OFFICE OF PROFESSIONAL ACCOUNTABILITY REVIEW BOARD 2003 YEAR END REPORT

April 30, 2004

I. The State of Law Enforcement/Civilian Relations in Seattle: The Story Told by OPA's Closed Cases

In its second year of existence, your civilian police oversight board has been especially busy. We have reviewed every closed case file "redacted" by OPA staff as required under the City's collective bargaining agreement with the Seattle Police Officers' Guild, and received by OPARB on or before December 31, 2003.[1] Although we presently review only every tenth OPA case, and continue to find our work hampered by the redaction process itself, we have drawn a number of conclusions about Seattle's system of police accountability, and make a number of recommendations where we believe improvements can be achieved. We acknowledge that our inability to see complete files or physical evidence, hear the voices in recorded witness interviews, or review the actual disposition of closed, sustained cases (i.e., imposition of discipline, corrective training), limit our perspective as to "what really happened" in these cases. Moreover, these are at best generalizations from a small but hopefully representative sampling. Nonetheless, this report represents in our estimation the best and most comprehensive "outside" view of the inner workings of the Seattle Police Department (SPD), its interactions with civilians, and the OPA accountability system.

A. Officer Commendations – OPA's Monthly Reports to the Mayor

OPA began issuing monthly Commendations & Complaints Reports to the Mayor in September 2002, setting forth in summary form all OPA activity for the preceding month. The Review Board receives copies of these reports via email, which are an effective way to keep a finger on the pulse of police – community relations. They are also shared with the public on OPA's website at www.seattle.gov/police/OPA/publications.

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[1] Including some cases reviewed during our inaugural year, for this report we have reviewed 24 "full" investigative (OPA-IS) cases; one line investigation (LI); 5 supervisory referrals (SRs); and 15 contact logs (as of July 1, 2003, "preliminary investigative reports" or PIRs). According to its January 2004 report to the Mayor, 415 PIRs, 79 SRs and 185 investigations (LIs and OPA-ISs) were *received* (not *closed*) by OPA in CY 2003. During this same period, 142 cases were closed, excluding PIRs. From the closed cases, we understand that OPA redacted every tenth case for our review. During this first full year of oversight, OPA has also worked with us to refine our operational relationship and determine our case review priorities. (Besides the relative gravity of misconduct allegations, we have considered purely civilian complaints versus internally-generated investigations, for instance.) Appropriately weighted toward the more serious civilian cases, it thus appears we have reviewed at least ten percent of OPA's closed cases in 2003.

Effective January 1, 2004, we have, with OPA's cooperation, instituted a truly blind case selection system which simultaneously permits us to track all new cases received by OPA through closure. We continue to assess the mix of cases we are presently sampling, and may increase the absolute number of cases we review.

Commendations far outweigh complaints every month, and we are pleased such predominantly positive information is made public in the interests of greater transparency in police accountability.[2]

- ***OPARB encourages the public to review OPA's monthly commendations/complaints reports on the City's website.***

B. Complaints of Officer Misconduct – OPA's Closed Case Files

At the outset, it is important to note that the relatively small percentage of complaints that are upheld in Seattle appear roughly to mirror national averages.[3] Obviously, the Department must promptly address those matters where training issues or outright police misconduct are revealed. Much can be learned, too, from cases which, while not sustained, identify sincere but uninformed civilian perceptions in regard to proper law enforcement techniques. Cognitively impaired individuals generate another significant percentage of cases, necessitating a difficult balance between constructive compassion and the need to allocate limited Department resources. Finally, frivolous claims filed for improper purposes continue to burden OPA specifically and hard-working police officers generally. We recognize the City's recent action to prosecute an apparently frivolous sexual harassment claim made against a Seattle police officer, possibly in retaliation for a traffic citation, as a positive step toward curbing such false claims.[4] However, as explained below, we believe that OPA should use its "unfounded" finding more sparingly, reserving it for such truly frivolous complaints. We caution OPA to continue to seek the appropriate balance between discouraging frivolous claims while avoiding possible chilling effects on valid claims.[5]

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[2] In 2002, OPA received 878 complaints and 1,416 commendations. In 2003, complaints were significantly lower (679), but commendations, while continuing to exceed complaints, were proportionately even lower—861. OPA's January 2004 Report to the Mayor.

[3] A seemingly simple statistic, the "sustain rate" (the ratio of sustained complaints to complaints filed), yields varying results--and interpretations--across the country. Generally, however, citizen oversight agencies "sustain an average of about 12 or 13 percent of all complaints." Walker, Police Accountability: The Role of Citizen Oversight, p. 120 (Wadsworth 2001). According to OPA's January 2004 Report to the Mayor, Seattle's police accountability system sustained 14 percent of 365 allegations of misconduct (in 186 cases) in 2002. OPA determined more than twice as many of these allegations--32%--to be unfounded, followed by 26% which were exonerated. Following the 14% category of sustained allegations, equal percentages were found to be "administratively unfounded" and "not sustained"—11% in each category. The remaining cases were either "administratively inactivated" (5%) or "administratively exonerated" (1%). Partial results of completed 2003 cases reported in OPA's February 2004 Report to the Mayor reflect 23% exoneration, 20% unfounded, and 15% sustain rates, respectively.

[4] The fact that a video camera installed on the officer's patrol car apparently helped to exonerate him suggests that the City should continue with its program to outfit the rest of the fleet as soon as funds are available.

[5] We applaud OPA's recent efforts to make its brochure on the complaint/commendation process more widely available, including its translation from English into eight languages. OPA has also been responsive

1. Use of Force Cases: Excessive or Unnecessary Force; Use of Force Statements; "Less Lethal" Force Options

The work of law enforcement is inherently, necessarily coercive, and the Department employs a straight-forward definition of "Force"[6]: "Compulsion or restraint exerted upon a person to overcome a person's physical aggression or their [sic] resistance to compliance with lawful process."[7] Reinforcing this definition, the Department Manual further specifies (*inter alia*) that "[o]fficers shall have used force whenever they…[o]vercome a person's…resistance to lawful process, …[u]se force against another person which causes an injury, could reasonably be expected to cause an injury, or *results in a complaint of an injury*, …[or] [u]se any chemical substance or any other device to subdue a person…."[8] Department policy succinctly provides that "[p]ersonnel shall use only the *minimal amount of force necessary* to overcome physical aggression or resistance to compliance with a lawful process."[9] Finally, Department policy plainly requires officers to report *any* use of force in written Use of Force *Statements*.[10]

Several cases alleging excessive use of force, and their disposition by OPA, were troubling to the Board in three respects. First, both operationally and within OPA, the Department appears to blur any practical distinction between an appropriate ("minimal") use of force and the complete absence of force, especially as it implicates the reporting requirement. In other words, the Department sometimes appears to conclude that *no* force was applied in a given incident, when it really means that no *reportable, excessive*

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to our earlier concerns of having never found an OPA brochure displayed at any of the Department's five precinct headquarters during any of our many visits for roll calls or patrol ride alongs.

