

Clerk File No.

309897

The City of Seattle – Legislative Department

Clerk File sponsored by: Burgess

March 2009 Office of Professional Accountability
Auditor's Report on the Seattle Police Department's
Relationship With Diverse Communities.

Committee Action:

Date	Recommendation	Vote
4/21/09	MSP to accept CF	3-0-0 TB, NL, BH

Related Legislation File: _____

Date Introduced and Referred: <u>3-23-09</u>	To: (committee): Public Safety, Human Services & Education (PSHSE)
Date Re-referred:	To: (committee):
Date Re-referred:	To: (committee):
Date of Final Action: <u>4/27/09</u>	Disposition: <u>Filed</u>

This file is complete and ready for presentation to Full Council. _____

Full Council Action:

Date	Decision	Vote
4/27/09	Filed	8-0 (SC excluded)

Date Filed with City Clerk

3-16-09

By Teresa Dumbor

**OPA Auditor's Report on the
Seattle Police Department's Relationship
With Diverse Communities
March 2009**

Introduction

Seattle Mayor Nickels adopted 29 recommendations of the Police Accountability Review Panel, which were also endorsed by the City Council Police Accountability Panel. One of these recommendations was for the Office of Professional Accountability [OPA] Auditor to review the "relationship between the Department and diverse communities, particularly communities of color." The scope outlined by the Panel is very broad, including such issues as "allocation of resources among precincts or squads, deployment and use of lethal and non-lethal weapons, policing approaches and enforcement policies." Some of these are clearly beyond the present job boundaries of the OPA Auditor.

The OPA Review Board, the third avenue of civilian oversight of Seattle Police, is tasked by these same recommendations to be the primary link with the community. The seven newly selected volunteer members are now, in the Spring of 2009, beginning to take an active outreach role, hosting community groups and individuals at their meetings. The present Auditor's term expires this Spring. Because of this timing, this Report is intended to be the first step in a process, focusing on the Department's outreach efforts over the last several years, participation in the Mayor's Race and Social Justice Initiative, and community policing. The Review Board will then continue to work with OPA and the new Auditor to assess these efforts and suggest other avenues for maintaining or building the Department's relationship with diverse communities.

Summary of Information and Findings

This Report is divided into several sections: 1/ Information Gathered by the Police Department; 2/ Training; 3/ Initiatives by the Department; 4/ Hate Crimes Arrests and Prosecution; 5/ Racial Profiling; 6/ Conclusion. The Department has devoted significant resources and innovation to improve its relationship with the larger community and to address public concerns about biased policing.



Information Gathered: Notable in policing surveys is this somewhat anomalous response: 84% of Seattle residents believe the police deal with people in their neighborhoods fairly; yet 43% of the general population and 56% of African Americans interviewed believe that racial profiling is a problem. Also notable was the fact that a third of pedestrians (as opposed to drivers) contacted by police felt they were not treated professionally. It will be interesting to see what the results are in 2009, when the survey is repeated for the fourth time.

An encouraging response on the accountability side: only 5% of those interviewed said that a concern about the complaint process or fear of the police would deter them from filing a complaint for police misconduct.

Training: Seattle Police undergo significant training beyond the statewide Academy, including social service segments such as service in the Downtown Emergency Service Center. Fourteen weeks of individual supervision on the beat follows.

Initiatives by the Police: Over the last five years, the Department has initiated a number of institutional changes designed to improve trust in police and service to the community. These were in response to Mayoral initiatives and the leadership of Chief Kerlikowske. In this Auditor's discussion with members of the public, many of these are not well known. Neighborhood groups such as the Downtown Emergency Service Center and Seattle Neighborhood Group generally give the Department high marks for continuing progress in forging relationships.

Hate Crimes Audit

The Seattle Auditor's 2008 Report made specific suggestions for improvements in the Department's handling of hate crimes, including reporting on bias crimes and incidents to local communities and more training of officers. Deputy Prosecuting Attorney Michael Hogan has reported to community groups and ethnic councils organized by Seattle police.

Racial Profiling

There continues to be a significant public concern over racial profiling or biased policing, in Seattle and nationally. An informal survey at the National Association for Civilian Oversight of Law Enforcement conference indicated

that individual complaints are not likely to be sustained unless officers use overt racial slurs or insults. Usually officers articulate non-biased reasons for stops or searches.

OPA data in Seattle indicate a decreasing number of complaints of biased policing over the past three years. In 2008 there were only four such complaints, and only one merited a full investigation by OPA-IS sergeants. Most of these complaints record an arrestee's conclusion that he was singled out for his/her race, but there is no way to corroborate that impression when there was adequate, independent legal cause for the officers' actions.

The best advice about biased policing from national experts ranges from keeping officer by officer "stop and search data" to focusing on structural initiatives as well as increased training. Seattle's experiment with individual written warnings and data collection did not disclose significant racial imbalance in warnings or tickets. Seattle has invested in recruitment, outreach, mediation, and training.

Conclusion: It is important to reiterate that this Report should be seen as a first step in measuring the relationship of the Department with Diverse Communities, and to express the expectation that more community feedback will be forthcoming through the Review Board's outreach.

Information Gathered by SPD

Neighborhood Policing Surveys

In 2003 Mayor Nickels introduced a Department-wide strategy to improve public confidence and trust in police and to enhance community relations. The initiatives included the installation of cameras in patrol cars, holding of community forums, and documenting stops, searches, and racial complaints. A Neighborhood Policing Survey is a key component of this overall strategy. The Vera Institute of Justice designed the original survey and core questions have been repeated every two years. The next survey is scheduled for Summer of 2009.

