the Chief's final disciplinary decision making.	Review Board, 2007a	OPA Director participates in discipline discussions, including Chief's Loudermill hearings.
B.21	The OPA or an independent commission should continue to investigate the apparent lack of supervision uncovered at the West Precinct during the course of the Patterson investigation, free of interference from the Chief.	Review Board, 2007a	
B.22	The OPA Director should be present at all Chief's "Loudermill" hearings on discipline.	Review Board 2007b	See B.20.
B.23	The OPA Director should complete the certified disposition in all cases before Chief begins the disciplinary phase.	Review Board 2007b	OPA Director concurs.
B.24	The Police Chief should be prohibited from involvement in OPA investigations prior to OPA Director's certified disposition.	Review Board 2007b	
B.25	The Chain of command should be prohibited from input on possible discipline before OPA Director's certified disposition.	Review Board 2007b	OPA Director intends to certify dispositions before the discipline hearings with the chain of command.
B.26	Supervisory Referrals from misconduct complaints should be included in officers' personnel records for the Early Intervention System.	Review Board 2007b	
B.27	The Police Chief should be required to respond in writing to policy recommendations by the OPA Director, Auditor and Review Board.	Review Board 2007b	
B.28	Officers who agree to mediation but fail to participate in good faith should be subject to discipline from the complaint.	Review Board 2007b	
B.29	OPA should have enhanced role in final decision-making on discipline.	Pailca 2007	

C.	Recommendations about other Police Department policies and procedures		
C.1	The Department should consider introducing rudeness or “overreaction” provisions in officer code of conduct.	Auditor 2002	Implemented. Department Manual section 1.003 includes standards for professional conduct that cover rudeness. See also C.2.
C.2	The Department should train officers in de-escalation techniques.	Auditor 2004a, 2004b, 2005 & 2006	The Department added a new standard of conduct on “Failure to Exercise Judgment and Discretion” in 2005 and implemented de-escalation training in 2006 Street Skills Training.
C.3	The OPA should monitor and routinely report on use of tasers.	Auditor 2004a	OPA reported on taser use in 2007 report on use-of-force complaints from 2003 to 2005.
C.4	The Department should apply policy on Use of Force Statements uniformly.	Review Board 2004	Implemented. Training recommended by OPA was completed 2004.
C.5	The Department should videotape interrogations.	Auditor 2004b	Videotaping is an occasional investigative tool in interrogations.
C.6	The Department should join in conducting a public forum on best practices for the policing of mass events.	Review Board 2006	
D.	Other recommendations		
D.1	The public should review the OPA’s monthly Commendations & Complaints report on the City’s website.	Review Board 2004	OPA monthly reports are available on the OPA and Mayor’s websites.
D.2	The OPA budget for investigator training should be increased.	Review Board 2007b	
D.3	OPA complaint proceedings should not be used against complainants in criminal proceedings.	Review Board 2007b	