[6] Most if not all of the use-of-force cases reviewed for this report were governed by Department rules which were superseded by revisions effective August 13, 2003. Except where noted, all subsequent citations are to the prior rules. Among other things, Department policy with respect to the use of force no longer even nominally requires the *minimum* necessary, instead deferring to state-wide statutory norms. Further, reporting rules are now consolidated into a single use of force provision, Section 1.145. For purposes of this report, however, the new rules do not appear to affect the outcomes of the cases reviewed. Most importantly, our observations concerning OPA's dispositional labels and the reporting of use of force remain viable under the new use of force rules.

[7] Seattle Police Department, Policies and Procedures Manual ("SPD Manual"), Section 1.145, "Use of Force", para. I.A., Definitions (rev'd 04/30/2003).

[8] Id. at para. II.A., Use of Force (emphasis supplied).

[9] Id., "Policy" preamble. The Board acknowledges the debate within law enforcement circles whether a minimum force policy is at odds with best law enforcement practices. We further understand the argument that a *minimum* force rule is more restrictive than the Fourth Amendment's *reasonable* force limitation, but leave for another day the question whether the former Department Policy was in fact more restrictive than the U.S. Constitution—or should have remained so. With the new Department rules, that debate has apparently been resolved by SPD in favor of the less restrictive standard.

[10] Id. at Section 1.149, "Reporting the Use of Force".

or *unnecessary* force was applied. To a citizen who has been taken to the ground with an officer's knee in his back or pepper sprayed, the distinction is hardly semantics.

Our second issue flows predictably from the first: given the inconsistently applied definition of force, when are personnel required to file Use of Force Statements? Although Department policy appears to be unequivocal, cases we reviewed plainly overlooked officers' admitted failure to file Use of Force Statements even though force was clearly used, though perhaps not excessively or unnecessarily.[11]

Our third issue with respect to use of force cases also involves definitions; specifically, the propriety of labels OPA uses to render its findings.[12] A number of cases in which the use of force was acknowledged by the named officers were found to be "Exonerated" or even "Unfounded". It seems to us, however, that allegations of *excessive* or *unnecessary* use of force cannot logically be "exonerated." If OPA determines that the quantum of force used was, according to Department policy, the minimum required--that it was *not* excessive, *not* unnecessary--then the complaint should simply be *not sustained.* An exonerated finding implies, contrary to Department policy, that OPA approved (as alleged) the use of force *greater* than the minimum necessary to overcome the suspect's resistance.[13] In other words, the use of force either complied with Department policy or not; force exceeding such policy cannot be exonerated.

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[11] As part of the Review Board's Strategic Plan, we hope to begin comparing the Department's Use of Force Statements with OPA cases alleging excessive or unnecessary use of force. We believe these Statements represent a potentially invaluable source of data for insights into the Department's relationship with Seattle communities--provided, of course, that they are routinely filed as required in the Manual. Finally, we intend to further examine the propriety of the self-executing "Garrity order" in current Department form 9.28. See Garrity v. New Jersey, 385 U.S. 493 (1967).

[12] **OPA's Definitions of Findings:**
"Sustained" means the allegation of misconduct is supported by a preponderance of the evidence.
"Not sustained" means the allegation of misconduct was neither proved nor disproved by a preponderance of the evidence.
"Unfounded" means a preponderance of evidence indicates the alleged act did not occur as reported or classified, or is false.
"Exonerated" means a preponderance of evidence indicates the conduct alleged did occur, but that the conduct was justified, lawful and proper.
"Referred for Supervisory Resolution" [self-explanatory]**.**
"Training or Policy Recommendation" means that there has been no willful violation but that there may be deficient policies or inadequate training that need to be addressed.
"Administratively Unfounded/Exonerated" is a discretionary finding which may be made prior to the completion that the complaint was determined to be significantly flawed procedurally or legally; or without merit, i.e., complaint is false or subject recants allegations, preliminary investigation reveals mistaken/wrongful employee identification, etc, or the employee's actions were found to be justified, lawful and proper and according to training.
"Administratively Inactivated" means that the investigation cannot proceed forward, usually due to insufficient information or the pendency of other investigations. The investigation may be reactivated upon the discovery of new, substantive information or evidence. Inactivated cases will be included in statistics but may not be summarized in this report if publication may jeopardize a subsequent investigation.

[13] Since SPD's Use of Force policy expressly contemplates "resistance to compliance with a lawful process", the sole fact that a suspect (later, the complainant) resisted arrest similarly does not "exonerate" allegedly unnecessary or excessive force.

Similarly, unless a complainant lies about the extent of force used or initiates the complaint for an improper purpose, a use of force complaint is not "unfounded". If force was used and the civilian recipient truly believes it was excessive or unnecessary, ample foundation for a claim exists which may, if Department policy was not violated, simply be "not sustained." On the other hand, an "unfounded" use of force allegation would clearly be evidenced where, for instance, it is conclusively shown (as with a patrol car video camera) that the officer never touched the complainant.[14]

We base these observations on a simple meaning of the word "Unfounded": "not based on fact or reality; without foundation; groundless".[15] We recognize that OPA employs a different definition, and the case findings we reviewed appear to be consistent with OPA's published definition. Addressing the gap between common civilian usage and technical law enforcement terminology, however, holds much promise for fostering greater community understanding and trust of OPA procedures. Moreover, we believe that present OPA terminology may actually undercut opportunities to vindicate officers who have been unfairly saddled with frivolous accusations. "Not sustained" should be the ideal; conversely, "unfounded" complaints truly lacking any foundation might be considered for civil or criminal prosecution.

Use of force cases are not pretty. One such complainant alleged that he was dragged from his truck by two officers, his head slammed against his vehicle and the ground, and then handcuffed so tightly his hands changed color.[16] OPA found all these allegations to be "Unfounded", including the Failure to Report Use of Force, even though it plainly concluded that some force had been used.