The Department got generally good marks from the 2007 sample of 1,205 Seattle residents surveyed. The overwhelming majority reported that they live in a "good" or "excellent" neighborhood and feel safe walking at night. Nearly half of the Seattle residents reported having called the police for

assistance or worked together with the police in the prior year. For the 24% that reported a crime, 80% thought the officer treated them professionally and respectfully. Of the 12% who worked with the police in crime prevention activities, 89% were satisfied with police involvement. Of the 19% who reported an emergency, 83% were satisfied with the response.

The marks for involuntary contact with police were almost as high. Eight out of ten drivers stopped by police reported that they were treated professionally and with respect. Pedestrians were less satisfied with the encounters: only 66% felt they were treated professionally and only 59% felt the officer had a valid reason for the stop. This is consistent with this Auditor's review of complaints filed with the OPA over the last five years: many complaints involved police interaction with pedestrians, some that escalated into rudeness and even claims of excessive force.

In 2007 Seattle residents rated the overall effectiveness of the Seattle police higher than they did in 2005 or 2003: 84% believe that police deal with residents in their neighborhood in a fair and courteous manner. One in four residents, however, believes some type of police misconduct is a major problem. Though the numbers were higher in the 2003 survey, in 2007 there was still 43% who believed racial profiling was a problem, 39% who felt excessive police use of force was a problem, and 38% who felt that police stop people without good reason. These numbers are in the face of a 90% response reflecting respect for the police, a number that had increased since 2005. Also significantly increased were the opinions expressed about police effectiveness, the largest increase observed among African American respondents.

African American respondents were more concerned about police misconduct, although the level had fallen since 2003. Of such respondents, a solid 56% majority still expressed the belief that racial profiling is a problem.

Respondents were asked whether they would file a formal complaint if they had a serious problem with a Seattle police officer. Only 12% said they would not file a complaint, and only 5% said it was because of a concern about the complaint process or fear of the police.

Documentation of Warnings and Traffic Citations

Starting in 2005, the Department implemented a policy of documenting warnings, with written copies going to the driver, the Department and the officer. The officer's sergeant reviewed the written warnings, citations and incident reports with each officer at the end of each shift. This policy allowed drivers and officers to have a written record if questions were raised and for the Department to analyze how different officers exercised their discretion in traffic stops.

The data was kept in a system called CLARE, which documented contact, location, age, race, and ethnicity. A report was issued in 2007 which reflected the following results: Traffic Contact Reports are a means of documenting warnings, their use does not lower the number of ticketed infractions. The racial numbers are roughly in proportion to the population figures for Seattle, consistent over the three years reported: about 62% White; 17% African American; 9% Asian. These figures correlate closely with infractions documented by race.

These numbers do not show the racial disparity noted elsewhere in arrests for obstruction and for violent crimes. This Auditor is not in a position to analyze these variances.

Customer Service Surveys

In 2006 through 2008 the Department also conducted seven more surveys, targeted specifically at "customers," people who made 9-1-1 calls to which an officer was dispatched. Excluded were those calls handled directly by 9-1-1 operators and callers who were domestic violence victims, sexual assault victims, and others deemed likely to object to being contacted on the basis of their victimization. In each of these surveys, 200 telephone interviews occurred less than six weeks after the calls for service.

Overall, the Department received high ratings for service quality, averaging 4.1 on a five-point scale. Those surveyed tended to rate their neighborhood officers even more highly.

Service dimensions not directly related to the dispatched incidents, such as providing information about other crimes in the area or giving crime prevention tips, generally received lower ratings. These findings tend to show

the importance of the Neighborhood Policing Project, described below, that is designed to give officers geographic ownership and familiarity within service areas and to increase engagement with the public.

Training

Phase One of officer training begins with five months at Washington's Basic Law Enforcement Academy. In that training there are about 27 hours of "social service options," including such subjects as "diversity and biased-based policing," "people in crisis," "mental illness," "conflict resolution practical," and "vulnerable adults." Phase One for Seattle Police also includes 174 hours of post-Academy training including short sections on "bias crimes," "victim support team," "infectious diseases," "verbal judo" and an eight hour segment at the Downtown Emergency Service Center. Bill Hobson, Executive Director of the Center, has often heard from officers later informally about the value of the experience in understanding homelessness. Originally this last section at social service agencies was four days long, including instruction from community members. As the post-Academy training was distilled down, those hours were reduced, in part because of the need to get officers on the street and in part because of irregular participation by community group representatives. The Advanced Training Section is working on a video that will supplement the in-person experience.

Phase Two of officer training is fourteen weeks of individual supervision by a Field Training Officer, actually three different "FTO's" in four segments, so that a trainee returns to his/her first FTO in the last segment. This on-the-job training includes introductions to the Youth Center, Orion Center, Spruce Street, etc.; to Mental Health Court; to the Sobering Center and Ambulance and Medical Response.

Phase Three is considered the several months remaining of probationary status, with monthly evaluations by an FTO sergeant.

After completing this training, officers must annually pass firearms qualifications and attend Street Skills, a course designed year-by-year depending on training needs and new technology. For instance, recent hours have been devoted to the new report writing software and to training in in-car video operation and procedures. In addition, community problem solving and de-escalation skills have been included when there has been room in the schedule and are discussed to some extent in the segment on use of force.

Two comments by this Auditor: First, more consistent emphasis on de-escalation training through role-plays and interactive scenarios would be valuable. Second, the in-car videos of interactions between officers and citizens have significantly aided the OPA in sorting out what happened during encounters on the street.

A forty-hour Crisis Intervention Team Course is voluntary and at least 20-40 officers are trained each year. Civilian professionals teach most of the units, on subjects like "Mental Disorders," "Geriatric Mental Disorders," "Children's Crisis Outreach Response System," "Mental Health Court," "The Law and Mental Illness," "Chronic Public Inebriates," "Crisis Cycle," "Mental Illness, In Our Own Voice," "Intervention in High Risk Situations (suicide attempts)," "Communicating with Mentally Ill Individuals," "Hospital ER," "HOST Program (homelessness and transition)." On the last day, officers role-play various mock scenarios.

