

MEMORANDUM

February 24, 2015

TO: Mayor Ed Murray, City Council

FROM: Pierce Murphy, Director, Office of Professional Accountability *P.M.*

RE: Semi-Annual Report of the Independent Auditor For the City of Seattle Office of Professional Accountability (February 10, 2015)

The Office of Professional Accountability (OPA) appreciates the report issued by the Auditor, Judge Anne Levinson (Ret.) for the period July-December, 2014. OPA believes that an independent Auditor is an important component of effective police accountability and serves a unique role in Seattle's accountability structure. I would like to take this opportunity to thank Auditor Levinson for her comments and dedication to police accountability.

In 2014, I focused much effort in improving the quality and thoroughness of investigations. I have made suggestions for improvement to both management staff, as well as to OPA investigators. Some of these suggestions were as a result of my own review of completed OPA investigations, but many of them came from my weekly meetings with the OPA Auditor who generously provides OPA with her observations and suggestions for improvement. Experienced investigators with the City Attorney's Office and the City's Human Rights Commission provided training to OPA staff. I changed the internal OPA review process to require the OPA Captain to review every completed investigation before it proceeds to the OPA Auditor for review and certification. Understanding that continuous improvement must always be our focus, I am constantly looking for ways to improve the quality and timeliness of OPA investigations.

There were many accomplishments made by OPA in the second half of 2014. OPA fully implemented new case management software (IAPro) and finalized the internal procedures for its use. IAPro will allow for much more robust reporting and has increased the ease with which all employees can access and track cases. In October, OPA moved its offices to the Pacific Building away from Police Headquarters. This required investment of time, which affected OPA's operations. Having all employees in one location has strengthened OPA as a department and has improved communication. In addition, the Monitor and Federal District Judge with jurisdiction over the City's Settlement Agreement with the U.S. Department of Justice gave approval to a comprehensive Internal Operations and Training Manual for OPA. Many hours were spent reviewing and drafting this Manual in consultation with the Community Police Commission (CPC), the OPA Auditor, the U.S. Department of Justice, the Monitor, community partners, the City Attorney's Office and the Police Department. The OPA Manual has provided us with a roadmap to excellence and clear guidelines to follow in all internal operations and training. OPA is already seeing the benefits of these changes, which will continue into the long term.

Recommendations By the OPA Auditor

Of the ten recommendations made by the OPA Auditor for this reporting period, only two are within (or partially within) my authority as OPA Director to take action.

***Auditor Recommendation #1:** The Department and OPA should establish an easy means of referral for investigation of possible misconduct any concerns regarding officers whom others in the criminal justice system believe may have not acted with integrity or honesty.*

OPA agrees with this recommendation as a desirable goal. I will begin work on reaching out to the various parties mentioned by the Auditor in order to gauge the feasibility of implementing such a process. Because implementation of this recommendation will require the voluntary and active involvement of parties over whom I have no authority, it is impossible at this time to commit to a successful implementation of this recommendation.

***Auditor Recommendation #6:** OPA and the Chief's Office should modify the way in which the new Management Action Finding is being used so that the issuance of the Finding and the Department's response can be included in the case closing letter sent to the complainant.*

OPA agrees to implement this recommendation in part. It would be a good practice to provide the complainant with copies of both the OPA Management Action Recommendation to SPD and the Department's response to that recommendation. However, it is impractical to delay OPA's closing letter to the complainant while waiting for the crafting of the recommendation and the response by SPD. Instead, OPA will modify its process such that the complainant will receive a copy of the Management Action Recommendation when it is sent to SPD and a copy of the Department's response once OPA receives it.

Staffing

One factor that significantly affected OPA's work was the lack of adequate staffing. In early 2014, SPD decided to end its practice of assigning either a sergeant or acting sergeant to OPA as a developmental assignment to handle intakes for the unit. Without a staff member to handle intakes, the sergeants assigned to OPA as investigators have had to handle all intakes in addition to their regular case load. Handling intakes is no small task. Great care must be taken to fully understand and listen to the complainant, and a significant amount of preliminary investigation needs to be performed so I can properly classify the case within the required 30 days.

To provide additional context, below are two examples of complaints that we received recently. The first example is of a simple intake as the investigator was able to quickly locate the citation and identify the named officer. The second example is of a complex intake. OPA receives approximately five intakes per business day.

The following actions were taken by the investigators and the associated time spent is reflected.

Intake Example 1

Speaking with the complainant who came to the office:	20 min
Locate citation:	10 min
Map the location of the incident:	5 min
Send notifications to the appropriate parties informing them that a complaint was received:	5 min
Search SPD's databases to locate video related to the incident:	5 min
In-Car-Video review and notation:	110 min
Complete data entry, forward to the next stage in OPA's review process:	10 min

In summary, this intake took 2 hours 45 minutes.

Intake Example 2

Complaint received and reviewed:	30 min
Interview with the complainant:	50 min
Review SPD Significant Events notifications and review dispatch report:	15 min
Review In-Car-Video:	70 min
Send notifications to the appropriate parties informing them that a complaint was received:	5 min
In-Car-Video review (14 videos):	285 min
Conduct two interviews:	105
Call with the complainant:	10 min
Review dispatch reports, request: records, In-Car-Video and radio audio:	50 min
Call with the complainant:	10 min
Review and notation of 23 minutes radio audio:	60 min
Conduct interviews, complete notes and finalize investigative documents:	120 min

In summary, this intake took over 13 hours.

It is not difficult to imagine the impact this investment of time has on the workflow of an investigator who already has a full case load of complaints to investigate. Finally, it must be noted that the number of intakes coming to OPA has increased over the past year. This is a result of an increased emphasis being placed on the need for internal referrals of possible misconduct, proactive review of various internal and external sources by OPA, and the efforts we have made to increase public accessibility to OPA.