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[14] A case alleging an officer's failure to identify himself (reviewed by the Board in 2002) illustrates the extent of prevailing Department usage of the "unfounded" finding, even when OPA determines otherwise. In OPA-IS No. xx-xxxx, OPA recommended a "not sustained" finding based upon its conclusion that the officer simply didn't hear the complainant's request for the officer's identification, due in turn to complainant's admission that she had only partially lowered her car's window, and to the overall hostility of the late-night interaction in a drug emphasis area. An acting precinct captain, however, advocated an "unfounded" finding even though he accepted that the complainant had in fact asked for the officer's identification. It is difficult to imagine a more law enforcement-centric view of the world, where an oral request requiring an officer response is treated as if it never happened if he didn't hear it. In effect the captain would have explained it this way to the complainant: "I know you asked for his I.D; Department policy requires him to do so when asked; I acknowledge he didn't give it to you; but because he didn't hear you, I must conclude that your complaint is without any foundation whatsoever."

[15] Webster's College Dictionary (Random House 1998). We understand anecdotally that officers can be disappointed with anything less than an "unfounded" finding, and submit that OPA's definition of "not sustained" may be partly to blame: "the allegation of misconduct was neither proved nor disproved by a preponderance of the evidence" (emphasis supplied). This definition perhaps carries with it a needless taint, the unspoken (and improper) suggestion that the officer in a not sustained case "got away with it." We see no need to define the "not sustained" finding as anything other than "the allegation was not proved by a preponderance of the evidence." This may suggest the need for an additional finding for closer cases.

[16] OPA-IS No. xx-xxxx. See also OPA-IS No. xx-xxxx, another unfounded/exonerated handcuffing case.

The complainant (often referred to by OPA as the "subject" in the case) is plainly an unsympathetic character: he apparently struck and injured his girlfriend, then drove away in his truck while intoxicated. It is equally plain that real force was applied, because it took two officers to extract the complainant from his truck. He was in fact convicted of resisting arrest,[17] and Department policy clearly provides that "officers shall have used force whenever they overcome a person's resistance to lawful process," or "use force which results in a complaint of an injury".[18] We accept OPA's conclusion that the force used was neither excessive nor unnecessary, but the conclusion that no use of force statement was required flies in the face of the SPD Manual's plain language at Section 1.149. Moreover, important data that might shape future Department policy with respect to use of force issues cannot be captured if the reporting requirement is ignored. Whether the named officers or their screening supervisors are responsible for the failure to file use of force statements is not as important to the Review Board as the critical importance of observing and implementing Department policy as written—or changing it to reflect actual practice.[19]

Seattle's laudable push to deploy "less lethal" weapons such as Tasers has very recently gained prominent national attention.[20] If lives are spared as a result, the effort will have been worth it. As with any new technology or tactic, it takes time for law enforcement to achieve maximum benefits and work out operational kinks of the new system, and OPA's cases demonstrate that Tasers are perhaps undergoing a similar period

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[17]The somewhat unusual use of a criminal trial transcript in this OPA case to exonerate officers also suggests their use as support for complaints. Where, for instance, arrests are dismissed for lack of probable cause (as in the WTO mass arrests), the question is logically raised whether police actions following improper stops also constitute misconduct.

[18] Though the SPD Manual requires (*inter alia*) force resulting in a "*complaint* of an injury" to be reported (emphasis supplied), OPA cited contemporaneous photographs of the complainant to support a finding that he had suffered no *actual* injury. In any event, due to the City's interpretation of the redaction requirement, the complainant's face was completely obliterated in our copies of these photographs, making it impossible to independently verify whether they show any injuries which might have resulted from complainant's arrest. An example of how difficult redaction can make reading text in a multi-witness case is also apparent in the Case Summary of LI No. xx-xxxx.

[19] The failure to file Use of Force Statements in this case was apparently identified and investigated on OPA's own initiative. Most civilians are probably unaware of the force reporting requirement, and because the Statements are internally generated, would not readily know whether one had been filed in any given case. We did review other use of force cases, however, which appeared to lack corresponding Statements. In OPA-IS No. xx-xxxx, for instance, OPA exonerated the use of "some" force; even though the failure to file the Statement had not been set forth as a separate misconduct allegation, the OPA analysis also concluded that no Statement was required. And in OPA-IS No. xx-xxxx, a case arising out of anti-war protests at the start of the Iraq War, use of force statements are not even mentioned in a confrontation with a young woman who was simply trying cross the street to get home. Claiming that unnecessary force was exerted when she was arrested and forcibly loaded onto a police van for transport to the King County Jail, this case contains difficult lessons for both law enforcement and civilians alike. On the one hand, blanket "zero tolerance" orders at mass events may deprive officers of desirable discretion to handle interactions with civilians; conversely, civilians must respect law enforcement directives, even if inconvenient.

[20] "As Shocks Replace Bullets, Deaths Drop but Questions Arise", New York Times, p. 1 (March 7, 2004).

of adjustment within SPD. In brief, Tasers resemble large handguns, but instead of firing bullets, the device delivers a brief, high-voltage shock to disrupt a noncompliant subject's nervous system and thus allow officers to gain the upper hand in subduing the subject. Tasers can be deployed from a moderate distance by firing two anode projectiles into the subject, connected to the system power supply by thin trailing wires. It can also be deployed by direct contact, the so-called "stun gun" mode.

Taser cases may well result in excessive use of force complaints. In one such case a young African-American male complainant, a domestic violence assault suspect, alleged that officers "tased" him fourteen times and, among other things, struck and tripped him while escorting him to their patrol car.[21] All of the allegations were determined by OPA to be unfounded, although the evidence was conflicting. The contemporaneous incident report acknowledged a protracted struggle, and Use of Force Statements were appropriately filed.

We have learned from these cases that Tasers do not necessarily make arrests any less violent, or more orderly and humane operations. They raise significant questions on the one hand about taser effectiveness, and on the other, about repeated taser applications. OPA ultimately believed the allegations to be unfounded largely on the disparity between the number of times the complaint said he was tasered (fourteen), and the consistent number of times the officers claimed he was tasered (four). In other aspects, however, such as the number of nearby civilian witnesses, the officers' testimony differed. And on the claim that officers had struck and tripped him after the tasering, the officers uniformly admitted striking him, but conceded only that the complainant had stumbled.

We do not challenge OPA's central conclusion that the force used in this case was not excessive or unnecessary, and note that, unlike the prior case, use of force statements were appropriately filed. However, the Board cannot agree that the complaint wholly lacked any foundation: the complainant was indisputably tasered multiple times, providing a factual predicate for determining whether *minimal* force had been used. OPA could plausibly conclude there was no misconduct, but it would be inaccurate to say there was no basis or foundation for the complaint. The allegations may thus have not been sustained, but they were not unfounded.