Beginning in 2009, Department will be conducting a race relations program titled "Perspectives on Profiling" for all sworn and civilian employees. The program was designed by police officers for police officers through Tools for Tolerance for Law Enforcement. There is some community objection to this program because of activities of the Simon Wiesenthal Center, which provides support to the Tools for Tolerance Program. The majority of people who have seen an overview of "Perspectives on Profiling" are enthusiastic about its approach, however, and the Department hopes to address the concern that has been raised through incorporating the issue into the training.

The interactive training focuses on real life situational choices confronting law enforcement. This unique approach addresses a number of complex issues surrounding racial profiling. For example, officers will learn to appreciate differences in criminal verses racial profiling, when race may be used appropriately as a profile factor, the role of probable cause in profiling, and which statistics should be used as predictors of future behavior and which should not.

The training points out that there is a universal definition dilemma between law enforcement and members of the community about how to define racial profiling. Law enforcement tends to define racial profiling as action based solely on race – "stopping people because of race." Members of the community find reliance on race, whether in part or whole, to constitute

profiling – “use of race in traffic or pedestrian stops, even if race is only one of many factors used in a profile.” Acknowledging this definition gap is an important step in understanding why there are different perspectives on the issue of racial profiling in Seattle, and plays into the discussion on differences between criminal and racial profiling.

Unlike previous race related training, the Department will rely on its own employees in Tools for Tolerance to provide this virtual interactive program. A number of Department representatives have received the training and have been active in advocating this approach, including Deputy Chief Diaz, Captain Low (Ethics and Professional Responsibility), Captain Belshay (Training), and OPA Director Olson. A group of over 20 sworn and civilian Department employees went through a four-day "train the trainer" session in November, and will receive further instruction prior to the Department-wide roll out. To facilitate the community's understanding about the training, interest groups were invited to an evening presentation during the November training, and overview sessions have been provided to the Seattle Human Rights Commission, the Chief's City Wide Advisory Council, and others.

"Perspectives on Profiling" embraces diversity in a very positive way that will be helpful to officers as they interact with people from all facets of Seattle's diverse community. Julie Nelson, the Director of the Seattle Office for Civil Rights, went through the training and is working with Department to consider how this approach might be used in other ways to further the Mayor's Race and Social Justice Initiative. Eventually, there is hope that a version of the training can be used to reach out to the larger Seattle community, to address public perception as it relates to racial profiling and to enhance dialogue and strengthen community trust.

Captain Neil Low is the newly minted Commander of the Office of Ethics and Professional Responsibility, which also coordinates the Department's response to Minority and Immigration issues. Most recently, his office has been more closely linked with OPA, and he now reports to Director Olson. His day-to-day duties typically include rendering opinions on ethics that may affect an employee or the Department, often after consulting with Wayne Barnett in City Ethics. On occasion, these opinions result in the reinforcement of an ethical value, but sometimes they result in the softening of a rigid policy, like re-directing a well-intended gift given to a specific

employee to a broader Department function, rather than sending it back with a "regrets" note that might hurt the donor's feelings.

He has been working on a number of issues that relate to OPA's function, such as: Brady issues/compliance liaison with the prosecutors' offices, follow through on Chief's recommendations for corrective training or manual section re-writes, and consultation with the State on the de-certification of some terminated officers. Most recently, Deputy Chief Diaz asked Captain Low to represent the Department at the Race and Social Justice Initiative meetings at City Hall, as well as the Seattle Office of Civil Rights monthly meetings. Other projects include helping bring the Tools For Tolerance training to the Department, along with Kathryn Olson and Capt. Dick Belshay, attending community meetings on an ad hoc basis, such as the Arab/Muslim/Sikh council, which has concerns about stereotyping and racial/religious profiling.

Service Initiatives by the Department

The Neighborhood Policing Project

Sometimes referred to as "geopolicing," this basic reorganization of police services is meant to realign resources with calls for service, emphasizing responses in places and times where and when needed. The idea is to build a system that ensures timely and appropriate response to 9-1-1 calls for service and then builds on that to provide timely and strategic support for officers to "proactively" address crime and disorder problems in the community. In about two years the Department's aggressive hiring goals should fully implement these changes, allowing for the extended shifts that will better match staffing to workload and will optimize the problem-solving portion of the project.

The precinct, sector and beat boundaries were redrawn to reduce the likelihood that officers would be dispatched out of their beats and to improve beat ownership and community interactions. Department of Neighborhoods data were used to avoid dividing neighborhoods by beat or sector lines whenever possible. The Department is exploring a number of different models that would allow it to sharpen the focus and continuity of service at the sector level rather than the precinct level. One such model is the one used at Richmond, Virginia, where the lieutenants command a sector much in the same manner as a precinct commander, allowing them to have a much more

comprehensive view of the community and its issues than they could obtain with the current nine hour, shift based, precinct-wide focus. More details are available in a Department publication entitled, *Neighborhood Policing Staffing Plan, 2008-2012, "Staffing to Service, Staffing to Safety."*

Mental Health Response

As any officer will tell you, numerous problems occur on the street due to individuals' mental health problems. The law enforcement structure as a whole is not well organized to respond, although the King County District and Seattle Municipal Mental Health Courts are steps in the right direction. Another step is Crisis Intervention training of 220 uniformed personnel, who volunteer for the 40-hour course, discussed under "Training" above. In addition, two officers, and their Sgt. L.J. Eddy, specialize in dealing with mentally ill persons. Cases come to them through patrol officers' reports, frequent calls from neighbors or family, or cooperation with community police teams from the precincts. They assess the threat and look for solutions for people who commit crimes because of mental illness, coordinating with social workers and mental health professionals to try to solve problems before they become dangerous. Sometimes these officers end up with ongoing relationships with these "clients," regularly checking in and occasionally changing a light bulb.

