

Office of Professional Accountability
SUMMARY REPORT
POLICY RECOMMENDATIONS 2003 - 2006
Police Accountability Review Panel
September 6, 2007

The Office of Professional Accountability devotes a significant portion of its work to the review of police operations including looking for ways to clarify or strengthen existing policies or create new ones in an effort to promote respectful, professional, and dependable police services. This Summary Report provides an overview of the many policy recommendations made by OPA from 2003 to 2006.

Chief Kerlikowske has been very receptive to OPA's devotion of resources to the review process, and to recommendations advanced by OPA. Many substantive recommendations have been supported by the Department's command staff and implemented in the Department's policy manual, operational procedures, or in training. The Department's Mission reinforces a culture of openness to change by its commitment to best practices in policing and by identifying, prioritizing and solving problems. However, it is important to note that, while some OPA policy recommendations can be easily implemented, such as those involving an OPA-IS procedural revision (e.g., Recommendations #1, 5 and 6 on the attached list), others would constitute significant change and/or involve collective bargaining, legal or substantial cost considerations (e.g., Recommendations #11 and 39).

OPA performs its policy review function primarily through: (1) review of individual complaints, complaint trends and statistics; (2) participation in command staff development and review of policy; (3) participation on the Department's Risk Management Advisory Team; and (4) interaction with the Training Section. These mechanisms frequently overlap and of course, OPA is just one of many parts of the Department committed to critical analysis and continual improvement.

This Summary Report of policy recommendations made by the OPA includes issues and recommendations forwarded for review from September 2003 through June 2006. Policy recommendations are divided into four categories: (1) recommendations on OPA policies and procedures, (2) recommendations on policies concerning professional standards, training, risk management, and accountability, (3) recommendations relating to the Firearms Review Board proceedings, and (4) recommendations relating to use of force.

The complete reports on the policy recommendations listed in this summary can be found at <http://www.seattle.gov/police/opa/Docs/2004PolicyRecommendations.pdf> (OPA's Role in Policy Review and Risk Management at Seattle Police Department published on May 16, 2005 covering the period of September 2003 to December 2004), <http://www.seattle.gov/police/opa/Docs/2005%20Outreach%20&%20Policy%20Report%20Report.pdf> (OPA Policy Review and Outreach published on June 23, 2006 covering the period of January 2005 to June 2006), and http://www.seattle.gov/police/opa/Docs/UOF_2007_Report.pdf (Report on Use of Force Complaints Received in 2003, 2004, and 2005 published on January 19, 2007).

Policy recommendations for 2001, 2002, and up to September 2003 were not published separately in policy reports and are not included in this Summary Report. Information concerning these earlier policy recommendations can be found in the OPA annual reports for 2001, 2002, and 2003 at <http://www.seattle.gov/police/opa/publications.htm>.

Likewise, OPA policy recommendations made since June 2006 have not been published and are not included in this report. Finally, this Summary Report is limited to recommendations made by OPA, and though there may be overlap, does not include recommendations made by the OPA Auditor or OPA Review Board.

Attached is a summary of recommendations made September 2003 until June 2006, with notation as to the status of implementation by the Department.

TABLE OF CONTENTS

I.	Recommendations on OPA Policies and Procedures	4
II.	Recommendations on Policies concerning Professional Standards, Training, Risk Management and Accountability	8
III.	Recommendations related to Firearms Review Board Proceedings	15
IV.	Recommendations related to Use of Force	17

RECOMMENDATIONS ON OPA POLICIES AND PROCEDURES

Published in OPA's Role in Policy Review and Risk Management at SPD dated 5/16/05

