

SEATTLE POLICE DEPARTMENT



OFFICE OF PROFESSIONAL ACCOUNTABILITY

Policy Recommendations
2007 – 2008

and

Implementation of PARP
Recommendations

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This report summarizes policy and training recommendations made by the Office of Professional Accountability in 2007 and 2008 and provides information on implementation of recommendations made by the Mayor's Police Accountability Review Panel.

A vital function of the Office of Professional Accountability (OPA) involves reviewing policies and procedures Seattle Police Department (SPD) employees are expected to follow as they perform their duties. This review may lead to recommended policy changes, suggestions for training, or other follow up. A focus on policies and procedures helps determine “whether or not the organization has created a culture and environment that roots out, identifies, and refuses to tolerate officer misconduct.”¹ Policy review essentially involves management’s responsibility to set, communicate and enforce expectations about police work in Seattle.

OPA previously has published reviews of its role in policy development and submitted a Summary Report of Policy Recommendations for the years 2003 – 2006 to the Police Accountability Review Panel (PARP) in September 2007.² As noted there and elsewhere, Chief Kerlikowske, Acting Chief Diaz, and other command staff support OPA in its policy review efforts and have been receptive to suggested changes. Over the years, many revisions recommended by OPA have been incorporated into the Department’s policy manual or contributed to new training.³

In addition to routine policy review, OPA worked with PARP in 2007 and 2008 as it performed a thorough assessment of Seattle’s police accountability system. In addition to the Summary Report of Policy Recommendations by OPA, recommendations made by the Auditor and the OPA Review Board were compiled, and unimplemented policies from all three oversight entities were identified for consideration by PARP.⁴ After PARP issued its Final Report on January 29, 2008, OPA worked with the Police Department to implement a number of changes, while other recommendations required collective bargaining, or needed to be addressed legislatively or by entities outside SPD.

¹ Nobel, Jeffrey J. and Alpert, Geoffrey P. Managing Accountability Systems for Police Conduct: Internal Affairs and External Oversight. Waveland Press, Inc. 2008. p. 265.

² The Summary Report can be found at: http://www.seattle.gov/policeaccountabilityreviewpanel/Docs/9-10-07_Policy_Recommendations_Summary_2003-2006.pdf. Cites to the complete reports included are listed in the Summary.

³ The Summary Report of Policy Recommendations for the years 2003 – 2006, referenced in Footnote 2, includes information as to the status of specific recommendations.

⁴ See the following report for information about policy recommendations made by the OPA Auditor and OPA Review Board: http://www.seattle.gov/policeaccountabilityreviewpanel/Docs/10-1-07_memo_PARP_Auditor_RB_rec_final.pdf. For a list of unimplemented policy recommendations prior to 2007, see: http://www.seattle.gov/policeaccountabilityreviewpanel/Docs/10-1-07_memo_unimplemented_recommendations_final.pdf.

OPA POLICY AND TRAINING RECOMMENDATIONS

2007 - 2008

OPA performs its policy review function primarily through: (1) review of individual complaints, complaint trends and statistics; (2) participation in Executive Staff development and review of policy; (3) involvement on the Department's Risk Management Advisory Team; and, (4) interaction with the Training Section. These roles frequently overlap and OPA is just one of many parts of the Department committed to critical analysis and continuous improvement efforts.

Policy review is an integral part of complaint investigation. When citizens contact OPA with concerns about police conduct, intake includes a review of the SPD Manual to determine whether the issue raised is one implicating a specific policy.⁵ As complaints are investigated, the police incident underlying the complaint is assessed against the policy involved. At times the review of police conduct in the context of Departmental policy brings to light problems with the policy itself. For example, OPA might discover that a particular policy does not adequately spell out how officers are expected to handle a situation. Regardless of the determination made on a specific complaint, OPA is in a position to recommend further review of the policy involved. Recommendations might also grow out of cooperative discussions with the OPA Auditor following her own case review.

Investigation of specific complaints might also result in training recommendations. For example, a finding of Supervisory Intervention usually entails training for the named officer, though a Sustained finding might also lead to training. At other times, particularly if OPA observes that a number of complaints are raising similar issues, OPA works with the Training Section to address the problem.

