

## **SUMMARY OF RESPONSES TO RECOMMENDATIONS MADE BY THE 1999 CITIZENS REVIEW PANEL**

On May 7, 1999, Mayor Paul Schell appointed a panel of citizens to evaluate the issue of employee accountability and the process by which reports of police misconduct are investigated by the Seattle Police Department.<sup>1</sup> The central recommendation that resulted from the panel's work was a change in the structure of oversight for internal investigations, and the creation of the Office of Professional Accountability (OPA). The panel also concluded that responsibility for investigating allegations of misconduct, and discipline when appropriate, should rest with the Department and the Chief of Police. "Such responsibility is the key to accountability."<sup>2</sup>

The 1999 Citizens Review Panel stated that it considered and decided against a variety of other models from other jurisdictions, when it recommended the formation of the OPA. It also recognized that a number of other substantive changes had to be made in the four areas of oversight, leadership, policies and procedures, and training in order for the OPA to succeed. The Final Report published by the Panel made 23 recommendations, with numerous sub-categories resulting in closer to 50 specific proposals.

Attached is a summary of the responses that have been made to the recommendations of the 1999 Panel. The great majority of recommendations made with regards to the four broad subject areas - oversight, leadership, policies and procedures, and training – have been implemented. However, the Citizens Review Panel recognized that some of its recommendations affected matters of policy or resources beyond the Department. The then Mayor and Council did not accept nor incorporate into the enabling legislation all of the recommendations. For example, the Panel recommended that the OPA subsume the duties of the Internal Investigations Auditor. However, the position of OPA Auditor remains active in the hybrid system adopted by Seattle. Similarly, the OPA Review Board was established in May 2002, though not contemplated by the 1999 Panel.

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<sup>1</sup> Citizens Review Panel Final Report, August 19, 1999.

<sup>2</sup> Id. at 4.

# SUMMARY OF RESPONSES TO RECOMMENDATIONS MADE BY THE 1999 CITIZENS REVIEW PANEL

## Oversight Recommendation

Citizen Panel Recommendations		
#	Description	Status of Response to Recommendations
1	<p><b>Create the Office of Professional Accountability</b> as follows:</p> <p>a) civilian director appointed for set term; report directly to and meet regularly with the Chief;</p> <p>b) assistant director civilian or sworn, chosen by director;</p> <p>c) subsumes independent auditor;</p> <p>d) directs IIS investigations;</p> <p>e) complaints taken in any form;</p> <p>f) establish special procedures for taking complaints from juveniles;</p> <p>g) Director to approve complaint categorization;</p> <p>h) investigations completed in 60 days with disciplinary recommendation;</p>	<p>A majority of the recommendations are included in SMC 3.28.800 (OPA Ordinance).</p> <p>a) A civilian Director is appointed for a 3 year term, renewable for one second 3 year term. The Director reports directly to and meets regularly with the Chief of Police.</p> <p>b) The Deputy Director is a sworn employee, recommended by the director and selected by the Chief of Police.</p> <p>c) The OPA Auditor position remains active.</p> <p>d) The Deputy Director directs IIS investigations, which are reviewed and certified by the OPA Director.</p> <p>e) Complaints are taken in any form.</p> <p>f) Efforts have been made to reach out to juveniles through community forums and in high schools.</p> <p>g) Complaint categorization is approved by the OPA Director, following an initial classification by OPA-IS commanders.</p> <p>h) Investigations on average are completed in 99 days, with a current goal to reduce that average to 90 days.</p>

# SUMMARY OF RESPONSES TO RECOMMENDATIONS MADE BY THE 1999 CITIZENS REVIEW PANEL

## Oversight Recommendation continued

1	<p>i) written findings based on a preponderance of the evidence</p> <p>j) Chief's discipline decision within 30 days of end of investigation;</p> <p>k) develop a formal range of discipline for misconduct cases;</p> <p>l) Chief may, for good cause and in writing, modify the Director's findings.</p> <p>m) complainants entitled to copy of file at end of investigation;</p> <p>n) mediation option to be retained;</p> <p>o) policies for handling complaints alleging criminal conduct by officers;</p> <p>p) produce procedures manual for IIS staff and public;</p>	<p>i) OPA findings are based on a preponderance of the evidence, in writing, and include a description of the alleged facts, facts revealed by the investigation, and the reasoning as to whether a rule was violated.</p> <p>j) The Chief's goal is to render his discipline decision within 30-days, though a complex case may require more time.</p> <p>k) No formal discipline matrix has been developed, though consistency in discipline measures is considered at the discipline meeting.</p> <p>l) The Chief does, on occasion and for good cause, modify the Director's findings. His reasoning is not reduced to writing.</p> <p>m) At the conclusion of the investigation, complainants are provided a detailed letter explaining the outcome and results. Complainants may submit PDR request for copy of file, which is evaluated and redacted information may be released.</p> <p>n) OPA offers a mediation program.</p> <p>o) Complaints alleging criminal conduct by officers are coordinated with the King County Prosecutor's Office and others.</p> <p>p) IIS policy and procedures are in Section 1.117, Public and Internal Complaint Process; a revised draft is under review.<sup>3</sup></p>
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<sup>3</sup> The Seattle Police Department Policies and Procedures Manual is available to employees and the public on line at <http://www.cityofseattle.net/police/Publications/default.htm>

