# Seattle Office of Inspector General

# 2020 Annual Report

November 24, 2021

# Letter from Inspector General

The Office of Inspector General for Public Safety (OIG) is charged with systemic oversight of the Seattle Police Department (SPD) and Office of Police Accountability (OPA). That responsibility weighed heavily in 2020, as OIG helped the City in its efforts to learn from and improve police response in the face of significant community outcry about SPD handling of community protests against police brutality and institutional racism.

The year 2020 for OIG was a year of self-reflection on governmental participation in and perpetuation of institutional racism, of personal challenges as each of our families dealt with COVID-19, and of work that shifted to projects with a direct bearing on the 2020 protests, specifically issues impacting exercise of First Amendment rights and community trust around use of force.

At the request of City Council, OIG conducted a review of SPD crowd management tactics and policy and provided initial suggestions for addressing systemic issues identified in SPD's controversial police protest response. The OIG report provided a broad review of SPD deployment of less lethal weapons in the protest setting and became part of the City's response to the federal court.[1] OIG then turned its staffing resources to mobilizing a first-of-its-kind community-involved sentinel event review (SER) of those events, an effort that began in 2020 and is ongoing.

SER is used in the health care and airline industries to examine root causes of tragic events to look for preventative system improvements. OIG reached out to approximately 100 community organizations to stand up the process, and collaborated in planning efforts with academic experts, community representatives, and other accountability stakeholders. A panel comprised of community and SPD staff are presently dedicating an enormous number of hours and significant emotional labor to engage in honest, tough discussions that tackle gaps between community and police perceptions. A report that covers the first critical days of the protest has been released and filed with the court. OIG is continuing its work with SPD and partners to improve the understanding of 2020 events, with a goal of improving policing protest response.

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[1] U.S. v. City of Seattle, Case No. C12-1282JLR, Dkt. 637.

In the midst of the global events of 2020, OIG completed its second full year of operation. In other notable work, OIG provided recommendations for the City's state legislative agenda during a legislative session that challenged the police accountability status quo. OIG released an audit of the Canine Unit, highlighting areas of concern and opportunities for improvement, and completed its audit of accidental destruction of DNA evidence by SPD. OIG also issued certification determinations in 402 OPA investigations of alleged officer misconduct.

However, the year also saw ongoing OIG projects delayed as staff struggled to meet the dual pressures of protest-related work and fulfillment of priority projects on the existing annual work plan. I am proud of the work of my team and all they were able to accomplish while each of us dealt with our own COVID-19 challenges.

I am also deeply appreciative of the community leaders who have worked with OIG and continue to share their knowledge and experience. There has been a clear call to "rethink" or "reimagine" policing, but it is also necessary to apply that thinking to police accountability and the hidden institutional racial barriers around us that undermine public confidence in government. OIG is continually working to better ensure community voice and priorities are centered in its work, including within the projects themselves, through building a community advisory group to advise OIG, and beginning a data decolonization effort for OIG analytics.

There is also the larger challenge of addressing racial disparity in policing and regaining public trust. Through SER, OIG has created one forum for the City to talk about those critical issues with community. OIG also advances the dialogue around disparity in the course of its regular oversight of SPD and OPA systems. Review of SPD and OPA handling of allegations of officer bias is another area of pending work. Work also continues on a discipline audit, a topic that has been a subject of ongoing community and Court concern.

I am grateful to close the chapter on 2020. I look forward to the work that lies ahead and all that we can accomplish.

Sincerely,

Lisa A. Judge
Inspector General for Public Safety

# Chapter 1: INTRODUCTION

## Annual Report Requirements

The accountability ordinance (Ord 125315) directs OIG to release an annual report that includes a description of OIG audits and review activities, OIG recommendations for changes in both policies and the legal and contractual framework, and an evaluation of the extent to which the accountability entities, including SPD, are fulfilling their charges under the ordinance. OIG is directed to include review of significant events such as officer-involved shootings, disproportionality or other trends in inquests, claims and lawsuits alleging SPD misconduct, reviews of successful practices in other jurisdictions including any recommendations for the mix of OPA sworn and civilian staff, explanation of OIG review of the OPA complaint-handling system, and a summary of intake and outreach that has informed OIG work (See Appendix A for the full requirements).[6]

Report requirements in this report are divided into the following chapters:

- **Strategic Leadership** – strategic work performed by the Inspector General to further the department mission, represent the expertise of OIG in stakeholder activities, and participate in Consent Decree sustainability efforts in preparation for the future OIG sustainment role;
- **Audits** – audits and assessments performed in accordance with Generally Accepted Government Auditing Standards;
- **Policy Work** – policy and research on areas for improvement informed by best practices and innovations in other jurisdictions, including major special projects that further the Inspector General's vision for accountable policing; and
- **OPA Review** – review and certification of OPA complaint-handling and the OIG complaint intake system.

## Operational Structure

OIG is organized into three functional work areas with staff tasked with audits, policy and best practice research, and investigations (see Appendix B for OIG organizational chart). As a small department, office staff are frequently cross-trained and able to assist on cross-disciplinary projects where needed.

# Chapter 2: STRATEGIC LEADERSHIP

| HIGHLIGHTS |
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| Strategic leadership efforts at OIG involve guiding project priorities in a manner that further public trust and most effectively provide systemic oversight over SPD and OPA, to keep OIG responsive to the needs and concerns that have arisen in 2020. OIG leadership has also played an active role in working with the City, Court Monitor, and other stakeholders to chart a sustainable path forward for accountable policing. |

## Partnership and Collaboration

For OIG leadership, duties included continuing to engage in strategic planning and conversation with stakeholders on the future of policing, life during and after the Consent Decree, and ongoing on-site presence and monitoring of SPD administrative investigations of significant uses of force. Such collaborations included:

- Quarterly collaboration meetings between OIG, Community Police Commission (CPC), Office of Police Accountability (OPA), and SPD leadership to provide strategic coordination and monitoring of accountability recommendations from all oversight entities;
- Consent Decree sustainment meetings with partners to discuss SPD policies and planned sustainment assessments;
- Reports to Council at public committee meetings, and responding to Council requests related to police protests;
- Participation in the City of Seattle state legislative agenda efforts;
- Regular meetings with SPD management and labor;
- Community meetings and forums;
- Regular meetings with ACLU leadership; and
- Implementation of cross-agency training for OPA, SPD, and OIG in non-biased interview techniques based on best practices.

OIG leadership also guided OIG project priorities to be responsive to current events, including directing significant staffing resources to conducting a Sentinel Event Review of SPD response to police-protest demonstrations. Other priority projects of leadership continued in 2020 as well, including development of a training program for effective interviewing techniques, and monitoring of implementation of an SPD peer intervention program. Each of these projects has the potential to build upon industry

best practices and research and promote a more accountable culture within SPD and impact how SPD engages with community.

## Use of Force Oversight

The IG and/or her designee responds to investigation scenes of significant uses of force, such as officer-involved shootings, to provide independent observation of the unfolding investigation and ensure the scene is managed according to policy and accepted investigative protocols. Having civilian observers adds a layer of transparency to SPD operations to promote public trust and address community concern. It also provides an opportunity for real-time civilian feedback and the ability to ask clarifying questions on issues of potential importance to community. Being present at scenes has also allowed OIG to better understand cross-agency scene dynamics and participate in addressing concerns about the intersection and impact of I-940 on SPD administrative investigations of officer use of force. Understanding the events at the scene provides deeper insight and understanding of the investigation and the review that follows. Often, having an actual understanding of the circumstances of the scene allows for heightened critical analysis of the thoroughness of issues review and addressed by SPD and OPA.

In 2020, the IG continued to attend all Force Review Board (FRB) meetings and provide ongoing feedback regarding FRB functioning. This is one example of the ways in which the IG provides technical assistance to SPD management and other accountability partners. Last year, this resulted in dialogue with SPD about matters that surfaced in FRB meetings. This work has provided impetus for identification and prioritization of audit topics, including a discipline audit.

# Chapter 3: AUDITS

| HIGHLIGHTS |
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| The combination of COVID-19 and work on mass demonstrations delayed and expanded the scope of on-going audits. Nevertheless, OIG released two audit reports in 2020, with three more nearing completion and completed five non-audit projects, including two reviews addressing less lethal weapons and crowd dispersal tactics. |

## About Audits

OIG conducts performance audits and reviews of SPD to determine the health of department systems and processes. Topics are selected based on an assessment of risk that considers the impact of a potential issue and likelihood of a system problem. OIG deploys a wide variety of methods, including interviews, data analysis, and best practices research to assess whether SPD is delivering "constitutional, professional, and effective police services consistent with best practices...in a way that reflects the values of Seattle's diverse communities."[2]

## Audit Standards and Practices

OIG follows the Generally Accepted Government Auditing Standards (GAGAS) set by the United States Government Accountability Audit.[3] These standards contain requirements for how the OIG auditors perform their work, including independence, objectivity, standards of evidence, and reporting.[4]

Sometimes, OIG completes non-audit reviews, including alert letters. The decision to issue a non-audit review may be made due to external time constraints that would make it impossible to conduct a full GAGAS audit in the allotted period.[5] For example, City Council requested that OIG complete its assessment of SPD crowd management policies in approximately eight weeks in the summer of 2020. In other cases, OIG may

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[2] Ord. 125315, §3.29.270.A

[3] GAGAS standards can be found here: https://www.gao.gov/assets/gao-18-568g.pdf

[4] As part of following GAGAS, OIG is required to undergo a peer review by external auditors to evaluate OIG performance and adherence to standards. Peer reviews have been delayed due to the on-going COVID-19 pandemic, but OIG will undergo and publish the results of its review once it is complete.

[5] GAGAS requires auditors to consider a wide breadth of topics and questions to complete a thorough audit. For example, an assessment of internal controls and internal controls deficiencies is required in every audit. It may not be possible for OIG to complete all required steps within an externally mandated timeframe, particularly if there are delays in accessing requested documents or personnel.

issue an alert letter to SPD because preliminary review has indicated an obvious and urgent problem that should be addressed right away, as in the case of the Risks to Compliance with Chapter 14.18 of Seattle Municipal Code alert letter.[6] In all cases, OIG follows the same evidence and quality control standards it would apply to its audit products.

## Objectivity and Independence

OIG assesses individual objectivity and independence at the start of every audit and non-audit review. Staff are required to consider independence in both fact – for example, if they have a personal bias or connection to the area under review – and appearance.

## Effect of 2020 on the Audit Plan

The events of 2020 had a substantial effect on planned OIG audit activities. The COVID-19 pandemic delayed several audits in progress as OIG shifted gears, explored ways to work remotely, and sorted out the required technology. Interviews on sensitive subjects were the hardest barrier to overcome. Some SPD personnel were concerned about virtual interviews and either declined to participate or required OIG to obtain assurances from other parties. The mass demonstrations in Seattle last summer forced OIG to pause all audit work to respond to Council requests concerning the use of less lethal weapons and SPD crowd management policies. OIG also began the Sentinel Event Review process, discussed in Chapter 4: Policy Work, to identify root causes and avoid similar outcomes going forward.