By contrast, OPA "exonerated" all of another complainant's unnecessary force charges arising out of a 2003 Mardi Gras incident, including the disturbing claim of having been tasered after handcuffing.[22] In reaching this determination, OPA never dealt with the most obvious question presented in the case: is it ever "reasonable and necessary" for a suspect to be *simultaneously tasered by two officers using two separate tasers*, when the suspect is lying face down on the ground?[23]

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[21] OPA-IS No. xx-xxxx.

[22] OPA-IS No. xx-xxxx.

[23] Neither officer apparently intended at the outset to simultaneously taser the suspect. That the OPA investigator understood the significance of the simultaneous tasering, however, is underscored by the

Altogether, four officers were named in this excessive force case, and OPA exonerated them all without clearly determining how many times the complainant had been tasered. OPA acknowledged that a photograph of the complainant displayed six or seven pairs of taser burn marks on his body. (Unlike the dart mode of the previous matter, the taser was deployed in direct contact or "stun gun" mode here.) One officer stated he had used his taser four times on the complainant; the second couldn't remember how many times he had used his taser. Data from the first officer's built-in data retrieval device indicated the trigger had been pulled five times; although the second officer admitted using his taser, too, the data on his unit had been "corrupted." An SPD taser instructor testified that such data corruption is not unusual because the manufacturer is apparently unable to insulate the data retrieval instrument from the high voltage components of the device.[24]

Ideally, a mature system of police accountability will be as unapologetically relentless in exploring issues raised as it is at uncovering basic facts. Transparency requires that even potentially embarrassing incidents be openly examined and debated, with at least as much emphasis placed upon learning opportunities as the task of exonerating or disciplining named officers. In this case, the interviewers seemed to have stumbled upon the simultaneous aspect of the tasering, then just as suddenly dropped the subject, never to be discussed again. (At least two separate complaints made by witnesses to this incident were even treated initially as contact logs, which would not have even warranted witness interviews.) Had the issue been raised, SPD's instructors might have studied the matter further and reached some conclusions by now regarding appropriate tactics and best practices. The Board hopes that this report will provide a second chance at daylighting the subject.[25]

- ***OPARB recommends that SPD policy with respect to Use of Force Statements be applied uniformly, even when reasonable and necessary force is used.***

- ***OPARB recommends that OPA reexamine its Findings definitions, reserving the "Unfounded" finding for truly baseless complaints, shifting others as appropriate to "Not Sustained", and perhaps adding a separate finding for closer claims which are neither proved nor disproved by the evidence.***

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leading examination which ensued, none of which ever made it into OPA's final analysis. Id. at pp. 118-119.

[24] Id. at p. 23. Although the instructor said this data corruption problem was not unusual, this was the only OPA taser case we reviewed in which the phenomenon was mentioned. Nor is it mentioned in the SPD Special Report, "The M26 Taser: Year One Implementation". And while the officers were apparently exonerated on the basis of other testimony, the data corruption issue suggests that it would be inappropriate to exonerate taser use solely on the basis of electronically-retrieved data.

[25] Testimony from OPA-IS No. xx-xxxx indicates only that officers are trained always to apply the Taser for full five-second cycles, and to continue with such applications until a suspect's compliance is achieved. (OC, or "pepper spray", was also used in this case. OPA did not explore this allegation in the investigation, however, or address whether Use of Force Statements should have been filed.)

- ***OPARB recommends that SPD Taser policy be refined to provide more detailed guidance and training delimiting officer discretion in light of growing Taser experience.***

2. Investigating Complainants' Criminal Histories

OPA's closed case files sometimes include complainants' "rap" sheets, or criminal records, requested by OPA investigators while marshalling the facts in a misconduct case.[26] OPA may refer to them in questioning the claimant's credibility in his or her allegations of officer misconduct. We believe this practice should be discontinued.

Our courts have long recognized that a witness's criminal history can be prejudicial, and typically permit its introduction into evidence only if it directly bears upon the witness's veracity.[27] Consequently, a perjury conviction might be admissible, whereas a domestic violence conviction might be irrelevant. OPA might also want to consider a complainant's criminal record as possible motivation for reprisal or retaliation against an arresting officer. However, the named officers should be fully capable of describing any and all interactions they may have had with a complainant, including possible threatening statements such as, "I'm going to 'beef' you for arresting me." Such evidence, moreover, would not be necessarily limited to actual convictions.

To us, it seems more useful to consider a possible past history of filing frivolous misconduct complaints rather than a complainant's criminal record. As noted elsewhere in this report, the Department recently referred a complainant for criminal prosecution, and we have previously suggested that OPA should consider tracking such "frequent flyer" data--especially when investigators find complaints to be *truly* unfounded. On balance, the use of complaint history should logically be applied to *both* complainants *and* officers.

By contrast, the potential for misusing a complainant's prior criminal history far outweighs any probative value.[28] The ultimate danger, in fact, goes to the very heart of

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[26] In LI No. xx-xxxx, for instance, the complainant alleged harassment and racial epithets arising out of a law enforcement encounter, which OPA characterized at intake as possible conduct unbecoming an officer (CUBO). OPA ultimately decided the complaint was unfounded, apparently resolving the complainant's and officer's conflicting accounts by reference to the complainant's criminal history. See also OPA-IS No. xx-xxxx (OPA conducted criminal background checks on complainant as well as civilian witnesses).

[27] See, e.g., Rule 609, Fed'l Rules of Evidence, "Impeachment by Evidence of Conviction of Crime".

[28] Presumably, none of these complainants authorized OPA to conduct criminal background investigations, and we know of no statute or ordinance which implies consent to do so upon the filing of an OPA complaint. OPA may have even violated the SPD Manual whenever it requested a complainant's criminal history *in the course of an OPA investigation*:

> This system [the Washington State Identification and Criminal History Section (WASIS) and the National Criminal Information Center's (NCIC) Interstate Identification Index ("Triple I")] is to

what OPA is--or should be--all about. Exercise of the Police Power has been carefully limited in this country to avoid, at its worst, vigilante justice. The police are ideally supposed to bring suspects to justice, leaving it to the courts to determine guilt or innocence and impose punishment if indicated by the facts and the law. Especially in a system such as Seattle's, where the police retain the fundamental privilege of investigating misconduct complaints against their own, we must err on the side of ensuring that--even subconsciously--police conduct is not justified on the post hoc basis that the complainant was a bad actor who "had it coming."