Issue	Recommendation	Implemented	Pending Implementation	Under Review	Rejected by Department
<p>1. Hard-copy complaint form - Though none was required, sometimes citizens expressly asked for a "form" that could be filled out and turned-in at a later date.</p>	<p>A new form was developed and distributed at Precincts and throughout the community to fulfill this need.</p>	I			
<p>2. Establish additional forum for intake of citizen complaints - Citizens needed an alternative forum outside of the police department to report issues of misconduct.</p>	<p>OPA partnered with the City's Customer Service Bureau to receive and forward complaints to OPA. OPA staff provided training on complaint intake; brochures and informational bulletins were updated and distributed to inform citizens of this option.</p>	I			
<p>3. Response to complaints alleging biased policing - In follow up to the OPA 2003 Report on Biased Policing and as part of a continuing effort to improve service quality and customer support in this critical area of concern.</p>	<p>An internal policy was developed to address the specific issues of intake protocol, classification standards, investigative procedures and quality control.</p>	I			
<p>4. Criminal History – OPA procedures included a presumption against running the criminal history of complainants or civilian witnesses but the names were still run in a number of cases. In addition, the OPARB questioned whether OPA was complying with Department policy.</p>	<p>OPA-IS asked for a legal opinion regarding running criminal history in the course of an administrative investigation. The policy was restricted further. And criminal history checks are no longer requested. Procedures were put in place to ensure compliance with the policy by precincts or units conducting line investigations.</p>	I			

<p>5. Content of closing letters - Letters sent to complainants at the conclusion of an investigation relied too heavily on internal, technical jargon that would be confusing to citizens. The OPA Review Board had also raised concerns about the impact of the Department's terms for findings on complainants.</p>	<p>Closing letters were revised to provide a clearer description of the evidence, finding and rationale behind the decision, and to omit the technical terms used internally to describe findings. (<i>Note: The omission of terms from the closing letters was not endorsed by OPARB.</i>)</p>	<p>I</p>
<p>6. Unit Commander Follow-up – In the complaints that did not amount to misconduct, the OPA-IS lieutenant noted that several would nonetheless benefit from additional follow-up or contact by the precinct.</p>	<p>OPA-IS added a unit commander follow-up section to the Preliminary Investigation Reports.</p>	<p>I</p>

RECOMMENDATIONS ON OPA POLICIES AND PROCEDURES

Published in OPA Policy Review & Outreach dated 6/23/06

<p>7. Criminal History of Complainants - Review by OPA-IS of criminal history of complainants had already been significantly curtailed by policy. However, questions remained about the propriety of running checks for criminal history of complainants in administrative investigations of Department employees.</p>	<p>OPA renewed its request for a legal opinion governing this practice, and obtained more definitive advice from the NCIC Administrator <i>against</i> running criminal history checks. OPA policy has been further modified to prohibit the running of criminal history checks on complainants in administrative investigations of Department employees.</p>	<p>I</p>
<p>8. Documentation of Search and Seizure – OPA identified an urgent need for additional training for officers on search and seizure. OPA reviewed two cases involving a significant intrusion that was not documented.</p>	<p>OPA recommended review of the incidents and training for all ACT (anti-crime) team members. In addition, OPA recommended that a policy be developed and published to require documentation of significant search, seizures, and entries.</p>	<p>I</p>
<p>9. Sergeant Selection Criteria - OPA-IS drafted selection criterion reflecting the desired traits and demonstrated skills of an OPA-IS Sergeant.</p>	<p>The criteria was provided to all sergeants with a cover memo setting forth the importance of the job, and establishing a contact point for sergeants to call with questions.</p>	<p>I</p>
<p>10. Opinions of Non-Witnesses - OPA-IS staff was cautioned about references to the opinions of those who are not witnesses in the OPA-IS case, i.e., attorneys who comment on character of witnesses, strength of the case, etc.</p>	<p>It was agreed that follow-up entries should typically be restricted to objective facts and information provided.</p>	<p>I</p>

11. Referral of Criminal Investigations – OPA is responsible for conducting or overseeing investigations of SPD employees alleged to have committed crimes.

For crimes alleged to have been committed outside the city limits, and under the investigation of another law enforcement agency, OPA serves as the liaison to the outside agency and monitors the case. At the point where charges are either filed or declined, or otherwise not pursued, OPA takes over and completes the administrative case.