## Recommendation Status and Follow-Up Activities

OIG issues recommendations as part of its audit work and follows up on the status of these recommendations. Once SPD reports it has implemented a recommendation, OIG conducts validation testing before closing the recommendation. For non-audit projects, OIG will issue suggestions or points for SPD to consider. OIG tracks and monitors implementation of these considerations, but does not engage in validation testing, relying instead on SPD reporting.

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[6] Systemic Risks to Compliance with Chapter 14.18 of Seattle Municipal Code Alert Letter. Seattle Office of Inspector General for Public Safety. November 19, 2020.
https://www.seattle.gov/Documents/Departments/OIG/Other/OIGChapter14.18AlertLetter11192020.pdf

The CPC collects information about recommendation status on a quarterly basis from the accountability partners and publishes the information in its online tracker.[7]

OIG is currently testing the implementation status of recommendations made in the 2019 audit of SPD compliance with Chapter 14.12 of Seattle Municipal Code.

## Completed Audits

### *Audit of SPD Patrol Canine Teams (June 2020)*

OIG began an audit of the SPD patrol Canine Unit after observing that the department lacked a consistent interpretation of patrol canine policy and deployment criteria, and that the department generally appeared to be unfamiliar with canine tactics and operations outside of the unit itself. As the Canine Unit frequently works with other SPD units, the degree of inconsistency and lack of familiarity created substantial risks for both safe deployment of canine units as well as appropriate review of canine bites.

OIG issued six findings that reflect systemic concerns within both the Canine Unit and senior SPD chain of command. The findings are summarized as follows:

1. Canine Unit sergeants and lieutenant did not address inadequate performance, creating potential safety risks for officers and members of the public.
2. Canine Unit supervisors did not provide sufficient supervisory support or oversight for several elements of handler instruction and assessment, including training, performance evaluation, and documentation review.
3. The Canine Unit bite ratio statistic is unreliable due to how the Unit counts and aggregates arrests with canine involvement. OIG also identified inconsistent descriptions of canine deployments across department record-keeping systems.
4. The development and implementation of the interim directive and revised canine policy created confusion throughout the department, impacting canine operations and oversight of canine use of force, and affecting handler morale.
5. The length of time required to conduct robust and thorough force investigation and review processes impedes prompt remediation of issues needing corrective action, and the time lag may negatively impact officer wellness.
6. A physical security vulnerability creates a potential risk to patrol canines and members of the public. (OIG did not include details of the vulnerability in the public report for safety reasons.)

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[7] See https://www.seattle.gov/community-police-commission/our-work/recommendations-tracker.

OIG made 15 recommendations to address the report findings, and SPD agreed to implement each one. These recommendations, as well as the reported status by SPD, are included below. Please note that OIG has not yet conducted follow up testing to validate the status of implemented recommendations. OIG will schedule follow up activities when it is safe to resume in-person activities such as physical observation and interviews.

**Table 3.1: Recommendations from SPD Patrol Canine Teams Audit**

| Recommendation | SPD Reported Status as of 3/12/2021 |
|---|---|
| 1. Promptly assess the performance of all patrol canine teams to determine (1) ability to meet minimum state patrol canine certification requirements and (2) to determine whether these skills translate to field proficiency. | In progress |
| 2. Ensure quarterly testing requirements evaluate ability of the patrol canine teams to operate proficiently in the field and that documentation of testing is sufficient to reflect nuances of team performance. Failure to pass quarterly testing should be reported up the Canine Unit chain of command to a command level. | Reported as Implemented |
| 3. Provide effective supervision and training of the Canine Unit, to include:<br>a) Development of a comprehensive initial training program with set benchmarks and formal oversight by a Unit supervisor;<br>b) Regular group training with a Unit supervisor present; and<br>c) Timely, document review of training records. | In progress |
| 4. If the Unit delegates training responsibility to handlers, the Unit should establish a formal handler training program and empower the designated handlers to develop curriculum and conduct trainings with the cooperation of Unit personnel. | Reported as Implemented |
| 5. Require and enforce internal and external assessment of patrol canine teams in accordance with schedules established by the state and SPD. Failure of a patrol canine team to complete evaluation requirements should be grounds for removal from active-duty status. | Reported as Implemented |
| 6. Establish written criteria for what arrests qualify as a canine-related apprehension across the Unit. | In progress |
| 7. Revise the SPD bite ratio calculation such that it conforms with DOJ guidance. | In progress |
| 8. Require and enforce supervisory review of canine deployment documentation to ensure documentation is appropriate, that the description of key events is aligned across department records, and | Reported as Implemented |

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| | that any reported arrests match Unit criteria for a canine-related apprehension. | |
| 9. | Review and potentially revise the current canine policy to ensure the following: the written policy is clear to all personnel, contains no significant omissions, is not subject to conflicting interpretations, and is deconflicted with relevant law, other SPD policies, and the Canine Unit manual. | In progress |
| 10. | Provide training to SPD personnel on the new canine policy, focusing on deployment criteria and the conditions under which sergeants may grant exceptions. | In progress |
| 11. | Develop a mechanism to provide timely information to unit chain of command about issues requiring prompt corrective action and establish ability to debrief and implement necessary corrections in an expedient manner. | Reported as Implemented |
| 12. | Together with the Force Investigation Team and OPA, develop a process to allow timely unit-based debriefing or after-action meetings after significant force events in a manner that does not compromise use of force or administrative investigations. | Reported as Implemented |
| 13. | Not detailed in public report. | In progress |
| 14. | Evaluate whether the Canine Center location and training facilities meet current unit and departmental needs and remediate any deficiencies in a timely fashion. | In progress |
| 15. | Identify facilities and locations where the Canine Unit can conduct regular training in a secure environment. | In progress |

## Audit of Destruction of DNA Evidence (December 2020)

OIG performed this audit at the request of Chief Carmen Best after SPD discovered it had mistakenly destroyed 107 DNA samples. The original audit objective was to determine the events and practices leading to the destruction of the samples. However, while conducting the audit, OIG identified additional systemic concerns related to the collection and storage of evidence. This audit was paused in 2020 to address requests related to mass demonstrations and re-started in the Fall.

OIG found the DNA samples in question were not evidence in investigations, but post-conviction samples that were to be entered in a state database with the intention of identifying unknown suspects in past and future crimes. A conflict between state law and city municipal code resulted in an approximately five-year period in which the state refused to store or process City of Seattle samples and the City continued to collect the samples. While this legal dispute was resolved, SPD stored the samples in safe-keeping for the City Attorney's Office. OIG noted that it is possible the five-year delay resulted in some crimes remaining unsolved, due to the absence of the DNA samples from the state database.

While SPD was storing the DNA samples, the SPD Evidence Warehouse was overcrowded and failed fire inspections. To alleviate capacity issues, the Evidence Unit began destroying evidence in batches. While the Unit attempted to create a batch list of evidence that was safe to destroy, the process bypassed review mechanisms and protocols, resulting in the accidental destruction of the DNA samples in question.

During the audit, OIG also observed that SPD did not have standardized practices for evidence storage at precincts. In particular, one precinct did not provide appropriate safeguards for temporary evidence storage, creating risks to the security and integrity of evidence stored at that location.

OIG issued three recommendations to address the report findings. As with the Canine Unit report, please note the recommendation statuses listed below are reported by SPD; OIG has not yet conducted validation testing.

**Table 3.2: Recommendations from Audit of Destruction of DNA Evidence**

| Recommendation | SPD Reported Status as of 3/12/2021 |
|---|---|
| 1. SPD should finalize a manual for the Evidence Unit that addresses all aspects of evidence collection, security, storage, and disposition, in coordination with the City Attorney's Office and the King County Prosecuting Attorney's Office. | In progress |
| 2. SPD should take immediate steps to address capacity issues at the Evidence Warehouse, which is 94 percent full and the vehicle storage facility, which is at 100 percent capacity. | Pending |
| 3. SPD should take immediate steps to establish consistent and secure evidence storage requirements for all precincts. The requirements should be determined by the Evidence Unit and in alignment with industry standards. These requirements should be codified in the Evidence Unit manual and the SPD Manual to ensure all personnel are aware of the requirements. Given the importance of secure evidence storage, SPD should not await manual revisions before taking remedial action. | Pending |

*Audit of Secure Firearm Storage*

Chief Carmen Best requested that OIG conduct an audit of secure firearm storage after an SPD officer's personal firearm was stolen from an SPD facility during a training exercise. This project was delayed due to work on mass demonstrations in 2020 and other time-sensitive requests, as SPD reported at the time that it had taken precautions

to eliminate the immediate security threat. The report is now available on the OIG web site.

## Audits in Progress

### *Audit of SPD Interactions with Outside Law Enforcement Agencies (Mutual Aid)*

OIG is conducting an audit of SPD operations when engaging with other agencies under task force and mutual aid agreements. The scope includes formal relationships, such as SPD officers assigned to work with federal agencies, as well as context-dependent collaboration like the use of mutual aid during mass demonstrations. Given the marked increase in use of force and mutual aid during mass demonstrations in the summer of 2020, OIG expanded the scope to encompass 2020 events. This project was delayed due to other work on mass demonstrations in 2020 and resumed in autumn 2020.

### *Chapter 14.12 – Follow Up to 2019 Audit*

OIG is following up on the status of recommendations released in its 2019 audit of Chapter 14.12 activities. Chapter 14.12 is the City ordinance governing the circumstances under which SPD can collect information about individuals' political and religious affiliations, as well as sexual preference. The start of follow-up activity was delayed by COVID-19 restrictions and work concerning mass demonstrations. However, it is important to note that OIG actively monitors each authorization issued under Chapter 14.12.

### *Audit of City Disciplinary Processes for SPD Personnel*

In winter 2020, OIG initiated its audit of disciplinary processes for SPD personnel. This subject is a continuing matter of interest and concern to the Court, community, and OIG. The project focuses on the effectiveness, fairness, and transparency of disciplinary processes occurring after OPA has recommended an allegation be sustained. Topics such as the development of discipline recommendations, communication with original complainants, and the use of arbitration are all included in the audit scope.

## Deferred or Cancelled Audits

These projects were in the 2020 work plan but were deferred or cancelled. Explanation is given below for each project.

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*Supervision*

This project was deferred due to work on mass demonstrations in 2020. OIG has since determined that supervision is a root cause appearing in several projects currently underway and will be addressed in those forums. A separate supervision audit is still on the risk horizon for a future work plan.

*Retention and Hiring*

OIG deferred work on the planned retention audit. Hundreds of officers left the department in 2020 and the reasons for departure have been extensively discussed in many different forums.