- ***OPARB recommends that OPA eliminate criminal record searches as a routine part of investigations.***

3. Level of Investigation

A number of cases we reviewed left us wanting to know more about "what really happened." Perhaps this is attributable to the limited materials we are permitted to review, but some left us with the impression that OPA had been predisposed to exonerate the named officers.[29]

For instance, one homeowner wrote a detailed letter complaining about two officers' refusal to write an incident report over what was essentially a property dispute with a neighbor.[30] It would indeed be inappropriate for police officers to inject themselves into private disputes that should be resolved in civil rather than criminal proceedings. But a bridge-building opportunity was perhaps missed for the reporting officers to politely educate lay civilians on the difference between private civil matters and proper police matters—and with it, a possible violation of Department policy. In recounting her version of the officers' response, the civilian also plainly describes overt rudeness on the part of the police, or Conduct Unbecoming an Officer (CUBO). Nonetheless, the case

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> be used only by personnel involved in criminal investigations, processing of concealed weapons permits, and applications for transfer of firearms.… SPD Manual, Section 1.337.III.A.4 (emphasis supplied).

In OPA-IS No. xx-xxxx, an internal complaint was sustained against an officer who had run background checks on her ex-spouse's fiancé--a "non-law enforcement purpose." While OPA's use of background checks might satisfy a broader "law enforcement purpose", because OPA investigations are non-criminal, the SPD Manual does not appear to support this definition. (Interestingly, in revisions to this section of the Department Manual that just became effective on January 28, 2004, WASIS records are apparently no longer covered by the restriction in Section 1.337.III.A.4.)

[29] Seattle Municipal Code (SMC) Section 3.28.855.D provides that the OPA Auditor may request further investigation in cases which appear incomplete, considering, without limitation: "(1) whether witnesses were contacted and evidence collected; (2) whether interviews were conducted on a thorough basis; and (3) whether applicable OPA procedures were followed." SMC 3.28.855.D.1. If the Chief refuses the Auditor's request for further investigation, the Review Board is given "final and binding" authority regarding further investigation. SMC 3.28.855.D.2. As of the end of 2003, the Auditor has never invoked the Board's authority to expand a case investigation.

[30] SR xx-xxxx.

was closed as a Supervisory Referral for simply not taking the report, even though the rudeness/CUBO allegations seemed no less serious to us than other rudeness cases which warranted full OPA-IS investigations.[31]

In another Supervisory Referral,[32] an out-of-town visitor's car was apparently damaged in a "hit-and-run/attended" incident involving three vehicles at approximately 6:00 one evening. After several hours and five 911 calls, no Seattle police ever arrived to take a report from the victim. While waiting for police response, the victim set out on foot seeking assistance, and came upon the named officer at around 7:30 pm in a nearby parked patrol car, smoking a cigarette. The officer refused his request, and claiming that he had other things to do, drove away. Significantly, the OPA investigator examined the officer's log sheet for that day and determined that he had no other calls for the remainder of his shift.[33] In spite of this frustrating event, the complainant was apparently polite but persistent, according to the OPA investigator after listening to the 911 tape.[34]

In a subsequent memorandum, the officer's supervisor explained that the named officer didn't take the report due to gastro-intestinal distress requiring his prompt attention. Appropriately, the supervisor contacted the complainant by telephone, where he learned that the complainant's insurance company was apparently giving him difficulty with the claim, suggesting that the accident was the complainant's fault. A follow up letter from a precinct lieutenant provided an event number but little other reward for the complainant's polite diligence.

Not surprisingly, this officer appears to have violated unambiguous Department policy:

> Officers must investigate, initiate the investigation of, or assist at each collision which is brought to their attention. This responsibility applies whether the officer is dispatched to the collision by radio, on-views the collision, or is informed of the collision through a third party.[35]

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[31] See, e.g., OPA-IS No. xx-xxxx.

[32] SR xx-xxxx.

[33] Id., OPA-IS Intake Form, p. 1.

[34] Id. Aside from the named officer who had been personally contacted by the complainant, it is unclear from the case file whether other officers could have responded, or indeed whether the 911 call center failed to dispatch officers to the call. Id. at 2.

[35] SPD Manual, Section 3.045, "Collision Investigations". This case is especially egregious under Department policy because a hit and run vehicle was involved, meaning that a State of Washington Police Traffic Collision Report was mandatory (SPD Manual, Section 3.045.III.A.3). Even if the officer hadn't been required to complete the Collision Report, he was at the very least required to record the driver name(s), DOB(s) and vehicle license number(s) on his car log. SPD Manual, Section 3.045.III.A.2.

Incidents such as this reflect poorly on the entire Department--especially our most dedicated officers with good work ethics. We admired the OPA investigator's initial workup, but were puzzled why the named officer wasn't formally interviewed by OPA, instead leaving it to his superiors to attempt to repair the damaged public relations, with few apparent repercussions to the officer. The flagrant Department policy violations above are not even mentioned in the supervisor's memorandum. If the officer was ill, why was he on duty? If not, was he disciplined?[36]

In contrast to the foregoing cases which seemed to warrant further investigation, at least one case struck us has having been overworked. Though building an obvious case for the complainant's unfortunate impaired mental condition, it seemed to us a waste of Department resources—especially the officers' time being interviewed.[37] Among other things, the complainant alleged that the police had failed to return his gray plastic comb upon his release from jail, insisting that both President George W. Bush and Secretary of State Colin Powell were personally interested in the comb's fate, and would be traveling to Seattle from Washington, D.C., to intervene. Fortunately, OPA clearly knows how to dispose, efficiently yet gracefully, of other cases initiated by mentally ill complainants.[38]

- ***OPARB requests that every closed case it reviews include the ultimate disciplinary disposition together with any input from the Auditor.***

4. The problem of leading questions

Simply put, OPA's fundamental purpose is to determine the truth. In our American criminal justice system, the police—trained investigators—gather the evidence which is then presented by adversarial lawyers to independent and impartial fact finders: the courts. The investigative skills and techniques employed by the police to do their job

[36] It is obviously impossible for police to respond to every 911 call for assistance. However, in a series of Contact Logs (a summary disposition of complaints), we noted at least two separate complaints about Department personnel's failure to respond to a violent situation at a tow company impound lot. See Contact Log Nos. xxxx-xxx and xxxx-xxx. A more comprehensive review might have been indicated if OPA (or indeed, the 911 Call Center) had recognized that these separate complaints were related to the same incident.