# SUMMARY OF RESPONSES TO RECOMMENDATIONS MADE BY THE 1999 CITIZENS REVIEW PANEL

## Oversight Recommendation continued

1	<p>q) Director to make regular reports to Mayor and Council on OPA work and policy recommendations;</p> <p>r) integrity testing (if implemented) administered by OPA.</p>	<p>q) The OPA Director makes regular reports to the Mayor and Council on the work of the OPA and policy recommendations.</p> <p>r) Integrity testing as a general practice has not been implemented, though it has been used in targeted cases. In lieu of integrity testing, the Audit, Accreditation and Policy Section conducts regular audits of, for example, computer use, evidence and property, and contraband.</p>
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## Leadership Recommendations

Citizen Panel Recommendations		
#	Description	Status of Response to Recommendations
2	Issue a <b>"bright line" rule</b> against lying, cheating and stealing and spelling out the consequences for violations.	<p>A new Standards and Duty section was added to the SPD Manual in June 2006 (Section 1.003), where these issues are addressed.</p> <p>A "bright line" rule exists against certain conduct, though specific consequences are not spelled out.</p>
3	<b>Chief should take more direct role</b> in training and in the IIS process - including personally reviewing findings in all cases where serious violations are alleged; determining disciplinary actions; and participating with other SLT members in academy training on ethics.	<p>The Chief is actively involved in the OPA and OPA-IS process. The OPA Director is a member of the Command Staff and has daily interactions in that capacity. The Chief also meets bi-weekly with the OPA Director, Associate Director and IS Commander. Items of significance/importance are immediately reviewed as the OPA has open access to the Chief. The Chief continues to review sustained cases and has final approval for all discipline, per ordinance.</p>

# SUMMARY OF RESPONSES TO RECOMMENDATIONS MADE BY THE 1999 CITIZENS REVIEW PANEL

## Leadership Recommendations continued

3		<p>The Chief has approved numerous OPA training and policy recommendations. These recommendations have been reported publicly.</p> <p>The Chief and D/Chief for Operations are provided copies of complaints for review at time they are lodged with OPA.</p> <p>The Chief addresses all Sergeants annually during the Sergeant's Academy, commenting on expectations for ethical conduct and behavior. He highlights ethical standards in periodic Departmental publications such as the Blue Review, with newly hired and promoted personnel, and in contacts with the media.</p>
4	<p>Appoint a <b>Department ethics officer</b> - should be at least rank of Captain, reporting to the Chief and charged with developing and implementing compliance review and monitoring program.</p>	<p>The Chief sees this function as a critical component to the duties of the Chief. He assumes responsibility for setting the ethical tone for the department.</p> <p>The Audit, Accreditation and Policy Section (headed by a Captain) is charged with ensuring compliance and monitoring of organizational policies and standards.</p> <p>The Department is formally accredited by the Commission on Accreditation for Law Enforcement Agencies, and is open and accountable to the professional scrutiny of its peers and the public.</p>
5	<p>Institute <b>additional management training for sergeants</b> concerning supervision in general and their responsibilities for handling complaints of misconduct in particular.</p>	<p>The "Sergeant's Academy" training (40 hrs) is presented annually. The curriculum is developed based on needs and continually includes OPA &amp; OPA-IS specific issues. Sergeants also receive first line supervisory training as they are certified through the state. Rotation of sergeants through OPA-IS provides further supervisory training.</p>