In addition to policy and training review during complaint investigation, OPA's involvement with other Departmental functions can result in operational changes. The OPA Director is a member of the Executive Staff, meeting regularly with commanders and other civilian directors. As the Executive Staff considers Departmental functions, the OPA Director participates in discussions about the need for policy review or training to address specific concerns raised. The OPA also is centrally involved with the Risk Management Advisory Team, a group with representatives from across the Department. The team reviews claims and lawsuits, patrol vehicle accidents, and a variety of other data to assess whether trends can be identified requiring Departmental changes.

The following chart summarizes policy and training recommendations made by OPA in 2007 and 2008. Note that many of the PARP recommendations reviewed later in this report also resulted in substantive policy changes in which OPA was actively involved, though most are not included in the chart below.

⁵ The SPD Manual can be found at: http://www.seattle.gov/police/publications/Policy/SPD_Manual.pdf.

Issue	Recommendation	Implemented	Pending Implementation	Under Review	Rejected by Department
1. <u>Citizen Observation of Officers</u> : A photographer was taken into custody after shooting pictures of two officers making an arrest on a public street. He was later released and not charged with a crime. A civil case he pursued through the ACLU was settled for \$8000.	Enact a new SPD policy clarifying that citizens are permitted, with a few exceptions, to remain as onlookers and/or photograph officers in the field performing their duties.	X			
2. <u>Obstruction arrests</u> : While obstruction related arrests comprise less than 1% of total arrests and criminal citations by SPD, and less than 1/10 of 1% of total public contacts, concerns have been expressed about how SPD tracks officers with unusually high numbers of obstruction arrests.	When conducting a review of an employee through SPD's Early Warning System, the number of arrests she or he has had for obstructing, resisting arrest, or hindering an officer will be considered, along with other factors, in assessing the need for intervention or other steps to be taken with the employee.	X			
3. <u>Retaliation</u> : Though other provisions of the SPD Manual arguably prohibited retaliation against a complainant for filing a complaint with OPA, there was no explicit policy on point.	OPA and PARP recommended that SPD enact a new policy specifically prohibiting retaliation against anyone for filing a complaint with OPA.	X			
4. <u>Social contact verses Terry Stop</u> : A "social contact" between officers and citizens is voluntary and consensual, and does not require reasonable suspicion	The SPD Training Unit should devise supplemental training on social contact/Terry stop issues and this training should be made a part of the annual mandatory Street Skills training.		X		

Issue	Recommendation	Implemented	Pending Implementation	Under Review	Rejected by Department
<p>or probable cause. A “Terry Stop” is a stop if the officer reasonably suspects that the person has committed, is committing, or is about to commit a crime. Case law and SPD policies lay out a number of factors considered in determining reasonable suspicion for a Terry Stop. However, the law in this area is complex and it is often difficult to assess whether the legal predicate has been established in the fast paced environment of law enforcement.</p>					
<p>5. <u>Guarding suspects in a hospital</u>: SPD Manual Section 6.070 covers procedures to be followed when an SPD officer is assigned guard duty for a suspect requiring medical attention. When a prisoner escaped while an SPD officer was on guard duty, it became apparent that the policy was not clear on responsibilities when one officer is relieving another in guard duty.</p>	<p>The Audit, Accreditation and Policy Unit should review SPD Manual Section 6.070 to clarify responsibilities where more than one SPD officer is involved in guarding a hospitalized prisoner.</p>			X	
<p>6. <u>Secondary Work Permits</u>: SPD Manual Section 5.120 regulates an officer’s employment outside the Department but is ambiguous regarding whether an</p>	<p>The Audit, Accreditation and Policy Unit should address the issue of whether the Department requires a Secondary Employment Permit for secondary employment in a <i>non-</i></p>			X	

