



Seattle City Council Police Accountability Panel (SCCPAP)
Minutes of Monday, February 11, 2008 Meeting
6:00 pm – 9:00 pm

Present: Panelists Leo Hamaji, Steve Herbert; Lynne Wilson; Michael Pendleton, facilitator; Nancy Roberts, staff

Absent: Eric Schnapper; Veronica Alicea-Galvan; Kellye Testy

Guests: Terry Carroll, Chair, and Bob Boruchowitz, member, Mayor's Panel on Police Accountability; Councilmember Tim Burgess

Administrative:

The facilitator handed out copies of correspondence from ACLU lawyer Jennifer Shaw.

Terry Carroll and Bob Boruchowitz met with the panel to share PARP's experience and to answer questions. Some of the issues they addressed were: Gaps – what issues did their report not address that should be addressed? Were there any legal processes or other barriers in the system? There is clearly an organizational culture at SPD – can this panel do anything to address that?

Terry Carroll (TC) – Hopes that this panel will support and approve of their findings. There were eleven individuals on the Mayor's very diverse panel, all with different views. There were so many views, making it a very complex process. They looked at their charge as doing their best to improve the existing system.

They did not feel that they had the time or resources to do as comprehensive a review as could have been done. They felt that issues were not only about police misconduct, but about who to hire in the first place; training; supervision; leadership, including the mayor, council and chief; and integrity.

Discipline is not the only component. Officers need to have confidence in the system as much as citizens do. The system needs to be as transparent as the law allows. Police need to see that it is in their best interests to be transparent as well.

Bob Boruchowitz (BB) – The panel did not look at individual cases, except on a personal level. Clearly, training for investigators is inadequate. Investigators did not ask obvious questions, which may be a training issue. Investigators are used to investigating and questioning trained, professional witnesses (officers) instead of people on the street. There were inconsistencies in how cases were investigated, inattention to all the available information. They were not consistently thorough, all of which seems to highlight the need for training for investigators.

The question of race/treatment of people of color was present throughout their review. They questioned the promotion of an officer involved in an investigation. The 180 day issue also loomed large for the panel. An ongoing, systemic review of policies and practices is needed. They made a very strong recommendation that OPA, the OPA Auditor, and OPARB all participate in reviewing the areas identified as being of concern. Some areas mentioned were how investigations are conducted; relationships with community of color; use of tasers and lethal weapons. There needs to be a strong relationship between SPD and the communities of color, so they recommended that efforts at creating good honest communication between these groups be a top priority.

They didn't delve deeply into the organizational culture. They hoped to interview captains and lieutenants at the precinct level to learn their concerns and learn how they communicate these concerns with their officers. The panel would have liked to have learned what captains and lieutenants expect of their leaders.



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A panel member asked if it was significant that the first recommendation was for an enhanced role for the OPA Auditor. **TC** – They look at the history of oversight in Seattle, back to 1992, with the creation of OPA and then OPARB. The most significant changes they recommended surround the office of OPA Auditor. They also want to integrate the functions of the various oversight systems in an effort to create a more collaborative, effective system.

Question – What can THIS panel do to support PARP's recommendations? **TC** – Differences between the Council and Mayor is what created the two separate panels, but there is strength in collaborating on the items they both agree on. They hope that the approach is not from opposite sides but to come from a desire to build a better system. The Mayor's panel felt that it no longer hears "we don't need civilian oversight" any more. They get the feeling that most perceive the current actors to be working in good faith.

BB – perhaps SCCPAP could focus on PARP's recommendations that fall in the Council's purview.

SCCPAP panelist comment – The existing process is an administrative discipline process, and was not designed to serve citizens' complaints well. At every step the officer is given employee protections, but the complainant is not kept in the loop and is not involved – there is very little communication with the complainant. Are there other ways to keep complainants engaged? (PARP had suggested an advocate).

BB – Try to have as much information as possible available to the complainant – to the extent allowed by law. It may be that policies and practices are questionable, and that officers operate within those policies. It is important to review policies and practices to improve them. There needs to be systemic accountability as well as individual officer responsibility.

The facilitator voiced a concern from an absent panel member – Does PARP's recommendation go far enough to allow complainants to comment on the process along the way? After all, the officer has access to the finding, the report, and the recommendation.

TC: They have to operate within an established public employee discipline system. The above suggestion is a very different approach, and he recommends that caution and care be taken in pursuing that approach. What drives this system is citizen complaints about a public employee. There is the potential to make it court drama, reducing officers' desire and willingness to participate.

Citizens have other avenues. Most citizens are unaware of various policies and the whys and wherefores of the reasons behind the policies. He cautioned against loading up on the discipline system to the detriment of addressing training, policy review/revision, etc.

