



OPA

OFFICE OF PROFESSIONAL
ACCOUNTABILITY

2016 Annual Report



ISSUED BY

DIRECTOR PIERCE MURPHY

MARCH 31, 2017

2016 Highlights and Trends

OPA received 1529 inquiries in 2016 resulting in 385 Investigations, 300 Supervisor Actions, 834 Contact Logs, and 10 Mediations.

During the same period, OPA completed 303 Investigations, 369 Supervisor Actions, 836 Contact Logs and 8 Mediations. The remaining 2 Mediations were completed in 2017.

Regarding the 303 completed Investigations:

- 777 allegation findings were recommended, of which 137 (18%) were recommended sustained.
- The 137 sustained allegations resulted in 30 Oral Reprimands, 44 Written Reprimands, 18 Suspensions Without Pay (ranging from 1 – 10 days) and 3 Terminations (2 of which resigned in lieu of termination).
- The most frequent allegation investigated by OPA was for the Use-of-Force. This comprised 20% of all allegation types. This was a 28% increase in similar allegations from 2015. Six percent (6%) of these allegations were sustained, down from 9% in 2015.
- One SPD employee was named in 3 or more cases which resulted in sustained findings. The allegations were for Force-Use, Audio/Video Recording and Investigations & Reports.



Message from Director Murphy

2016 has seen an increased call for oversight and accountability of law enforcement nationwide and here in Seattle. Current legislation before the Seattle City Council proposes the creation of a permanent Community Police Commission, an Independent Inspector General, and a renamed and more civilianized Office of Police Accountability. As we step into the dawn of a new system of police accountability, I am pleased to present this annual report to showcase the work done by OPA leading up to and supporting a vision for trusted, transparent, accessible and independent oversight of the Seattle Police Department.

OPA has worked diligently to create process improvements to ensure the quality and timeliness of OPA's investigations. OPA's core products are the preliminary intake investigation of a complaint and completed administrative investigations for recommended findings. OPA's employees, sworn and civilian, all help to deliver these core components and OPA has not waited for the new legislation to begin cultivating organizational improvements to improve transparency and public trust.

Specifically, OPA has focused on ensuring heightened responsiveness to complainants during the entire intake and investigation process by implementing a complaint receipt and closing letter for every Intake received. Moreover, the addition of administrative support staff to handle various administrative tasks has allowed our investigators to have more time to conduct more complete and thorough Intakes allowing for increased work product quality whether the case is classified for a full Investigation, a Supervisor Action or a Contact Log.

Overall, 2016 has been a year of change and I am honored to be a part of a system seeking to bring increased transparency to the Seattle Police Accountability system.


Director, Office of Professional Accountability



OPA Caseload Variability

The volume of complaints received for Intake throughout the year can vary due to a variety of unpredictable and fluctuating reasons. SPD Training schedules and Seattle's seasonal variation (more public activities allowing for police encounters during the warmer months) can affect OPA's caseload resulting in increased number of cases and subsequent completions 180 days later¹. For example, OPA received an increased number of Investigations and Supervisor Actions during August of 2016 when the weather in Seattle was at its best. Additionally, given that 2016 was an election year, there was an increased number of demonstrations and peaceful protests leading up to and after the November election.

OPA Classification Workload

OPA reviews each and every complaint and makes a classification determination. A complaint can be classified for a full Investigation in those instances where the alleged misconduct warrants it. Complaints where the alleged conduct either was not a violation of policy or was a minor violation of policy may be best addressed through education, communication, counseling or coaching and are classified as Supervisor Actions. Complaints brought to OPA that are not about alleged misconduct of an employee of the Seattle Police Department or complaints where no evidence of misconduct exists are classified as Contact Logs.