Issue	Recommendation	Implemented	Pending Implementation	Under Review	Rejected by Department
employee engaged in a secondary employment of a <i>non-law</i> enforcement capacity must comply with that policy.	law enforcement capacity, and to resolve any inconsistencies in the policy language				
7. <u>Coordinating taser deployment</u> : In an OPA-IS investigation in which the underlying incident involved a number of officers who were deployed and had tasers available to use in bringing the subject into compliance, concern was raised about the coordination of taser use among the officers.	Consideration should be given to a policy and/or protocol for coordination and management of the scene where multiple officers are present and using or may use a taser.			X	
8. <u>Use of taser in flash/display mode</u> : When the subjects approached officers in an aggressive manner, one officer used a taser to take a subject to the ground and “flash-tased” (used the taser in display mode rather than on a subject) the taser so that other citizens gathering would not interfere. The use of the taser in this capacity is not addressed in SPD policy.	It was recommended that the Deputy Chief of Operations and others involved with review of less-lethal weapons consider a policy or protocol to address the use of taser in flash/display mode.			X	
9. <u>Death investigations</u> : Two officers were dispatched to an incident involving a woman who appeared to be having a miscarriage. She	The Homicide Unit should determine whether a policy or operational directive should be issued to help officers understand the Department’s			X	

Issue	Recommendation	Implemented	Pending Implementation	Under Review	Rejected by Department
<p>was later determined to have delivered 3rd trimester twin fetuses and the case was assigned to the Homicide Unit for follow up. There was an issue as to whether the officers should have reported the incident as suspicious, despite the fact neither observed any trauma or criminal activity, but rather understood a medical emergency was in progress.</p>	<p>expectations regarding such incidents.</p>				
<p>10. <u>Requests for translators:</u> There was an issue as to whether a subject required a translator while officers were giving Miranda at the scene of an incident. SPD Manual Section 17.270 III (A) addresses how to handle a request or need for a translator when subjects are being interviewed or interrogated. The policy does not speak as clearly to expectations for interpreter requests when officers are on a call or making an arrest.</p>	<p>The Audit, Accreditation and Policy Unit should consider whether a policy change or training is necessary to help officers understand expectations for interpreter requests when on a call or making an arrest.</p>			X	

PARP RECOMMENDATIONS

The Mayor's Police Accountability Review Panel recognized the dedication of Seattle police officers, noting, "The majority of these officers work day in and day out, forging bonds with residents and successfully improving communities in which they serve."⁶ The Panel concluded that the general structure of civilian oversight in Seattle should continue, and that many aspects of the system are valuable and encourage an effective citizen-complaint process. Nonetheless, PARP found room for improvement and made 29 specific recommendations to enhance and strengthen police accountability. What follows is an overview of the response to the Panel's recommended changes.⁷

Recommendation 1: The role and duties of the OPA Auditor should be clarified and expanded.

On July 30, 2008, the Seattle Municipal Code was amended to make a number of changes regarding the OPA, the Auditor and OPARB. SMC 3.28.850 (A) extended the OPA Auditor's role from two years to three years and allows for reappointment for two subsequent three-year terms. The amended ordinance also expands the Auditor's authority to require, rather than merely suggest, additional investigation in an OPA complaint, and clarifies that OPA shall make requested information available to the Auditor. SMC 3.28.855 (C) and (G). Specific expectations for the current Auditor also were incorporated in her latest contract; for example, she was authorized to conduct a critical review of OPA-IS complaint outcomes and examine the issue of SPD obstruction related arrests. Likewise, in addition to what is required by ordinance, the exact duties and time required of the Auditor in the future largely will be defined by contract.

Recommendation 2: Each year the OPA Director, OPA Auditor and OPA Review Board should agree upon at least three substantive policy or procedural areas that will be the focus of enhanced review by the OPA Auditor. One of the first issues that should be examined is how the Department's policies, practices and procedures affect communities of color.

New OPA Review Board members took office in September 2008 and, following an initial period of orientation to civilian oversight issues, have been working with the Director and Auditor to identify issues that will be the focus of enhanced review. Meanwhile, OPA and the Auditor collaborated on gathering and assessing information for the Auditor's Report on Obstruction Arrests and her Report on SPD's Relationship with Diverse Communities.⁸ As noted in the Diverse Communities report, it is expected that the Auditor, OPA Director and Review Board will complete that inquiry by soliciting

⁶ PARP Final Report, January 29, 2008: http://www.seattle.gov/policeaccountabilityreviewpanel/Docs/1-29-08_PARP_Report_Final.pdf.

⁷ In her April – September 2008 Report, the OPA Auditor also commented on implementation of major PARP recommendations: http://www.seattle.gov/police/OPA/docs/Auditor_Report_April_Sept_08.pdf.

