



Date: August 4, 2020

To: City Council

From: Nathan A. West, *City Manager*
Ken Dubuc, *Fire Chief*
Brian S. Smith, *Police Chief*

Subject: Public Safety Advisory Board

Summary: The Public Safety Advisory Board (PSAB) was created in 2007 when Council by ordinance combined the Law Enforcement Advisory Board with the Medic 1 Advisory Board and established the PSAB as a citizens' advisory board. The Fire and Police Chiefs serve as advisors to the board. The administrative assistants from both Fire and Police have served as the PSAB clerks.

Since its inception, the PSAB has provided both the Fire and Police Chief with advice on public safety programs and initiatives, promoted awareness of the City's Fire and Police services and programs, served as a liaison between public safety and the community and worked towards a goal of becoming knowledgeable in public safety operations and issues.

Funding: N/A

Recommendation: Information only.

Background / Analysis:

Established by ordinance in 2007, the Public Safety Advisory Board (PSAB) has twelve (12) positions. Five (5) positions are specifically prescribed for representation type in the Port Angeles Municipal Code (PAMC) and the remaining seven (7) are intended to represent diverse segments of the community. All members live, work or attend school within Port Angeles. The PAMC requires that a majority of members be City residents.

The PSAB has a diverse membership when it comes to age, profession and life experience. Members include a representative from the Port Angeles School District, an emergency medical technician (EMT) from an associated EMS agency, a business owner, a service organization manager, two registered nurses, a retired Department of Corrections manager, a retired real estate agent, a retired EMT and as mentioned above other at-large members are expected to represent diverse segments of the community. The City Clerk manages the application process and advertising for vacant positions. The Fire and Police Chiefs serve as advisors to the board.

The PSAB has historically met once a month, however, by consensus of the board, the board has not typically met during the summer months or during the December holiday. This practice was intended as a consideration for the value of time for the board members, helping them avoid attendance at meetings which could not meet quorum requirements. Expectations of PSAB members are regular meeting attendance and participation, and a willingness to interact with public safety to include a ride along with Fire and Police personnel. Dis-qualifications for a Police Department ride along include active or inactive arrest warrants,

active or inactive Department of Corrections supervision, convicted sex offender status, history as a suspect in a felony crime and respondent in a domestic violence no-contact or protection order.

The PSAB has assisted both Public Safety and the City staff with numerous efforts. In 2003 the PSAB board members helped staff educate the public on the 1% or 1 per cent voter initiative for PenCom that was later passed by the voters. The Fire Chief utilized feedback from the PSAB to inform his process as he advocated for an increase in the Fire Department Paramedic staffing and later when he pursued the Community Paramedic Program. The Police Chief utilized feedback from the PSAB as he worked with other City staff and Council on the ongoing red-light camera and school zone camera projects.

The Police Department has spent considerable time educating the PSAB on important policies and operations of the Department including the police use of force policy and legal requirements. It is the goal of both departments to have a well-educated and informed PSAB who will be able to provide valuable community outreach and participation after a critical incident e.g., use of deadly force or an in-custody death. This effort has included two presentations by a trainer from the US Department of Justice Community Reconciliation program on the process of community mediation. PAPD and Clallam Sheriff's Office firearms trainers utilized a firearms training simulator to expose PSAB members to actual shooting and use of force scenarios. The PASD also received presentations by a Master Use of Force instructor and Deputy Chief of Police on PAPD use of force policies and trainings, and the 2020 Independent Investigation Team (IIT) vetting requirements for community member involvement for the observer role on the use of deadly force or in custody death independent investigation teams. During the February PSAB meeting, the Police Department had each detective and supervisor assigned to the IIT introduce themselves and share their resume with the PSAB. PSAB members were provided training on their roles and responsibilities related to IIT should the PAPD IIT be called to investigate another agencies' use of deadly force or in custody death. At the June meeting, PSAB members were provided training and information on excited delirium deaths as they relate to public safety.

Both departments investigate complaints in a well-established manner that is consistent with legal and policy requirements. The Police Department produces an annual report that summarizes, reviews and analyzes complaints received against Department staff. PAPD is required by the Washington Association of Sheriffs and Police Chiefs (WASPC) Accreditation to have a complaint process that meets best practice standards. This is both for the benefit of the Department and for those who we are sworn to protect. This process includes a written log and record of each complaint, a sergeant assigned to investigate the complaint, at least two supervisory levels of review of the complaint investigation, a written finding, a Deputy Chief recommendation to the Chief of Police. When there is a sustained finding of fact the Chief of Police then makes a determination as to employee discipline while working in concert with the Human Resources, Legal and the employee bargaining unit representative. There is a written response to the complaining party, use of standardized terms to describe investigative conclusions and an annual written overall complaint review and analysis that is completed by the Deputy Chief of Police. This complaint analysis looks for any trends or issues beyond the individual complaints and is coupled with similar written reviews and analysis on use of force, biased based policing and police pursuit. All these written reports and analysis are public records and are evaluated for compliance with WASPC Accreditation standards.