BB – Citizen input throughout the process is tricky. If the Office for Civil Rights advocates throughout, the citizen will be heard more clearly. They can provide information, language assistance as needed, proactive information. It is different when dealing with personnel matters. The citizen should be engaged and questions asked of them, but some things may not be able to be disclosed until the end, if at all.

Panel question – Clarify your recommendation about the Auditor's role. Are you suggesting they no longer do real time review?

TC – Continue the real time review. That's working. This helps separate Seattle from other systems. The Mayor's Panel had a lot of discussion in this area but in the end, decided to keep it as is.

Question – Recommendation #24 deals with transparency. Is there specific language in the collective bargaining agreements that disallows disclosure of names?



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TC – Case law upholds disclosure in sustained cases, but does include an exception for law enforcement. PARP felt that when there is room for interpretation, they err on the side of the citizen.

There was discussion in their group about other levels of review such as administrative review, but did not take the time to go into detail on where the collective bargaining agreements were on those subjects.

An SCCPAP panel member suggested that the best outcome of a citizen's complaint may be a review of policy. If all three legs of the systems keep their eye on the prize, the system will improve. How is SPD held accountable for implementing or addressing the recommendations in #27 from the report?

TC – PARP envisioned collaboration. Their desire was to institutionalize a reporting system, then follow up. A systematic review system is more formal than recommendations based on individual desires and passions.

BB – Recommendation #28 ties in. A systemic, constant review of recommendations, monitoring, reporting, and follow-up, including reports to council.

A panel member asked about administrative review relating to a “cluster” of complaints about one officer. **TC** – That is a separate system, one he feels works pretty well. This is an “early warning system (EWS)” that he did not feel needed to be addressed now, as the other system needs more work.

BB – An emphasis on EWS would be welcome. Become more informed – how has this system been working over the last 8 years or so. Talk with captains, lieutenants.

The facilitator represented an absent member's views – Why would an “inside” auditor feel free to comment on the system as a whole? Nowhere in the system or recommendations is there a way to review the entire system – culturally, structurally...The role of OPARB in recommendations 11 – 13 is silent on systems review, but rather that the OPARB be a sounding board for citizens. That there is no call for independent review of the system is cause for serious concern. Did the panel talk about that issue?

TC – These are philosophical discussions, and he urged that the group be pragmatic enough to trust the competency and integrity of individuals in these positions. The system suggested is not found in this state, and he is not sure that the system should be that open. Cities with all-citizen review do not have an increased number of sustained cases. He frequently hears about the culture of the department, and feels that it should be respected as well as critically reviewed. If the culture is bad, then the discipline system is not the place to improve the culture.

BB – Recommendation #12 addresses some of the concerns about OPARB's role. Over time OPARB can review trends and other systems. They did not have the time or resources to contemplate a complete overhaul of the system. There are strengths in the current system, and they chose to enhance those. The expanded Auditor's role goes a long way towards strengthening its independence.

The facilitator voiced another absent panelist's thoughts – Discipline is a tool to control and regulate, and it does have an impact on behaviors. Little thought seems to be given to discipline that is meted out. It is inconsistent, and the Chief appears reluctant to give hard discipline for fear of being reversed on appeal. Did the panel discuss standards for discipline?

TC – There was discussion about disciplinary standards, in part motivated by the perception of unevenness of the application of discipline. The system is paramilitary in nature, and the group felt that the Chief does need to be the person to make the call. Institutionalizing of the implementation of discipline was not an area



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they pursued due to lack of time and resources. They did, however, presume that the officer should be honest and aboveboard. He did feel that there would not be support for taking that discretion away from the Chief.

BB – What processes discourage the Chief from making a tough decision? He felt that if new evidence emerged, then the case should be kicked back to OPA, and not just heard by the Chief. He was stunned to learn that this is the current practice. They did discuss the challenges of personnel law, the Guild, and other pertinent issues, all of which he felt would benefit from further review.

Councilmember Tim Burgess asked if the recommendation for expanding the role of the OPA Auditor envisioned that position as full-time. **TC** – He felt that was the most likely outcome. **BB** – was not as clear, but the current part-time position is clearly inadequate. He felt that the role needed to be expanded to be commensurate with the new responsibilities. Could Judge Carroll have performed the job adequately on a part-time basis [when he was auditor]? **TC** – with staff, yes. Without staff, no. The major factor is having adequate support staff.

Councilmember Burgess asked if there are ever officer-originated (internal) complaints (against other officers)? Yes – 10 – 20% of OPA complaints are internally-generated.

Recommendation #8 has to do with the 180 day limit. Open complaints loom over officers. How do you balance the need for an adequate investigation vs. leaving an officer in limbo?

TC – All circumstances can't be anticipated. There may be times when the 180 days needs to be extended. Serious cases are very hard. If there is too bright a line without discretion, it can be open to abuse. He feels their recommendation allows for some discretion with good cause.