⁸ Copies of these two reports are available at: http://www.seattle.gov/police/OPA/docs/Auditor_Obstruction.pdf and http://www.seattle.gov/police/OPA/docs/Auditors_Report_Diverse_Communities_09.pdf.

broad community responses. The Auditor also includes commentary from the OPA Director in her semiannual reports where they have different perspectives regarding specific cases or policies. All three oversight entities are routinely reviewing and providing feedback on each other's reports prior to publication.

Recommendation 3: There should be a separation between OPA investigations and any related criminal or civil proceedings. OPA investigators should not be involved as investigators in any related civil or criminal matter. Pending civil or criminal matters should not delay OPA investigations.

The SPOG contract was changed in response to this recommendation. Section 3.7 provides, "OPA will determine the appropriate investigative unit with expertise in the type of criminal conduct alleged to conduct the criminal investigation and the associated interviews of the named employee(s), witness employee(s) and other witnesses. OPA will not conduct criminal investigations. There shall be no involvement between OPA and specialty unit investigators conducting the investigation. Subject to the timelines contained in section 3.6.B of the collective bargaining agreement, pending civil or criminal matters involving an officer should not delay OPA investigations. In the discretion of the Department, simultaneous OPA and criminal investigations may be conducted. In the event the Department is conducting an OPA investigation while the matter is being considered by a prosecuting authority, the 180-day timeline provision continues to run. The criminal investigation shall become part of the administrative investigation. The Chief of Police may, at his/her discretion, request that an outside law enforcement agency conduct a criminal investigation." The Auditor has criticized this result for its potential to delay and weaken administrative investigations of misconduct, a result not intended by PARP.

Recommendation 4: SPD should adopt a rule that precludes the use of overtime or accrued vacation time to satisfy a disciplinary penalty that mandates suspension without pay.

The SPOG contract now reads, in Section 3.4, "An employee will be precluded from using accrued time balances to satisfy a disciplinary penalty that mandates suspension without pay when the suspension is for eight or more days. However, if precluding such use of accrued time negatively affects the employee's pension/medical benefit, the unpaid suspension may be served non-consecutively."

5. The OPA should focus its investigative resources on serious cases of misconduct. The OPA should identify complaints of a less serious nature as early as possible and encourage the resolution of these complaints through mediation.

OPA continues to improve its complaint triaging system, such that it can focus its investigative resources on the more serious allegations of misconduct. Further, OPA encourages resolution of complaints through its mediation program. In an effort to expand the pool of mediators available to handle OPA complaints, in August of 2008, a group of professional mediators was selected to receive training in unique issues raised in

OPA complaints. OPA then coordinated with SPOG to approve an expanded list of individuals available to mediate OPA complaints.

6. *The OPA Director should attend all disciplinary hearings.*

The Municipal Code was amended to direct that the OPA Director shall: “Attend employee due process hearings with the Chief of Police concerning possible employee discipline resulting from OPA recommendations.” SMC 3.28.810(G). The SPOG contract, at 3.5(D), also was changed to identify the persons to be present at such hearings and specifically includes the OPA Director. Since these provisions went into effect, the Director has attended all *Loudermill* due process hearings, the meeting held by the Chief of Police with the named employee after the notice of a proposed sustained finding and discipline has issued but before a final decision is made.⁹

7. *If new material facts are disclosed at the disciplinary hearing, and the Chief is inclined to act contrary to the OPA Director’s recommendation, the case should be sent back to the OPA for further investigation.*

New language in the SPOG contract, at 3.5(F), provides, “If new material facts are revealed by the named employee during the due process hearing and such new material facts cause the Chief to act contrary to the OPA Director’s recommendation, the case must be sent back to the OPA for further investigation. The ‘further investigation’ described above must be completed within the original 180-day time period.”

8. *The 180-day limit to investigate a complaint of police misconduct should be able to be extended by the OPA for good cause (e.g., when further investigation is required due to new information introduced at a disciplinary hearing or when a material witness cannot be contacted due to a pending criminal proceeding).*

An MOA dated October 27, 2008, between the City, SPD and SPOG provides that, “The parties may mutually agree to extend the 180-day time period in circumstances not meeting the criteria set forth in Section 3.6(C) of the collective bargaining agreement, provided the request for extension is made before the 180-day time period has expired. Any such extensions must be in writing...” Section 3.6(C) arguably limited the situations in which the 180-day deadline could be extended to those where there was a showing of “due diligence in conducting the investigation of the complaint” and where OPA is “unable to complete the investigation due to the unavailability of witnesses or other reasons beyond the control of the Department.”

