



City of Seattle

Gregory J. Nickels, Mayor

Seattle Police Department

R. Gil Kerlikowske, Chief of Police

October 1, 2007

The Honorable Terrence A. Carroll, Chair
Police Accountability Review Panel
Post Office Box 94745
Seattle, Washington 98124-4745

Dear Judge Carroll and Panel Members:

Thank you to each of you for your participation on the Police Accountability Review Panel. Your careful consideration of the issues currently facing civilian oversight in Seattle is timely and, from my perspective, of great importance. Based upon my first four months as Director of the Office of Professional Accountability (OPA), I want to convey to you some observations and to make one recommendation for the Panel's consideration, in addition to the many other recommendations previously submitted.

I assumed the Director's position in late spring at a point when a controversy was developing concerning OPA and the Police Department's handling of a specific complaint that had been filed alleging police misconduct. Shortly afterward, I responded to a request from Mayor Nickels to conduct a review of the underlying administrative investigation. Around the same time, the Mayor appointed the Police Accountability Review Panel to consider a broader set of issues impacting civilian oversight. Since my appointment as OPA Director, I have worked diligently to learn the complex processes involved when a complaint is filed with OPA, and about the workings of the office in relation to SPD, along with the other entities involved with civilian oversight, and with the community at large.

I offer the following initial observations, including management priorities I have identified for OPA:

1. Internal investigation model: Seattle's overall internal investigation model works well. Investigations are typically of high quality and concerns about the timeliness of their completion are being actively addressed. As noted in my report to the Mayor dated July 9, 2007, there has never been a firewall between OPA and the Command Staff, including the Chief of Police, and in my opinion, none is necessary. The success of Seattle's hybrid program, in part, is due to the free exchange of information between the OPA Director and Command Staff in a fast paced environment, and creating barriers to this communication flow could undermine the success of the internal investigation model.



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2. Data collection: OPA, since the office was created, has tried different systems for tracking complaints, and now uses a computerized software system. However, problems with the current system are still being worked out and comparing data collected using this system with data collected under other approaches, at times, is difficult. Additionally, OPA Investigation Section and OPA separately track certain information, resulting in some redundancy and confusion with regards to complaint related statistics. Furthermore, there is no easy way for OPA to track the discipline that results from a sustained finding, as discipline matters are ultimately handled by Human Resources. I have begun an analysis to identify systems and policies to address these issues.

3. Policy recommendation protocol: Clearly, a vital function of civilian oversight is recommending policy changes and training opportunities. However, in responding to requests from the Panel on OPA policy recommendations, and in reviewing other recommendations made by the OPA Review Board and Auditor, it became apparent to me that there is no formal protocol for processing such recommendations. Consequently, while we can identify some policies that SPD adopted in response to specific recommendations, apparently others were "implemented," but with no formal record confirming the change or documenting evaluation. Some recommendations are fairly easy for the Department to put into practice, while others involve major changes in policies and practices or raise legal or contractual issues. In any case, developing a protocol for tracking policy changes and training recommendations is imperative, and I am taking steps towards that end.

4. Policies and procedures manual: Section 3.28.820 of the enabling legislation creating OPA required that a procedures manual be developed. SPD adopted Section 1.117 of the Polices and Procedures Manual, effective 12/08/03, to formalize OPA's complaint processes. An updated version has been drafted, incorporating procedural developments since 2003, though further work is necessary before finalizing the document. Working on this project is a high priority for OPA and will require collective bargaining.

In addition, I have one recommendation to make to the Panel. The Chief noted in his presentation to the Panel that, in a limited number of cases, he has reversed the OPA Director's finding or changed the discipline contemplated because the named employee offered mitigating information or new evidence at the *Loudermill* stage. Setting aside questions of whether the employee should

have offered such information when interviewed by OPA-IS and whether the Director should be present at the *Loudermill* meeting, I recommend that:

The Chief should remand a case to the OPA Director when new evidence is offered at the *Loudermill* stage that materially affects the Chief's finding or persuades the Chief to significantly alter the discipline contemplated in the discipline notice to the employee. The Director could then determine whether the new information warrants further investigation, whether another interview of the named employee would be appropriate, and/or whether the discipline planned should be reconsidered. The 180-day deadline, if not already met, should be tolled during this period of reconsideration. Following review by OPA, the Director can reconsider her finding, and convene another discipline meeting as necessary with the Chief and others who would normally attend.

I look forward to the opportunity to discuss this recommendation, along with the other ideas presented to the Panel. Again, thank you for your time and consideration.

Sincerely,

A handwritten signature in cursive script that reads "Kathryn Olson".

Kathryn Olson, Director
Office of Professional Accountability