In order to meet this increased demand, OPA requested and received funding for a fulltime intake position beginning in January, 2015. However, because I am committed to hiring a civilian in this position, it cannot be filled until the City concludes contract negotiations with the bargaining unit that represents sergeants.

In the second half of 2014, OPA continued to experience a number of changes to its management staff. September, SPD transferred the OPA Lieutenant and one sergeant to other positions. A replacement lieutenant and sergeant were identified and transferred into OPA, requiring time for

training on OPA procedures and to gain the expertise required to conduct OPA's work effectively. The current Acting Lieutenant's time was taken up with training the new lieutenant and sergeant. All of this added to a significant loss of productivity with respect to the core work of OPA in investigating complaints.

One of OPA's administrative specialists who had been heavily involved in case management transferred out of the unit in August, leaving a gap in operations and in institutional expertise. OPA received some help from temporary administrative staff during the hiring period. While OPA identified a highly qualified replacement candidate in October, this person could not begin work at OPA until February, 2015 due to the time it took for SPD to complete her background.

Audio and Video Review

Due to the ever increasing use of audio and video recordings by both officers and community members alike, as well as an increase in the length of the audio and video captured by officers, OPA's investigations and review processes take longer than they did previously. SPD has been placing a greater emphasis on the importance of its officers capturing the entirety of their public contacts on their In-car Video systems. Front and rear cameras inside the patrol cars run simultaneously, producing a significant amount of video that must be reviewed by OPA in order to comprehensively investigate each case. We estimate that a ten minute video with audio takes at least thirty minutes for an OPA investigator to document and make notes on the content of the video. Poor quality audio or video requires that our investigators review the recordings multiple times. Lastly, the OPA Lieutenant, Captain, and Director all must review the relevant audio and video recordings to assure quality and thoroughness in their work. This comprehensive review of recordings allows OPA to be certain that all potential misconduct related to an incident is identified and properly investigated.

Electronic Case Management and Data Collection

In May of 2014, OPA was the first unit within in SPD that fully implemented the software system, IAPro, which is now used widely throughout the SPD. The Police Department did not have an IAPro expert on staff and thus, OPA and the Department were learning how to customize the system and optimize its functionality as it was being used. This required great flexibility by OPA and constant changes in OPA's internal operating procedures throughout the second half of the year. OPA's procedures documents detailing use of IAPro are now used as a model for other units. During the implementation period between May and December, OPA was processing cases using IAPro, while at the same time using paper copies for review and distribution to external parties outside of the OPA unit. This duplicative work was necessary to allow parties who review completed cases, such as the Chain of Command and the Auditor, to do so, as they did not have access to the cases electronically. Dual electronic and paper processes added to the administrative time to process cases.

Completion of Investigations

The deadline of 180 days for completion of cases only applies to cases for which discipline will be imposed, as required by the City's contract with the Seattle Police Officers Guild. While I certainly agree that all cases should be completed expeditiously, there is no deadline for cases without sustained findings. As Auditor Levinson noted, the three cases cited in the report as extending longer than 180 days did not result in sustained findings or discipline. Had there been

evidence pointing towards the likelihood of a sustained finding, case priorities would have been adjusted and those investigations put on a faster track. To ensure that the 180 day deadline is not missed for cases for which a sustained finding is likely, I am in constant communication with the OPA Captain and Lieutenant concerning the progress of OPA investigations. Where the evidence appears to be pointing towards a possible finding of misconduct, great care is taken to make certain that the investigation is completely in time for the 180 day deadline to be met. The Lieutenant, who supervises the OPA investigators, is constantly prioritizing and balancing the work of the investigators to make the most of our very limited resources. Once the investigative work is completed by the sergeant and the case is reviewed by the Lieutenant, Captain and Director, cases that will not have sustained findings are given a lower priority than cases for which findings will be or may be sustained. This prioritization of cases must be done given OPA's current caseload, and our limited resources, and time available for the several stages of case review.

Requests for Further Investigation

While OPA always appreciates Auditor Levinson's recommendations and comments, requests for additional investigation cited in her latest report did not change the outcome of those cases. Determination of which investigate actions are necessary to complete an investigation is, in part, a subjective matter. While the additional work and comments provided by the Auditor for the cited cases may have strengthened some of the cases, the casework completed prior to the Auditor's review was strong enough to make conclusive findings.

Going Forward

OPA does not have the resources it needs to fulfill the community's expectations for vigorous and timely police accountability. In order for OPA to increase the speed at which it processes intakes and conducts thorough investigations, more resources are needed. I recommend adding a second civilian intake professional to what is currently budgeted and a second lieutenant to manage the intake process, prepare intakes for classification, manage the Supervisory Action process, and provide quality control for the soon to be implemented Frontline Investigations process for complaints involving minor misconduct. In addition, as a result of an increasing average case load for OPA sergeants, the need is still present for an additional investigator. This staffing structure will allow OPA to receive, investigate, review and close cases more quickly and according to a timeline that will be satisfactory to the complainant, named employee and OPA. OPA's vision is to create an accountability system whereby complaints are handled according to a timeline in which the complainant feels that his/her concern is urgent and the employee is not left waiting for months to learn about the results of the OPA investigation. Administering discipline in a timely manner is beneficial because the employee can learn from the incident and change his/her behavior. Other employees of the Police Department can learn from the cases and also modify behavior. Finally, and most importantly, rapidly resolved complaints based on thorough and objective OPA investigations build public trust and confidence in the Seattle Police Department.

I am grateful for all of the work conducted by OPA and the Auditor and know we will continue to accomplish great things in 2015.