

Law & Transparency Committee Report

TRANSPARENCY & ACCOUNTABILITY



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COMMUNITY WELL-BEING

The Committee was reconstituted at the April 28, 2016 CPRB meeting; Commissioners Ball (Chair), Harris (Vice-Chair), Green and Bingham. Early meetings of the committee adopted the goals stated above and the objectives listed below.

- Track related legislation at the State level (SB1286 – Transparency in Law Enforcement Records)
- Gain understanding of City Administrator discipline decision making and potential improvements in process
- Website improvements to foster greater transparency

Legislation:

- SB1286 introduced in CA Senate February 2016
- By May 12, 2016, bill assigned to the Appropriations Committee
- As of November 2016, bill was still in Committee and declared “Inactive”.

Interaction with City Administrator re: Disciplinary Process

Initial meeting with City Administrator (CAO) on June 14, 2016. The talking points are listed below

1. The Committee met with City Administrator Landreth to discuss the disciplinary recommendations made by the board and the number of recommendations that are not upheld by the City Administrator. Our objective was to understand the factors the City Administrator takes into account in her determinations.
2. We examined the 7 cases (July 2015 through April 2016) where allegations against officers were sustained by the CPRB and discipline was recommended to the City Administrator. Of these 7 cases, the City Administrator (CAO) found
 - One case - pending decision
 - Two cases, CAO accepted the CPRB recommendations in part
 - Four cases, the CAO did not accept CPRB recommendations
3. We provided fact sheets which highlighted the questions we had about these four cases.
4. Where do we go from here? The Law & Transparency subcommittee has discussed several possibilities:
 - Add the Chair or Vice-Chair to the CAO meeting where CPRB recommendations are discussed

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- Discipline decisions by CAO should involve a review of all relevant evidence including sworn testimony given at CPRB evidentiary hearings. Suggest CAO request and review the actual recorded testimony if an investigators summary of the testimony is not sufficient.
- In a case where the CAO does not intend to follow the CPRB recommendation in its entirety or in part, prior to issuing a final decision imposing discipline, suggest CAO notify CPRB in writing of the intent with the reasoning and allow a final written response by CPRB.
- Identify additional information needed in the CPRB report
- Implement the Monitor's recommendations relative to the arbitration improvements
- Prioritize updates of CPRB website

Follow-up meeting with CAO on August 23, 2016:

1. CAO agreed with idea of including CPRB reps in disciplinary discussion meetings. She agreed to confer with City Attorney and Executive Director to confirm viability of idea.
2. CAO agreed the video of the Evidentiary Hearings should be included with CPRB report to her if pertinent evidence contained therein.
3. CAO agreed to provide more detail in her decision memorandum.
4. CPRB would be raised in the IT priority scheme.

The revised process was approved by the CPRB at January 12, 2017 meeting (see below).

ACTION	Current Process	Changes
Documentation	CPRB Investigator and ED prepare report of CPRB deliberation and forward to City Administrator (CA) within 2 weeks	CPRB Chair and Vice-Chair provided a copy and a chance to review before submittal to CAO. This has proven to not be feasible.
Discussions between CPRB ED and IAD and OPD	Generally nothing in writing from IAD and OPD	<i>Pending:</i> IAD input needs to be provided in advance and in writing to complete the documented record.
Joint meeting CA, CPRB, OPD, IAD and CAO	Verbal discussions only, no documentation, some follow-up via email	CPRB Chair and Vice-Chair (or designee) participate for CPRB
CA notifies CPRB ED of the decision with limited rationale via memo	CPRB ED shares the decision memo with CPRB	CPRB ED and CPRB meeting attendees share more of the rationale for CA decision

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Starting in February 2017, Commissioners Green and Ball have accompanied CPRB staff to the CAO meetings to present the CPRB's recommendations. There were five CAO and IAD meetings, February through July 2017. The dates and cases are presented below:

2-6-2017	Case #16-0115
5-23-2017	Case #16-0487 & #16-0534
6-14-2017	Case #16-0545
6-27-2017	Case #16-0589
7-12-2017	Case #16-0669

Commissioners Green and Ball met with OPD Chief Kirkpatrick on June 13, 2017. The purpose of this meeting was to share with the Chief the work of the L&T Subcommittee; and discuss four cases which were beyond the 3304 date. Our objective was to provide a clearer perspective on the community concerns.

The Chief stated that she would not be attending the CAO meetings and that the CPRB should request IAD input through the CAO.

This report cannot be considered final at this time because we cannot compare the results of cases before and after the process change. As of December 5, 2017, 44% of the allegations sustained by CPRB after the change are still pending CAO's decision feedback to the CPRB. Our recommendations were provided to the CAO before the 3304 date.

The Committee noted over the course of the CAO meetings, the following trends in the CAO's decision memorandums:

- Training – if officers' conduct was consistent with their training the CAO cannot render discipline. Training can be revised but not applied retroactively.
- Supervisory Note to File (SNF) protocol is an alternative to a formal sustained complaint.
- Clarity of MORs essential to hold officers accountable.

A December 2016 OPD Office of Inspector General Report, *OPD Officer Integrity Trends and Other Critical Observations Regarding Hiring and Training Practices*¹, addressed officer misconduct and responses.

Website Improvements

Initial meeting with Communications team was in October 2016. At a subsequent meeting with the full team on November 29, 2016, L&T Committee members provided a listing of website desired components and some examples from the oversight bodies over the Portland PD and Seattle PD.

Follow-up meeting on January 11, 2017 with the Digital Services group and IT, we had expected possible templates for our website but the team explained that public records request generated

¹ Full report available at this link

<http://www2.oaklandnet.com/oakca1/groups/police/documents/webcontent/oak062376.pdf>

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by the Ghost Fire incident had absorbed the team's bandwidth. We established new deadlines and CPRB staff agreed to provide necessary glossary definitions. The CPRB Policy Analyst subsequently provided the definitions.

As time went on, the delays in the implementation of CPRB's case management system has further delayed this effort.