The Police Department has a written agreement with 5 agencies that allows the Department to transfer a compliant investigation when there is a conflict of interest and /or serious allegations of misconduct. The Police Department also conducts complaint investigations for other agencies. In the case of a deadly force incident or an in-custody death, the Police Department is required to have the entire investigation of the deadly force use or in custody death to an independent investigative team that the meets RCW and

Washington WAC requirements. Each member of an independent investigative team is required to certify in each case that no factors exist that could create a conflict of interest. This requirement also would be applied to PSAB citizen observer attached to the PAPD IIT. Out of 24,000 plus calls for service in 2019 the Police Department received and investigated 17 complaints. 4 were internally generated. 12 were determined to be unfounded and /or the employee exonerated, 1 involved an investigation for another agency and 4 were sustained. The sustained investigations involved 2 vehicle collisions, 1 substandard investigation and 1 mishandling of documents.

The PSAB by design, and by City ordinance, has no power or authority to investigate, review or otherwise participate in matters involving specific public safety personnel or specific public safety related incidents unless specifically requested by the Fire Chief, Police Chief or City Manager. Clearly defined and well-established complaint investigation mechanisms regarding public safety staff are dictated by Fire and Police Department policies, City policy, Civil Service rules and regulations and labor contracts. The Council appointed Civil Service Commission is empowered by ordinance to investigate and report on matters relating to the Civil Service System in the Fire and Police Departments. The Civil Service Commission has jurisdiction over the investigation of any complaint filed against a member of the Fire and Police Department as it relates to the application of City policy, civil service rules and procedures, and the respective bargaining unit contracts. The complaint investigation mechanisms in the Police Department are also defined by and evaluated for compliance with the WASPC accreditation standards.

The Fire Department follows practices and principles similar to the Police Department in complaint investigation. Complaint investigations are assigned to an Assistant Fire Chief and findings are reported to the Chief. In a case where a complaint is sustained the Chief works in concert with Human Resources, Legal and the employee bargaining unit on his determination for employee discipline. Investigations involving serious misconduct or potential conflicts of interest are transferred to another professional investigative agency. The Fire Department received and investigated one complaint in 2019.

As mentioned above, the Fire and Police Department are regulated by the Civil Service Commission. Per City Code Section 2.22.040 “The Commission shall make investigations concerning and report upon all matters touching the enforcement and effect of the provisions of this chapter, and the rules prescribed hereunder”. Included in this authority is the power to administer oaths and subpoena witnesses. Criminal penalties are attached to a failure to comply with a subpoena from the Civil Service Commission.

PSAB members are required to dedicate a considerable amount of time and interest to the board. We believe that the members have carried out their duties faithfully and consistently with what the City asks of volunteers on the PSAB. Both Fire and Police have spent years informing and educating PSAB members to better facilitate their work on their board.

Recommendations: While it is illegal to appoint persons to the PSAB based on race or gender, it is appropriate and a best practice to have PSAB members that reflect a broad area of community interest in public safety. The Clallam County Sheriff’s Advisory Board designates positions for enrolled tribal members and Staff recommends taking a similar approach by adding an additional position (as described in City ordinance) to the PSAB that will be filled by an enrolled tribal member. The City of Port Angeles and the Lower Elwha-Klallam Tribe have adjacent jurisdictional boundaries and overlapping interests and needs. The Police Department and the Lower Elwha Police have a written agreement that includes both agencies cross designating the other agency with full law enforcement and arrest authority. The unique and mutually supportive law relationship leads to additional City and Tribal shared public safety interests.

Staff further recommends that the process for PSAB selection be described in detail and added to the City Municipal Code as a part of the overall Municipal Code update process that is slated for Spring of 2021. In the meantime, the board will continue to follow current practice and vacant positions will be filled following Council approval of a PSAB recommendation.

Staff does not recommend a change to the municipal code that would transform the PSAB to an entity with potential investigative responsibility over all City employees. The accountability, transparency, professionalism and fairness attached to the current City-wide practices would be severely impacted compromised with such a change.

On March 17, 2020, City Council appointed an individual to the PSAB who is also a City staff member in a Department completely unrelated to public safety. The appointment was made based on his role as a volunteer firefighter/EMT with Clallam Fire District 2 and unrelated to his position at the City. There is currently no prohibition on appointment of City employees to this board, however, staff does recommend a different approach moving forward. It is recommended that City employees no longer be eligible for appointment to the PSAB

Finally, it is suggested that terms be staggered so that the entire board is not replaced at the same time. Again, it is recommended that all these changes be implemented during the upcoming Municipal Code update process.