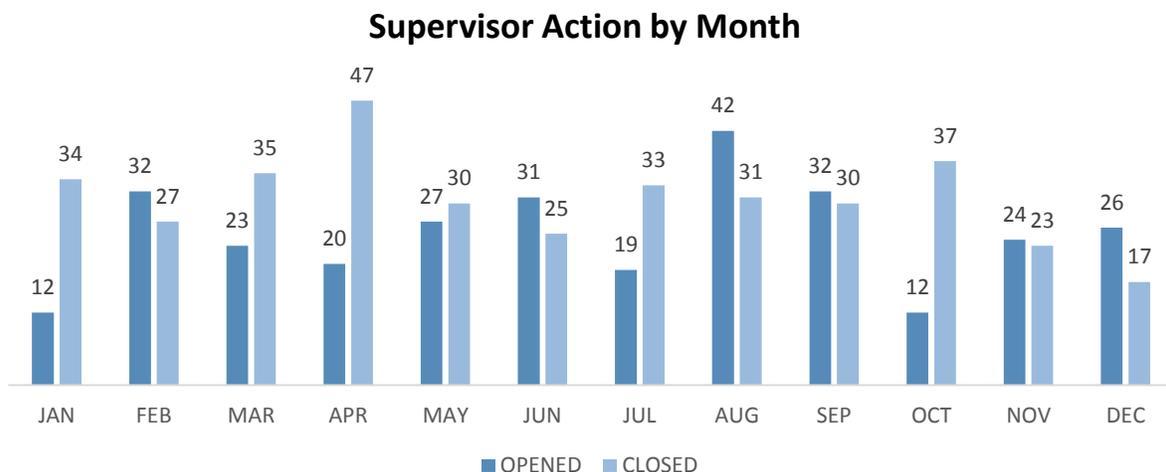


Figure 1: 2016 month-by-month comparison of opened versus closed Supervisor Actions. The OPA Manual in 2015 indicated all Supervisor Actions needed to be completed by the field within 30 days. That time was reduced in the April 1, 2016 Manual update to 15 days. During 2016, SPD took an average of 27 days to complete a Supervisor Action.

When it is determined the complaint does not warrant a full Investigation, OPA is able to pass the information obtained during the preliminary Intake Investigation to the Chain of Command as a Supervisor Action (SA). This allows the direct supervisor of the employee to address issues brought up in the complaint with the employee and provide guidance and direction on how the situation may have been better handled. The supervisor also

¹ If discipline is to be imposed by SPD, an OPA is required to complete an investigation within 180 day of receipt of the complaint by OPA or a sworn supervisor.



contacts the Complainant to assist in building trust and mutual understanding between law enforcement and the community they protect.

Overall the number of complaints received by OPA in 2016 was down by 21%. This may be a result of positive reports by the Monitoring Team and the Department of Justice regarding SPD's progress towards the goals set out in the Settlement Agreement. While the overall number of complaints in 2016 was down from 2015, there was an increase in the number of complaints referred internally, indicating an increased awareness and value for the need for accountability throughout the Department.

Investigations by Month

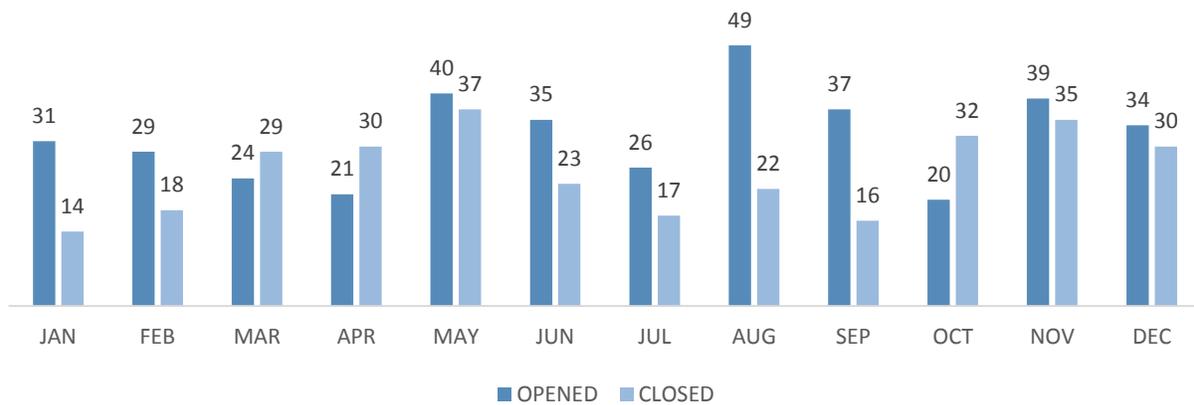


Figure 2: 2016 month-by-month comparison of opened versus closed Investigations. Given the 180-day requirement for completed an investigation, some cases closed in 2016 were opened in 2015.

While OPA received fewer cases in 2016 than 2015, it did experience an increase in allegations that were more complex and time consuming. For example, OPA saw a 28% increase in Use-of-Force allegations, of which 45% were internally referred. Allegations involving Use-of-Force generally require a more involved Investigation both in time and complexity, due to reviewing each involved officer's report, and In-Car Video (ICV) for all the responding officers. There are multiple levels of review to address, and potentially with a Force Investigation Team investigation, a rather voluminous casefile.