Involuntary Commitment Supervisor Michael Leake helps train officers who volunteer for Crisis Intervention training, who tend to be thoughtful individuals who are not threatened, as some officers may be, by mental illness itself. Their attitude and understanding are available to be absorbed by others in the precincts. Mr. Leake and his supervisor Jo-Ellen Watson, noted that Sgt. Eddy's specialists are even more valuable, often working closely with the mental health professionals in their office to help solve individuals' problems. They noted that one improvement would be for all precincts to build ongoing working relationships with community mental health centers within their borders. This could lead to solutions other than criminal charges when officers are called, for instance, to respond to disturbances at the clinics.

The King County Council has approved funding for two mental health crisis intervention specialists to be assigned to assist in the field and help with these assessments, although the coordination of contract personnel with police has yet to be fully worked out.

As a result of contacts with police, some aggressively ill offenders may be referred to Harborview for the evaluative process under the Involuntary Treatment Act. Others may end up before the King County West District's or Seattle's Municipal Mental Health Court, misdemeanor criminal courts geared to work towards rehabilitation of the defendant.

The recognition that police need special skills and resources to address mental health-fueled behavior has gained ground nationally. In Cincinnati, 250 officers have been trained so that there are mental health specialists in every precinct. In New York City a 9-1-1 dispatcher handling an assault or "shots fired" incident can quickly check the address to see if it has been the scene of previous incidents involving an emotionally disturbed person.

The bottom line, of course, is that these more sophisticated responses cannot take the place of adequate mental health services in the community. Better police communication with providers that are in place would be an important step forward.

Race and Social Justice Initiative

Since 2005, the Department has reported regularly on accomplishments and work plans as part of Mayor Nickels' Race and Social Justice Initiative. Five goal areas are outlined in that Initiative and the Department has reported on each: economic equity; workforce equity; sustainability and capacity building; public engagement; and improved services to immigrant communities. The Department's 2007 Report included a significant number of women and minority business vendors; hiring outreach; assignment of new officers to community based social service agencies during field training; precinct advisory councils as well as councils representing minority communities; revised translation and interpretation policies for minority communities. A work plan was drawn up by Deputy Chief John Diaz for 2008, including continued aggressive recruiting among underrepresented groups and Race and Social Justice Training for Department managers.

Community Police Teams and Crime Prevention Coordinators

Each precinct has a Community Police Team [CPT], varying in size from four to nine members. They are sworn officers deployed at the Precinct Captain's discretion to work with schools, protest events, block watches, neighborhood events, and individual families where appropriate. There is not a clear set of

citywide expectations or training of CPT's, so their approach and engagement depends primarily on the philosophy and initiative of the sergeant or lieutenant overseeing their work. Informal neighborhood feedback describes some CPT's as great and some as "retired in place." One major improvement noted by community members who have long interacted with the police is the emerging leadership of officers who have "grown up" with community policing and expect to involve the community in an ongoing conversation.

Crime Prevention Coordinators are non-sworn employees, one or two per precinct, who set up block watches, security meetings, personal safety talks, and distribute alert bulletins.

Seattle Housing Authority hires several officers to work directly in high rises or garden communities.

Individual precincts have established their own various forms of community outreach, and the precinct captains set the tone for overall inclusiveness in the way these teams, coordinators and precinct councils (described below) operate.

Creation of Community Relations Director Position

Chief Kerlikowske appointed Lieutenant John Hayes (john.hayes@seattle.gov) to be Director of Community Relations, including responsibility for community outreach, the Community Police Academy, Community Advisory Groups, Media, and Youth Outreach. As these subject areas suggest, the expectations are broad and the job description flexible. Director Hayes reports directly to the Chief. He has contacted minority media representatives. He serves as the Department's liaison to the King County Juvenile Institute Master Plan, the King County Disproportional Minority Contact Committee, and Reinvesting in Youth. Director Hayes works closely with Maggie Olsen (maggie.olsen@seattle.gov), the Department's Community Outreach Program Manager, who oversees the Community Advisory Councils.

Advisory Councils

The Department created Precinct Advisory Councils in the late 80's to create local partnerships in peace-keeping. Informal neighborhood feedback suggests these are most successful when they are inclusive. In the East

Precinct, the Crime Prevention Coordinators are part of the Precinct Advisory Council [E-PAC], which is open to the public. The North, West, and Southeast Precincts are still operating under the original model with invited representatives of the community councils and business organizations in a closed meeting with the Captain and Lieutenant.

In the mid 90's, the Department reached out specifically to minority communities to provide them distinct voices. Nine community advisory councils now reach specific communities of interest and identity: African American; East African; Filipino; Korean; Latino; Native American; Muslim, Sikh and Arab; SE Asian; and LGBT (Lesbian, Gay, Bisexual, Trans-gender.) These councils meet with varying formality, regularity and attendance, often depending on public issues that may be affecting the community group. Each has a coordinating Department employee and designated supervisor(s) from at least one precinct who attends, as well as a designated member of the command staff who acts as an additional liaison. A County prosecutor also usually attends. It is not unusual to have five or six Department employees and about the same number of community members, but the latter bring questions they are asked and report back to others in the community. When there are high profile issues involving particular communities, the meetings are larger. They appear to be effective conduits for communication during times of crisis.

In order to build trust on a continuing basis, the Department should seek a way to extend the membership and relevance of these advisory councils, perhaps through specific invitations extended by present members. The objectives of these councils fall into three categories: First, to build relationships and break down stereotypes on both sides; second, to improve education about cultural norms and develop specific educational materials; third, to institutionalize dialogue so there is an ongoing conduit for communication and what is learned can be used in planning and decision-making within the Department. These are ambitious goals and some of the councils need to think creatively about getting more input.