[37] OPA-IS No. xx-xxxx.

[38] See, e.g., Contact Log Nos. xxxx-xxx and xxxx-xxx. The most serious cases, of course, are appropriately investigated by the OPA's Investigations Section (OPA-IS). We acknowledge the difficulty in determining, in declining order of gravity, those cases which should be handled by commissioned line officers (LIs), referred to immediate supervisors (SRs), or simply logged as incidents not requiring further investigation (preliminary investigation reports, or PIRs). We applaud OPA's mid-year 2003 revisions to the complaint classification system, making the system more understandable to civilians and more amenable to important data tracking—improvements we have previously discussed with the Director. All contacts (even those by mentally impaired complainants) are now tracked without a confusing reference to "contact logs", a threshold classification which was also dispositional. Now, cases which do not merit further investigation are listed as PIRs. OPA and City Council might consider harmonizing amendments to the OPA ordinance.

are not the same as the rules and procedures courts use to sift through the evidence and ultimately arrive at the truth. OPA, with the Chief's final dispositional authority, essentially combines investigations and ultimate dispositions all under one roof.

No one expects OPA investigators to be lawyers or judges. Yet, if the police are to continue to police themselves, they should adopt some of the fact-finding methods that have evolved over time to minimize the distortions of limited witness perspectives and prejudices, and to help fact finders sort fact from fiction. Since the OPA witness interview is a crucial investigative tool, the problem of leading questions must be considered.

For instance, in one case an officer was accused of rudeness and misuse of authority when she ticketed a driver for illegally stopping to drop off an elderly baseball fan near Safeco Field before parking his vehicle.[39] Although the officer denied these allegations, she also testified that she didn't intend *initially* to issue the ticket, and pointed instead to the driver/complainant's less-than-deferential demeanor. Under Department policy, officers have discretion to decide when it is appropriate to warn, cite or arrest traffic violators, provided that their decisions are "objective and justifiable."[40] Consequently, we wanted to know the officer's subjective reasons for changing her mind about the ticket, but leading questions by both the OPA investigator and the Guild representative repeatedly steered her away from this central issue. Ultimately, OPA overruled the investigator's recommendation that both allegations be not sustained, and sustained the rudeness count alone. This outcome was disappointing not only because OPA was reduced to choosing one sworn statement over another—in this rare case, the complainant's over the officer's—but because an ideal opportunity to address the real issue—the impropriety of so-called "attitude tickets"[41]—was lost. We attribute this loss to the leading questioning that typified the investigatory interviews.

A case previously discussed above in regard to use of force presents a textbook example of an improperly leading witness examination. Where the complaint alleged excessive force and the failure to file a use of force statement, the Guild representative

[39] OPA-IS No. xx-xxxx.

[40] SPD Manual, Section 2.081, "Traffic Enforcement".

[41] Though perhaps not expressly prohibited, an officer's decision to issue a citation due to a traffic violator's bad attitude appears to contravene the Department's Law Enforcement Code of Ethics, which provides in pertinent part, "I will never act officiously or permit personal…animosities…to improperly influence my decisions…I will enforce the laws courteously and appropriately without…malice or ill will…." It is also inconsistent with the admonition at SPD Manual Section 2.081.II.C to avoid the appearance of "stacking" citations. On the narrow issue presented, this officer should have issued a ticket or lectured the violator, but probably not both. More broadly, having disposed of the matter as a simple rudeness case, the Board believes OPA missed an opportunity to provide some meaningful guidance on Department policy.

was permitted to question the named officer in a colloquy that seemed to be designed to exonerate the officer rather than uncover the facts of the case.[42]

➢ ***OPARB recommends that leading questions be prohibited in OPA interviews.***

5. Civilian's Word vs. Police Officer's Word: Who gets the benefit of the doubt?

The question how to resolve "he said/she said" cases cuts across all groups and communities in their interactions with the SPD, even outside City limits. In one such case,[43] the named officer had admittedly entered the home of his pregnant ex-girlfriend, using his own key but without the express permission of either the ex-girlfriend or her female roommate, in order to remove his personal property. For this sustained Violations of Rules, the officer received a one-day suspension. However, a second CUBO allegation was not sustained. According to the complainant, when she confronted the named officer for having entered her home without permission, he retorted that his status as a police officer permitted him to do whatever he wanted. The officer denied making this statement, and OPA resolved the testimonial conflict in his favor. Although other aspects of this case troubled us, such as the blatantly leading questions attempting to establish that the officer did not intend to commit any crimes inside his ex-girlfriend's home,[44] we found it impossible to reconcile the not sustained CUBO claim in this case against the sustained rudeness charge arising out of the Safeco Field traffic citation.[45] In both cases, the officer denied the allegation, and there were no other witness accounts adding to the preponderance of evidence either way.[46]

OPA sometimes effectively gives officers the benefit of the doubt without being up front about it. In one matter, for instance,[47] a businessman alleged he had called

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[42] OPA-IS No. xx-xxxx at 21. It should be noted that leading questions are permissible in one circumstance: when the witness is deemed hostile to the questioner. Since the Guild representative was there to safeguard the named officer's rights, this is simply objectionable leading on direct examination. This might have been harmless but for the fact that the improperly elicited testimony was cited in the Case Summary in support of the Unfounded findings. Id. at 4.

[43] OPA-IS No. xx-xxxx.

[44] Id. at p. 69

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[45] OPA-IS No. xx-xxxx (see p. 16, *infra*).

[46] We find it noteworthy that the ex-girlfriend's allegations were simply "not sustained" by OPA, compared to other cases in which conflicting statements were rejected as unfounded. (See, e.g., OPA-IS No. xx-xxxx, discussed at fn. 14, *infra*.) In a regime where "unfounded" is the norm, we wondered if perhaps the "not sustained" finding represents a compromise signaling which witness the OPA really found to be more credible. Extended to other categories of misconduct, we similarly felt at times that OPA found more merit in excessive force cases it ultimately exonerated, as opposed to those it dismissed as unfounded. In any event, OPA should attempt to articulate logical guidelines for resolving credibility conflicts.