BB – There are things that can be done to minimize the need to extend the limit, e.g., the OPA officer should not be the investigator that supports the prosecution. If investigators are well trained and aggressive, that should go a long way to minimize the need for extensions.

Councilmember Burgess asked if recommendation #11 meant that the primary role of OPARB would be to conduct quarterly community meetings.

TC – if all the recommendations in their report are implemented, the link with the public will be OPARB's primary role.

BB – The silence on #11 was because there was no unanimity on the panel. He feels that the current oversight by OPARB is important, but many felt that if all the recommendations were implemented, then OPARB would not need to do as much oversight.

The reasons behind recommendation #13, calling for an expanded board, were that it would create a broader presence in the community and also address the attendance issues inherent in a smaller board.

What is the nature of the Office for Civil Rights advocacy called for in recommendation #14? Is it like victim advocates in criminal courts? **TC** – As a complaint goes through the system, there is a need for someone outside the "police system" to provide credibility and an understanding of the system. Someone independent, neutral, experienced, educated, no emotionally engaged, who is aware of the process. They can help arrange neutral meeting places, explain the process. The analogy to victim advocate is apt.

The guests leave.



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The facilitator reported on the progress of his assignments from the last meeting.

- Alley-Barnes information – The facilitator met with Sean Sheehan from Law who is talking with Fred Diamondstone about the possibility of this panel seeing information on the case that Fred is prohibited from sharing.
- Sharing of information on the Patterson case – Kathryn Olson said there are legal prohibitions against sharing this information.
- James Bible's assertion that he had access to 500 pages on Patterson. This information is available in part because of a freedom of information request by the ACLU, although it is difficult to navigate the system. This is not being pursued at this time.

Councilmember Burgess discussed the need for a work product. The resolution that established this panel assume that a report will be made to the Council by March 1. In light of the Mayor's Panel recommendations, the feeling from the council is that they're at a place where they want to start implementing and acting on those recommendations. They want to make sure there are no impediments or distractions that keep them from going forward.

The facilitator discussed this group's process: 1) Review; 2) Identify key areas, starting with this meeting; 3) write the report.

Eric Schnapper has volunteered to do more work, as he may have more time available than some of the other panelists. Kellye may take a secondary role – reviewing reports, for example.

Lynne went back to the resolution. The situation has changed with the issuance of the PARP report and his hearty support. Many of this panel's directions in the resolution have been addressed by PARP. She felt that this group needs to (soon) make a strong public statement in support for the PARP recommendations.

Leo felt that the current report is great, but limiting OPARB's role to that of community liaison concerns him. The community sees OPARB as a balance, and has faith that they are objective and honest.

Steve felt that the current report is excellent and deserves this panel's support. He, too, has questions about OPARB's role. Perhaps this panel can flesh out the OPARB recommendations.

Councilmember Burgess stated that the Council can expand and clarify the silent aspects regarding OPARB's role, although they have not yet done so. There has been some informed discussion on Council, which is giving its strong support. The Guild has accepted 16 recommendations for immediate implementation, has questions on 13 items, and stated that 2 or 3 may be subject to negotiations. The council is encouraged by the Guild's response – they all seem to be working towards the same goal.

He stated that it is helpful for the Council to hear this panel's support and views on the current recommendations, as they want to move quickly to act on the recommendations in their purview. It is helpful for this panel to pose questions and issues that remain unresolved, and let the Auditor and OPARB begin to deal with those questions. He expects the Auditor and OPARB roles to be expanded considerably.

Councilmember Burgess also stated that recruitment for new OPARB members will be starting soon.

The facilitator noted that there seems to be support for the PARP Report. This panel can do a release endorsing this report – soon. This can include a statement that questions remain regarding the role of OPARB. This may evolve into work this group does with OPARB. An executive work session is needed to define specific areas.



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Leo felt that it was a jumping off point to endorse the existing report, and would like time to think a little more about further action.

Councilmember Burgess invited the facilitator to speak about the panel's direction at the February 22 Public Safety committee meeting. When asked when a new ordinance would be created, Mr. Burgess stated that he would have more clarity by next week. He felt there is a need to recognize the milestone of the Mayor's report, highlighting the consensus of this diverse group, and capitalizing on the agreements among the Mayor, Council and the Guilds. Council wants to move quickly, as Council's three tasks could be finalized by legislation by the end of March. He acknowledged that budget adjustments may need to be made.

Steve clarified that the consensus is that the best use of this panel is to help flesh out the OPARB and Auditor roles.

The group agreed to review Eric's written comments and to meet again in executive session on Monday, February 18, 2008 from 6:30 – 8:30 pm in City Hall, Room 265, Al Rochester room. Those who are unable to attend may attend by conference call by calling 684-9210 and following the instructions.

Meeting was adjourned at 8:32 pm.

Next meeting: Monday, February 18, 2008, 6:30 – 8:30 pm, City Hall, Room 265, Al Rochester room