The Auditor and the Director of OPA have attended a number of these demographic council and community meetings. The issues discussed have ranged widely: distrust of police in domestic violence responses; fear of immigration status inquiries if 9-1-1 is called; school truancy, juvenile runaways, parental control, and language difficulties among new immigrants; bias crimes; Department recruitment of minorities; and gang violence.

Michael Neguse, an East African Community Crime Prevention Organizer, gives the police high marks for their outreach. He has worked to expand the East African Advisory Council to include youth and women by specifically inviting others to come with him. He says he gets an immediate response when he calls the police with a problem, more immediate than when he calls any other City service. For instance, a convenience store proprietor told him that police had been rude and aggressive in an interview about a murder that happened nearby. Mr. Neguse contacted Detective Kim Bogucki, the Advisory Council Officer Liaison, and within short order a Captain from the Homicide Division came out and apologized to the store manager. Mr. Neguse said that few East African immigrants feel comfortable with police and would probably not file an OPA complaint, but that he can act as a go-between in situations like this. He also praised the DVD's discussing police services that are being translated into many languages and which he hands out in the community.

Noteworthy also was that about 100 people turned out for a Friday mid-afternoon program at New Holly Park discussing the increased violence that East African Youth are facing. The very mixed and multi-aged crowd heard from a probation officer, a Tukwila police officer, young men who have escaped a gang past, bias crimes prosecutor Michael Hogan, as well as a number of Department representatives. Such programs speak directly and immediately to neighborhood concerns.

In 2003, the City Wide Advisory Council was added, to bring together representatives from each of the demographic advisory councils and precinct advisory councils to meet with the Chief on a quarterly basis and to discuss broad issues affecting many different segments of the community. All members of these advisory councils and the precinct advisory councils should be invited to the City Wide Advisory Council's periodic meetings with the Chief, though this does not always happen.

The tenth advisory council, "Youth Outreach," has ceased to meet in favor of other youth-directed activities. Youth do not fit well into the advisory council template, as they tend to be tied to neighborhoods and schools.

Youth Initiatives

Mayor Nickels' 2009-2010 Youth Initiative addresses at-risk youth with an array of services to include coordinated case management, mentorship, anger management training, peer mediation, family support services, youth employment programs, and recreation programs. The Plan assigns one officer to a high school and four to middle schools. Director John Hayes now coordinates with Seattle School District Security Director Pegi McEvoy to train school security, to arrange for off-duty officers to assist at school events, and to ask Community Police Teams to be more involved in school event planning. Deputy Chief John Diaz has been a continuing and active presence at many of the community level meetings, with an eye on the big picture.

For several years a federal grant has funded kids to work in precincts during the summer, which hopefully will continue and integrate with the Mayor's Initiative.

Two particular officers play vital roles with kids, both in the schools and in the Parks and Recreation Centers. Detective Adrian Diaz has been working in community outreach for five and a half years, over three in the Department. He is the Liaison officer for the Latino Advisory Council as well as for Youth Outreach. He started talking to people in their living rooms, connecting from one community member to the next, to build trust. When there was a shooting, 160 people showed up for a meeting. Sometimes these community contacts move from the youth programs to adult parents. For instance, visits about a truant child are now welcomed instead of feared, as Detective Diaz discusses ways to support kids in school. Since 2006, through a modest J-Bug grant, he has been able to focus on 15-20 kids at a time at Denny Middle School, as well as running programs at the community center such as "Life Choices and the Law," hosting "donut dialogues" and basketball, teaching in the Community Police Academy. His work is sometimes on straight duty time, and sometimes as a volunteer. He recently received the City Employees Latino Heritage Award to honor his work.

He describes the challenges of working with any immigrant community. For instance, several years ago the Department assisted federal agents in what turned out to be a larger immigration "raid" than expected. Afterwards, Chief Kerlikowske brought federal agents together with community leaders and explained it was to be targeted at gang members. No broad sweeps have been conducted since then and the Department has been able to rebuild trust. It is

critical that local police not be seen as agents of immigration enforcement so that members of immigrant communities will report crimes such as domestic violence.

Detective Kim Bogucki plays a similarly demanding role with African American youth, as well as serving as liaison to the East African and the LGBT Advisory Councils. Again, the flexibility of her assignment and personal dedication are reflected in the contacts she has and her mentorship of individuals. She works with a Girl Scout Troop made up of girls whose mothers are incarcerated, which has led her to have direct communications with the mothers as well. She and other mentors take a group up snowboarding every Tuesday night, with some particular teaching on the bus to and from, known as "Project Chill." This Auditor watched her and Detective Diaz in action with the youth that come to South Park Community Center from 8:00 to midnight on Friday nights, checking gang recruitment, making kids feel safe, and giving them alternate avenues for development.

In all these outreach efforts, consistency is critical. It takes time to build trust and often depends on individuals. With the resurgent gang problems, support is a critical ally to suppression, as kids will give information and express their fear to those they trust.

Arrests and Prosecutions for Hate Crimes

In September 2008 the Seattle Office of City Auditor published an audit entitled "Seattle's Enforcement of Bias Crimes." The report distinguished bias/hate crimes, which include criminal acts such as assault or property damage or harassment based on bigotry, from bias/hate incidents, such as non-criminal acts of hate speech. The City Auditor's Office (to be distinguished from the OPA Auditor, author of this Report) analyzed Police Department bias crime reports for 2006 and 2007 and prosecution outcomes, as well as interviewing officials and looking at other jurisdictions for best practices. It concluded that Seattle police were not implementing bias crime policies consistently and that "process complexities" hindered victim reporting and police recording of bias crimes and incidents. It faulted the Department's lack of reporting of bias crime statistics to local community groups or the public and minimal bias crime training of officers. It did note that bias crimes appeared to be down during the period. The audit lauded the prioritized response to bias crimes, a coordinator in charge of keeping track, and demographic advisory councils.