[47] OPA-IS No. xx-xxxx.

precinct headquarters to complain about lax parking enforcement in a commercial zone, only to be told to "Go to hell" before the officer hung up on him. Providing the phone number and specific time and date he had called, OPA contacted the officer on duty at that time, who denied taking any such call. Without conducting any formal interviews, OPA simply concluded no officer could be identified on the call, and dismissed the CUBO charge as "administratively unfounded". This seemed to us to be an issue about credibility, not identification. OPA might have arranged for the complainant to at least hear a recording of the duty officer's voice before concluding the right officer couldn't be located. A brief but formal interview of the duty officer would have also given OPA an opportunity to gauge his veracity in person.[48]

A significant number of cases allege disrespectful remarks and treatment by officers with respect to complainants' sexual orientation.[49] Department policy recognizes the seriousness of such allegations:

> The Department recognizes the importance of individual dignity. All people have a right to dignified treatment by police officers. An officer must treat an individual with as much respect as that person will allow.[50]

False claims are undoubtedly filed with OPA. Some claims, however, seem to be summarily rejected because of premature judgments made about the complainant's character or credibility. If the Department is to continue handling complaints against its own, complainants should be accorded greater benefit of the doubt than evidenced in the

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[48] OPA-IS No. xx-xxxx was similarly administratively unfounded even though the complainant had filed a written complaint, gave a formal interview, and attempted to identify witnesses regarding $40 he claimed had been stolen from him during his arrest. Even assuming the claim lacked merit, "not sustained" would seem to be the more appropriate finding.

[49] The ethnicity of either complainants or officers is seldom readily apparent in the redacted closed cases. Even when we can make this determination, because we only review every tenth case, it is difficult to draw meaningful statistics from our sampling. We certainly note the existence of racial tensions in many police-civilian interactions, which seem to corroborate the anecdotal accounts we have received from minority community groups. See, e.g., OPA-IS No. xx-xxxx, where an African-American youth's CUBO, unnecessary force and misuse of authority allegations arising out of a pat-down were all dismissed as unfounded, even though the officers' testimony conflicted. We similarly have little empirical data on police interactions with gay communities, although cases involving sexual orientation seem more obvious, perhaps because they frequently involve allegations concerning law enforcement's disparagement of complainants' sexual orientation.

[50] SPD Manual, Section 2.001. Given the dangerous conditions police officers routinely encounter, alleged profanity in even unfounded cases seems plausible to the Board, though perhaps paling in comparison to more serious charges of unnecessary force. Yet, even where multiple officers uniformly but summarily deny making profane references to homosexual intercourse, if an overall angry and violent encounter is acknowledged, "not sustained" seems a more appropriate resolution than "unfounded". And where specific constitutional violations are alleged, caution would seem to dictate an OPA-IS investigation to resolve credibility issues instead of referral to the named officers' supervisor. See SR xx-xxxx, where an alleged threat to use force to conduct a warrantless premises search was determined to be unfounded, based upon the officers' contrary contention that the claimant had consented to the search.

cases we reviewed. We believe that adding a civilian assistant role at intake may help frame complaints more credibly and facilitate more thorough investigations, as discussed in the next section.

- ***OPARB recommends that OPA develop written guidelines within its overall revised policy and procedures manual for resolving police officer vs. civilian complainant credibility issues.***

6. Civilian Intake

Individuals wishing to file complaints of police misconduct are able to do so in a number of ways: in person at the OPA office within SPD headquarters; via email, regular mail or telephone to OPA; and at any precinct headquarters. Through its visits to precincts throughout the City, and a number of visits to the OPA offices, the Board feels that these locations are not uniformly conducive to filing misconduct complaints. We looked in vain for copies of OPA brochures at the various precinct headquarters, and have noted from correspondence from disaffected complainants that receptivity to complaints can vary widely.

We thus support the concept for a civilian role in OPA's intake function, as proposed in by the Minority Executive Directors' Coalition (MEDC).[51] We agree that the addition of civilian intake personnel could provide additional support for complainants. This position might also serve as monitor and advocate, as well as assisting civilian complainants in their efforts to navigate the OPA process. We salute MEDC for initiating and advocating for this and other improvements in the current OPA system.

- ***OPARB recommends that OPA provide civilian intake assistants to assist complainants with the framing of misconduct complaints.***

7. The Chief's Authority

One of the eleven cases in which OPA's proposed findings or dispositions were overruled by the Chief of Police in 2003 included a sustained CUBO allegation for disparaging a complainant's apparent sexual orientation.[52] Apparently accepting that the derogatory comments were made, the Chief deemed this violation of Department policy warranted only a supervisory referral, with the admonition that the offending officer should receive sensitivity training regarding sexual minorities.

We are unaware of the reasons for the Chief's actions in this matter. We note, however, pertinent observations made nearly five years ago by Judge Charles Johnson's

[51] See fn. 54, *infra.*

[52] OPA-IS No. xx-xxxx.

blue ribbon panel: though the Chief retains ultimate authority to determine officer discipline, he might only "…for good cause *and in writing,* modify the adjudicative findings of the Director." Citizens Review Panel, Final Report (August 19, 1999), p. 23. It seems obvious to us that the Chief's views on misconduct and Department policy should be made known to civilians and law enforcement alike through his written decisions.

- ***OPARB recommends that the Chief of Police state his reasons in writing for overruling any proposed OPA finding or disposition.***

8. OPARB Should Have Access to Unredacted Files

Under its current structure, the Review Board may review only closed, redacted cases. Despite the fact that all board members sign a non-disclosure oath upon appointment, citizens entrusted with oversight within the OPA system are denied the open access that both the OPA Director and OPA Auditor possess. The ability to review OPA cases is also hampered by the lengthy time periods required by OPA staff to make the redactions by hand, as well as the difficulty board members encounter in reading and understanding the redacted transcripts.

Belying the City's stated policy of transparency in police accountability and undercutting meaningful civilian oversight, redaction also has other serious practical ramifications. Under the current regime, the Board must rely on statistics provided by the OPA, and cannot verify on its own any patterns of complaints against particular officers, or within specific precincts or geographic areas. Having honored our nondisclosure agreements by safeguarding identifying information we have received through lapses in the redaction process and directly from complainants and/or their lawyers, the Board has earned the right to be routinely entrusted with such information in the normal course of discharging its duty to oversee the Office of Professional Accountability. If the redaction requirement is eliminated through legislation, we believe that the rank and file will soon come to realize that fears of public disclosure were misplaced.

