



Office of Professional Accountability Review Board (OPARB)

**Minutes of Wednesday, February 3, 2010 Meeting
11:30 a.m. – 1:30 p.m.**

Patrick Sainsbury, Chair:	P	Steve Freng, Member:	P
Tina Bueche, Member:	AE	Martha Norberg, Member:	P
George Davenport, Member:	P	David Wilma, Member:	P
Sharon Dear, Member:	P	Michael Pendleton, Consultant:	P

*(Absent = A, Present = P, Excused = E, * = by phone)*

Guest(s): Kathryn Olson, OPA Director*

Minutes: The minutes of the January 21, 2010 meeting were approved as circulated.

File Purging: The decision was made to purge the remaining “special request” files, effectively clearing the way for purging all remaining hard copy closed case files acquired by the previous Review Board.

NACOLE: Kathryn reported that the board met in Seattle recently and drafted a rough plan for the 2010 conference. Conference session topics are still to be refined. Kathryn has created a master to-do list, and will be asking OPARB’s assistance in the near future. OPARB has suggested the idea of a panel of prosecuting and defense attorneys participating in a discussion about defending officers accused of crimes. Rich Rosenthal of Denver would like to moderate, and is asking for pertinent videos, such as the Paul Schene case in Seattle and a recent case in Compton, CA, to include in the presentation.

Police Chief Search Committee Update: Tina was absent, so this issue will be revisited at the next meeting.

Labor Negotiation Hearings: Three witnesses testified at the recent public hearing. Members heard nothing that should be passed on to negotiators. Allegations of sexual harassment and worse by officers were the main subject for two of the three witnesses. This may be a topic of future discussions by the Board.

Labor Negotiations: It appears that the City’s negotiators prefer to communicate through the council. Pat e-mailed with one of the negotiators who wondered what the Board would like to talk to him about. Pat e-mailed him the Board’s issues, but had not had a response. Pat suggested that the Board could just work with the guild about issues, or alternatively work through the regular labor-management meetings. Law Department’s advice is that there is no harm in talking to the guild, but this should be coordinated with the City’s labor negotiators, who seem to be non-responsive.

Kathryn was concerned about sensitive labor negotiations, multiple contacts, complicated communication systems, and a host of sensitive issues. She felt it would be most practical to use established lines of communication rather than creating new ones; in other words, she felt OPARB should not talk to negotiators or to the guild.

Kathryn explained that the Labor Management Committee is comprised of guild and SPD staff who work through issues on an ongoing basis. The issues do not rise to the level of those that should be brought to the negotiating table. She offered to present Appendix E to the Labor-Management committee, preferably with an OPARB member present to provide clarity.

Pat voiced his frustration. The Board is an independent body, yet he feels stymied at every turn as they try to participate in the system. Michael described the difference between the issue of access to negotiators and the



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process of negotiators circling back to OPARB. He suggested that the Board prepare a report to outline content and process issues. The report can be distributed to the labor negotiators and remain protected from release throughout the negotiating process (although the Board can still release the information before negotiations are over). The legislation asks OPARB to weigh in, and the implicit expectation is that the Board will bring concerns forward. How to do so without blocking the process?

Writing and sending such a report and sending it to the council labor committee, the Mayor's negotiating team, and the OPA Director fulfills the expectations of the legislation as well as the desires on the part of the Board members.

Kathryn suggested taking things one step at a time: 1) Present Appendix E through the labor/management committee. She will do this upon the Board's request. 2) The 180 Day issue – She's been working with the labor negotiating team for about six months. She felt the Board's information can be shared, but not as directly as they wish.

David acknowledged the historical channels for input into labor negotiations, but OPARB has obligations to various constituencies. There needs to be differentiation between general discussions with the guild and board-specific issues. If there are Board-specific issues, there's a reason to make the city negotiators aware of the intricacies of such issues.

George felt that OPARB is obligated to bring forward information gathered at public hearings and meetings. The concerns can't be hidden out of deference to process and protocol. Any report should be shared with the powers that be.

Michael stated that OPARB is not an independent body, but a creation of council. They should support the city council and not go directly to the guild.

Michael felt that if the board feels an issue is important, they should advance it, whether it be information from a public hearing, outreach information, or the Board members' points of view.

The Board voted to ask Kathryn to take Appendix E to the joint labor management committee. Pat will provide a "final draft" of the Appendix E report to Kathryn to take to the committee. Pat also will draft a letter about the 180 day rule and OPARB's desire to be notified of issues impacting them by the negotiators, and other concerns.

Website: David provided members with links to a revised OPARB web page, still in draft. There are links to the online complaint report form and language has been changed to be consistent with the current brochure. The Board approved the new page, and David will ask Zuzka to post this new page. The Board agreed it was not necessary to set up a formal web page review process. Board members should review the web pages periodically and make any suggestions or comments directly to David.

OPMA: The Law Department advises that OPARB is not strictly subject to OPMA because they don't have decision-making authority. Therefore the Board can close an entire meeting or any part of it, but will avoid the use of OPMA-based terminology, such as "executive session". However, the Board will continue to follow the practice of holding open meetings as a general rule.

Report on Oversight of Criminal Investigations: Michael reviews reports with an eye toward defensibility, and this one is well written. He's concerned that the primary source of information is SPD. What determines

classification of cases? It appears to be somewhat subjective. What is the other person seeing? Members should anticipate the mic-in-the-face moment. What will you say, how will you justify your position? What is the standard process used for gathering information. Make sure you're comfortable when issuing a joint report.



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He feels that perhaps joint reports should be more rare than common. In discussion, Board members tended to agree. Joint reports can be powerful when everyone agrees, but should be saved for key critical issues.

Pat will send members Michael's questions on the Oversight of Criminal Investigations report to consider about research and reports at the next meeting. Michael prefers to receive his first look at a report late in the process for a fresh look, but he does want to be included early on in the research process so he can assist with creating a methodology that is airtight.

David will update the Oversight of Criminal Investigations report to incorporate Chief Pugel's and Michael's comments. That is a topic for next meeting. Pat will send Michael's suggestions for member review of reports to the group right away. Remember to review methodology critically.

Work Groups: Sharon will touch base with Michael on methodology for her report. No date has been set yet to meet with Kathryn and Tina. She envisions a spreadsheet format for gathering data. Michael's biggest concern is how cases are selected. They've requested use of force claims that have been closed in last six months; a request for "last 90 days" yielded only 15 cases. Michael's concerned that they use a large enough sample to draw conclusions.

Martha and Steve are identifying who they want to talk to and developing their questions. They discussed the recent one-night count of homeless people. They are meeting and are moving forward on their project.

Michael recommended that Board members read David's e-mail of 1/29/2010 and the attached after-action review and report from Oakland relating to the killing of four Oakland officers.

The meeting was convened at 11:30 a.m. and adjourned at 1:34 p.m.

Notes taken by Nancy Roberts.

The next meeting will be held on February 18, 2010 at 5:30 p.m. in Room 370, City Hall.