*FIT/COC/OPA Issue Identification*

This project was designed to address a communications gap between OPA, the Force Investigation Team (FIT), and the chain of command. This gap has already been addressed, per OIG investigators, and the audit is no longer needed at this time. OIG continues to monitor communication and information sharing between all three parties on major use of force cases.

*Mapping of SPD Crisis Intervention and Interactions with Health and Human Services*

OIG deferred work on this project due to staffing resource constraints related to work on mass demonstrations, Sentinel Event Review, and other projects.

*Use of Force and Force Investigation Team Mapping*

OIG deferred work on this project due to staffing resource constraints related to work on mass demonstrations, Sentinel Event Review, and other projects.

## Completed Non-Audit Projects

*Review of SPD Crowd Dispersal Policies and Less Lethal Weapons (August 2020)*

At the request of City Council, OIG completed a detailed review of the SPD crowd dispersal policies and use of less lethal weapons during the summer of 2020.

Council explicitly asked the accountability entities to make recommendations about reauthorizing less lethal weapons and external authorization (i.e., Mayoral authorization) during large-scale events. The report concluded that banning less lethal

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weapons without adequate time to re-train officers and develop alternative tactics for managing a violent crowd created substantial risk of harm to the public. It also underscored that less lethal weapons can be an important non-lethal option outside of crowd control circumstances, such as addressing armed individuals in crisis or working with a barricaded subject that refuses to surrender. However, OIG also emphasized that it is critical for community trust that less lethal weapons are not used against peaceful protestors and that SPD is held accountable for each use.

On the question of external authorization, OIG found that it is not reasonable or effective to require external authorization before initiating crowd dispersal processes. Crowd dynamics are fast-moving and police may need to intervene on a life-safety issue. Further, external decision-makers will likely lack tactical expertise and access to sufficient on-the-ground information, making them reliant on SPD for information. This eliminates the desired independence aspect of the external decision-maker.

 In reviewing the SPD crowd dispersal policies, OIG found that SPD crowd dispersal policy was consistent with other jurisdictions, but lack of detail may have contributed to cycles of escalation and inconsistent decision-making. OIG determined that SPD policy and tactics for crowd dispersal were designed for mobile crowds and did not adequately prepare personnel to respond to large, volatile, stationary crowds, and did not provide a reasonable method of intervention for individual instigators who used the cover of a large crowd to engage in violence. OIG also identified that while the City does not have the capacity to respond to large-scale demonstrations without assistance from other law enforcement agencies, there is inadequate transparency and accountability concerning use of force by non-SPD entities.

OIG identified a host of other issues for SPD to research further, including documentation of tactical briefings to better hold supervisors accountable for decision-making, improving communications equipment, and using less technical language in public communications.

Although OIG had planned to conduct this work as an audit, time was a limiting factor due to significant delays in accessing SPD personnel critical to understanding relevant events, the complexity of the events under review, and a submission date set by Council and mandated by ordinance. Even with the entire audit team fully dedicated to the project and working extended hours for the allotted period, OIG determined that it was better to issue the result as a non-audit project than risk compromising compliance with GAGAS and the resulting implications for peer review and OIG credibility. The suggestions issued within the report are thus issued not as audit

recommendations, but rather insights for SPD to consider when revising its policies and tactics. However, all conclusions are supported by factual evidence and analysis.

**Table 3.3: Suggestions from Review of SPD Crowd Dispersal Policies and Less Lethal Weapons**

| Suggestion | SPD Reported Status as of 3/12/2021 |
|---|---|
| 1. Augment the existing crowd dispersal policy with a matrix containing different stages of crowd dynamics and associated authorized techniques to respond. In accordance with Suggestion 10, ensure the matrix addresses the possibility of both mobile and static crowds. SPD may wish to consider delineating when each type of less lethal weapon is authorized, based on the stage. For example, given the highly indiscriminate nature of CS gas, SPD and Council may wish to consider limiting use of this weapon to full-scale riot situations involving violence. SPD and Council may also wish to consider prohibiting the use of weapons such as CS solely in defense of property. | In progress |
| 2. Research and acquire technology to communicate with large crowds, such as a sound truck, and visual display boards. This technology could be used in a variety of settings and SPD may wish to explore partnership with other departments to share the cost. Social media is another low-cost option for wide-spread, real-time communication with crowds and the public at large during a protest to keep the crowd apprised of developments and any forthcoming police action. | Reported as Implemented |
| 3. Research and enhance policy requirements for increased communication with crowds, especially during large or stationary protests, to manage expectations and provide greater credibility for police action. For example, the current policy does not require dispersal orders to be announced. | In progress |
| 4. Review and, if necessary, modify policy language for all less lethal weapons to ensure policy has consistent warning requirements, or include language explaining why inconsistencies exist. | In progress |
| 5. Provide public education concerning crowd dispersal policies, procedures and overall SPD crowd management tactics. | In progress |
| 6. Address previous recommendations issued by CPC, OPA, and external experts on blast balls. | Declined |
| 7. Evaluate the effectiveness of any expired munitions and, if no longer deemed safe or effective for use, dispose of the munitions in accordance with regulatory guidance. | In progress |
| 8. Increase opportunities for SPD personnel to train with the 40mm launcher and ensure each officer is able to deploy a live blast ball safely and within policy during annual recertification. | In progress |
| 9. If it is determined that non-SWAT officers will be authorized to deploy CS in future demonstrations, ensure officers receive training | Reported as Partially implemented |

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| | regarding the proper use of CS and related first aid and decontamination procedures. | |
| 10. | Research and develop policies, strategies, and tactics to manage a fixed, confrontational crowd that may contain isolated individuals throwing projectiles or otherwise creating life safety concerns and incorporate tactics into departmental crowd control training. For example, tactics could include acquiring and deploying sturdier barriers, or intentionally reducing visible police presence. | In progress |
| 11. | Work with Council, regional law enforcement agencies, and, if necessary, state legislative partners on a long-term solution for prompt and transparent reporting of force during large-scale events. Use of force reporting does not necessarily need to include identifying information for individual officers from other agencies. | Declined |

### *Memorandum on Less Lethal Weapons Usage in Protests (June 2020)*

At the request of City Council, OIG issued an informational summary of less lethal weapons used by SPD during the initial period of mass demonstrations in 2020 (5/29/2020 – 6/7/2020). This memo included an overview of less lethal weapons and criteria for use, relevant SPD policy, prior recommendations issued to SPD on the topic of less lethal weapons, and external guidance on use of these weapons by entities such as the Intentional Network of Civil Liberties Organizations and the International Association of Chiefs of Police.

### *IAPro Information Memo (May 2020)*

In the course of routine work, OIG discovered a major security vulnerability within the software used by SPD and OPA to conduct administrative and use of force investigations. OIG identified the source and potential impact of the vulnerability, which posed a severe risk to the integrity and confidentiality of investigation materials. However, OIG was unable to verify whether any material had been compromised due to the nature of the vulnerability. After OIG shared its conclusions with the City's Information Technology Department (ITD), OPA, SPD, and ITD took immediate action to deploy a solution.

### *Annual Surveillance Memo (September 2020)*

OIG is required by City ordinance to review certain aspects of approved SPD surveillance technologies on an annual basis. However, as of the end of 2020 Council had not yet approved any SPD surveillance technologies. OIG regularly attended meetings of the community working group and communicated with the City Auditor's

Office on their Chapter 14.18 oversight work throughout the year, issuing a memo summarizing these activities as required by ordinance.

*Systemic Risks to Compliance with Chapter 14.18 of Seattle Municipal Code Alert Letter (November 2020)*

In November 2020, emails released by SPD in response to a public records request indicated an SPD officer potentially accessed a facial recognition technology not approved by the City. While OPA investigated the specific allegation, OIG reviewed the SPD Manual and found that the Manual did not include specific instruction or requirements relating to Chapter 14.18. OIG issued an alert letter notifying Chief Diaz of this gap, as OIG determined lack of awareness or understanding of the Chapter may lead to violations of public trust and inadvertent violations.

To address this risk, OIG requested SPD immediately remind personnel of Chapter 14.18 obligations, including the definition of surveillance technology, and prohibit the use of personal technology or any other means of bypassing City processes to acquire and use surveillance technology.

SPD forwarded OIG a copy of an email sent to SPD personnel that fulfilled these requests.

**Table 3.4: Requests from Systemic Risks to Compliance with Chapter 14.18 of Seattle Municipal Code Alert Letter**

| Request | SPD Reported Status as of 3/12/2021 |
|---|---|
| 1. Remind personnel of the Chapter 14.18 definition of surveillance technology and the Chapter requirements concerning the acquisition of any new surveillance technology | Implemented (verified by OIG) |
| 2. Prohibit use of personal technology, administrative privileges, or any other means to bypass City processes on acquisition and use of surveillance technology | Implemented (verified by OIG) |

# Chapter 4: POLICY WORK

| HIGHLIGHTS |
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| Major policy work in 2020 focused on police response to protests. OIG also issued its recommendations on the City state legislative agenda. Other policy work continued in mandated areas such as studying civilian and sworn staffing at OPA and trends in complaints, claims, and lawsuits. |

OIG produces non-audit reports and special projects to provide additional insights into the Seattle police accountability system. These additional services range from system-mapping and policy analysis to data collaborations and community engagement projects. OIG aims to increase the public safety system effectiveness and accountability through work that is based on evidence and responsive to the intersection of policing and race and social justice.

Chief among new projects was the Sentinel Event Review, a community-inclusive accountability program that will examine Seattle Police Department (SPD) handling of the 2020 police demonstrations.

This chapter is divided into two sections. Section One provides updates on policy projects OIG worked on during 2020. Section Two covers other systems work, including an analysis of inquests, claims, and lawsuits against SPD in 2020 and a comparison to previous years, and OIG work related to the City state legislative agenda.

## Overview of Policy Projects

### *Staffing Study of Sworn vs. Civilian Investigations of Police Misconduct*

In 2020, OIG began an evaluation of the impact of the OPA hiring two civilian investigators and two civilian investigation supervisors and how that staffing change affected complaint investigation processes and outcomes.[8] Due to staffing limitations, the project was put on hold in March 2020. Work on this project is resuming in 2021.

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[8] This work is required by Ordinance 125315.

In 2018, the City of Seattle signed a collective bargaining agreement with the Seattle Police Officers Guild (SPOG)[9] which authorized OPA to hire two civilian investigators alongside its sworn investigators.[10] Under the terms of the agreement, the civilian investigators are responsible for intake work for complaints initiated by civilians and may not be assigned to a case "that reasonably could lead to termination." OPA completed the hiring process for these positions in early 2020. As of December 2020, OPA has two civilian investigators and two civilian investigation supervisors working alongside its sworn personnel.