9. *The City should review, evaluate and consider amending its policy relating to the use of Garrity protections. Officers and City staff involved in*

⁹ *Loudermill* affirms the principle that certain procedural steps should be taken before an officer is terminated or receives other significant discipline. These procedures include notice of the charges on which the discipline is based, an opportunity to review the evidence, and a chance to respond to the charges in the context of a due process review. *Cleveland Board of Education v. Loudermill*, 470 U.S. 532 (1985).

implementing Garrity policy should be regularly trained in its appropriate use.

The OPA Director has initiated a review of the Department's policy and practices related to *Garrity* protections.¹⁰ She recently was involved in reviewing a new SPD protocol addressing officer-involved shootings in which the role of *Garrity* was clarified for different personnel who might be involved in such an incident. Training concerning the new protocol, including the use of *Garrity*, is planned.

10. OPA investigators should be provided with comprehensive training in the specialized skills needed for police internal investigations.

OPA coordinated with King County Sheriff's Office to provide a 2-day staff training in September 2008 on a variety of substantive and procedural issues related to conducting internal investigations. In addition to SPD and Sheriff's Office staff, presenters included experts from UCLA, the King County Prosecutor's Office, and the Summit Law Group. The program covered interviewing techniques and role-playing, investigating off-duty conduct, and credibility assessments, among other topics. A variety of training topics are covered at regular OPA-IS staff meetings and another comprehensive training is being planned for the fall of 2009.

11. The OPA Review Board should be the primary link between the community and the police accountability system. The OPA Review Board should conduct at least four public hearings and/or community listening sessions each year.

Following amendments effective July 30, 2008, SMC 3.28.910 (B) provides, "The OPA Review Board shall organize and conduct public outreach on behalf of itself, the OPA and the OPA Auditor. The Review Board shall solicit public comments on the fairness, thoroughness and timeliness of the OPA complaint handling process and on the professional conduct of Seattle police officers. The Review Board shall invite the OPA, OPA Auditor and Police Department to participate in its outreach efforts." The OPARB has power under the Ordinance to fulfill other functions, though it has determined, with the OPA Director and Auditor concurring, that it will primarily focus on coordinating outreach efforts and using the information gained from outreach to assist the OPA Director, OPA Auditor and OPA Review Board in their annual determination of at least three substantive policy or procedural areas that will be the focus of enhanced review by the Auditor, as suggested by PARP Recommendation 2. (See page 8, above.) Information

¹⁰ In *Garrity v. New Jersey*, the U.S. Supreme Court held that police officers cannot be compelled, by the threat of serious discipline, to make statements that may be used against them in a criminal proceeding. 385 U.S. 493 (1967). In a related case, the Court held that an officer cannot be terminated for refusing to waive his Fifth Amendment right to remain silent. *Gardner v. Broderick*, 392 U.S. 273 (1968). Though coerced officer statements cannot be used in a subsequent criminal prosecution, such statements may be used for departmental investigation purposes. Refusal to provide a statement for administrative purposes can be grounds for discipline. The practical application of *Garrity* is complicated as there are many issues involved, such as when an officer's statement is "coerced," whether *Garrity* extends to witness officers, and whether *Garrity* should apply in incident and use of force statements.

concerning this approach and activities of the new Review Board members who took office September 1, 2008, can be found in the OPARB Report, 9/1/08 – 3/1/09.¹¹

- 12. The OPA Review Board should research and report on national trends and best practices in police accountability and oversight; review OPA policies and procedures and provide recommendations for improvement; and should offer suggested topics for officer training.*

SMC 3.28.910 (C) now provides, “The OPA Review Board shall advise the City on Police Department policies and practices related to police accountability and professional conduct. The Review Board shall base its recommendations on its review of the OPA complaint handling process and of the OPA Director’s and OPA Auditor’s reports, on any public comments it has received, and on its own research on national trends and best practices in police accountability and civilian oversight of law enforcement. The Review Board shall present its recommendations in its semiannual reports.” The OPA Director and Auditor have similar responsibilities and plan to work jointly with the OPA Review Board on these issues.

