

OPARB
Minutes of Tuesday, September 20, 2012 Meeting
5:30 p.m. – 7:30 p.m.

Dale Tiffany, Chair	P	Liz Holohan, Member	P
Claudia D'Allegrì, Member	P	Pat Sainsbury, Member	P
Joe Hawe, Member	P		

Michael Pendleton, Consultant: P
Guest: Judge Anne Levinson, (Ret.), OPA Auditor

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

The meeting began at 5:30 pm.

OPARB asked Judge Levinson to discuss the topic of retaliation. Judge Levinson started by mentioning that when people refer to retaliation, they may mean different things. There is the possibility that sworn employees who work in OPA could in some way be retaliated against by colleagues. There is retaliation in the typical way it is most often thought of as workplace harassment, where an employee of SPD feels retaliated against for something related to the workplace, and files a complaint that is handled by EEO investigator. Or, if the complaint is that the employee feels he or she has been retaliated against for filing an OPA complaint, that would be referred to OPA to investigate. (In one of her Auditor reports, Judge Levinson recommended the Department Policy & Procedure Manual more clearly delineate which kinds of workplace harassment complaints would be handled by OPA and which by an EEO investigation.)

Lastly, there is the type of retaliation that was recently referenced in the news and is the subject of a complaint, which is where the complainant is not an employee, but a member of the public who was arrested, and believes that because of the filing of a complaint against SPD he was retaliated against as a result of an investigator urging prosecutorial action. Judge Levinson stated that she could not comment about that case since a complaint had been filed, but could speak in general about the issue of retaliation and any pattern or issues she has seen from her review of investigations.

Judge Levinson was asked if "retaliation" is defined somewhere. She said she will send board members the specific citations from the Policy & Procedure Manual, which the Board and the public can access online. http://www.seattle.gov/police/publications/policy/SPD_Manual.pdf [The relevant sections of the Manual are 5.080 and 11.001 III H.] She explained the intent of having a strong retaliation policy is that no one should fear negative repercussions for filing a complaint of any kind.

She added that the policy language is re-stated in the OPA brochure and on the OPA website, <http://www.seattle.gov/police/OPA/process.htm>.

Judge Levinson was asked about who has access to information about who files a complaint. She responded that public disclosure laws allow for more public access to that information, so complainants are asked at intake if they have concerns about confidentiality and disclosure, and are offered the opportunity to be alerted if there is a public disclosure request on the case. This information is also now included in the online complaint form on the OPA website.

A question was asked about the reference in the most recent OPA Director's report that a couple of cases might be further reviewed as a false claim. This would be done in an effort to decrease abuse of the system by those who knowingly make false claims. A question was asked as to whether complainants have been referred for prosecution if they make false claims, since this too may be viewed as retaliatory. Others asked what was the standard for deciding what was an egregiously false complaint and what would be the options for dealing with them. Judge Levinson suggested the Department's legal advisor could provide input to the Board as to how and when the Department may choose to draw the line in the sand and pursue the issue; she has not seen the Department pursue any during her tenure (false statements are a gross misdemeanor).

There was discussion about a system for "frequent complainers" – are they ever tracked?

OPARB is reviewing cases at this time. How can cases be reviewed with an eye to retaliation; what is the process if they find evidence of retaliation? What happens currently within OPA with regard to retaliation? How can OPARB use OPA's lens as they review cases?

Judge Levinson reviews every OPA investigation, and said that during her tenure she has seen no evidence of an investigator advocating in any way as to the filing of charges. There was further discussion of scenarios, practices, and policies that may lead to a perception of retaliation.

In a discussion of review of cases by OPARB for general understanding of how investigations are conducted, Judge Levinson recommended that the Board review more recent cases, since a number of improvements to investigation protocols have been implemented since 2010. She further recommended that a variety of cases be reviewed in trying to get an overview because investigations would be different depending on the nature of the allegations.

With regard to accountability in general, Judge Levinson urged the Board to keep in mind that when the word "accountability" is used, it should encompass organizational, managerial, and systemic accountability (not just the part of a police agency that handles complaints), and address both positive and negative behaviors.

The meeting was adjourned at 7:30.

Notes taken by Nancy Roberts.

The next scheduled public meeting will be held on Wednesday, October 3, at 11:30 am in the Al Rochester room on the 2nd floor at City Hall.