As for crimes alleged to have occurred within the City limits, OPA in the past bore primary investigative responsibility. However, beginning in 2005, changes were made to this practice. A new contract provision called for OPA to determine the appropriate investigative unit with expertise in the type of criminal conduct alleged to conduct the criminal investigation. The referral unit would conduct the investigation, then refer the case back to OPA for completion upon the filing or decline of charges. The change was intended to utilize special expertise within the Department, so that, for example, allegations of domestic violence would be investigated by the subject matter experts currently assigned to the Department's Domestic Violence Section.

Experience has shown that the 2005 change has not achieved the intended results. The referral of cases by OPA has met with resistance, strained Department resources, posed difficult management problems, diminished confidentiality, jeopardized compliance with contractual obligations and deadlines, and resulted in unintended consequences. With the referral to multiple outside units, OPA's ability to exercise management and oversight of these important cases has been compromised.

OPA recommended that OPA retain primary investigative responsibility for these criminal investigations, with the option to utilize in-house expertise via temporary assignment of a specific investigator to work with OPA on a particular case. This change would facilitate compliance with SPOG contract provisions, provide the best protection for confidentiality, and ensure direct accountability.

The Department sees this as a collective bargaining issue and outside of the realm of pure policy reconsideration.

<p>12. In-Person Interviews of Complaints Alleging Excessive Force - OPA-IS staff was reminded that, where possible, interviews with complainants alleging unnecessary or excessive force be done in person.</p>	<p>OPA recommended that serious attempts at in-person interviews be made whenever there are significant injuries or other egregious circumstances alleged.</p>	<p>I</p>	
<p>13. Confidentiality Agreements</p>	<p>OPA ensured that all staff members signed a confidentiality policy and agreement. In addition, OPA included a similar memo in the packet to other units conducting criminal investigations at the request of OPA.</p>	<p>I</p>	
<p>14. Review of Open Criminal Investigations - OPA was concerned about the timeliness of criminal investigation cases awaiting review for possible charges by the appropriate prosecuting authority.</p>	<p>OPA developed a computer based tracking system for all criminal cases to keep track of status and to consider parallel investigation in appropriate cases.</p>	<p>I</p>	
<p>15. Immediate Interview of Subjects in Custody</p>	<p>OPA-IS staff was reminded of the need to attempt immediate interviews of in-custody complainants and subjects.</p>	<p>I</p>	
<p>16. Restricting Representation by Guild Representatives Who Were Fact Witnesses – In several OPA cases, concerns have arisen about Guild representatives, who themselves have personal knowledge of the events under investigation, representing named or witness employees.</p>	<p>OPA recommended that the Department’s legal advisor raise the issue with SPOG. The Guild attorney, while disputing a conflict existed in a particular case, agreed with the underlying premise. OPA-IS staff has been advised to not go forward with officer interviews if they believe the Guild representative may be a fact witness in the case.</p>	<p>I</p>	

RECOMMENDATIONS ON POLICIES CONCERNING PROFESSIONAL STANDARDS, TRAINING, RISK MANAGEMENT AND ACCOUNTABILITY

Published in OPA's Role in Policy Review and Risk Management at SPD dated 5/16/05

Issue	Recommendation	Implemented	Pending Implementation	Under Review	Rejected by Department
17. Administrative Reviews - An administrative review (AR) is a review by a supervisor of an officer's performance conducted when the number of complaints indicates a possible problem. OPA identified weaknesses in the area of consistency, content, and follow-up.	OPA initiated corrective training to improve the process. This is an on-going OPA initiative. The Department's Early Intervention Program has replaced the Administrative Review system.	I			
18. Review of Mobile Data Terminal (MDT) transmissions for professionalism - In several cases, OPA noted inappropriate MDT messages between officers.	At OPA's recommendation, supervisors were reminded of the need to (1) reinforce the expectation that transmissions be appropriate and professional, and (2) to regularly review this administrative message traffic. This expectation was also included in the Department's newly revised Standards of Conduct manual section.	I			
19. Officer-involved domestic violence policy - An OPA Investigation raised questions about the appropriate role of the chain of command when their employee is the subject of an investigation by another agency.	The role of the agency and immediate supervisors in response to officer-involved domestic violence was clarified in new policies and procedures.	I			
20. Stops, Seizures, Searches - A significant number of OPA complaints involved questions related to the legality of a stop, search, or seizure.	OPA made a training recommendation for priority attention to these issues in the Department's training curriculum.	I			
21. Citations based on attitude and demeanor - As a result of several complaints, OPA recommended that the Department amend its policy on issuing citations to address the question of attitude and demeanor.	New policy language was developed to emphasize that enforcement actions will not be issued based on attitude and demeanor, but that attitude may be taken into account if it is apparent that a lesser action will not have the desired effect of correcting prohibited actions.	I			

