



Seattle City Council Police Accountability Panel (SCCPAP)
Minutes of Thursday, March 27, 2008 Meeting
6:00 pm – 8:30 pm
Executive Working Session

Present: Panelists Steve Herbert, Veronica Alicea-Galvan, Eric Schnapper (on phone), Leon Hamaji, Lynne Wilson

Michael Pendleton, facilitator; Nancy Roberts, staff

This meeting was considered an executive work session and was not taped or filmed.

The meeting was convened at 6:05 pm.

What does the panel want to do in view of the Chief's refusal to meet with them? It appears that the Chief felt that this panel is Licata's; that there is a conflict of interest (he says that Licata is lobbying for increased funding for the PDA, Leo's organization). He feels the panel is adversarial and that both Kathryn Olson and Neil Low had bad experiences speaking to them.

Why do we want the Chief to weigh in? It's a courtesy, but it's clear he won't change his mind on this issue, even if we provided an intermediary.

We could send a letter to the Chief, along with the panel's recommendations, and invite him to respond in whatever way he chooses. Or we can send a letter to the Guild, Chief, and other stakeholders, advising them of the panel's recommendations, inviting them to meet with the panel or respond as they see appropriate. The panel agreed to exercise the latter option.

The group decided to go over Eric's draft recommendations, one by one, to decide which they agreed upon and which will require further work. Depending on the outcome, the group may be able to achieve full consensus; if not, a minority report may be written. The group decided that they wanted to address union barriers before making their recommendations.

OPA-RELATED

1. OPA should be expressly authorized to investigate possible misconduct that is not the subject of a formal complaint.

Agreed; clarify "misconduct".

2. An individual who has filed a complaint with OPA should be afforded a meaningful opportunity to respond to the information gathered by, and tentative conclusions, of the OPA, and to proffer additional relevant evidence, leads, or corrections.

Agreed, but this may require bargaining. One opinion: The CBA prohibits disclosure of documents, not information. Perhaps a summary or querying letter, offered earlier in the process. Eric feels that OPA already "circles back". Lynne will provide Eric with the dog bit case citation to which she referred. Limitations should be imposed so that the process doesn't go on forever and become too cumbersome. Recommendation: One circle back, time limit imposed for complainant to respond. OPA would have discretion about what to do with any new information provided.

3. Training appropriate to the types of investigations conducted by OPA should be provided to police officers assigned to work in that office. At least some of the officers assigned to work at OPA should be detectives.



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Agreed – some should be detectives.

4. OPA should be authorized to extend, for good cause, the 180-day limit to investigate and resolve a complaint.

Agreed. Eric to write up “criminal charge situation” scenarios for further recommendation.

5. There should be written standards delineating the types of serious misconduct issues that can and cannot be referred to mediation; complainants who opt for mediation should be permitted to renew their complaint if mediation does not lead to a satisfactory resolution.

Full agreement on the first sentence; written standards need to be developed about what types of cases are eligible for mediation (perhaps NACOLE would have some information?), which can't, e.g., officer has been noncompliant in the process.

6. The files and reports of OPA, to the extent that they would have to be released in response to a request under the Public Disclosure Act, should promptly be made public without awaiting such a request in any case of significant public interest or concern, regardless of whether the complaint was sustained. Names of individuals should be redacted to the degree necessary to provide such confidentiality as is needed to assure the cooperation of witnesses, including complainants. Where such redaction occurs, the deleted material should be replaced with some identifier (e.g., “witness #1”) so that the materials remain intelligible.

Hold for further discussion. Define “significant public interest”. Only sustained complaints should be available?

7. OPA should not consult with officials outside that office regarding its recommended findings of fact. OPA should not consult with the Chief, or with officials above the rank of Captain, regarding recommended forms of discipline.

Hold for further discussion. There should be a firewall. ‘OPA should make independent findings of fact before involving those outside OPA’. Wait for Kathryn and Sam’s responses about the process (clarification between Kathryn’s flow chart and Neil Low’s description). Eric to split this issue in half – deal with facts/deal with discipline.