Additionally, in the Monitor's First Systemic Assessment of SPD regarding the use of In-Car Video (ICV) it was recommended there be a heightened focus on accountability for failure to comply with the policy. In response, OPA created a policy of mandatory investigation for all ICV violations to support the Monitor's efforts of imparting the importance of utilizing ICV on SPD. Consequently, OPA saw an 152% increase in the number of Video and Audio Recording allegations between 2015 and 2016, and commendably, 76% of those were internal referrals from SPD to OPA. Due to the number of ICVs available, investigators often need to review multiple videos of the same incident to determine the facts of the case related to these allegations.

On a positive note for SPD, there was a 44% reduction in the number of Training, Qualification and Certification allegations from 2015 which could signal a culture change in SPD to recognizing the importance of completing mandatory training as required.



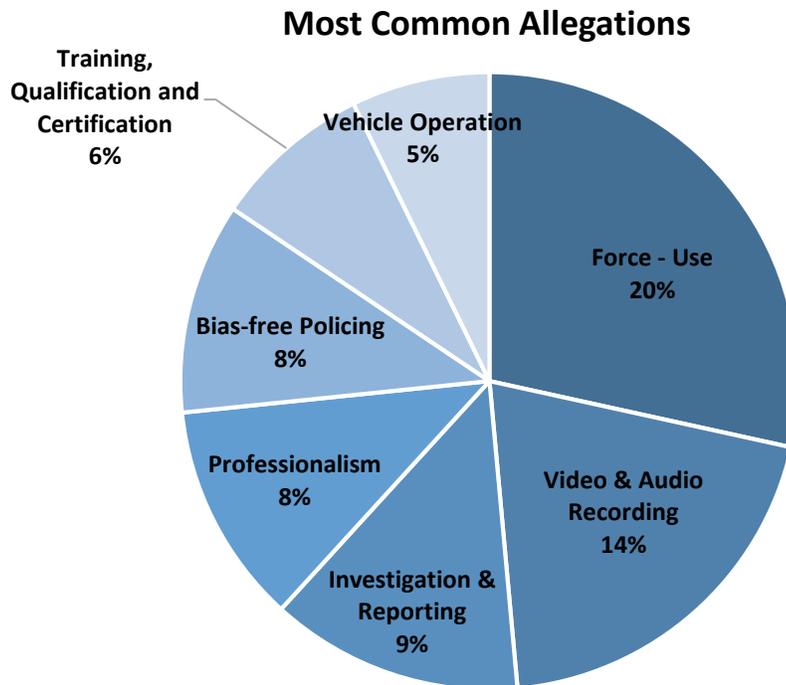


Figure 3: The most common allegations comprise ~71% of the total allegation types. The remaining ~29% of allegations were: 3% for each of discretion/authority; conformance to law, integrity/ethics, performance of duty, property/evidence, stops, detentions and arrest; 2% for force-reporting and search/seizure; and with 1% or less for admin requirements, force-investigation; supervisory responsibility, retaliation/harassment, courtesy/demeanor, self-reporting obligations, duty to provide identification, obedience to orders, information systems, secondary employment, tactics/decision making; tickets/traffic contact reports; alcohol/substance use, complaints -internal, complaints – public, court appearances and timekeeping/payroll.

Findings Issued in 2016

After the Investigation is complete, the OPA Director recommends to the Chief of Police a finding of either Sustained or Not Sustained for each allegation. An allegation can be Not Sustained because it is Lawful and Proper, Inconclusive, Unfounded, Training Referral², or a Management Action Recommendation³.

Two new Not Sustained finding types were added in 2016 - Grievance Settlement and Timeliness. These were added to accurately account for cases found to be Not Sustained because of a grievance settlement with the Named Employee's Union, or because Discipline was not able to be imposed due to a missed deadline or a case being outside the statute of limitations under the collective bargaining agreement. OPA had one case involving a grievance settlement and two cases involving timeliness issues in 2016.

² The evidence shows a minor policy violation indicative of a need for future training.

³ Management Action Recommendations (MARs) are used when the evidence shows the alleged conduct was the result of deficiencies in department policy, training, supervision or procedure. For more information about MARs, please see OPA's 2016 Special Report: *Pushing for Systemic Change*.



The case involving a grievance was concerning a failure by the Named Employee to activate In-Car Video where both the Sustained finding and Written Reprimand were rescinded in the grievance settlement. One of the cases involving timeliness was changed due to the date of the initial incident of the complaint being greater than three years from when it was received by OPA. The other case involving timeliness is discussed in Timeliness of Investigations below.