- 13. The OPA Review Board membership should be expanded from three to between five and seven members. The members should reflect the diversity of Seattle and should be Seattle residents.*

The Municipal Code was amended to provide that the OPARB will consist of seven members. SMC 3.28.900(C). The seven members of the new OPARB took office September 1, 2008.

- 14. Civilian advocates from the Seattle Office for Civil Rights (SOCR) should be made available to assist OPA complainants through the process as needed.*

The OPA Director conducted training with SOCR staff concerning Seattle’s civilian oversight system, the types of allegations of misconduct brought to the OPA, and the complaint investigation process. The OPA and SOCR websites, pamphlets, and other informational sources have been changed to indicate OPA complaints can be made through SOCR. Efforts are underway to track whether citizens are using SOCR to assist with filing OPA complaints.

- 15. The OPA Director should have control of the OPA budget and should report to the Mayor and City Council on the adequacy of OPA funding during the annual City budget process.*

The OPA Director manages the OPA budget and has input with the Mayor and City Council during the annual budget process.

¹¹ See OPARB Report, 9/1/08 – 3/1/09: <http://www.seattle.gov/council/oparb/reports.htm>.

- 16. The OPA Director, in consultation with the Police Chief, should have the authority to select and transfer OPA staff, including sworn investigators and the Deputy Director.*

As needed and in consultation with the Chief, the OPA Director has selected new staff for OPA-IS. In 2007 and 2008, new staff included the OPA-IS Lieutenant, an OPA-IS Sergeant/Investigator, and an Intake (Acting) Sergeant.

- 17. The OPA Director should not have worked for the City of Seattle during the preceding 10 years.*

Though this provision was not in effect at the time the current OPA Director was appointed, she had not worked for the City of Seattle during the preceding 10 years.

- 18. The OPA Director should not become a member of the Firearms Review Board.*

The OPA Director is not a member of the Firearms Review Board.

- 19. The OPA Auditor should be a civilian and the position should remain outside of the Seattle Police Department.*

The OPA Auditor is a civilian and is employed on a contract basis by the City outside the Seattle Police Department.

- 20. SPD should adopt a policy that presumes an officer will be terminated for sustained complaints involving dishonesty that either relate to or occur within the scope of the officer's official duties, or that relate to the administration of justice. If the Police Chief chooses to impose a disciplinary sanction other than termination, he should be required to state his reasons in writing. This written statement shall be provided to the OPA Director, and upon request, to the Mayor and City Council.*

The SPOG contract was amended as follows: "In the case of an officer receiving a sustained complaint involving dishonesty in the course of the officer's official duties or relating to the administration of justice, a presumption of termination shall apply. For purposes of this presumption of termination the Department must prove dishonesty by clear and convincing evidence. Dishonesty is defined as intentionally providing false information, which the officer knows to be false, or intentionally providing incomplete responses to specific questions, regarding facts that are material to the investigation. Specific questions do not include general or "catch-all" questions. For purposes of this Section dishonesty means more than mere inaccuracy or faulty memory." Section 3.1.

If the Chief of Police does not follow OPA's written recommendation on the disposition of a complaint (involving dishonesty or any other allegation), the Municipal Code now requires that he make a written statement of the material reasons for his determination.

This written explanation shall be provided to the Mayor and City Council and the OPA Director is required to include summaries of such explanations in her regular reports. SMC 3.28.812 (A) and (D). A procedure for submission of this information to the Mayor and City Council through the Public Safety, Human Services and Education Committee has been developed.

21. *The Police Chief should appoint a high-ranking ethics officer who would provide advice and guidance to SPD employees on issues related to professional conduct and accountability.*

The Chief of Police appointed Captain Neil Low to oversee the function of Ethics and Professional Responsibility. In addition to providing advice on ethics questions, Capt. Low is now the SPD liaison with the King County Prosecutor's Office on *Brady* matters, is centrally involved with SPD's efforts on the Mayor's Race and Social Justice Initiative, and works closely with OPA and the Training Unit on a number of other projects.

22. *SPD should adopt a policy prohibiting retaliatory contact with a complainant.*

An SPD policy was adopted December 19, 2008, providing, "No employee shall retaliate against any person who initiates or provides information pursuant to any citizen or internal complaint, or against any person who provides information or testimony at a Department hearing, because of such person's participation in the complaint process. Such retaliation may be a criminal act and/or constitute separate grounds for discipline."