OIG is conducting its analysis of the impact of adding civilian investigators in four stages:

> **Stage One** (2019) – Surveying other jurisdictions' hiring practices regarding sworn and civilian personnel in the context of police misconduct investigations
>
> **Stage Two** (2020) – Creating a baseline from previous OPA investigations
>
> **Stage Three** (Pending) – Conducting a qualitative analysis focused on organizational/cultural change
>
> **Stage Four** (Pending) – Analyzing misconduct investigation data to identify the effect of civilianization on misconduct investigation outcomes

During Stage One, OIG surveyed 15 civilian police oversight jurisdictions around the country to identify models and trends for staffing police misconduct investigations. The survey showed that OPA is unique in its mix of sworn and civilian personnel. The City of Seattle was the only jurisdiction with a mix of civilian and sworn personnel authorized to conduct police misconduct investigations, and with civilian supervisors supervising sworn investigators. The survey also showed that while most civilian investigators had a legal background, sworn investigators held a wider variety of roles before becoming an investigator.

During Stage Two, OIG compiled and examined past OPA data to create a baseline from which to assess the impact of introducing civilian staff in misconduct investigations. OIG gathered data on several key performance indicators, including the number and characteristics of sustained complaints, any investigation deficiencies

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[9] "Agreement by and between the City of Seattle and Seattle Police Officers Guild." *Appendix D: Civilians in the Office of Police Accountability.* https://www.seattle.gov/personnel/resources/pubs/SPOG_CBA_2015-2020.pdf
[10] Most OPA investigators are "sworn" personnel, which means they are drawn from SPD police officers and detectives.

found during the certification of OPA investigations, and the core issue involved in each investigation, among others.[11]

Stage Three will include a qualitative assessment using interviews with OPA staff to understand the impact of civilianization on OPA at the organizational level. Stage Four will focus on the impact of civilianization in OPA case outcomes using the data collected during Stage Two by comparing data from 2020 with data from previous years.

*Sentinel Event Review*

In 2019, OIG began developing the Sentinel Event Review (SER) to analyze sentinel events—significant, unexpected, negative outcomes that are indicative of wider systemic problems—involving SPD. The objective of SER is to use a system-oriented approach to understand the root causes of negative outcomes and determine ways to prevent future similar events. SER is not focused on individual actions or assigning blame, but strengthening system fail-safes to prevent harm.

OIG originally added SER to its first annual work plan in 2019 with the aim of applying it to officer-involved shootings or other serious injuries of significant public concern. As the 2020 protests were happening, OIG shifted its SER focus to SPD's protest responses.

OIG is structuring the first SER around three phases:

1. Gathering community input and perspectives;
2. Convening an SER panel to develop analysis and findings; and
3. Auditing and further reviewing systems for issues identified by SER.

In 2020, OIG started work on the first two phases of SER by collecting and analyzing data from the public, the media, government agencies, and SPD to identify specific incidents and patterns of concern. OIG policy staff distilled information for review from many sources including, e.g., over 100 misconduct complaint cases (arising from over 19,000 complaints to the OPA), over 500 uses of force, more than 200 hours of body worn video, and thousands of posts on social media and other public comments.

OIG reached out to approximately 100 community organizations and government agencies to gather input and hear community perspectives and concerns. To engage Seattle residents long-term, OIG established the SER Planning Group, where a diverse group of community leaders and members, and SPD officials come together to advise

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[11] OIG has not finalized these performance indicators for the final report.

on the SER process. The SER Planning Group provides input on the selection of the Panel members, the sentinel events the Panel will consider, and the process the Panel will use to identify root causes and make recommendations. Table 4.1 summarizes the SER working groups, objectives, and activities.

**Table 4.1: Sentinel Event Review Working Group Breakdown**

| Process | Objective | Activities |
|---|---|---|
| OIG Team | Analyze data and stakeholder input | • Collecting and analyzing data on the causes and effects of mass demonstrations and SPD response<br>• Gathering and organizing input from the community, SPD, and City agencies. |
| SER Planning Group | Identify SER members and incidents to review | • Providing community input and perspectives<br>• Identifying key partners to form the panel<br>• Selecting the criteria to prioritize sentinel events<br>• Prioritizing sentinel events |
| SER Panel | Analyze sentinel events for root causes and make recommendations | • Analyzing root causes of selected sentinel events<br>• Issuing recommendations for systemic change<br>• Building trust and promoting reconciliation between stakeholders |

By the end of 2020, OIG had gathered a wealth of data and community input to begin analyzing the first phase of the summer demonstrations. The first SER Panel was convened to begin reviewing the sentinel events selected by the SER Planning Group, analyze the events, and generate recommendations in 2021. The SER process is ongoing with both the Planning Group and the Panel meeting regularly to cover sentinel events spanning several months of demonstrations.

While the first SER is examining the 2020 mass demonstrations, OIG will continue to develop and refine the SER process and use it as a framework for community-centered review of future SPD actions, practices, and major incidents. OIG is committed to centering the SER process with community to foster a dialogue between police and underserved communities in Seattle.

*Effective Interviewing Techniques and Conversation Management*

OIG is leading a project, in partnership with SPD and OPA, to train interviewing staff from the three departments on effective interviewing techniques. The training uses the

PEACE[12] model of investigative interviewing, a model developed in the early 1990s by law enforcement and psychologists in England and Wales, to reduce the number of false confessions recorded due to overly aggressive interviewing tactics.

Training was originally scheduled to be held in-person in April 2020, but COVID-19 travel restrictions created the need to adapt the program to a virtual format. The revised training began in December 2020 and concluded in March 2021. The program consists of six bi-weekly webinars, eight learning modules—each with additional reading requirements for the participants, and two rounds of practical exercises. Participants took turns conducting witness interview scenarios as an interviewer and as an interviewee. The subject officer interview scenarios were developed from actual officer misconduct investigations in collaboration with an oversight agency from another jurisdiction. Trainers reviewed and evaluated each practical exercise and provided personalized feedback to the participants.

At the conclusion of the training, each participant had an opportunity to provide feedback on the content, format, and whether they felt the training was relevant to the tasks they perform. The feedback was used to begin developing a train-the-trainer course for a select group of participants from the original cohort.

### *Active Bystandership for Law Enforcement (ABLE) Project*

OIG issued a recommendation that SPD adopt a peer intervention program in 2018.[13] In 2020, SPD was accepted into the Active Bystandership for Law Enforcement (ABLE) Project.[14] ABLE is Georgetown University Law Center's national training and support initiative for US law enforcement agencies that promotes officer wellness, peer intervention and building a culture of peer intervention that prevents harm. SPD began participating in 2020 by sending its command staff to complete this virtual training and building an SPD program. Officers will complete eight hours of training on overcoming inhibition and concerns when facing situations where they must intervene in the face of actions taken by their coworkers. OIG has been available as a technical assistance resource, supporting SPD with the project.

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[12] PEACE stands for: Planning and Preparation; Engage & Explain; Account, Clarification & Challenge; Closure; and Evaluation. This model, collaboratively developed in the early 90s, between law enforcement and psychologists in England and Wales, takes a conversational, non-confrontational approach to getting information from an investigation interview subject.

[13] http://www.seattle.gov/Documents/Departments/OIG/Special/PeerInterventionMemo092618.pdf

[14] Active Bystandership for Law Enforcement (ABLE) Project, https://www.law.georgetown.edu/innovative-policing-program/active-bystandership-for-law-enforcement/

## Data Analytics Platform (DAP) for OPA Case Management

OIG is a data-driven organization that regularly analyzes trends and issues within the accountability system. To ensure OIG is using accurate, high-quality data, OIG collaborates with police accountability system partners (Community Police Commission (CPC), OPA, and SPD) to standardize and improve law enforcement data.

Since 2019, OIG has worked closely with OPA and SPD to improve police misconduct data collection and the data systems infrastructure of the SPD Data Analytics Platform (DAP). The goal of this DAP expansion project is to modify the SPD platform to include data related to police misconduct complaints handled by OPA. This project is a joint effort, with each stakeholder contributing to the integrity and expansion of DAP.

SPD operates DAP, which previously held only SPD-generated data. Under this expansion module, accountability partners added data from OPA into the system, increasing visibility into officer misconduct investigations. OPA implemented changes to its procedures, which required developing new data fields within DAP. OIG participated as an observer to provide technical assistance, process oversight, and testing to ensure accuracy and validate the results of the transition.

Once work on the DAP expansion is complete, OIG will have greater access to SPD data, allowing OIG to streamline its analysis of the OPA complaint investigation system. OIG plans to continue collaborating with system partners to create high-quality data for future oversight projects.

## Systems Analysis

Each year, OIG is tasked by ordinance with analyzing patterns and trends in inquests, claims, and lawsuits alleging SPD misconduct.[15] The following analysis includes incidents alleging that SPD operations, personnel, equipment, or vehicles usage resulted in loss, injury, or damages.

### Inquests[16]

An inquest is an administrative, fact-finding inquiry into the manner, facts, and circumstances of a death. Washington state law gives county coroners authority to hold inquest proceedings into deaths that occur in their jurisdictions. In King County, inquests are managed by King County Department of Executive Services Inquest

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[15] This analysis is required by Ord. 125315, §3.29.270.D.7.
[16] King County Inquest Program webpage: https://www.kingcounty.gov/services/inquest-program/process.aspx

Administrators, not the involved police department. The inquest process was the subject of litigation in 2020 that carried forward into 2021.[17]

*SPD Claims*

Claims allege fault by SPD for incidents resulting in loss, injury, or damages. Claims are reviewed and investigated by the Seattle Risk Management Office and can result in the City:

1. paying a sum of money;
2. transferring the claim to another entity;[18] or
3. denying the claim, finding no evidence of city negligence.

There were 266 claims filed against SPD across twelve[19] claim types tracked by Seattle Finance and Administrative Services. Of the event types, four accounted for the vast majority (97%) of claims: Fleet, Tow, Police Action, and Bailment. Table 4.2 shows the breakdown of claims made against SPD and payments made by the city from 2018-2020.

**Table 4.2: SPD Claims and Payouts 2018-2020[20]**

| Claim Event Type | 2018 | | 2019 | | 2020 | |
|---|---|---|---|---|---|---|
| | Claims Filed | Payment | Claims Filed | Payment | Claims Filed | Payment |
| Fleet | 50 | $ 186,600 | 51 | $ 107,360 | 39 | $ 279,788 |
| Tow | 145 | $ 31,442 | 125 | $ 28,730 | 71 | $ 16,678 |
| Police Action | 44 | $ 5,947 | 35 | $ 4,931 | 133 | $ 285,513 |
| Bailment | 16 | $ 3,431 | 8 | $ 1,478 | 16 | $ 707 |
| All other claims | 9 | $ 268 | 3 | $ 0 | 7 | $ 297 |
| **Total** | **264** | **$ 227,688** | **222** | **$ 142,499** | **266** | **$ 582,983** |

The city paid a total of $582,983 in 2020 for SPD claims, a significant increase from previous years. While the number of claims related to towing and the SPD fleet decreased, fleet-related payments increased relative to 2019 and the city saw significantly more police action claims filed (a 380% increase in claims), likely a result of

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[17] https://kingcounty.gov/services/inquest-program/history.aspx

[18] Transfers include claims that belong to a jurisdiction different than the City of Seattle.