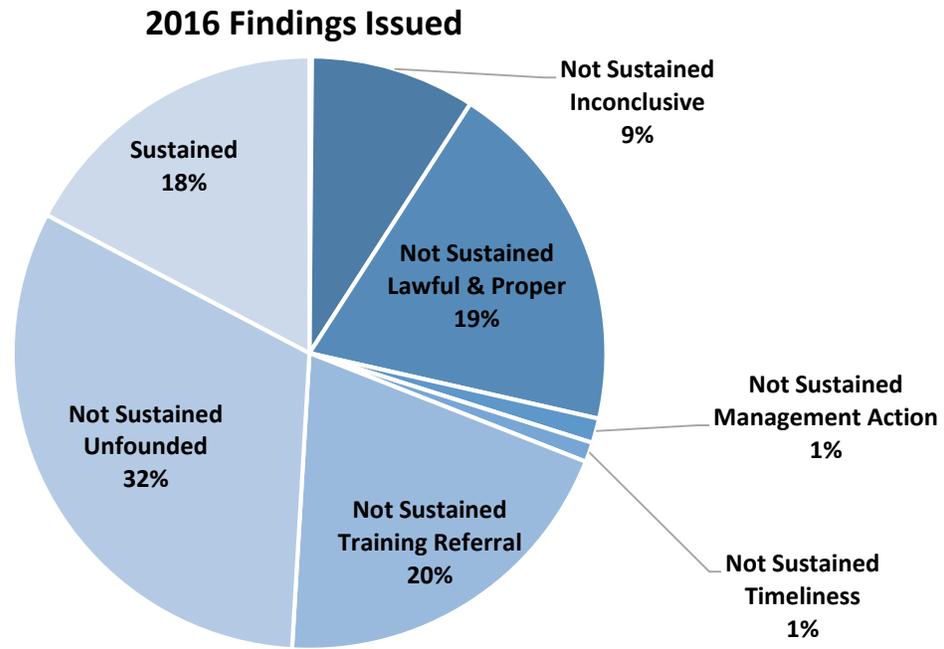


Figure 4: Non Sustained Grievance Settlements only had one case which represented less than 0.05% of all findings issued.

OPA Findings Overturned by the SPD Chief of Police

In one case during 2016, the Chief of Police chose to change a Sustained finding made by the OPA Director to Not Sustained – Lawful and Proper in a case regarding a shooting that occurred on New Year’s Eve 2014. The Chief of Police wrote a letter to the Mayor indicating her disagreement and conclusion the Named Employees had a justifiable and reasonable cause to believe people inside a vehicle coming towards them were enough of a threat to open fire. The OPA Director concluded that, while it was reasonable to believe that there were shots being fired, it was not reasonable to believe a person inside that particular car shot at officers. Because of this change in findings, there was no discipline imposed.

DISCIPLINE

OPA completed 303 Investigations in 2016, totaling 777 allegations, of which 18% received a Sustained finding and 82% were Not Sustained. Of the 137 Sustained Allegations, 110 instances of discipline were imposed on 95 SPD employees⁴. Some of the Sustained findings did not result in discipline being imposed either because

⁴ Investigations may contain multiple allegations that are found to be sustained, however only one disciplinary action is imposed per employee per OPA Investigation.



appropriate action had already been taken by the employee's supervisor, the employee no longer works for the Department or the violation of the policy was considered to be minor.

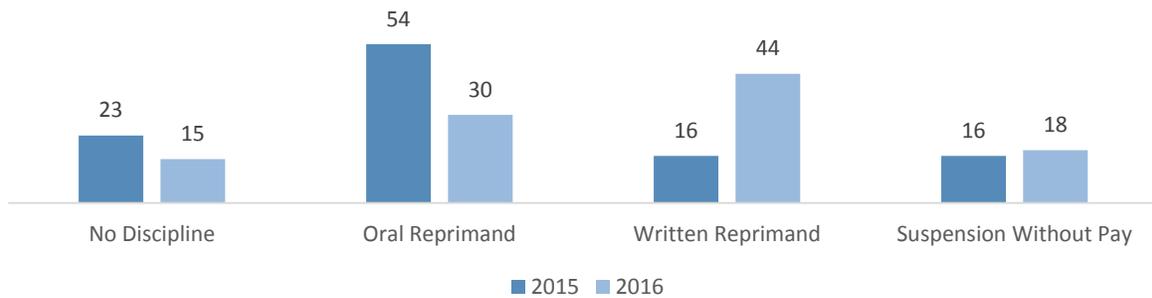


Figure 5: In 2016, 137 allegations resulted in sustained findings. 131 of those Sustained findings resulted in the above disciplinary actions. Figure 5 represents 92 of the 95 SPD employees who received a disciplinary action in 2016, while Figure 6 below represents the remaining three.