<p>22. Pretext stops - Several OPA cases raised questions about the law relating to pretextual traffic stops. Concerns about pretext stops often overlap and compound the perception of racial profiling.</p>	<p>OPA recommended additional training for officers and supervisors in this fact-specific and complex area of law.</p>	<p>I</p>
<p>23. Detention of witnesses - A complaint investigation revealed legal problems with the detention of an uncooperative material witness in a homicide case.</p>	<p>OPA recommended updated training regarding the law as it relates to witnesses during investigations. The commander of the affected unit responded with a detailed discussion and written reminder that was shared with all follow-up units.</p>	<p>I</p>
<p>24. Conflicts of interest in investigations - OPA raised concerns regarding officers investigating possible crimes in which they or a family member is the victim.</p>	<p>Language proscribing this conflict of interest was included in the newly revised Standards of Conduct.</p>	<p>I</p>
<p>25. False Testimony - Review of an OPA-IS case highlighted the fact that SPD did not have a policy section explicitly addressing "false reporting/or false testimony".</p>	<p>Upon OPA recommendation, the new Standards of Conduct was revised to include one.</p>	<p>I</p>
<p>26. Gratuities - OPA investigated a case involving the purchase by an officer of a firearm from a citizen who contacted him in the course of his duties. The purchase was determined to be a conflict of interest (gratuity).</p>	<p>Language prohibiting such conduct was added to the new Standards of Conduct section.</p>	<p>I</p>
<p>27. Information concerning guilt or innocence - A complaint investigation discovered facts suggesting that an officer was aware of conflicting testimony provided by a fellow officer. Though no intentional misconduct was found, the information could have been relevant to the guilt or innocence of the suspect. This information should have been reported to a supervisor.</p>	<p>OPA recommended additions to the new Standards of Conduct section to require mandatory reporting of information that might bear on innocence.</p>	<p>I</p>

<p>28. Correction to criminal history records - During a case review, it was determined that the complainant had been arrested without probable cause. No procedure existed for the removal from databases of any record of the arrest.</p>	<p>A draft policy was drafted by the OPA and forwarded for review and implementation to permit such corrections.</p>	<p>P</p>
<p>29. Buy-Bust procedures - A review of an excessive force complaint raised issues concerning implementation of screening or compliance with policies with respect to strip searches of buy-bust arrestees.</p>	<p>Current policy reviewed by Legal Advisor and found to be consistent with State laws (supervisory screening included which exceeds State requirements).</p>	<p>I</p>
<p>30. On-lookers viewing police actions - OPA reviewed several complaints arising out of conflicts between the police and citizens who had stopped to watch police activity.</p>	<p>This issue was forwarded to Operations and to the Training Section for further review and discussion of policies, practices, training and public education that may minimize these confrontations. The issue was incorporated into Street Skills training.</p>	<p>I</p>
<p>31. Verification of ID in vice arrests - Fictitious names are often provided by suspects arrested for vice-related crimes.</p>	<p>A recommendation was forwarded by the OPA to examine SPD procedures for booking and transport to keep misidentification issues to a minimum.</p>	<p>U</p>
<p>32. Photographing dark-skinned subjects - Poor quality photographs of dark-skinned individuals in use of force documentation by the precincts sometimes preclude conclusive findings.</p>	<p>OPA recommended that the Department pursue improved equipment and practices to achieve better quality photographs. The Department is moving to all digital photography equipment to enhance quality of photographs.</p>	<p>I</p>
<p>33. Joint task forces - Upon review of several complaints in which SPD officers were serving on joint task forces, it was determined that there was a lack of understanding concerning whether SPD employees were expected to follow SPD policy and directives.</p>	<p>OPA recommended a review of arrangements and the development of policy and guidelines.</p>	<p>U</p>
<p>34. Arrest reports during protest events – In a case involving the arrest of an anti-war protester, OPA found that the arrest report recited facts that were not accurate. It was discovered that the report was confused with a separate incident also involving a female arrestee.</p>	<p>New policies and practices were initiated to more accurately document arrests. Short form narrative now completed by arresting officer(s).</p>	<p>I</p>