The recommendations for the Department included: tracking bias incidents as well as crimes; publishing data; enhancing leadership and coordination; increasing bias crimes training; facilitating automated reporting of crimes and incidents.

Bias crimes and incidents have been an important subject in several advisory committee meetings this Auditor has attended, and the discussion was greatly aided by Deputy Prosecuting Attorney Michael Hogan, who could talk about the specifics of incidents, cases, and policies. He is also working on a video about hate crimes for community members and has participated in trainings for the police. He notes that his office is hearing more and more of hate crimes recently, particularly from taxi drivers and store owners.

Racial Profiling

As reflected in the surveys conducted by the Department, there is a significant public concern with racial profiling, despite overall satisfaction with community/police interactions. There is an initial problem in defining what racial profiling means, as demonstrated in the Tools for Tolerance program, discussed above. The difficulty in defining biased policing and in proving intention were also discussed in the OPA's 2003 Report on Seattle's Response to Concerns about Racially Biased Policing.

A special session at the October 2008 annual meeting of the National Association for Civilian Oversight of Law Enforcement [NACOLE] addressed racial profiling or biased policing. Speakers from Los Angeles, the District of Columbia, and the State of Kansas Human Rights Commission (which investigates claims statewide,) discussed how the issues are handled in their jurisdictions. By an informal show of hands the audience of approximately one hundred members of large and small review boards, internal investigators, monitors, and auditors, all confirmed the panelists' conclusions: it is almost impossible to prove racial animus in policing, unless an officer uses derogatory racial slurs. Because of the difficulty of proof, citizens often receive a form letter exonerating the officer, that implies to them that their perceptions are disingenuous or ignorant, thus exacerbating tensions between police and community members. The use of "stop data" may not be any more effective, panel members opined – except to increase officers' defensiveness.

The NACOLE panelists suggested moving the focus away from the officers' motivations in the review of individual cases. One alternative is a very careful analysis of the facts of a stop: Was there probable cause for an arrest? Was there reasonable suspicion for an investigative detention? Was the length of the detention reasonable? Did specific facts justify a search? Such an analysis can often lead to a letter that discusses the facts and signals to the citizen that his/her complaint has been heard and carefully looked at.

Phil Eure, President of NACOLE and Executive Director of the Office of Police Complaints in Washington, D.C., suggested revising the focus from individual discipline to other areas: recruitment, selection, training, mediation, improved interpersonal skills, and problem solving policing. To a considerable extent, this is how the Seattle Police Department has approached the problem, but there is room for improvement. Tools for Tolerance training is an example of a different way of approaching the issue of biased policing. Phil Eure also suggested the term "fair policing" helps reduce officer defensiveness.

Merrick Bob is Executive Director of the Police Assessment Resource Center and special counsel monitoring the Sheriff's Department for the L.A. County Board of Supervisors. He noted in an article in the *LA Times* that the Los Angeles Police Department did not find merit in a single one of the 320 racial profiling investigations conducted in 2007. He concluded that addressing the problem on a case-by-case basis is simply ineffective. Unlike some of the NACOLE panel speakers, he endorsed collection of "stop data." Rather than general statistics, though, he suggested data that would allow the comparison of individual officers in the same neighborhood on the same shifts over time. Data would be collected on an officer-by-officer basis including the time, place, and duration of all stops; demographic details on the driver and passengers; and whether the stop ended in a search, arrest and conviction. The police should, he suggested, also track the outcomes of each officer's searches to test the percentage that yielded contraband.

Such a system in Seattle would require significant added complexity in the record keeping and expenditure of resources, including coordination with the court systems' database regarding outcomes. The 2007 analysis of three years of driver warnings and ticketed infractions sheds some light on these same issues. A similar data collection on pedestrian stops, lengths of detentions, and resulting police actions would provide a useful comparison.

Perceived selective enforcement is often a matter of perspective. Mediation, and patient and complete communication with citizens, are important to make police and community members understand the experiences that lead to radically different perceptions of similar events. Complainants need to feel from the outset that OPA is listening to their experience. It is important, for instance, that intake sergeants in OPA-IS resist the temptation to explain the officer's point of view, even if they can immediately see it in the situation a complainant describes.

Complaints to OPA of Racial Prejudice

One source of information about biased policing in Seattle is complaints made to the Office of Professional Accountability [OPA]. Biased policing is, among other things, a violation of policy. Department *Policies and Procedures*, Section 5.140, states that officers must be able to articulate specific facts and circumstances that support reasonable suspicion or probable cause to justify detentions, stops, arrests, nonconsensual searches and seizures. Race or ethnicity may only be considered where it contributes to that suspicion or probable cause: for instance, when it is part of the description of a specific suspect offered by a trustworthy person. The policy mandates that sustained complaints of biased policing "shall result in corrective actions" and training will include "biased policing updates." OPA is also tasked annually to report to the Chief an analysis of the Department's efforts to prevent biased policing through review of complaints and training.

In **2006**, six cases alleging biased policing merited full-scale investigations by OPA-IS sergeants. (Classification of complaints and investigations, as well as outcomes, are reviewed by the OPA Director and independent Auditor.) Five of the six cases were filed by African Americans and all alleged the use of excessive force as well as biased policing. In two the allegations were "Not Sustained;" in three they were deemed to be "Unfounded." In one the supervisor on scene received a "Supervisory Intervention" and in another case the allegation of improper "use of discretion" was Sustained for lack of documented justification for the initial stops and detention of two individuals. These last two outcomes are consistent with the recommendations made by the NACOLE panel to look at all aspects of the stop, even when not sustaining the claim of bias.

The complainants' statements show the difficulty in investigating allegations of bias: for example, "The complainant alleges that when the named and

unknown officer unnecessarily arrested him for Trespassing, they used excessive force by pulling his hair, slamming him to the ground, ... kneeling on his head and side, and placing handcuffs on too tightly. The complainant feels this was racially motivated.” As might be expected, the officers expressed other reasons for the arrest and contested the allegations of excessive force.

