



City of Seattle

Seattle Police Department

February 12, 2014

Judge Anne Levinson (Ret.)
OPA Auditor
Seattle, Washington

Dear Judge Levinson:

Thank you for your most recent semi-annual report, covering July through December of 2013. I appreciate your thorough and thoughtful efforts in fulfilling your obligations under Seattle Municipal Code Section 3.28.855.B to make recommendations—after reviewing OPA investigations—on “Department and City policies and practices related to police accountability and police professional conduct.”

After reading the report, it strikes me that many of your recommendations are directed not at the Seattle Police Department itself, but rather toward other agencies or processes which are outside our control, yet influence the Department. As you will see, as I discuss each one of your recommendations, if the responsibility for achieving your recommendation lies outside the Department, I make note of that fact.

At your suggestion, I have adopted a simpler format in reviewing each of your recommendations. Following the recommendation, I list the SPD’s position (e.g., agree, disagree, none), the lead (e.g., Chief of Police, Mayor, Law Department, etc.), and my notes on the issue.

Recommendation 1:

The City and the Department should discontinue discussions about re-initiating a separate training academy and work collaboratively with the Washington State Criminal Justice Commission (WSCJTC) on a top-notch training curriculum that builds on the work already underway by the WSCJTC to move from a command -and-control-in-policing philosophy to a community caretaking and Constitutional policing philosophy, with clear learning objectives and measures.

SPD Position: None; Hold for new Chief

Lead: Mayor’s Office

Notes: Mayor Murray has indicated that he would like to consider a training academy for SPD specifically related to the needs of modern urban police departments that could be separate from the state academy run by the WSCJTC. I defer to his leadership on this topic and suggest that the person selected to be the permanent Chief of Police be allowed to weigh in before any further decisions are made.

Recommendation 2:

The Department's hiring standards, as well as entry and promotional exams, should integrate knowledge and input from the OPA Director and Auditor (in addition to the staff in charge of initial Field Training, human resources staff and others) in order to refine approaches based on performance problems and trends highlighted from complaints, investigations and other reviews.

SPD Position: Agree

Lead: Assistant Chief Nick Metz, Field Support Bureau, and Captain Nolan, Human Resources Director

Notes: SPD is working with the consultant who performs the psychological testing for entry-level candidates on a longitudinal study to compare the long-term performance of employees with their initial rankings as prospective employees. With this information, we aim to fine tune our hiring standards and process. In addition, Chief Metz will convene an annual meeting of key players (to include Audit, Policy & Research, Education & Training, Human Resources, and the Office of Professional Accountability from SPD, City Personnel, and the Public Safety Civil Service Commission) to discuss any problematic patterns in the hiring and training processes.

Recommendation 3:

The City should adopt preference points in hiring for candidates who are multi-lingual or have work experience reflective of the types of skills needed in policing today, such as social workers, mental health or domestic violence counselors, Peace Corps, AmeriCorps or other verified equivalent work experience or community service.

SPD Position: Consider

Lead: Mayor's Office, SPD

Notes: The Mayor's office is considering changes to a variety of aspects related to the recruiting, training and promotional standards within SPD and related to Public Safety Civil Service. Potential legislative changes will be need to be considered.

Recommendation 4:

The Department should share with new employees that they will do well if they strive to learn, behave in an ethical and principled way, value excellence in their work, care about the community in which they serve, and treat individuals with respect, dignity and empathy.

SPD Position: Agree

Lead: Chief of Police

Notes: I have made a point of meeting with newly promoted employees and visiting new recruits at the academy to stress these exact points: that I expect them to exemplify community policing and embrace the changes in the Department which are being implemented because of the Settlement Agreement and represent best practices in policing.

Recommendation 5:

Decisions about promotions, transfers, special assignments, over-time opportunities and the like should reflect a culture where performance and accountability are rewarded and actions inconsistent with a culture of excellence and accountability are not.

SPD Position: Agree

Lead: Chief of Police

Notes: Effective immediately, in the email notices I send to all employees to announce promotions, I will include relevant biographical detail which demonstrate the person's commitment to policing excellence. Additionally, see answer to #3 above.

Recommendation 6:

The City's Collective Bargaining Agreement with the Police Guild should be modified to allow for more supervisory review of In-Car Videos (ICV) as a tool to help improve performance on a day-to-day basis.

SPD Position: None

Lead: Labor Negotiator, Mike Fields

Harry Bailey
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Notes: As you note, this change will require bargaining with the Seattle Police Officers' Guild (SPOG) and the Seattle Police Management Association (SPMA), so I will refer this issue to our Labor Negotiator, Mike Fields, for review.

Recommendation 7:

The professionalism section of the Department's standards and duties policy should be revised to more clearly articulate expectations consistent with enhanced community trust and legitimacy, treating people with dignity and respect, and community care-taking.

SPD Position: Agree

Lead: Assistant Chief Tag Gleason, Compliance and Professional Standards Bureau

Notes: We are in the process of reviewing the sections of the Manual you reference (5.001-Standards and Duties and 5.002-Public and Internal Complaint Process) and will work with OPA Director Pierce Murphy and his staff in amending it as appropriate.