Of those employees who received suspensions without pay, four (4) days was the average number of days suspended, with the largest suspension equaling ten (10) days and the lowest one (1) day. Discipline in the form of days suspended is limited to a maximum of 30 days off without pay pursuant to the collective bargaining agreement. There was a 175% increase in the number of Written Reprimands given for Sustained cases from 2015 to 2016. The primary allegation that received Written Reprimands in 2016 was for Video and Audio Recording.

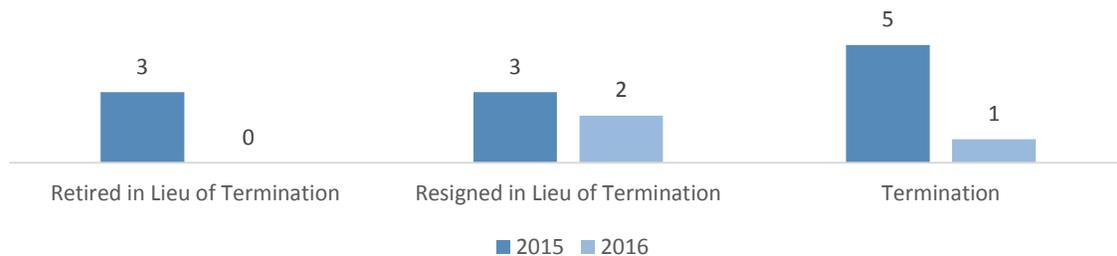


Figure 6: In 2016, 137 allegations resulted in Sustained findings. Six of those Sustained findings resulted in 1 employee who was terminated from SPD and 2 employees who resigned in lieu of termination.

Six of the Sustained findings resulted in three employees being terminated or resigning in lieu of termination. Of the three employees, one has appealed his termination which is still outstanding. This represents a 38% decrease in the number of employees either terminated or resigned/retired in lieu of termination from 2015.



Use-of-Force

In 2016, OPA investigated over 157 allegations of Use-of-Force, and found nine (6%) of those Sustained and 148 (94%) Not Sustained. This represents a 28% increase in the number of Use-of-Force allegations brought to OPA. Given that almost half of all the Use-of-Force allegations were internally referred, this may indicate a shift inside SPD in that the Chain of Command is appreciating the value and scrutiny of having OPA review uses of force to ensure they are in compliance with policy. This may go a long way in improving the trust the community has for officers utilizing force when engaging in police activity.

Findings - Use-of-Force Cases	2014	2015	2016
Sustained	1%	9%	6%
Not Sustained Unfounded	17%	24%	32%
Not Sustained Training Referral	1%	6%	7%
Not Sustained Management Action	0%	1%	1%
Not Sustained Lawful and Proper	68%	52%	47%
Not Sustained Inconclusive	13%	9%	6%
Not Sustained Timeliness*	N/A	N/A	1%

*Not available prior to 2016

There were two OPA investigations in 2016 into Use-of-Force allegations that resulted in a Management Action Recommendation (MAR) which further addressed the need for SPD to gain better command and control of complex incidents involving force. In both cases, OPA recommended the formation of an internal SPD “Study Team” to carefully examine the command, control and individual actions that made up the many attempts to stop and capture the suspects in the incidents. The intent is that this “Study Team” could help the Department be prepared in the future to exercise even better command and control over similar or worse situations.

Mediation

There was a 300% increase in the use of Mediation from 2015 to 2016. The Complainants who participated in the Mediation process felt this improved their perspective of the work done by the SPD employees they had interacted with. The employees gained a better understanding of the experiences of the Complainants through Mediation and resulted in a positive and community building experience for all participants. In 2016, twelve cases were selected for Mediation, up from two cases in 2015. Officers declined to participate in two cases which were reclassified as Supervisor Actions. Eight of these cases were completed in 2016 and the remaining two cases were completed in 2017.

During the Intake process, the OPA Director may suggest Mediation to resolve complaints if both the Complainant and the employee agree. Mediation is a voluntary, confidential process facilitated by a Mediator who helps community members and officers talk and listen to each other. It is an option for complaints involving apparent miscommunication or misperception between officers and members of the public. Mediation is not considered for complaints involving particularly egregious allegations, such as Use-of-Force, possible violations of law, etc. Many cases can more effectively be resolved and timeliness of cases can be increased through Mediation.