RECOMMENDATIONS ON POLICIES CONCERNING PROFESSIONAL STANDARDS, TRAINING, RISK MANAGEMENT AND ACCOUNTABILITY

Published in OPA Policy Review & Outreach dated 6/23/06

<p>35. Documentation of Detentions – Department policy required supervisor notification and incident reporting whenever an arrest or detention involved handcuffing. However, there was no policy requiring documentation for other significant detentions, i.e., felony stops; ordered to ground at gunpoint; lengthy investigative detentions, etc.</p> <p>An absence of paperwork inhibits OPA’s ability to review the reasonableness or propriety of officer conduct and provide explanations to citizens who have experienced a very stressful event. Supervisory and command review of the operation is similarly restricted, impacting the ability to recommend changes in tactics or to spot trends. Finally, the lack of documentation makes it difficult for the Department to defend its actions against subsequent challenges of false arrest, unnecessary force, or racial and ethnic bias.</p>	<p>OPA renewed its recommendation to revise Department policy with an eye toward requiring documentation of major arrests and incidences.</p>	<p>I</p>	
<p>36. Radio/Dispatch Procedures for Responding to Citizen Complaints – OPA reviewed two complaints in which complainants called 911 to report alleged police misconduct.</p>	<p>OPA suggested a review and revision of current policies and procedures used by Communications in handling complaints made via 911.</p>	<p>I</p>	
<p>37. Supervision of Strip Searches - OPA noted inconsistency and lack of compliance with Department policy requiring supervision of strip searches.</p>	<p>The form was revised to provide better documentation as to the supervisor who screened and witnessed the strip search.</p>	<p>I</p>	

<p>38. Safeguarding Personal Property and Evidence – OPA-IS commanders noted policy, procedure and training problems in the area of evidence and property handling.</p>	<p>In addition to video cameras which have been installed in patrol cars which can be used to monitor the handling of property, a new sophisticated digital video camera system has been installed in the Evidence Unit, and video cameras are being installed in precinct property rooms and holding cells. New policies relating to the use of these camera systems are being finalized.</p>	<p>I</p>	
<p>39. Closing Down Businesses – A complaint was made by the manager of a restaurant and bar for unnecessary force by two officers. The force issues were resolved, but review of the case revealed concerns about the decision to close down the establishment prior to closing time for code violations. OPA raised concerns about a lack of training on the necessary predicate and about a lack of policy or procedure governing such actions.</p>	<p>OPA recommended that the Department develop and publish policies that address the circumstances under which a business may be closed down, and the procedures that should be adhered to, including review/screening by a supervisor. This was part of the considerations put forward in the “nightlife” ordinance issue currently under consideration.</p>		<p>U</p>
<p>40. Strip Searches: Removal of Contraband/Evidence – Review of OPA cases raised questions about whether existing policy and/or state law allowed for any touching of strip search subjects by SPD employees to remove contraband or evidence.</p>	<p>Current policy reviewed by Legal Advisor and found to be consistent with State laws (supervisory screening included which exceeds State requirements).</p>	<p>I</p>	
<p>41. Review of Field Training Officers</p>	<p>The Administrative Services Bureau worked with OPA to ensure systematic vetting of officers before being assigned to the FTO program. A list of current FTOs is forwarded to OPA on a monthly basis. The Supervisor of FTO is advised if there are any complaint issues.</p>	<p>I</p>	
<p>42. Clarification of Use of “Ruse” by Detectives</p>	<p>OPA issued a reminder to the Criminal Investigation Bureau that the use of ruses and deception, while permissible in undercover work, could not be used to obtain consent to search or in an advisement of rights.</p>	<p>I</p>	
<p>43. Retrieval of In-Car Video – Investigation of a citizen complaint illustrated difficulty in ascertaining whether patrol car video cameras captured any footage of the incident.</p>	<p>OPA recommended a comprehensive accounting system with redundancy and cross-referencing capability to prevent errors.</p>	<p>I</p>	