Recommendation 8:

OPA's role should encompass administrative or internal investigations throughout the Department, and not be artificially limited to conduct about which a complaint has been filed...

SPD Position: Agree

Lead: Pierce Murphy, OPA Director

Notes: I understand that your primary concern here is that OPA typically investigates only when it receives a complaint, and that it has not historically been proactive in initiating investigations. However, since the implementation of the new use-of-force policy on January 1, 2014, a representative of OPA comes to the scene of each Type III (serious) use-of-force investigation, as well as officer-involved shootings. That representative can proactively begin an OPA investigation if there is an indication of potential misconduct by one or more of the involved officers. In addition, it has been the practice of OPA for some time to send a representative to the weekly meetings of the Use of Force Review Board (UOFRB), which reviews all Type II and III uses of force. Again, that representative may initiate an OPA investigation based upon information reviewed by the UOFRB.

Recommendation 9:

The City's Collective Bargaining Agreements with Departmental employees should be modified to allow for a "rapid adjudication" process for certain types of alleged misconduct where the named employee wishes to immediately acknowledge the policy violation and appropriate discipline can then be imposed without having an investigation.

SPD Position: None

Lead: Labor Negotiator, Mike Fields

Notes: This change will require bargaining with SPOG and SPMA, so I will refer this issue to our Labor Negotiator, Mike Fields, for review.

Recommendation 10:

The City's Collective Bargaining Agreements with Departmental employees should be modified to allow OPA to have a more informal problem-solving process for certain types of complaints that can be more effectively resolved with a more immediate and flexible approach.

SPD Position: None

Lead: Labor Negotiator, Mike Fields

Notes: This, too, will require bargaining with SPOG and SPMA, so I will refer this issue to our Labor Negotiator, Mike Fields, for review.

Recommendation 11:

The City's Collective Bargaining Agreement with the Police Guild and Management Association should be modified to allow OPA to have civilian investigators and intake personnel to enhance the work of sworn personnel.

SPD Position: None

Lead: Labor Negotiator, Mike Fields

Notes: This will also require bargaining with SPOG and SPMA, so I will refer this issue to our Labor Negotiator, Mike Fields, for review.

Recommendation 12:

The Department's planned precinct liaison program should be done with a single civilian in OPA rather than a Lieutenant at each precinct.

SPD Position: Disagree

Notes: This recommendation does not comply with paragraph 168 of the Settlement Agreement with the Department of Justice: "OPA liaison officers should be identified at each precinct to facilitate matters handled at the precinct level, including those classified for Supervisor Action, to ensure quality and timeliness." *Id.*, at p. 48.

Recommendation 13:

The City should move forward with providing OPA administrative subpoena power to compel the production of evidence not within the City or Department's control and non-employee interviews.

SPD Position: Agree

Lead: Mayor's Office Law Department

Notes: This recommendation requires new legislation, similar to that recently adopted by the City Council to give subpoena power to the Ethics and Elections Commission (Ordinance Number 124362, adding Seattle Municipal Code Section 4.20.875).

Recommendation 14:

The Department should retain holding cell video for longer than 60 days, as is current practice.

SPD Position: Agree

Lead: Assistant Chief Nick Metz, Field Support Bureau

Notes: The Department is investigating the amount of additional storage space (if any) might be required if the retention period for Holding Cell Video (HCV) is expanded beyond 60 days. We agree with the principle of extending the retention period, but we do not want to implement it until we are sure that we have sufficient disk space to hold more than 60 days of video for all five of our precincts.

Recommendation 15:

The City should move forward with the option of body cameras, by developing (with appropriate input) policies for their use and securing whatever statutory authority the City believes is needed.

SPD Position: Agree

Lead: Assistant Chief Joe Kessler, Patrol Operations Bureau

Notes: We drafted a policy to govern the use of Body Worn Video (BWV) cameras, we have an agreement in place with SPOG for a pilot project of BWV, and we have the devices for the project. We do not currently have an IT project manager focused on this effort. We have submitted a supplemental budget request to the City Council for a project manager position, so we can adequately support this important new project.

Recommendation 16:

The Department should discontinue the practice of authorizing "Extended Authority Commissions" that permits retired officers to act in a law enforcement capacity.

SPD Position: Agree

Lead: Chief of Police

Notes: I have ordered that retired officers who have been issued extended authority commissions may only perform traffic-control functions and may not engage in security work.

Recommendation 17:

The Department should discontinue the practice of having secondary employment work managed outside of the Department, often by current employees acting through their private businesses created for this purpose. There should be an internal civilian-led and civilian-staffed office, with clear and unambiguous rules and procedures, using current technology.

SPD Position: None

Lead: Labor Negotiator, Mike Fields

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Notes: This requires bargaining with SPOG and SPMA, so I will refer this issue to our Labor Negotiator, Mike Fields, for review.

Recommendation 18:

Once an investigation is completed, the Chief should have a limited timeframe for notifying the employee of the recommended finding and suggested discipline and the employee unions should have a limited timeframe to then request a Loudermill hearing.