OPA has found the experience of both Complainants and employees who participate in Mediation encouraging. As it is a voluntary process, for a variety of reasons six of the selected cases did not end up in Mediation. Four cases were successfully Mediated in 2016. In one case the complainant gained a better understanding of SPD operating procedure policies and said that Mediation was a great way for both sides to be heard. In another case the officer was able to get a better perspective of the actual complaint and appreciated the opportunity to talk with the Complainant about the situation. Positive results such as these are encouraging and OPA looks to increase this number of completed Mediations in 2017. However, it must be noted that OPA is constrained in how many complaints can be mediated by the number of trained mediators available.

Timeliness of Investigations

Under the collective bargaining agreement with Seattle Police Officer's Guild, the Union representing all sworn officers and Sergeants, OPA is required to complete all investigations within 180 days in order for Discipline to be imposed. OPA handles investigations for all SPD Employees who may or may not be represented from five different bargaining units. In cases involving sustained findings, OPA completed the Investigation in sufficient time for Discipline to be imposed in all but one case. In some instances, the Bargaining Unit for Named Employees granted OPA extensions due to unforeseen circumstances. In other cases, portions of the 180-day period were tolled while the case was pending a criminal investigation in a jurisdiction outside Seattle or was being reviewed by a prosecutor for consideration of charges. In 2016, OPA completed 303 Investigations, of those 137 had sustained findings. Below reflects the timeliness of all cases involving Sustained allegations.

There was one case in 2016 where discipline could not be imposed because the investigation was not completed in a timely manner. In that case, the OPA Director wrote a letter to the Mayor and Council President explaining the circumstances. While there was no larger systemic issue that caused this missed deadline, OPA is looking for opportunities for improvement in OPA processes to prevent a similar occurrence in the future.

As stated above, another case where the Not Sustained Timeliness finding was issued was due to the fact that the incident occurred more than three years prior to being brought as a complaint to OPA.⁵ The facts of the case were determined to have a Sustained finding, however, the Chief of Police stated that she would not be able to take any disciplinary action due to the delay in reporting. Therefore, the finding was changed to Not Sustained Timeliness.

Days Open	Case Total	%
≤ 120	2	2%
121-140	4	4%
141-160	17	17%
161-180	75	74%
≥ 180*	3	3%

⁵ The leadership of the City of Seattle agreed that no disciplinary action will result from a complaint of misconduct where the complaint is made to OPA more than three years after the date of the incident which gave rise to the complaint unless it involves (1) criminal misconduct; (2) the named employee conceals acts of misconduct, or (3) following a final adverse disposition in civil litigation alleging intentional misconduct by an officer. See Section 3.6 G of *The Seattle Police Officer's Guild's (SPOG) Agreement with the City of Seattle*. Therefore, while OPA would have recommended a Sustained Finding in this case, since it fell outside the three-year statute of limitations afforded by the City of Seattle to SPOG members, and therefore no discipline could have been imposed by the Chief of Police, a finding of Not Sustained Timeliness was entered.



OPA Staffing Issues

2016 was a challenging year for OPA with regards to staff turnover. All but three of the eight Sergeants assigned to OPA were new in 2016 and another one started in December 2015. This was a 75% turnover of Sergeants in just one year. OPA Sergeants rotate in and out of OPA on a regular basis, but it is unusual to have so many Sergeants change in a one-year period. The average case load per OPA Investigator at the beginning of 2016 was 24 cases. Due to delayed replacements of some of the OPA Sergeants toward the end of the year, the average case load per investigator increased to 35 cases which was a 30% increase in work load.

Additionally, OPA's Administrative staff went through a 100% turnover, and a position that had been left unfilled since mid-2015 was finally filled in 2016. Having a fully staffed administrative team by the end of September 2016 allowed OPA to re-shift the administrative work, so OPA Sergeants could focus on interviewing complainants and conducting investigations, rather than creating OPA electronic case files, responding to customer service Contact Logs, and administrative work. Naturally, all of these changes in OPA staff had a rippling effect across the investigative process. Each new employee had a learning curve to overcome and it took some time to get the new employees up to speed. High turnover creates difficulties and hurdles for any organization to overcome. Due to the complex, sensitive and urgent nature of the work undertaken by OPA, high staff turnover is exceptionally challenging.

As previously mentioned, this turnover occurred simultaneously with the undertaking of various organizational improvements. OPA worked hard to ensure its core products, preliminary Intake Investigations and the completed Administrative Investigations for recommended findings, were not adversely impacted by the changes in staff. OPA is looking to see the results of these efforts in 2017 with over quality of investigations increasing and appropriate allocation of resources to increase timeliness.