<p>44. Training on Exercise of Judgment and Discretion – The new Standards of Conduct policy included a new section on Failure to Exercise Judgment and Discretion. The section represented a new articulation of an important, potentially far-reaching standard.</p>	<p>OPA recommended formal training on the new standard.</p>	<p>I</p>	
<p>45. Policy on Carrying Weapons Off-Duty</p>	<p>OPA alerted Audits and Inspections to a contradiction between a new policy in the new section on Standards and Duties, allowing for the carrying of a weapon while off-duty to be at the option of the employee, and an older provision in the Firearms section that still indicated that officers must be armed with a firearm. The policies are now consistent.</p>	<p>I</p>	
<p>46. Policy on Statements about Discharge of Weapons – Provision in SPD Manual stated that officers should not make statements to anyone outside of their chain-of-command regarding discharge of firearms. This requirement was noted to be inconsistent with the need to report a firearms discharge to any on-scene investigators/responders outside the employees' immediate chain of command.</p>	<p>OPA recommended revision to existing policy language.</p>		<p>R</p>
<p>47. Appropriate Use of SPD Uniform – OPA received a complaint about a Department of Corrections officer, working with SPD officers, wearing a Seattle Police bicycle jacket. In addition, there was an investigation into pictures of a recruit in uniform posted on a public website.</p>	<p>OPA recommended adoption of a policy governing the appropriate use of SPD uniforms.</p>	<p>P</p>	
<p>48. Claims Processing – OPA noted that the Department was receiving requests for information from the city claims office for "arrest records" of claimants. The Department was responding with complete criminal histories.</p>	<p>The Department's Administrative Support Bureau stepped in to re-design the forms to reflect that the request was limited to arrest and/or incident reports that were the subject of the claim. Criminal histories are no longer provided.</p>	<p>I</p>	

<p>49. Duration of Secondary Employment Permits – Following the submittal of all-new secondary employment permits required in January 2005, Human Resources was considering the permits valid for one-year plus the time until an employee’s anniversary date. That meant that the permit could be good for close to two years, assuming early application and late anniversary. This practice conflicted with secondary employment regulations providing that permits were only valid for one year.</p>	<p>OPA recommended that this practice be discontinued, and that a process to ensure a bridge review and/or extension of the permits be adopted.</p>	<p>I</p>	
<p>50. Secondary Employment</p>	<p>OPA recommended modification/clarification to secondary employment permit application form to include restrictions from Standards of Conduct section of the manual that states, “Employees holding the rank of sergeant and above shall not engage in secondary employment that is coordinated, brokered, supervised or scheduled by an employee of lower rank.”</p>	<p>I</p>	