Also in **2006**, there were 11 complaints in which biased policing was the primary issue categorized as Preliminary Investigative Reports, meaning that minimal investigation and precinct follow-up was deemed to be sufficient. The majority of the complaints was filed by African Americans and involved contested traffic or parking citations. There were also three cases that were classified as Supervisory Referrals, meaning that the precinct supervisor was asked to do some further inquiry, assess the situation, and handle it as he/she saw fit, reporting back to OPA. (The Auditor and Director are reviewing a general sample of the responses from precinct supervisors to get a picture of how Supervisory Referrals are handled at the precincts.)

In **2007** there were three full investigations of reported biased policing, all resulting in findings of “Unfounded.” One complainant alleged “...that the named employee stopped her for a jaywalking infraction and cited her due to her race as opposed to other jaywalkers of a different race that were not stopped or cited.” Another claimed that the named employee called him a “stupid beaner” during a traffic stop, refused to explain options on handling the citation, and waved “rudely” at the complainant when driving away. The incident was recorded on in-car video, that showed the entire interaction to be completed in a professional manner and no such words spoken.

In **2007** there was one allegation that was classified as a Supervisory Referral, in which an officer stopped a white complainant for expired tabs and observed a picture of his biracial daughter. The complainant believed the officer upgraded a warning to a citation after seeing this photo. With this classification, the supervisor would follow up with the complainant and the officer.

There were four more cases in **2007** where biased policing was the primary allegation, classified as Preliminary Investigations. These all challenged the reasons for traffic stops. These claims exemplify the difficulty in delving beneath a justified traffic stop to find some other motivation. In one, for instance, an officer was accused of discriminating by citing a Hispanic driver

for expired tabs. The investigation revealed that the officer ran multiple plates during the time period and stopped the man only after discovering that the tab was expired.

In **2008** there was only one fully investigated claim of biased policing. Although the claim of bias was not supported by the video or any other corroboration, two other violations of discretionary standards were recommended to be “Sustained”. (Where a finding of “Sustained” is recommended by OPA, the case proceeds to a disciplinary meeting at which the Chief decides the finding.)

There were three Preliminary Investigative Reports in **2008** in which allegations of racial profiling were the primary complaint. The degree of detail, investigation, and response by OPA in these cases is to be commended. In one, the complainant believed he was profiled when stopped for multiple traffic violations. The investigation revealed that the officer recognized the man as not having a valid license and failing to obtain plates within two months. The complainant was given a warning for two additional traffic violations that were presented, other than those for which he was ticketed. Someone from the chain of command was asked to call the complainant to confirm the complaint was taken and to review and explain the outcome.

Another individual claimed bias when he was arrested for an assault because the other individual involved was not arrested. The in-car video, however, captured much of the interaction, including the interview of witnesses, search for further witnesses, confirmation by the victim that he wished to pursue charges and demonstration of his injuries.

A third individual claimed he was profiled when contacted by police, but provided no specifics and was unreachable at the phone number he provided in his email. The in-car video revealed response to a call for service, not a random “on-view” situation.

In sum, the number of these allegations of biased policing is small and apparently decreasing; they appear to have been given thorough investigation and consideration by the OPA. It is understandably hard to demonstrate biased policing, but perceptions are key and respect for civilians’ perceptions during the investigative process is important.

The case examples from 2006, 2007 and 2008 are very similar to those discussed in the OPA Director's 2003 Report, though far fewer in number. Many describe radically different experiences of the same events, tempered by the individuals' life backgrounds.

OPA's Initiatives to Remove Barriers to Reporting

Obviously the information to be derived from OPA-IS cases is only reliable if people choose to report incidents and engage with the process of investigation. The Office of Professional Accountability has instituted a number of changes to encourage community members to bring complaints. Complaints can now be filed via phone, email, written correspondence or walk-in at the OPA-IS office or the Customer Service Bureau or the Seattle Office of Civil Rights. If a juvenile complains about his/her arrest, the Youth Service Center documents and forwards the complaint; as do precinct personnel when a complaint is made to them (and paper complaint forms are available in each precinct.) This can on occasion be confusing, as citizens feel they have already made a sufficient statement before ever being contacted by an OPA-IS investigator and may resist further interaction with police.

Informational brochures are now available in nine languages, distributed to community organizations, the library system, all precincts and neighborhood centers. Community meetings and youth outreach efforts have continued and will likely be expanded under the OPA Review Board's charter.

OPA-IS interviews are now conducted outside the Department Headquarters, in the Seattle Municipal Tower, where the OPA-IS has relocated. Complainants are welcome to bring a friend or advocate with them. Significant training of investigative staff occurred in 2008 and is expected to continue. Policy and training review also continue and are documented, leading, for instance, to changes in the Department's policy on bystander's rights. The OPA briefs the Command Staff regularly on identified trends and issues about officer conduct that have arisen in the investigation of complaints.

Notwithstanding these efforts, it is still counter-intuitive for many people, especially immigrants or people for whom English is not their primary language, to contact police to complain about police. To some extent the contacts through Advisory Councils have helped bridge this gap, by

addressing problems directly through the police liaison. It is hoped these resolutions are reported to OPA, so that consistent records can be maintained.

Pendent civil or criminal litigation also discourages cooperation with the OPA and the 180-day time limit for completion of investigations requires some cases to be closed before individuals are willing to be interviewed. This Auditor has discussed this problem many times but these impediments to reporting are not easily removed.

OPA has also expanded the process by which some complaints are handled, by setting up a mediation process, and recently identifying and training additional civil mediators.