Seniority of SPD Employees

Reviewing the seniority of officers in relation to Supervisor Actions and Investigations provides some interesting data. Similar to data reported in 2015, it appears there are two prominent peaks in the number of complaints – around two to four years and again from seven to nine years of service. There may be several possible reasons for the first peak. In the first year of service, an officer is on probation and, presumably on his or her best behavior, supervised by a Field Training Officer (FTO), and has immediate supervisory support and guidance. Following that, they are on their own and have a steep learning curve, which could lead to an increased number of Supervisor Actions and Investigations. OPA is looking to conduct an evaluation of the type of cases regarding this number of years of service to see if it will provide any insight to prevent these spikes in complaints.



Seniority v. Number of Complaints

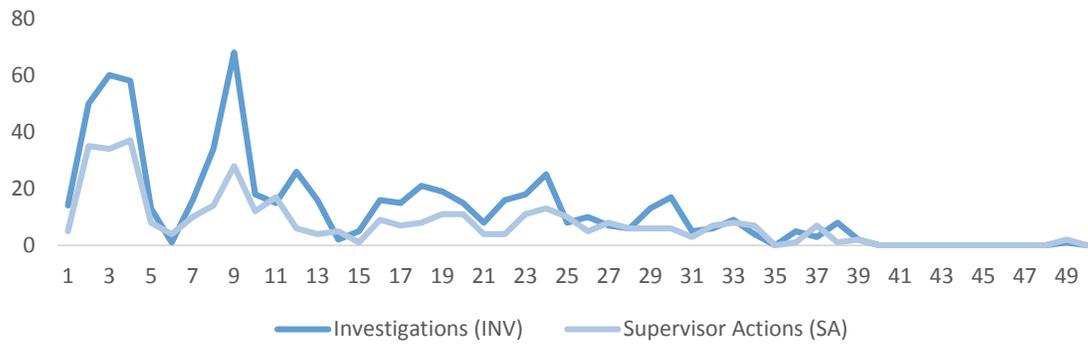
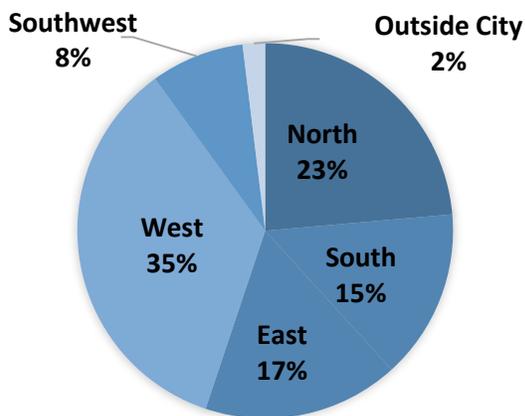
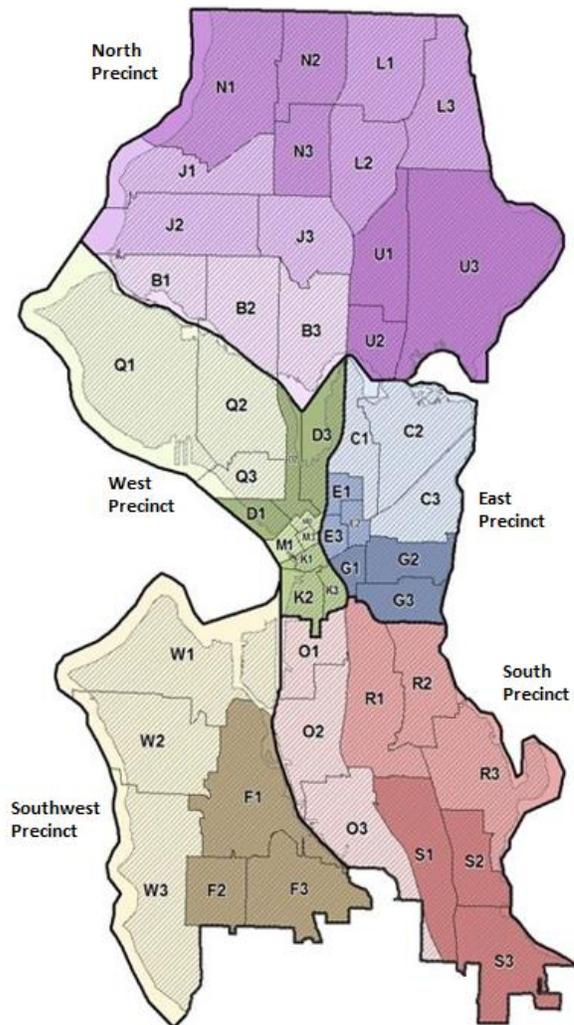


Figure 7: Investigations and Supervisory Actions per employee by years of seniority. Seniority is determined by using the SPD hire date of the employee, and does not reflect any prior law enforcement or military service.