RECOMMENDATIONS RELATED TO FIREARMS REVIEW BOARD PROCEEDINGS

Published in OPA Policy Review & Outreach dated 6/23/06

Issue	Recommendation	Implemented	Pending Implementation	Under Review	Rejected by Department
<p>51. Objectivity of Reports prepared by Homicide Section – OPA raised concerns about the appearance of a lack of objectivity in investigative reports prepared by the Homicide Section. The reports sometimes included conclusory statements about an officer’s thoughts, decisions, and actions, rather than an objective recitation of facts and information. In addition, separate components of the investigation, i.e., of the officer-involved shooting and of crimes committed by the subject of the shooting, were merged, rather than bifurcated. It was noted that such practices might give the appearance that the neutrality of the investigation was compromised from the outset. A resulting diminution in credibility would be a disservice to the integrity of the process, and to the officer involved in the shooting.</p>	<p>OPA recommended bifurcation of investigation by Homicide and strict objectivity of incident, follow-up, or major incident summary reports.</p>		P		
<p>52. Record of Order to Give a Compelled Statement - OPA noted that there was no record of the individual supervisor or commander in Homicide that gave the order to the involved officer(s) to give a compelled statement (“Garrity” order), or of when the order was given. This information could be important in a particular case, and should be subject to review in every case.</p>	<p>OPA recommended that a record of this information be maintained in the Homicide Investigation file and included in the FRB notebook.</p>		P		

<p>53. Recording of FRB Proceedings – Testimony at the FRB proceedings is not memorialized. This poses a clear impediment to review of the proceedings and of the underlying circumstances surrounding the shooting.</p>	<p>OPA recommended that FRB testimony be recorded by tape or court reporter and transcribed for the file.</p>	<p>U</p>
<p>54. Documentation of Involved Officer Statements – OPA noted a lack of and/or ambiguous notation regarding date and time on officers’ statements. One statement of an involved-officer was marked as having been given just hours after the shooting, although it was clear from the investigative file that the written statement was not received by Homicide for several days.</p>	<p>OPA recommended that policies should clarify that involved officer statements should accurately note when the statement was commenced and when it was completed, and that the investigative file should note when the statement was received.</p>	<p>P</p>
<p>55. Testimony of Civilian Witnesses at FRB Proceedings – It was noted that in one case, although the investigative file contained written and/or tape-recorded statements from multiple civilian witnesses, only sworn SPD personnel testified in-person at the FRB proceedings. Current SPD policy does allow for testimony by civilians, although such witnesses cannot be compelled to appear and testify in internal Department proceedings.</p>	<p>OPA recommended that the FRB chair consider and address in advance of or during the FRB proceedings whether civilian witnesses would be beneficial to a thorough and objective review.</p>	<p>P</p>
<p>56. Issuance of Garrity Order to a Witness Officer – OPA noted that the statement of witness officers were sometimes denoted as “Involuntary True and Compelled Statements” pursuant to a “Garrity” order by an individual supervisor or commander in Homicide. Witness officers do not face potential prosecution, and thus do not require protection of their right against self-incrimination. Moreover, reporting their actions and observations in connection with an officer-involved shooting is a fundamental duty of their position.</p>	<p>OPA recommended that the Homicide Unit be instructed that an order to give a compelled statement should not be given to witness officers.</p>	<p>P</p>

RECOMMENDATIONS RELATED TO USE OF FORCE

Published in OPA's Role in Policy Review and Risk Management at SPD dated 5/16/05

Issue	Recommendation	Implemented	Pending Implementation	Under Review	Rejected by Department
<p>57. Use of Force Policy - Based in part on OPA input, the Department made significant changes to the Use of Force policy. The changes were intended to enhance use of force reporting and review and to achieve greater consistency throughout the Department on the interpretation and application of the policy.</p>	<p>OPA followed-up with a recommendation to provide training to patrol officers and supervisors on the implemented changes.</p>	I			
<p>58. Citizen ride-along program - Issues and concerns were noted in two areas: (1) allowing juveniles and children of officers to go on ride-alongs and (2) listing citizens as witnesses in incident reports.</p>	<p>These recommendations resulted in audits by the Department and policy changes to improve the program.</p>	I			
<p>59. Invocation of "Garrity" language - Law derived from the Fifth Amendment provides that statements compelled by an employer in an administrative investigation cannot be used in criminal proceedings. In several cases, employees used the "true and involuntary" language of Garrity in circumstances where it did not apply and should not be invoked.</p>	<p>At OPA's recommendation, a directive from the Chief was published to clarify and restrict the invocation of Garrity protection.</p>	I			
<p>60. Use of Bicycles during protests or mass events – OPA reviewed a case involving a bicycle officer who unintentionally struck the complainant in the face with his bicycle during a demonstration, causing minor injury.</p>	<p>OPA pointed out that the use of bicycles as mobile fencing raises policy and legal issues, and recommended that the tactic be subjected to additional review.</p>	I			

61. Cameras in holding cells - Several complaints were reviewed in which misconduct by police while in custody at police facilities was alleged.