[19] Bailment, bicycle incidents, court action, discrimination, environmental- police action, facilities-SPD, fire action with SPD participation, fleet, police action, public disclosure, street defect-police action, and tow.

[20] Payments do not always occur in the same year in which the claim was filed.

the 2020 policing protests. Bailment claims constituted 6% of claims filed in 2020 and less than 1% of payments made by the city.

*SPD Claims Related to 2020 Protests*

OIG tracked claims related to the police-related protests that occurred in 2020. Ninety-seven protest-related claims were filed in 2020 and are reflected in Table 4.2 above. Fourteen of these claims resulted in a payment from the city totaling $27,992, four claims were denied, and one claim was closed before settlement. OIG will continue to track 2020 protest claims as the remaining claims are processed.

*SPD Lawsuits*

Lawsuits brought as a result of SPD operations involve labor disputes and police action. In both cases, SPD is counseled and represented by the City Attorney's Office (CAO) Civil Division. There are four possible resolutions for litigation: dismissed no payment, settlement, judgment with payment, and judgment without payment. Most of the lawsuits resolved in 2020 were the product of events that occurred in previous years, making it challenging to identify whether the individual conditions that caused those incidents still exist, given the time lag.

*Labor Disputes[21]*

In 2020, one employment-related lawsuit was filed against SPD and a case from 2019 was settled for $20,000.

*Torts*

Torts involve allegations of personal injury and property damage cases related to SPD. These cases involve allegations of police negligence unrelated to use of force, such as injury caused by an SPD employee traffic accident. In 2020, six torts were filed against the city and one was closed.

In 2018 and 2019 the city settled four such cases and resolved one through arbitration. The total payout for SPD tort cases in 2018 and 2019 was $306,153. Six cases involving alleged SPD negligence were filed in 2018 and five in 2019.

*Police Action Lawsuits*

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[21] Seattle CAO *labor lawsuits* are those claiming general employment law violations or contract violations.

Police actions result from allegations that SPD operations, personnel actions, equipment, or vehicles were responsible for loss, injury, or damages. As depicted in Table 4.3 below, OIG has confirmed at least four new police action cases were filed against the city in 2020[22] and 2 were closed, resulting in $352,500 in payments. Four new cases are related to the summer protests, including:

- Two lawsuits pertaining to SPD crowd control policies;
- One lawsuit pertaining to the city's response to the Capitol Hill Occupied Protest (CHOP); and
- One lawsuit pertaining to the death of a protester during a demonstration on I-5.

**Table 4.3: Police Action Lawsuits: Counts, Status, Disposition, and Total Payment**

|  | Police Action | 2018 | 2019 | 2020 |
|---|---|---|---|---|
|  | Active from previous years | 13 | 17 | 16 |
|  | New | 14 | 10 | --* |
| Lawsuit counts | **Closed** | 10 | 11 | --* |
| Disposition of closed lawsuits | Dismissed No Payment | 7 | 9 | --* |
|  | Dismissed Miscellaneous | 1 | 0 | --* |
|  | Settlement | 2 | 2 | --* |
| **Total paid, settlements and judgement** |  | $ 130,500 | $ 123,500 | --* |

\* CAO data for 2020 was incomplete at the time of writing.

## *State Legislative Agenda*

The mission of OIG is to help ensure the fairness and integrity of the police system, which is largely local but considerably influenced by state law. To that end, OIG conducted a review of state-level policy proposals related to the police accountability system to highlight policies that Seattle representatives in Olympia should consider during the 2021-2022 legislative session. Police reform was a major priority in 2020, so the 2021 session presented a unique window of opportunity to effect change that could foster a more accountable system. During its review, OIG considered legislative possibilities raised by a variety of city stakeholders, including legal experts, journalists, the ACLU, the City Attorney's Office (CAO), the Office of the Mayor, the Office of Police Accountability (OPA), and the Community Police Commission (CPC). OIG asked the

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[22] Complete data on new police action cases filed in 2020 was unavailable at the time of writing.

Office of Intergovernmental Relations (OIR)[23] to consider the following accountability issues when developing the City's state legislative agenda:

1. **Improve the current statewide Police Licensing/Certification Review System.** Decertification is the most effective means of preventing a police officer who has committed serious misconduct or seriously violated public trust from continuing to work in law enforcement.

2. **Create a statutory duty for officers to intervene in and report fellow officer misconduct.** Legally mandating officers to report the misconduct of fellow officers will provide greater accountability and contribute to a culture of responsibility. A requirement to stop a peer officer from committing acts of wrongdoing could reduce serious misconduct, criminal charges against officers, and harm to human lives.

3. **Amend state law to remove barriers to allowing civilian personnel to take on more roles traditionally restricted to sworn officers.** Barriers in state law and in collective bargaining agreements prevent civilians from performing certain functions, including responding to mental health crises and investigating allegations of police misconduct.

4. **Remove subpoena authority related to oversight as a subject of collective bargaining.** While cities may exercise subpoena authority by local ordinance, that authority has been subject in some jurisdictions (including Seattle) to limitation by collective bargaining.

5. **Create an independent statewide entity to investigate and prosecute deadly use of force by police officers and conduct inquest procedures.** A statewide entity would reduce the appearance of conflicts of interest between prosecutors and police departments, and create standards for investigating serious officer criminal misconduct.

6. **Remove barriers to prosecution of police officers who engage in excessive or unjustified use of deadly force.** Reassess legal standards to limit justifiable use of deadly force to cases when the officer believes deadly force was necessary and her/his conduct was reasonable given the circumstances.

7. **Modify state law to establish a standardized burden of proof (preponderance of the evidence) in police misconduct cases and any**

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[23] OIR represents the city of Seattle in Olympia.

**appeal or grievance process.** State law is silent on the threshold necessary to sustain a complaint against an officer, allowing police unions to negotiate for investigations of certain types of serious misconduct impacting public trust to meet a high burden of proof.

8. **Change state public disclosure laws to allow the protection of the identify of local whistleblowers.** State law does not appear to protect the identity of local whistleblowers from public disclosure, even though state-level whistleblowers have that protection.

# Chapter 5: OPA REVIEW

| HIGHLIGHTS |
|---|
| Overall, the Office of Police Accountability (OPA) achieved full certification in 96% of cases for thoroughness, objectivity, and timeliness in 2020. However, appropriate classification of complaints decreased throughout the year. OIG remains committed to working with OPA in collaboration and with open communication to achieve fair and consistent outcomes, with OIG maintaining particular focus on issues that remain vitally important to creating and maintaining public trust. |

OIG provides oversight of OPA handling of SPD employee misconduct at two critical junctures in the process. First, OIG reviews the "classification" of a complaint made by OPA to ensure it has been routed appropriately.[24] Currently, OIG reviews classification decisions on a quarterly basis, and if warranted, has the authority to request individual review of classification decisions at the time they are made by OPA. Second, when an investigation is complete, OIG reviews the investigation process, provides feedback, or requests additional investigation, and certifies whether the investigation was thorough, objective, and timely; after OIG issues its certification, the OPA Director recommends a finding for each allegation to the named employee's chain of command within the Seattle Police Department. Additionally, if a conflict of interest prevents OPA from handling a complaint, OIG reviews the complaint and investigates, if appropriate.

## Classification Review

When OPA receives a complaint, an investigator conducts a preliminary review and OPA makes a classification decision as to whether the allegation(s) merit a full investigation, or whether some other resolution may be more appropriate. Consistent classification is a matter of public trust to ensure complaints are assessed in a fair manner, and in accordance with OPA and SPD policy. OIG is charged with reviewing OPA case classifications to determine:
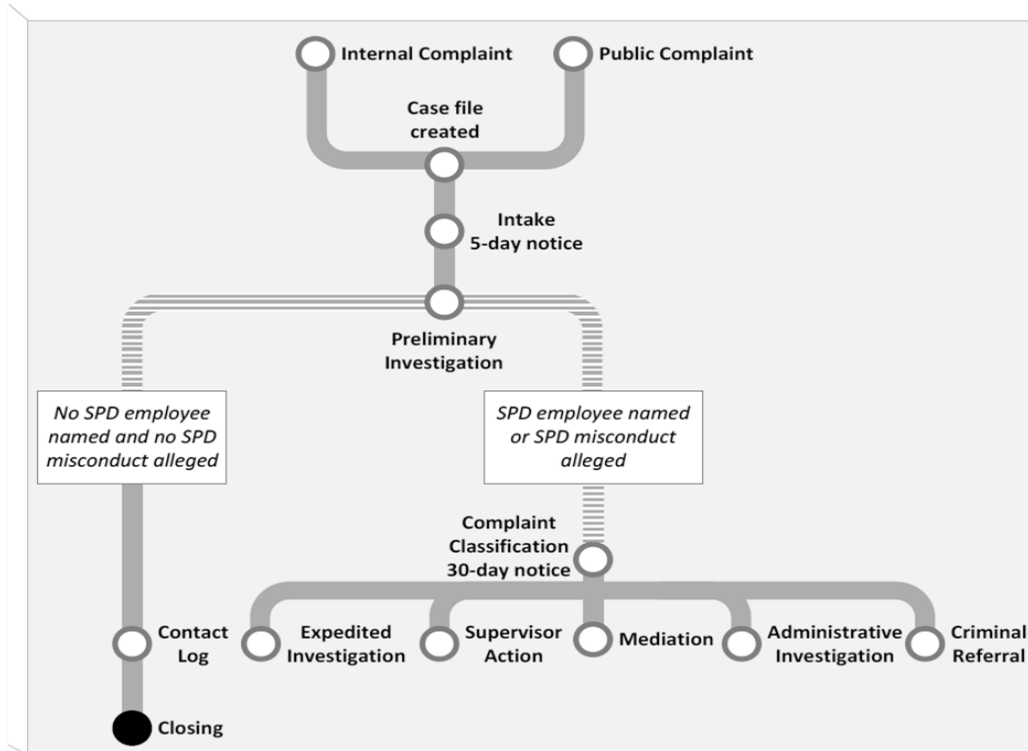
1) whether the classification was appropriate; and
2) whether OPA identified the appropriate allegations and associated employees, if any.[25]

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[24] When a complaint comes in, OPA screens it and decides whether it will be fully investigated, does not provide a basis for investigation, or falls into a category allowing for a different resolution.
[25] Ord. 125315, §3.29.240.C, §3.29.250.A

**Figure 5.1: OPA case intake pathways**[26]



There are four primary types of classifications:[27]

1. **Contact Log** – A contact log classification is used when a complaint does not involve an allegation of possible misconduct against an SPD employee, or there is insufficient information to proceed further. OPA records the intake with a case number and sends the Complainant a closing letter but does not take any other action.