# SUMMARY OF RESPONSES TO RECOMMENDATIONS MADE BY THE 1999 CITIZENS REVIEW PANEL

## Leadership Recommendations continued

6	Review whether <b>position or budget cuts have impaired the ability of SPD to properly supervise</b> and manage officers - fund new positions to reduce the potential for corruption and for efficient management.	<p>The OPA, OPA Auditor, and OPA Review Board hybrid system provides civilian oversight and reduces the potential for corruption.</p> <p>Budget changes since 2000 have not reduced the number of supervisors. The ratio of sergeants to officers remains well within best practices.</p>
7	Institute a comprehensive " <b>early warning system</b> " to supplement the existing administrative review process - sergeants must have time to work proactively with officers.	The EIS system has been designed, developed and implemented to identify and support Department employees who demonstrate symptoms of job stress, training deficiencies and/or personal problems that may affect job performance. The pilot program was initiated in January 2006. EIS includes a software system to manage and monitor multiple issues identified by supporting policy (Section 1.087). EIS incorporates the administrative review process in that supervisors can refer officers for early intervention.
8	<b>Hold supervisors responsible for misconduct complaints within their squads</b> - set threshold number of complaints to trigger automatically the administrative review of supervisors.	EIS will potentially allow for this sort of monitoring, once thresholds implicating EIS are established. This system is outside OPA, though there is coordination between units.
9	<b>Transfer officers and rotate supervisors</b> more frequently.	<p>Command Staff regularly reviews supervisor assignments and initiates changes as appropriate. Officers and supervisors currently rotate quite frequently throughout the department.</p> <p>A formal tenure policy for supervisors would be a mandatory subject of bargaining with SPOG.</p>

## SUMMARY OF RESPONSES TO RECOMMENDATIONS MADE BY THE 1999 CITIZENS REVIEW PANEL

### Leadership Recommendations continued

10	Clarify to SPD employees that citizen <b>complaints are to be accepted whenever and wherever</b> made.	Numerous internal and external forums have conveyed this information, and it is included in all brochures and the web site. Brochures are on display at all Precincts and Precinct Commanders have been instructed on complaint processing at the precinct level.
11	With the City Attorney, conduct an <b>annual review of situations where officers fail to appear (FTA) in court</b> ; impose discipline in FTA situations.	FTA's are monitored through two systems, including EIS. SPD Directive D-04-03 (January 2004) establishes procedures and possible sanctions for FTA's. FTA has not been a significant problem for the Department.
12	Resume <b>employee performance evaluations</b> .	Annual performance evaluations for both sworn and non-sworn personnel were reinstated in 2003.

### Training Recommendations

Citizen Panel Recommendations		
#	Description	Status of Response to Recommendations
13	<b>Add training hours to the basic academy</b> on issues of ethics and handling of misconduct complaints - should not supplant existing training.	See item 15
14	Review and <b>revise curriculum in basic academy on ethics and IIS policies</b> - two subjects should be combined and Dept expectations in each area stressed.	See item 15

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## Training Recommendations continued

15	<p>Include <b>materials on ethics and internal investigations in notebooks</b> for new recruits at beginning of basic academy.</p>	<p>The Basic Law Enforcement Academy (BLEA) is conducted on the state level and includes curriculum on ethics. Following BLEA, the Department conducts further training, in which employees receive orientation to the SPD, complaint avoidance training, and an overview of the OPA investigation process, all prior to being released for fieldwork. These briefings include handing out numerous brochures including an explanation of the disciplinary process. The Chief also meets with every SPD graduate of BLEA and their families and provides and discusses the department's mission statement and Biased Policing Policy.</p>
16	<p><b>Include guidelines and procedures</b> regarding complaints against employees <b>in the SPD manual</b> and require annual, written affirmation of compliance with the manual by employees.</p>	<p>The SPD Manual includes section 1.117, Public and Internal Complaint Process. This manual section is currently under revision to reflect changes and current practices.</p> <p>The SPD Manual requires that each officer be knowledgeable of policies and procedures within the Manual.</p>
17	<p><b>Make all OPA investigators detective level</b>, enhance their training, and provide <b>specialty pay</b> for assignment to IIS.</p>	<p>All OPA-IS investigators are now Detective Sergeants, receiving pay commensurate with the position. IS Investigators are among the few SPD employees entitled to work a ten hour/day – 4/day/week schedule. Following the OPA-IS assignment, attempts are made to transfer these employees to an assignment of their choice.</p>
18	<p><b>Fund computer equipment and clerical staff</b> to fully automate OPA.</p>	<p>Since the inception of OPA, almost 100% of the computers and support equipment has been replaced. New computers, transcribing equipment, recording and photo capabilities and software have all enhanced operations. Administrative support in OPA and OPA-IS has been upgraded since 2001 ( job reclassifications to higher grade).</p>