- ***OPARB should have access to unredacted, closed OPA files.***

9. Redacted Files Are Public Records

OPARB was created for the purpose of providing citizen oversight of Seattle's police accountability system in the Office of Professional Accountability (OPA). From its inception, it was contemplated that OPARB would not have access to confidential information. To that end, OPARB performs its obligations by reviewing closed files, from which OPA has redacted all identifying information about police officers and complainants. As indicated by the blue ribbon panel whose final report led to OPA's creation, however, those closed, redacted files are not confidential, but are public records under Washington's Public Disclosure Act, RCW Ch. 42.17:

> While the confidentiality of IIS files during the course of an investigation must be maintained, it is in the public interest to treat these files as public records and to make them available to interested members of the public after redactions are made, pursuant to the law set forth in Cowles Publishing v. State Patrol, 109 Wn2d 712, 748 P.2d 597 (1988).

Judge Charles V. Johnson, Chair, August 19, 1999 Final Report of the Citizens Review Panel, p. 31.

As set forth in Cowles, the Washington State Supreme Court has specifically determined that police officer identity is the only confidential information set forth in OPA files. SMC Section 3.28.920.B, moreover, expressly incorporates the Public Disclosure Act by reference, and the *only* express prohibition in the ordinance provides that the "OPA Review Board shall not identify the identity of the subject of an investigation in any public report required by this chapter." Despite the backdrop of the Public Disclosure Act, the Board has been discouraged from issuing a more detailed report based entirely on Public Records.[53]

- ***OPARB recommends that OPA's closed case files, redacted to safeguard police officer identities, be reaffirmed as Public Records, along with OPARB's ability to issue meaningful reports without fear of financial liability or censorship.***

II. Year-End Assessment

The beginning of 2004 marks a significant milestone for the Review Board. As previously reported, the Board has worked diligently within the constraints of the OPA ordinance. As we approach the two year anniversary of the Board's existence, it is appropriate to examine both OPA's strengths and areas needing improvement within Seattle's police accountability system.

A. Strengths

Under the leadership of Director Sandra "Sam" Pailca, OPA has steadily improved the quality of its investigations and interactions with complainants. Our assessment, based on the sample of closed cases reviewed, indicates that:

- Investigations are generally thorough and well documented.

[53] Since OPARB only has access to closed, redacted—and hence, public, non-confidential--files, there is arguably no need for the non-disclosure agreements. However, OPARB has occasionally received confidential information over the past few years (that is, information which identifies police officers and/or complainants) in the following situations: (1) from OPA, when inadvertently overlooked in the redaction process; and (2) from complainants (and/or their lawyers) who contact OPARB directly with a complaint. In the latter case, OPARB's practice has been to refer the complainant and/or counsel directly to OPA. It is these types of situations we believe that the non-disclosure agreements are intended to cover.

- Contacts with complainants from the beginning and the conclusion of investigations are professional and informative, usually thanking complainants for taking the time to file complaints.
- Investigations are timely, within Guild contract requirements.
- Data gathering is a priority, with planned software upgrades aimed at increasing access to important statistics for monitoring law enforcement performance.
- Cases provided appear to be a representative cross-section of City-wide experiences.

OPA Review Board members have operated in complete independence, developing our mission statement and a two-year strategic plan which was recently endorsed by City Council. We enter 2004 with a Department newly certified by CALEA, the Commission on Accreditation for Law Enforcement Agencies.

The Board has reached out to stakeholders concerned with police accountability, one-on-one as well as in small group meetings, and is working to build understanding and trust for its work, given its limited powers. The Board is working cooperatively with community groups to explore issues of mutual concern to strengthen the system of police accountability in the City.

The Board has reached out to law enforcement personnel in various ways, including participating in training, roll calls, and patrol ride alongs, and is working to build trust among the rank-and-file. In September 2003 the entire Board attended the 9th Annual NACOLE Conference in Los Angeles. The Board's chair completed the Community Police Academy in June 2003.

The Board has designed a truly blind system to sample ten percent of all closed OPA cases for in-depth assessment and evaluation. The Board has worked well with the administrative staff support provided by the Legislative Department and looks forward to continued support in 2004.

B. Areas for improvement

In addition to those specific recommendations set forth under the first section of this report, the Board's community outreach should be expanded. To date, we have been limited by budgetary constraints. We are also looking forward to City Council's appointment of a replacement member to return the Board to full strength. The Board looks forward to carrying out its own mandate to hold at least one public forum annually. We hope to address the problems raised in the policing of mass events (such as WTO and Mardi Gras) in one such public forum, in cooperation with interested community groups and law enforcement.

The Board's OPA oversight role continues to evolve. We look forward to continuing efforts to refine operations among the Board, the Director and the Auditor. We also welcome increased opportunities to collaborate with the Mayor's initiatives for promoting public confidence in police accountability in the City.

III. Epilogue: Police Accountability in the Years Ahead

We believe that increased police accountability enhances public security post-911. By fostering a greater sense of community and inclusiveness among all Seattle citizens, a better and more effective partnership can be forged with law enforcement. We foresee a mutual effort: on the one hand, the Department must commit to reducing what many minorities experience as rudeness and hostility in their daily interactions with law enforcement. On the other hand, community groups need to commit themselves to promoting better civilian understanding of proper police procedure and tactics.

It is clear that Seattle will not settle for anything less than complete transparency in police accountability. Growing public interest is evidenced by the thoughtful and far-reaching "Nine Points" document presented late last year to City Council's public safety committee by the Minority Executive Directors' Coalition (MEDC),[54] expressing grave but appropriate concern over the largely secretive, ongoing negotiations between the City and the Seattle Police Officers' Guild over the next collective bargaining contract—especially as such negotiations may affect police accountability in the future.

We believe it is time for the City to consider how best to implement a method for appealing OPA decisions, for both complainants and named officers alike. Whether or not the Review Board becomes an OPA appellate forum, City Council should probably consider expanding the size of the Board to permit greater representation of Seattle's diverse communities, with commensurately greater administrative support.

Finally, the Board must stress the critical importance of the City's Executive and Legislative branches working together to further the goal of full police accountability to the City and its citizens. The Board has sometimes felt frustrated by the lack of a consistent commitment throughout City Government to meaningful *civilian* oversight of law enforcement. With the New Year, however, we have a reconstituted City Council, and hopefully, a new era of executive-legislative cooperation. We look forward to an improved OPA system, fully embraced by every level of City Government, better able to perform its duties in the interests of all Seattle citizens—civilian and law enforcement alike.

[54] "Police Guild Contract & City Ordinance Amendments Required to Institute 9 Essential Components for Effective Accountability System", presented to Seattle City Council's Police, Fire, Courts & Technology Committee on November 18, 2003, by the Minority Executive Directors' Coalition.