2. **Supervisor Action** – This classification type is used when the complaint involves a minor policy violation or performance issue that OPA determines is best addressed by the employee's Chain of Command. This can include training, communication, or coaching.

3. **Investigation** – An investigation classification is used in cases of alleged serious misconduct that, if proven to be true, would be a violation of SPD policy or law. Following a full investigation, including interviewing witnesses, and named

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[26] "Disciplinary Process – Intake Overview Map." Office of Inspector General. 2019.
http://www.seattle.gov/Documents/Departments/OIG/Policy/DiscProcess/1-Intake-and-Contact-Log-Overview.pdf
[27] Definitions of case classifications are available in the OPA Manual and on the OPA web site at
http://www.seattle.gov/opa/complaints/complaint-process#2.classification.

employees, OPA issues a recommended finding that could result in formal discipline.

4. **Expedited Investigation** – An Expedited Investigation is used when the Complainant alleges a serious policy violation where preliminary evidence disproves the allegation without interviewing witnesses or the involved employee. No discipline can result from this outcome. OPA routes proposed expedited cases to OIG for both classification review and certification. If OIG disagrees with this classification, OPA reclassifies the case for full investigation.

OPA uses other case disposition programs including **Rapid Adjudication, Mediation** and **Unsubstantiated Misconduct Screening**, which are discussed further below.

*Classification Review Methodology*

The accountability ordinance gives OIG authority to conduct quarterly sampling of classification decisions, or to conduct individual review as needed. In 2020, OIG used the following review methodologies:

- **Expedited Investigation**: Cases proposed to be classified by OPA as an Expedited Investigation were reviewed individually at the time of classification. If OIG did not concur with the proposal, OPA reclassified the case for full Investigation.
- **Supervisor Action:** Cases classified as Supervisor Action were reviewed retroactively on a quarterly basis.
- **Contact Log:** Cases proposed to be classified as a Contact Log were reviewed individually at the time of the OPA classification decision during the first half of 2020. Due to a 97% concurrence rate during those first two quarters, OIG shifted to a retrospective sampling on a quarterly basis for the remainder of the year.
- **Mediation:** OIG reviewed any cases classified for Mediation retroactively via quarterly review.

In 2020, OPA continued to operate under its 2016 court-approved manual, which prescribes only two classification types: Supervisor Action and Investigation. Since 2016, OPA has created a new classification type of Expedited Investigation, which is described on their website. Additionally, OPA has evolved a Contact Log classification from what is described as more of an administrative function in their manual into an actual classification type, also as described on their website.

Thus, when assessing classifications to ensure they were appropriately assigned, in 2020, OIG relied upon the criteria outlined in the OPA Manual, the Ordinance, and on the definitions stated on the OPA website.

*Classification Review Findings*

OIG and OPA have previously been able to reach a high level of agreement with individually reviewed classifications because OIG is able to provide feedback to OPA prior to issuing a decision. When conducting sample reviews, OIG retrospectively measures whether the OPA classifications were appropriate; however, this only provides opportunity for future improvement.

The results of all classification reviews are quantified in Table 5.1 and discussed by classification type below. The primary reasons for OIG nonconcurrence are the application of classification types to allegations that should be excluded, or inconsistent adherence by OPA to their published classification criteria.

**Table 5.1: OIG and OPA Classification Concurrence by Case Type**

| OPA Classification | Total | Reviewed by OIG | Level of Concurrence | Type of Review | Timing of Review |
|---|---|---|---|---|---|
| Contact Log | 231 | 189 | 81% | Individual & Sample | At classification and quarterly |
| General Contact Log | 855 | 137 | 82% | Sample | Quarterly |
| Crime Report Contact Log | 271 | 84 | 98% | Sample | Quarterly |
| Supervisor Action | 104 | 82 | 68% | Sample | Quarterly |
| Expedited Investigation | 200 | 200 | 87% | Individual | At certification |
| Unsubstantiated Misconduct | 187 | 187 | See below | Individual | Quarterly |
| Bias Reviews | 131 | 56 | 88% | Sample | Quarterly |
| Rapid Adjudication | 7 | 7 | 100% | Individual | At classification |
| Mediation | 0 | 0 | NA | Individual | Quarterly |
| Grand Total | 1,986 | 942 | | | |

## Contact Logs

During the first six months of 2020, when OIG was individually reviewing Contact Logs, the OIG concurrence rate was 92%. In the last six months of 2020, after OIG migrated to a quarterly retroactive sampling of Contact Log classifications, the concurrence rate decreased to 49%, resulting in an 81% overall average for the year.

Per OPA's website definition, this classification should be used for complaints that do not involve a policy violation by an SPD employee and for which OPA takes no other action than to document. Similarly, the definition of a Contact Log in the OPA Manual applies to the documentation of inquiries submitted to OPA that do not involve SPD employees or possible misconduct.

However, in 2020, OPA increasingly used Contact Log classifications for complaints that alleged policy violations against SPD personnel, rather than Expedited Investigation, which would have been the appropriate classification. In most such cases, OPA investigators conducted a preliminary review and collected evidence to arrive at a determination that departmental policy was not violated. This included cases where a complaint alleged serious misconduct.

This is problematic because OPA is required to investigate allegations of serious misconduct, including allegations of Bias and Use of Force. As noted above, if OPA determines allegations of serious misconduct are not supported after a preliminary review, they can apply a classification of Expedited Investigation. All Expedited Investigations are reviewed by OIG (see below). Thus, when allegations of serious misconduct are closed as Contact Logs, OIG does not have the opportunity to conduct an independent review. Moving forward, it would be helpful for OPA to update their classification criteria to align with their processes.

Almost all cases classified as Contact Logs are complaints received from the public. In the last six months of 2020, due to the increased volume of OPA complaints, multiple cases incurred delays from the date of the complaint until the time that OPA contacted the Complainant, increasing the risk that the Complainant may no longer be willing to cooperate, and/or that perishable evidence may be lost. Multiple cases reviewed also did not contain the required notifications of receipt to the Complainant, or the notifications of closure. Due to the strong impact Contact Log cases have on public trust, OIG will examine returning to individual review of cases proposed by OPA for this classification when staff resources permit.

### *Batch Contact Logs*

OPA creates "batch files" for general contacts with its office where there are no policy violations alleged. These contacts are compiled under a single IAPro case file. OIG reviews these intakes retroactively on a quarterly basis to ensure appropriate disposition and to identify possible systemic concerns.

In 2020, there was a 97% concurrence rate during the first six months. That concurrence rate decreased to 71% for the last six months of the year, resulting in an

82% overall average for the year. The primary reason for nonconcurrence was that it appears OPA utilized the Batch Contact Log for intakes that alleged policy violations against SPD employees.

While OPA generally appears to use the Batch Contact Log appropriately, the concern is that in an increasing number of cases, the criteria appear to have been applied differently than what would have been expected. Additionally, there was inadequate information in the file to assess whether Batch Contact Log complaints that alleged policy violations against SPD employees had been appropriately resolved. This data may be anomalous due to the increased volume of complaints OPA received in the second half of 2020. OIG will therefore continue to assess this area.

## Expedited Investigations

OPA may classify an investigation as Expedited when preliminary evidence disproves the allegation(s) without the need to interview any Named Employee(s). In 2020, the use of this classification continued to increase, representing half of all investigations certified by OIG (see Table 5.2 below). In cases where OIG does not concur with this proposed classification, OIG has the authority to request a full investigation.

**Table 5.2: Certification Outcomes by Investigation Type**

| Case Type | OIG Certifications | Full Certification | Partial Certification | Null Certification |
|---|---|---|---|---|
| Expedited Invest. | 200 | 200 | 0 | 0 |
| Investigation | 197 | 183 | 16 | 0 |
| Total | 397 | 381 (96%) | 16 (4%) | 0 |

In 2020, OIG concurred with 87% of cases proposed as Expedited. OPA submitted a number of protest-related investigations to OIG for review in 2020 with a proposed Expedited classification. Nonconcurrence with these cases reflected the largest area of disagreement in 2020. Upon review, OIG determined many protest-related cases merited a full investigation. The reasons for OIG nonconcurrence were premised upon concern for public trust or OIG determination that insufficient evidence had been gathered to disprove the allegations made.

In some proposals for Expedited classification where OIG did not initially concur because of insufficient evidence, OIG submitted a request to OPA to provide additional information. In many situations, OPA was able to remedy an identified deficiency prior to classification and receive full certification as Expedited.

## Supervisor Actions

When retroactively sampling cases classified as Supervisor Action by OPA, the OIG rate of concurrence decreased from 88% in the first six months of 2020 to 59% in the last six months, resulting in a 68% overall average for the year. Supervisor Action classification is only appropriate as a resolution for minor policy violations or performance issues that are best addressed through counseling. OIG disagreement with OPA on these classifications was primarily based upon inclusion of allegations of serious policy violations, bias, and excessive force. Furthermore, OIG found decreasing frequency in required Chain of Command or OPA follow up, creating an apparent absence of timely corrective action.

This raises concern about the consistency of Supervisor Action classifications and lack of follow through. Without being given notice or counseling regarding policy violations or performance issues, employees are more likely to continue problematic behavior. Additionally, without appropriate Chain of Command resolution, OPA cannot progress repeated performance or minor policy violations to a full investigation, appropriately allowing for more formalized discipline.

As first noted in the OIG 2019 Annual Report, the OIG concurrence rate for OPA classifications as Supervisor Action began to decrease after moving away from individual review in 2019. This trend continued in 2020, decreasing further in the last half of the year. As a result, OIG will examine returning to individual review of Supervisor Action classifications when staff resources permit.

## Investigation Review

It is one of the duties of OIG to independently certify investigations to enhance the credibility of the investigations process. Specifically, OIG certifies whether OPA investigations were **thorough**, **timely**, and **objective.** It is a determination about the effectiveness of the investigation process, not an assessment of the merits of the complaint which is done by the OPA Director. After receipt of OIG's certification of the OPA investigation, the OPA Director issues recommended findings that are sent to the named employee's chain of command within the Seattle Police Department. The Chief has ultimate authority for disciplinary decisions.

OIG reviews completed investigations using criteria delineated in the accountability Ordinance, including whether:
- witnesses were contacted, interviewed, and all other material evidence was timely collected;
- interviews were thorough and unbiased, and conflicting testimony was sufficiently addressed;

- additional clarifying information would strengthen the investigation;
- the written summary and analysis are objective and accurately reflect the evidence; and
- applicable OPA procedures were followed, and the intake and investigation were conducted in accordance with the OPA Manual.[28]

*Investigation Review Methodology*

OIG considers each investigation on a case-by-case basis to assess whether OPA has sufficiently addressed the allegations brought forward in accordance with code, contractual, and OPA Manual requirements to achieve procedural justice.