Mediation

Many of the complaints presented to the Office of Professional Accountability are based on miscommunication or very different perspectives and therefore experiences of the same events. When both parties are willing, there is an opportunity to clear up misunderstandings and improve community relations through the mediation program. OPA Deputy Director John Fowler has fostered and developed this program with consistent and time-consuming devotion.

Mediation evolved as an alternative method of conflict resolution, one that gives control over the complaint process to the parties directly involved. The Citizen–Police mediation program is a voluntary program that allows community members and involved employees to sit down face-to-face in a neutral, non-confrontational and confidential environment to discuss their issues, facilitated by a professional mediator. Serving as a safe learning opportunity for dialogue, mediation allows each party to gain a better understanding of the other's perspective about an incident.

Through mediation, both officers and citizens can explain why they took particular actions. The process helps citizens learn more about the reasons for officers' actions, Department policies, and the dangers that concern officers on the street. Officers learn more about the effect their words and actions can have on the public, and understand the impact and effectiveness of communication and facilitation.

Although the sessions are confidential, each party and the mediator rate the results. Community members have stated that their perception of an officer as, for instance, rude and biased, were changed by the experience. Officers have stated that they have a better understanding of how their conduct can impact others and acknowledged the need for community and the police to continue such dialogues in circumstances of mutual respect. Beyond giving closure to a particular incident, mediation helps both parties avoid taking away from a difficult encounter a generally negative attitude that might color future experiences.

At the conclusion of a mediation session, one employee noted, "Thank you for the opportunity to resolve this issue with mediation. Our session went well and I feel that this lady has a better impression of me and hopefully the department. I told her that this experience had reminded me that after (many) years ones sensitivities become dull when interacting with people and I needed to be reminded of this again." Community members generally feel they have been taken seriously and heard. A citizen recently noted, "...this program is fantastic! It presents an opportunity for open and constructive dialog. I think it's so cool that the police would do this!" Even a mediator recently stated that, "...I can't believe it's this easy!"

Employees are not required to reach a formal resolution, or to apologize for their law enforcement efforts, but only to participate in good faith. An advantage for them is that the complaints do not go on their records. Unfortunately, this has led some community members or groups to discourage complainants from participating. Although there are no firm guidelines for cases eligible for mediation, most of them approved by the Director for this resolution are complaints of rudeness and abuse of discretion.

In 2008, 21 cases were resolved through the mediation program. The number of cases selected has grown steadily since the program was implemented in August of 2005 and additional mediators have been added and trained.

For many citizens who bring complaints and concerns to OPA, and for the employees who are the subject of the complaints, mediation provides an immediate, effective, and gratifying alternative. In over 92% of the cases mediated in 2008, both citizens and employees alike would recommend mediation to others as a tool to resolve complaints.

Conclusion

Lorie Fridell, former Director of Research at the Police Executive Forum, was asked what police departments should do “to respond to racially biased policing.” She noted that “a comprehensive agency response cuts across six areas of intervention: accountability/supervision, policy, recruitment/hiring, education/training, minority community outreach, and data collection.” Seattle Police Department initiatives have recognized and made significant progress in all of these areas.

Possible follow-up actions suggested in the above Report include data collection on pedestrian stops similar to CLARE, review of CPTs’ effectiveness, working relationship building between precincts and mental health services within their boundaries, strengthening of the ethnic advisory councils, and continuing support for mediation and training on racial understanding.

Whether the progress made by the Department has significantly impacted the communities served or public perception are questions this Auditor hopes will be more fully investigated in the coming year by the OPA Review Board, OPA, and the new Auditor.

The OPA Review Board has begun an organized series of interviews with community representatives from an expanded list of contacts. They attended a Seattle Human Rights Commission panel featuring Jorge Baron of the Northwest Immigrant Rights Project, James Bible of the NAACP, and Jeff Siddiqui of American Muslims of Puget Sound. This Auditor, the OPA Director, and the OPA Associate Director attended that panel, and a lengthy interview with Jennifer Shaw of the ACLU, and this Auditor attended the meeting described below.

Bill Hobson of the Downtown Emergency Service Center spoke of a relationship with Seattle police that has improved dramatically over the past 25 years. Both perspectives of staff and of police contacts have changed for the better. The Center is one of Seattle’s largest human services agencies, providing multiple services to adult men and women, primarily homeless, often with mental illness, permanent disabilities and other issues. He suggested it was important for the Review Board to laud compassionate police actions as well as to focus on problematic situations.

Kay Godefroy, Executive Director of the Seattle Neighborhood Group, also spoke of 21 years in community organizing. The core mission of her organization is to work with the Seattle Police Department to solve community problems. She noted that the Neighborhood Policing Project is not yet adequately staffed so that officers have a chance to know their neighborhoods. The success in community-police collaboration varies greatly from precinct to precinct, in part due to the attitudes of supervisors.

She views the oversight of police conduct in Seattle as solidly grounded, though noted that youth and immigrants will be less comfortable reporting police issues. She recommended that the Review Board go to those communities to get accurate feedback. She noted that news of perceived police misconduct travels fast, particularly in these groups and it is not always easy to know what really happened.

Both Mr. Hobson and Ms. Godefroy noted that they handle issues directly with police, not because of lack of faith in OPA as much as because of their direct channels of communication with senior management.

Next on the Review Board's agenda is continued dialogue with the Seattle Office of Civil Rights, and interviews with the head of the Minority Executive Directors' Coalition, as well as Casa Latina, DAWN, El Centro de la Raza, the NAACP, Seattle Urban League, and advisory councils. Interviews are being scheduled and the Board can be contacted at 684-8888 or opareviewboard@seattle.gov or through Nancy Roberts at 684-8146 of nancy.roberts@seattle.gov.

This Auditor looks forward to the second stage of a Report on the Seattle Police Department's Relationship with Diverse Communities, informed by a broad spectrum of community responses and constructive suggestions.

Dated this 12th of March, 2009

Respectfully Submitted,

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OPA Auditor