SPD Position: Agree

Lead: Chief of Police

Notes: It is my position that it is unfair to an employee who is the subject of an OPA investigation to be forced to wait for an unduly long period of time to learn about any recommended discipline and the scheduling of the Loudermill hearing. I am committed to speeding this process as much as possible – scheduling the Loudermill hearing in a timely fashion and making my decision about discipline as soon as possible thereafter. I am currently evaluating what the appropriate timeframe should be.

Recommendation 19:

The City should work with the State Legislature, other jurisdictions and the Washington State Criminal Justice Commission (WSCJTC) to broaden the grounds for revocation of officer certification so that officers who violate the law or engage in serious misconduct are not able to be employed in a sworn capacity anywhere else. The City should also require the Chief to formally request de-certification whenever an officer is terminated from employment after a Sustained finding.

SPD Position: None

Lead: WASPC; State Legislature

Notes: As this would require a change to state law, I will refer this recommendation to the Washington Association of Sheriffs and Police Chiefs (WASPC) for their review and advocacy with the Legislature, if warranted.

Recommendation 20:

The City should review and amend the authorizing ordinance for the Public Safety Civil Service Commission (PSCSC), Seattle Municipal Code Section 4.08.010, et. seq., which allows for one of the three commissioners to be an employee of the Police or Fire Department.

SPD Position: None

Lead: Law Department; City Council; Public Safety Civil Service Commission

Notes: As you note, any changes to the PSCSC require legislative action.

Recommendation 21:

The City should assess past disciplinary decisions made by arbitrators to determine whether the standards used to override SPD's termination and disciplinary decisions for officers who have committed misconduct comport with a robust accountability system.

SPD Position: None

Lead: Law Department

Notes: I believe this is the purview of the Employment Law Section of the Law Department.

Recommendation 22:

The City should move forward with a protocol to ensure Departmental responsiveness and follow-through, when appropriate, for recommendations made by the OPA Director and Auditor and others involved in oversight of the accountability system.

SPD Position: Agree

Lead: Chief of Police

Notes: I am committed to a timely review of recommendations made by both the OPA Director and Auditor in regards to the functioning of the Department's system of accountability.

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Recommendation 23:

SPD should implement improvements for handling personal property taken during arrest that does not have evidentiary value.

SPD Position: Agree

Lead: Assistant Chief Tag Gleason, Compliance and Professional Standards Bureau

Notes: As you describe in your report, you previously brought this recommendation to our attention, and the Audit, Policy & Research Section (APRS)—part of the Compliance and Professional Standards Bureau—took the lead in forming a work group to study the issue. The group assembled a list of recommendations, to include (1) creation a detainee inventory form, and (2) a sealable bag for detainee property. This project is well on its way toward implementation, which I anticipate will occur during the first quarter of 2014.

Recommendation 24:

SPD policy with regard to secondary employment should more clearly articulate that an employee cannot work a secondary assignment while on duty.

SPD Position: Agree

Lead: Assistant Chief Nick Metz, Field Support Bureau and Captain Mike Nolan, Human Resources Director

Notes: While we agree with this recommendation, it is my position that this should be folded into the thorough examination of secondary employment I suggested in the notes for Recommendation 17.

Recommendation 25:

The policies regarding Reporting Arrests and Detentions and Responding to Threats and Assaults on Officers need to state that that if an officer is a victim (e.g. of an assault), s/he should not write the General Offense Report.

SPD Position: Agree

Lead: Assistant Chief Tag Gleason, Compliance and Professional Standards Bureau

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Notes: We have amended the two policies you referenced (6.010-Reporting Arrests and Detentions and 15.330-Responding to Threats & Assaults on Officers) per your recommendation.

Recommendation 26:

SPD should assess whether policy needs to clearly articulate either that an employee shall not drive a Department vehicle after consuming alcohol or shall not drive after consuming alcohol if impaired.

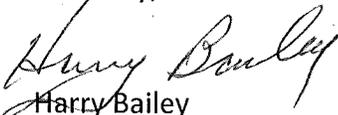
SPD Position: Requires further study

Lead: Assistant Chief Tag Gleason, Compliance and Professional Standards Bureau

Notes: While I agree that SPD employees should not drive Department vehicles while impaired, the issue is a bit more nuanced and requires further study. We have a number of employees—specifically captains and chiefs—who have take-home cars. I want to ensure that these employees may continue to use their cars to get home if, for example, they attend a community function where alcohol is served and have a glass of wine with a meal, but are not otherwise “impaired.” We will continue to study the issue to determine what makes the most sense for our policy.

Thank you again for your work as the OPA Auditor and your thoughtful recommendations. I appreciate that you truly are interested in making the Seattle Police Department as good as it can be.

Sincerely,


Harry Bailey
Interim Chief of Police

cc:

Mayor Ed Murray

Senior Policy Advisor Tina Podlowski

Councilmember Bruce Harrell, Public Safety, Civil Rights, and Technology Committee Chair

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Washington Association of Sheriffs and Police Chiefs
Pete Holmes, Seattle City Attorney
Jennifer Greenlee, Executive Director, Seattle Public Safety Civil Service Commission
Mike Fields, Labor Relations, Seattle Personnel Department