**Timeliness** requirements are enumerated in the accountability Ordinance, collective bargaining agreements, and OPA Manual, and include the following:
- completion of investigations within 180 days, minus any period in which an extension was granted, or else discipline cannot be imposed;[29]
- notification of named employees of complaints against them within five days;[30]
- classification of complaints within 30 days after receipt of a complaint;[31]
- notification of Complainants when OPA has received the complaint and when OPA has classified the complaint;[32]
- notification of named employees in advance of interviews in accordance with labor contract requirements;[33] and submission of investigations to OIG in a timely manner to afford sufficient time for feedback and additional OPA investigation if requested or directed by OIG.[34]

When assessing the **thoroughness** of OPA investigations, OIG examines whether:
- all allegations were identified, and each allegation was sufficiently addressed;
- investigation steps are clearly documented;
- relevant evidence is collected and accurately reflected in the OPA report;

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[28] Ord. 125315, §3.29.260.F

[29] Agreement By and Between the City of Seattle and the Seattle Police Officers' Guild, Effective through December 31, 2020 (in effect beginning November 14, 2018), §3.6(B)-(D), pg. 9-12 *and* Ord. 125315, §3.29.130 B.

[30] Agreement By and Between the City of Seattle and the Seattle Police Officers' Guild, Effective through December 31, 2020 (SPOG CBA), § 3.6(A), pg. 9. *See also* Agreement By and Between the City of Seattle and the Seattle Police Management Association, Effective January 1, 2014, through December 31, 2019 (SPMA CBA), §16.4(B), pg. 33. Note the SPMA CBA requires notice of the complaint to the named officer within ten days.

[31] SPOG CBA, § 3.6(A), pg. 9; SPMA CBA, § 16.4(B), pg. 33.

[32] OPA 2016 Manual, pg. 15-16. Note OPA is also required to notify the Complainant when OPA has completed the investigation and issued recommended findings to the Chief of Police. These occur after OIG certification.

[33] OPA 2016 Manual, pg. 28; SPOG CBA § 3.6(F)(2), pg. 13; SPMA CBA, § 16.4(H)(2), pg. 36.

[34] Ord. 125315, §3.29.130.H

- interviews are comprehensive;
- perishable evidence has been preserved.

When assessing the **objectivity** of OPA investigations, OIG examines whether:
- the investigation includes all relevant evidence;
- facts and analysis are conveyed in a manner that does not express or indicate bias;
- conflicting testimony has been addressed;
- interviews do not use leading or suggestive questions;
- the intake and investigative process complied with the policies set forth in the OPA Manual.

During the review process, there are two avenues for OIG feedback to OPA: formal requests (directed additional investigation) and informal requests. When a deficiency that would impact the certification or case outcome is identified, OIG will formally direct additional investigation. In such cases, after being provided with the opportunity to resolve any identified deficiencies, OPA resubmits the case back to OIG for final review and a certification decision. Informally, OIG may offer suggestions for consideration regarding further investigative steps or provide feedback for future cases.

*Investigation Review Findings*

In 2020, OIG issued certifications for 397 investigations. The overall number of certifications represents a three percent increase from 2019 when OIG issued 387 certifications. In 2020, half of all investigations certified were full Investigations and half were Expedited Investigations. OPA's overall usage of Expedited as a subclassification of investigations has increased because in 2019, OPA classified 56% as full Investigations and 44% as Expedited.

In 2020, OIG fully certified 96% of cases as objective, thorough, and timely (see Table 5.2 above). This percentage decreased slightly from 2019 where there was a 97.4% full certification rate. The number of partial certifications issued in 2020 doubled from the number issued in 2019: OIG issued sixteen partial certifications in 2020, whereas in 2019, OIG issued eight.

When OIG receives a case for certification review with sufficient time for feedback requesting additional investigation, OPA is often able to resolve the identified issues and receive a full certification. The opportunity for OIG to offer feedback and for OPA to consider and act, contributes to producing thorough, carefully considered outcomes.

One of the challenges faced in 2020 pertained to investigations being submitted to OIG close to the 180-day deadline, which did not allow enough time to remedy identified deficiencies.

*Directed Additional Investigation Requests and Informal Requests*

A secondary measure of the quality of OPA investigations is the extent to which OIG directed additional investigation prior to certification. In 2020, OIG formally requested additional investigation in 16% of cases, which is equivalent to 2019 when OIG also directed additional investigation in 16% of cases. Alternatively, OIG can suggest additional actions or considerations in an investigation, which it did in 4% of cases in 2020. This represents a decrease from 2019 when OIG suggested additional actions in 12% of cases. Responsiveness by OPA to OIG's requested action can improve the quality of individual investigations and help support a positive certification outcome. Ideally, this would result in a reduction of the amount of formal requests OIG needs to make on future cases.

In 2020, OIG directed additional investigation primarily in response to missing information, for example, allegations were not fully addressed, sufficient efforts to interview Complainants or witnesses were not made, and conflicting evidence was not resolved. Other cases were submitted to OIG without the inclusion of relevant evidence or with reports that contained errors identifying Named Employees or witnesses. In late 2020, OIG provided OPA with a list of the main deficiencies and suggested a stronger internal control process, to include OPA supervisors conducting more robust quality control reviews of investigations prior to submission for OIG review. OIG will continue to monitor this issue.

**Table 5.3: OIG Requests by Certification Outcome**

| OIG Request | Full Cert | Partial Cert | Total | % of Total Cases |
|---|---|---|---|---|
| No Request | 316 | 4 | 320 | 80% |
| Informal Request | 18 | 0 | 18 | 4% |
| Directed Add'l Investigation | 52 | 12 | 64 | 16% |
| Total | 386 | 16 | 402 | 100% |

*Partial Certifications*

In 2020, OIG issued 16 partial certifications. The main certification deficiency was for the element of thoroughness. OIG issued partial certifications throughout the year, so the deficiencies noted with individual cases do not appear to directly correlate to the increased volume of protest related complaints OPA received in the second half of the year. Of the 16 partial certifications, four were issued for protest related investigations.

*Timeliness*

OPA submitted a total of five investigations to OIG for certification that had each surpassed the statutory 180-day timeframe and therefore could not be certified on the element of timeliness. These five investigations submitted for certification review in 2020 had originated from OPA complaints filed between 2016 and 2018.

*Thoroughness*

Of the 12 cases that did not achieve certification for thoroughness, only one failed for a single underlying reason: the missing information was of such great import that it likely would have changed the outcome. For all other cases, OIG identified multiple underlying concerns, with several being present in each. Sample trends were as follows:

Interview Deficiencies: In six of the twelve cases (50%) not certified on the element of thoroughness, OIG noted concern with interviews conducted by OPA. Namely, the investigator did not ask necessary questions relevant to the elements of the allegations or policy violations under investigation, asked only superficial questions, and/or leading questions.

Preservation of Perishable Evidence: In four of the twelve cases (33%) not certified on the element of thoroughness, OIG noted that OPA did not collect or preserve perishable evidence, including where OIG determined the potential impact of the missing evidence could affect the outcome of the investigation.

Missed Allegations and Contacts with Complainants: In four of the twelve cases (33%) not certified for thoroughness, OPA did not sufficiently document or otherwise follow up on allegations made by a Complainant. These missed allegations resulted in incomplete investigations.

Resolving Contradictory Evidence: In four of the twelve cases (33%) not certified for thoroughness, OPA did not address contradictory evidence that existed in the record, despite being in possession of actionable information (e.g., a witness or documentary evidence had been identified) including where OIG determined the potential impact of the missing evidence could affect the outcome of the investigation.

*Objectivity*

Of the two cases that were not certified on the element of objectivity, both were also not certified on the element of thoroughness. Concerns related to objectivity often overlap with those related to thoroughness. When not certifying on the element of objectivity, OIG weighs the nature of the characterization or omission of evidence to determine if there is any indication or appearance of bias.

**Table 5.4: Certification Issues by Category**

| OIG Certifications | Total Count | % of Total Cases |
|---|---|---|
| Partial: Not Timely | 4 | 1% |
| Partial: Not Thorough | 9 | 2% |
| Partial: Not Thorough or Timely | 1 | .5% |
| Partial: Not Thorough or Objective | 2 | .5% |
| Subtotal | 16 | 4% |
| Full: Timely, Thorough & Objective | 386 | 96% |
| Total Cases Certified by OIG | 402 | 100% |

## Alternative Programs

### Unsubstantiated Misconduct Screenings

The Unsubstantiated Misconduct Screening program allows Sergeants and other command staff to conduct a preliminary review of allegations of serious misconduct that can be clearly refuted by the evidence, and to submit an email to OPA requesting for the incident to be screened. The two most common allegations screened through the program are uses of excessive force and sexual assault. If OPA concurs that the allegation of serious misconduct is fully refuted by the available evidence, the incident is returned to the Chain of Command for resolution. If OPA determines a referral needs to be made, an intake will be created. It is important to note that this program cannot be used if a community member specifically requests to make a complaint to OPA or for OPA to investigate. This program also cannot be used for potentially unsubstantiated bias allegations, which, as discussed further below, must follow the SPD process for Bias Reviews.

During 2020, OIG retroactively reviewed all 187 screening emails conducted by OPA but did not issue any determination regarding concurrence because OPA criteria for this program appeared to continue to evolve. In mid-2020, OIG had several discussions with OPA in an effort to better understand this program and shared informal feedback pertaining to apparent risks.

Overall, OIG agrees with OPA that this program offers strong potential to include increased procedural justice for officers and more effective use of OPA resources. The intent of the program is also in alignment with the spirit of the Ordinance, as it can serve to strengthen the involvement of supervisory personnel in the accountability system. However, there are several areas of risk presented by the program as it currently operates.

OIG has identified three areas that may create risk for screening incidents when: 1) a use of force has occurred, 2) where BWV is not clear, or 3) where there is a complex fact pattern. In cases where force was used by an officer, the assessment of whether that force was necessary, reasonable, and proportionate requires a careful analysis and evidentiary review. Such analysis and review are also merited if an incident is not clearly captured on BWV or involves a complex fact pattern. In these scenarios, OPA should engage in an assessment and documentary process that can be reviewed by OIG. OIG therefore suggests that cases where more than one of the above identified areas of risk are present, the default should be an OPA referral.

The Unsubstantiated Misconduct Screening program has not yet been formalized into the SPD Manual, nor does it operate within the case management database for tracking misconduct allegations involving SPD employees. This could result in difficulty identifying patterns in SPD personnel behavior. Further, there is not yet an established process to confirm that the Chain of Command has followed up appropriately, or timely, once a case has been returned to them for resolution.

### *Rapid Adjudication*

In 2019, OPA began the Rapid Adjudication program, which is described in the Seattle Police Officers Guild (SPOG) Collective Bargaining Agreement (CBA) and on the OPA website. Per definition, Rapid Adjudication is an option for employees willing to acknowledge their behavior was inconsistent with policy and are willing to accept discipline without undergoing a full investigation by OPA. Rapid Adjudication can be initiated either by a Named Employee or by OPA.