Video cameras are being installed in precinct holding cells and property rooms. New policies relating to the use of these camera systems are being finalized.

I

RECOMMENDATIONS RELATED TO USE OF FORCE

Published in OPA Policy Review & Outreach dated 6/23/06

62. Training on Response to "Onlookers" and to "Street Allegations of Biased Policing" – Review of OPA cases revealed multiple complaints involving SPD interaction with "onlookers," or people who are observing police enforcement activity. In addition, response by officers to allegations in the street of biased policing continued to emerge as an issue.

OPA recommended that specific training on these common street scenarios be incorporated into a new block of training for Street Skills 2006.

I

63. Garrity Admonishments – Additional examples came to OPA's attention of improper issuance of an order to an officer to give a compelled statement under "Garrity." "Garrity" is the name of a case that held that, if public employees are ordered to answer questions under threat of termination, the statements they give couldn't be used against them in subsequent criminal proceedings.

OPA renewed its previous recommendation that Department commanders be reminded of the limits of the proper application of Garrity admonishments.

I

RECOMMENDATIONS RELATED TO USE OF FORCE

Published in Report on Use of Force Complaints received in 2003, 2004, and 2005 dated 1/19/07

64. Use of Force and Race – a review of complaints for 2003 to 2005 indicated a disproportionate number of use of force complaints filed by people of color.

This topic is of high priority for the new OPA Director. She is considering different approaches to further analyze and respond to the data on the high percentage of complaints of use of force by people of color.

U

65. OPA-IS Response to Critical Incidents – The Seattle Police Department has a low rate of use of significant force, and a low rate of force resulting in significant injury. And, for the most part, use of force screening and documentation by the chain of command is diligent and of high quality.

At the same time, of the over seven hundred force incidents reported in each year of the review period, OPA is not aware of any where a reviewing commander found a policy violation. Outside of one officer-involved shooting found out of policy by the Firearms Review Board, no force incident has ever been referred to OPA for further investigation.

Significant force events represent a serious use of the power and authority of a police officer. They merit a heightened response and scrutiny from outside the chain of command. Many departments have adopted protocol calling for an on-scene response by a designated unit, usually within internal affairs or the professional standards unit. Several also have members of their civilian review entities respond to such incidents as well.

OPA recommends development of a protocol that calls for an on-scene response by OPA to critical incidents. Based on review of policies in other jurisdictions, and the three-year review of use of force cases, such a response is recommended when the following criteria are present:

- Officer-involved shootings (including “misses” and accidental discharges)
- Substantial force, with or without serious injury, to include: multiple tasing; strikes to face; multiple/sustained application of force
- Substantial injury: treatment at hospital
- Significant force while subject in custody
- Force on restrained subject, with or without injury
- Accidental injury to subject caused by officer, i.e., hit with bike/car, tripped/fell, hit head on patrol car, etc.
- Force used on following individuals: juveniles under or presumed under 16; females known or believed to be pregnant; individuals with significant physical or mental disability
- At request of supervisor at scene (advised in incidents with significant potential for citizen complaint, tort claim, media attention, etc.)

Response by OPA to the scene of critical incidents does not presume an OPA investigation for policy violations. Rather, protocol could include a screening function by OPA, with the discretion to preempt, shadow, or defer to the standard chain of command investigation.

Presence and input by personnel outside of the chain of command at the scene of critical incidents would enhance objectivity and build public trust. It is time that the Department takes this step toward greater accountability.