OPARB-RELATED

8. The matters which THE Board can review or address should be clarified to expressly include (1) any matter considered by OPA that has been closed, including review of the handling of one or more specific cases, (2) evaluation of the Department's general policy or practice with regard to an issue that has arisen in an OPA case, (3) consideration of any matter of significant public concern which would be within the purview of OPA if raised in a complaint, and (4) the manner in which actions by officials outside the Police Department affects the accountability of police officials.

Hold – Agreement re (1); Table other issues – what is the role of the Board? What can they bring to complement OPA and Auditor roles?

9. Police Department documents requested by the Board should in general be provided within 30 days. If the Police Chief concludes that the volume of requested material cannot be provided within that period, the Chief must provide the Board with a written statement explaining the need for additional time. If the Police Chief believes that material requested by the Board should not be



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disclosed, the Chief should provide the Mayor with a written statement explaining the basis for that belief; the requested materials shall be provided to the Board 30 days after that statement unless the Mayor otherwise directs.

Hold

10. The Board should be expanded to five members, and should be renamed the Police Review Board.

Hold.

11. The Board should be provided with significant staff support and with funds to help defray the cost incurred by the Police Department in copying documents and in redacting documents in a manner which permits meaningful review.

Agree

12. Board members should not be required to execute a "hold harmless" agreement as a condition of service on the Board.

Agree

13. The responsibility of the City to defend and indemnify Board members for actions in the scope of their official duties should be definitively resolved.

Agree

14. No outside group should be permitted to veto the selection of members of the Board

Delete this recommendation for now, unless facts supporting the existence of this issue are brought forth.

CIVIL CLAIMS REGARDING ALLEGED POLICE MISCONDUCT

15. The City should direct its attorneys to discontinue the practice of conditioning discovery on a stipulated blanket protective order barring disclosure to the public. If those attorneys believe that under existing law some aspect of discovery should not be made public, it should file an appropriate motion for such a specific protective order, with due notice to the public and the media.

Is this beyond the scope of this panel? Instead of recommendations, this could be included as a concern or comment about transparency. Eric will recast as a concern.

16. The City should direct its attorneys, in any case in which the complaint alleges, or subsequent proceedings suggest, that police misconduct has occurred, to report that matter to the OPA.

Move to the OPA section and reframe the wording.

17. The City should direct its attorneys, in the conduct of litigation of such claims, to give due consideration to all of the City's interests at stake, not only its interest in minimizing or avoiding monetary liability, but also the City's interest in compliance with the law by City officials, in avoiding substantial injustice to citizens injured by the police, and in compliance with the letter and spirit of the Public Disclosure Act.



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Recast this as a comment or concern.

18. To the extent that the City contracts out the defense of such cases, it shall make public at least quarterly the amount of money spent on each such case.

Recast this as a comment or concern.

ARRESTS AND CRIMINAL CHARGES RELATED TO POSSIBLE POLICE MISCONDUCT

19. The City should adopt an ordinance forbidding prosecutors in the office of the City Attorney from filing or pursuing criminal charges against any individual for the purpose of influencing or obstructing a pending or possible OPA proceeding or pending or possible civil claim.

Recast this as a comment or concern.

20. The Police Department should maintain, and make public, records regarding cases in prosecutors declined to file charges with regard to an arrest by Seattle police officers.

Hold

OTHER TRANSPARENCY ISSUES

21. The City should repeal SMC §§ 3.28.830 and 3.28.870, which impose on the OPA Director and OPA Auditor a duty to treat all materials to which they have access as if they were attorney-client privileged material.

Lynne to abbreviate her memo and Eric will incorporate it here.

22. The City should adopt an ordinance barring the imposition on any City official of an obligation to keep confidential information which, if it were contained in a document, the City would be required by the Public Disclosure Act to make public.

Limit this to OPA/OPARB & Auditor, move to OPA section. Is an ordinance needed or can an existing ordinance be amended?

23. The City should not refuse to provide a document that has been requested under the Public Disclosure Act unless the City concludes that that document is protected from disclosure by a specific statutory exemption.

Delete this one.

Meeting was adjourned at 8:30 pm.

Next meeting: **Thursday, April 3, 6:00 – 9:00 pm, City Council Chambers.** Note the change in day and time and meeting place.