# SUMMARY OF RESPONSES TO RECOMMENDATIONS MADE BY THE 1999 CITIZENS REVIEW PANEL

## Rules/Procedures Recommendations

Citizen Panel Recommendations		
#	Description	Status of Response to Recommendations
19	<p><b>Change union agreements and Dept policies</b> to reflect the following:</p> <p>a) personal, face to face interviews of the subject employees;</p> <p>b) interview questions need not be submitted to employee in advance;</p> <p>c) interview may cover any rule or law violation whether subject of the investigation or not;</p> <p>d) administrative reviews to be conducted as deemed warranted rather than triggered by number of complaints received;</p> <p>e) IIS files will be made public after investigation completed and redacted;</p> <p>f) IIS files will be permanently retained;</p>	<p>Many of these recommendations have been included in contract negotiations and, as needed changes are identified, those are also proposed. OPA is included in issue identification and prioritization when contract topics are identified and selected.</p> <p>a) Personal, face to face interviews are done of subject employees.</p> <p>b) Interview questions are not submitted to the named employee in advance.</p> <p>c) Interviews target the object of the complaint. If other issues are identified, new allegations may be added to the complaint and pursued with a follow up interview.</p> <p>d) Administrative Reviews have been replaced with the Early Intervention System; specific criteria trigger EIS, including a supervisor's recommendation.</p> <p>e) IS files are not made public. Sustained files are subject to public disclosure.</p> <p>f) IS files are destroyed consistent with retention schedules (current plus 3 years). Where litigation is underway or contemplated, specific IS files are retained for a longer period. Discipline cards listing complaints against individual employees are kept indefinitely, along with personnel documentation related to sustained findings and discipline.</p>

# SUMMARY OF RESPONSES TO RECOMMENDATIONS MADE BY THE 1999 CITIZENS REVIEW PANEL

## Rules/Procedures Recommendations continued

19	<p>g) voluntary statements by employees made in complaint hearings may be used in subsequent criminal prosecutions;</p> <p>h) false statements by any employee in course of investigation are subject to discipline;</p> <p>i) disciplinary hearings will be deferred pending criminal investigations and prosecutions;</p> <p>j) suspended employees may not substitute holiday, vacation or comp time for suspension;</p> <p>k) Citizen appointed to Complaint Advisory Boards will be the same person and not subject to peremptory challenge; either the SPD or the employee may record Complaint Advisory Board hearings.</p>	<p>g) Voluntary statements may be used to support future criminal prosecution, or for other purposes.</p> <p>h) False statements by an employee in the course of an investigation are subject to discipline.</p> <p>i) The administrative investigation generally is not active until the conclusion of the criminal investigation, though may be handled simultaneously. Discipline would not be administered until a sustained finding was reached and both the criminal and administrative cases were closed.</p> <p>j) Substitution of paid time off for day(s) of suspension as discipline is allowed on a case-by-case basis. Forfeiture of accrued time off is a significant penalty.</p> <p>k) Complaint Advisory Boards no longer exist. The two avenues of appeal for an employee are the Disciplinary Review Board and the Public Safety Civil Service Commission.</p>
20	<p>Clearly state <b>obligation of employees to report misconduct</b> and the sanctions for failure to do so.</p>	<p>Duty to report is now included in multiple places in the SPD Policies and Procedures Manual (1.003, 1.117, and in draft revision of 1.117).</p>

# SUMMARY OF RESPONSES TO RECOMMENDATIONS MADE BY THE 1999 CITIZENS REVIEW PANEL

## Rules/Procedures Recommendations continued

21	<p><b>Highlight rule prohibiting retaliation</b> against any employee or citizen who files a misconduct complaint.</p>	<p>Section 1.117 of the SPD Manual provides that no employee shall interfere with, hinder, or obstruct a person from making a citizen or internal complaint. Also, specific written warnings against retaliation are given where applicable. Retaliation against employees alleging improper governmental action is further prohibited under SMC 4.20.800 et seq.</p>
22	<p><b>Remove Equal Employment Opportunity Office from IIS and place them in Human Resources</b> division - establish policy barring OPA investigation of employee with an EEO claim against SPD.</p>	<p>The EEO function is now a direct report to the HR Director and is in a separate location from OPA-IS.</p>
23	<p><b>Secure new and separate locations for OPA and EEO</b> that are accessible to the public and employees.</p>	<p>OPA-IS has moved twice since the formation of OPA. (It is also in the planning stages of yet another relocation projected for June 2008) OPA is currently housed in SPD headquarters with immediate access from the street. EEO does not have unescorted public access. SPD will take all complaints from any source. This would include going outside of Department facilities if necessary.</p>