23. *SPD should implement additional training and policies to improve the cultural competence within the Department to reflect the greater diversity of Seattle.*

The OPA Director, Ethics Captain, and Training Captain are developing a Department wide program that addresses distinctions between racial profiling and criminal profiling, and helps build an appreciation for the varied experiences evident in police/citizen interactions. In November 2008, a group of sworn and civilian employees participated in a "train the trainer" course on "Perspectives in Profiling." Final preparations for rolling out training for all SPD staff later in 2009 are underway, including the consideration of suggested changes from the community.

24. *The OPA should adopt a policy that requires public disclosure of all OPA records to the maximum extent allowed by law. Records of all sustained complaints, including the punishment imposed, should be made public in a format designed to protect the privacy of the officers and complainants to the extent required by law.*

The SPOG contract was changed to provide: "To the extent allowable by law at the time of the request, the City will consider application of relevant exemptions to the public disclosure law set forth at RCW 42.17.310 with respect to personally identifying information in internal disciplinary proceedings files and OPA files, the nondisclosure of which is essential to effective law enforcement." Section 3.6 (K). The section continues,

“Records of all sustained complaints, including the punishment imposed, should be made public in a format designed to protect the privacy of the officers and complainant...”

- 25. When the Police Chief changes a recommended finding from the OPA, the Chief should be required to state his reasons in writing and provide these to the OPA Director. A summary of the Chief's decisions should be provided to the Mayor and City Council upon request.*

The Municipal Code now provides, “If the Chief of Police decides not to follow the OPA’s written recommendation on the disposition of an OPA complaint, the Chief shall make a written statement of the material reasons for the decision. The statement shall not contain the officer’s name or any personal information about the officer. If the basis for not sustaining the complaint is personal, family or medical information about the officer, the statement shall refer to ‘personal information’ as the basis. The Chief shall make the written statement within 60 days of his or her final decision on the disposition of the complaint.” SMC 3.28.812(D) directs that this written statement be provided to the Mayor and city Council, with summaries included in the OPA Director’s regular reports. A procedure for submission of this information to the Mayor and City Council through the Public Safety, Human Services and Education Committee has been developed.

- 26. The OPA Director, OPA Auditor and OPA Review Board should meet quarterly and each should independently prepare and jointly present a semiannual report to the Mayor and City Council.*

The OPA Director, Auditor and Review Board meet at least once a month, and certainly more often than quarterly. Each entity independently prepares and submits reports to the Mayor and City Council, though they jointly present at the Public Safety, Human Services and Education Committee.

- 27. Within 60 days of receiving recommendations from the semiannual reports, the Police Chief should respond in writing with a list of the recommendation(s) that the Chief is rejecting, an explanation for the rejection(s) and a timetable for implementing the accepted recommendations.*

OPA has developed a procedure for tracking policy and training recommendations. One new step involves regular review and discussion of the implementation status of these recommendations with the Police Chief at bi-monthly meetings held with the OPA Director.

- 28. The OPA Auditor should monitor the progress of all OPA-related recommendations being implemented by the Police Department, including the recommendations that are accepted from this report. The OPA Auditor should report on the implementation status in the semiannual reports.*

The current contract with the OPA Auditor provides that she is to monitor and report on implementation of the PARP recommendations. The Auditor reported on implementation

of major changes recommended by PARP in her report for the period April – September 2008.¹² The OPA Director also will continue to track and regularly report on the implementation status of OPA policy and training recommendations.

29. The OPA Director should document all correspondence and substantive interactions with the OPA Auditor and the OPA Review board relating to the disciplinary process and the oversight system.

The OPA Director or other OPA staff document all correspondence and substantive communications with the OPA Auditor and OPA Review Board.

CONCLUSION

Review of SPD policy is one of the most important functions OPA performs, because it is directed towards future improvements in the work of the Seattle police and allows for the implementation of “best practices” identified both internally and externally. In 2007 and 2008, OPA worked to put into practice specific recommendations made by PARP to strengthen civilian oversight. OPA also continues to perform its own review function to identify opportunities to clarify policy and improve training for Seattle police officers.

¹² See: http://www.seattle.gov/police/OPA/docs/Auditor_Report_April_Sept_08.pdf.