In late 2019, OIG noted concerns with the application of the program, including the types of cases selected by OPA, and lack of notice to OIG when a case was resolved through Rapid Adjudication. OPA has since identified allegation types that are ineligible for this program, and in 2020, submitted all cases to OIG for review prior to final classification.

In reviewing cases proposed for Rapid Adjudication, OIG assesses them to ensure there were no missed or unaddressed allegations. Further, OIG ensures that no excluding conditions exist (as identified on the OPA website) and considers the extent to which the Named Employee has engaged in prior similar misconduct. In 2020, OPA proposed seven cases for Rapid Adjudication and OIG individually reviewed each. OIG reached 100% concurrence with OPA for this alternative dispute resolution process.

*Mediation*

OPA may offer Mediation to Complainants and Named Employees to resolve disagreements, particularly those involving possible miscommunication or misperception, with the guidance of a neutral third party. When accepted by both parties, mediation is the final resolution of the case.

In 2020, no OPA cases were resolved through this alternative resolution program. OIG will continue to review this program and its implementation going forward. While Mediation is not appropriate for certain allegation types, OIG encourages OPA to continue to develop and utilize this program. Mediation offers Complainants the opportunity to directly engage with an SPD employee to share their perspective, and to gain understanding.

*Bias Reviews*

Bias allegations and bias-free policing are integral to police accountability and public trust, as evidenced by the need for reform in this area described in the 2012 Consent Decree. Recognizing the importance of this issue, in 2020, OIG began to sample Bias Reviews closed out by OPA on a quarterly basis. While Bias Reviews are technically not an OPA classification, they are one of two processes by which biased based policing allegations against SPD personnel can be resolved. The second process is to file a complaint directly with OPA.

Bias Reviews are an internal process specified in SPD policy. Essentially, if a community member alleges bias-based policing, a supervisor must be called to the scene to conduct a preliminary investigation. The reviewing supervisor should discuss the allegation with the individual and provide an explanation of the option to file a complaint with OPA. If the individual does not ask that the matter be referred to OPA, and if the supervisor determines through a preliminary investigation that no misconduct occurred; the supervisor will resolve the matter by filling out a Bias Review Template. If the individual does not cooperate with the Supervisor or has left the scene, the Supervisor is required by policy to review Body Worn Video to assess what occurred. The completed templates are reviewed by the Chain of Command and by OPA, prior to being closed out.

When conducting retrospective sampling of Bias Review cases, OIG found that in 88% of cases, Sergeants appear to have diligently attempted to understand and resolve the matter, by speaking with witnesses and reviewing BWV. Additionally, there were times when deficiencies in following the required processes were caught during the Chain of Command review and remedied. However, in 12% of the cases sampled, a Sergeant's contact with an individual may have consisted only of handing them a business card with OPA's contact information written on the back, or deficiencies in the process were not caught or addressed during the Chain of Command review.

Thus, there appears to be variability within SPD as to the interpretation and robustness of approach to biased based policing concerns. Of the 2020 cases sampled, only one resulted in an OPA referral. OIG suggests that OPA consider applying more specific criteria to their reviews prior to closing the reviews out and engaging with the Chain of Command when un-remedied deficiencies are noted. Such communications are likely to increase awareness of the correct processes and to emphasize the importance of its implementation.

## OIG Complaint Handling and Investigations

In 2020, OIG received 793 complaints from the public and OPA by call to the OIG main number, email through the OIG website, postal letter, virtual contact at a public meeting or direct referral from OPA. By ordinance, OPA must refer complaints against OPA staff to OIG for investigation to mitigate a potential conflict of interest.

### *Complaint Handling*

As noted in Table 5.5 below, 82% of community concerns received by OIG in 2020 involved incidents which occurred during the Seattle protests, beginning May 28, 2020. An additional 10% of community concerns received by OIG involved departments or agencies outside of OIG jurisdiction. In those instances, OIG assisted the community member by providing proper contact information where possible.

For contacts within OIG jurisdiction, OIG handles complainant contacts in three ways:

- OIG routes complaints that have another established process for handling to the appropriate entity for disposition (e.g., routing standard OPA complaints to OPA). As shown in Table 5.5 below, in 2020 OIG referred 49 complaints about SPD officers to OPA for review.
- OIG considers issues raised by complainants in a quarterly risk assessment process to identify future OIG work plan topics.

- OIG investigates complaints, as needed, against certain current or former OPA employees because of an actual or perceived conflict of interest.

**Table 5.5: OIG Hotline Complaints by Issue and OIG Resolution**

| Hotline Complaint Issue | Count | OIG Resolution |
|---|---|---|
| Complaint about Police Response/Action (Non-Protest related) | 49[35] (6%) | Complainant directed to OPA |
| Complaint about Police Response/Action (Protest related) | 653[36] (82%) | Referred for Sentinel Event Review (SER)[37] |
| Complaint about OPA Mgmt. Response/Action (OPA Conflicts of Interest) | 6 (<1%) | OIG review, complainant contacted by OIG with results of review (4)/Ongoing review by OIG (2) |
| Questioned OPA Findings | 4 (<1%) | Complainant contacted by OIG |
| Questioned OIG Response/Action | 0 | OIG review, complainant contacted by OIG with results of review |
| Other Complaint/Issue[38] | 81 (10%) | Complainant referred to proper jurisdiction |
| Total | 793 | |

*OIG Investigations*

In 2020, OIG conducted six conflict investigations with the following findings:

**2020OIG-0001 – Joint investigation with EEO.** Referred by OPA to OIG due to potential conflict of interest resulting from a Named Employee that used to work for OPA. Case has been tolled with the union.

**2020OIG-0002 – Referred by OPA to OIG.** Conflict of interest involving an allegation of unauthorized release of information regarding an on-going OPA investigation to the media against an unknown OPA employee. Investigated concluded. Finding was Not Sustained (Unfounded).

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[35] Eighteen complaints were received anonymously; OIG was unable to follow-up with the complainant.
[36] Twelve complaints were received anonymously; OIG was unable to follow-up with the complainant.
[37] Sentinel Event Review (SER) is a community inclusive accountability program led by the Office of Inspector General (OIG). For more information, please visit https://www.seattle.gov/oig/sentinel-event-review.
[38] Seven complaints were received anonymously; OIG was unable to follow-up with the complainant.

**2020OIG-0003 – Referred by OPA to OIG**. Conflict of interest involving allegations of retaliation against a Named Employee that used to work for OPA and bias against the Director of OPA. Investigation concluded. Findings were Not Sustained (Unfounded).

**2020OIG-0004 – Referred by OPA to OIG.** Potential conflict of interest involving an allegation of recklessly operating a police vehicle raised against a Named Employee that used to work for OPA. Investigated and concluded. Finding was Sustained, resulting in recommendation for discipline.

**2020OIG-0005 – Referred by OPA to OIG.** Conflict of interest involving an allegation of lack of professionalism against an OPA employee. Investigated and concluded, resulting in a training referral.

**2020OIG-0006 – Referred directly to OIG by Complainant.** OIG initiated an investigation due to the nature of the complaint and the potential conflict of interest involving allegations of unauthorized release of information of an on-going OPA investigation to the media against an unknown member of SPD, OPA, or the Director of OPA and failure to conduct a proper investigation into previous allegations. Investigated and concluded. Findings are Not Sustained (Unfounded).

## OPA Review Next Steps

2020 brought forth many unique and pivotal events related to police accountability. The crux of many concerns expressed by the people of Seattle revolve around a perception that police are not being held accountable. This backdrop highlights the importance of the work OIG continues to perform as an oversight body for OPA. While OIG finds that OPA is largely working as intended, as in any complex system, many challenges continue. OIG is committed to working with OPA in collaboration and with open communication to achieve fair and consistent outcomes, with particular focus on issues that remain vitally important to the building of public trust.

As a newer program that has not yet been incorporated into SPD policy, the Unsubstantiated Misconduct Program will continue to remain an area of focus and risk. In the future, OIG will also engage in a descriptive analysis of OPA's processes related to bias complaints and investigations, to include the outcome statistics of Bias-Based Policing allegations. As part of this work, OIG will conduct a benchmarking analysis of how other cities investigate complaints of bias-based policing, and whether their processes incorporate input from community members.

# APPENDIX A

Ordinance 125315, §3.29.270.D

The Inspector General shall produce annual reports that are readily understandable and useful to policymakers. The annual report shall include, but not be limited to, the following:

1. A summary of OIG's audit and review activities for the previous year;
2. An evaluation of the extent to which the purposes, duties, and responsibilities detailed in this Chapter 3.29 have been met by the responsible entities;
3. A description of the work of OIG in fulfilling OIG's purpose, duties, and responsibilities detailed in this Chapter 3.29;
4. Inspector General recommendations for changes in policies and practices, collective bargaining agreements, City ordinances, and state laws;
5. A summary of the implementation status of any previous OIG recommendations, and for any that have not been implemented, the reasons;
6. A summary of OIG's review and the outcome of SPD reviews for officer-involved shootings, in-custody deaths, and any other cases of significant public concern;
7. An analysis of any patterns and trends of disproportionality or other concerns compared to previous years, including from review of inquests, claims and lawsuits alleging SPD misconduct;
8. The outcome of reviews of successful practices in other jurisdictions, and any associated OIG recommendations, including for changes in the mix of OPA sworn and civilian staff;
9. A summary of information received from OIG's hotline, any of its other anonymous intake systems, and from community outreach that has informed OIG's work; and
10. A summary of OIG's review of OPA's complaint handling system, including at a minimum:
    a. The number of investigations reviewed;
    b. A general description of the complaints and cases reviewed by OIG;
    c. A description of OPA's follow-up for those cases which OIG did not certify and those cases for which OIG requested or required further investigation;

d.  A review of cases not investigated by OPA, including Contact Logs, Supervisor Action referrals, mediation, Rapid Adjudication, Management Actions and Training Referrals; and

e.  A description of any concerns or trends noted in OPA complaint intake and investigations.

# APPENDIX B

Seattle Office of Inspector General
2020 Organizational Chart



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                    ┌──────────────────┐
                    │ Inspector General│
                    └──────────────────┘
                             │
                    ┌──────────────────┐
                    │ Deputy Inspector │
                    │     General      │
                    └──────────────────┘
                             │
                             │      ┌──────────────────┐
                             ├──────│   Executive      │
                             │      │  Assistant**     │
                             │      └──────────────────┘
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| Policy & Statistical Lead | Supervising Auditor | Investigative Lead | Operations Manager* |
|---|---|---|---|
| Policy & Statistical Analyst | Auditor | OIG Investigations / Outreach | |
| | Auditor | | |
| | Auditor | | |

*: Unfunded Position
**: Long-term vacancy
Temporary positions are not included