Geographical Breakdown

Of all cases classified for Supervisor Action or Investigations, most occur within the precinct to which the SPD Employee is assigned at the time of the incident. However, some allegations arise from activity by officers outside of their assignments because all officers are required to follow SPD policy, even while off-duty (i.e., during secondary employment). From 2015 there was a 4% increase in the number of Supervisor Actions and Investigations in the North Precinct and a 2% increase in the West Precinct. These are not significant changes as the North Precinct represents the largest geographical area and the West Precinct has the largest daytime population as more people work and visit downtown.



OPA General Statistics

Seattle Municipal Ordinance 3.28.825 (A) requires the reporting of various statistical data pertaining to complaints processed by OPA. Below is a high level summary of the raw data and in some cases the percentage distribution as required by ordinance. All raw data was obtained during February 2017 for the period from January 1, 2016 – December 31, 2016.

All demographical data related to Intake method, race, and gender is for cases received during 2016. All data related to findings are for cases completed during 2016. Data related to Named Employee Gender and Race was not reported in 2013 and is not available.

Year	2013	2014	2015	2016
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Received	2013	2014	2015	2016
Contact Log	681	695	905	834
Supervisor Action	337	406	634	300
Investigation	190	225	382	385
Total	1208	1326	1921	1519

Completed	2013	2014	2015	2016
Supervisor Action	325	313	642	369
Investigation	165	215	328	303

Findings	2013	2014	2015	2016
Sustained	16%	16%	27%	18%
Not Sustained - Unfounded	28%	28%	25%	32%
Not Sustained - Lawful & Proper	24%	26%	20%	19%
Not Sustained - Inconclusive	19%	15%	13%	9%
Not Sustained - Training Referrals	13%	13%	13%	20%
Not Sustained - Management Action	N/A	2%	2%	1%
Not Sustained - Timeliness	N/A	N/A	N/A	1%
Not Sustained - Grievance Settlement*	N/A	N/A	N/A	0%

*Not Sustained - Grievance Settlement, <0.05%

Intake Method*	2013	2014	2015	2016
Internal SPD	7%	16%	37%	35%
External Email	16%	22%	10%	10%
Web Form	30%	25%	23%	29%
Phone	32%	25%	20%	18%
In-Person	10%	9%	6%	5%
Letter	4%	3%	4%	3%

*For all cases received by OPA



Complainant Gender	2013	2014	2015	2016
Female	35%	32%	39%	38%
Male	56%	54%	56%	59%
Not Provided	9%	14%	6%	3%

Named Employee Gender	2013	2014	2015	2016
Female	-	14%	18%	19%
Male	-	76%	76%	81%
Not Provided	-	10%	6%	*

Complainant Race	2013	2014	2015	2016
Asian/Pacific Islander	4%	3%	4%	5%
Black	15%	16%	18%	17%
Latino	2%	2%	2%	1%
Native American/Alaskan Native	1%	1%	1%	1%
White	50%	44%	26%	39%
Not Provided	28%	34%	49%	37%

Named Employee Race	2013	2014	2015	2016
Asian/Pacific Islander	-	8%	7%	6%
Black	-	9%	9%	8%
Hispanic/Latino	-	6%	5%	4%
Native American/Alaskan Native	-	2%	2%	2%
White	-	72%	72%	73%
Two Or More Races*	-	2%	3%	5%
Not Provided	-	1%	1%	2%

*SPD HR collects data on Employee race differently and allows for this option.



Complaint Appeal Status

While OPA does not directly handle the complaint appeal process, we made a commitment to report on the status of appeals. Handled through either the Public Safety Civil Service Commission, or the Disciplinary Review Board, below are the status of all appeals as of the publishing of this report.⁶

Case	Allegations	Appeal Date	Change or Final Decision
11-IS-0412*	Professionalism Juvenile Investigations and Arrests	2011	Settled: Sustained finding rescinded by Arbitrator and reduced to Training Referral. (04/10/15)
12-IS-0500*	Honesty	2013	Settled: Arbitrator overturned the Department's findings. (08/04/15)
13-IS-0245	Violation of Law-Identity Theft 2nd Degree Violation of Law-DV Stalking Violation of Law-Perjury Department Vehicles/Rules of Operation Dept. E-mail & Internet/Internet Use Criminal Records/Policy Honesty	2013	Settled: Agree to interpretation of the language "being prosecuted" and shall be the point at which the suspension of the 180-day time period shall end. (06/01/16)
2015-0117	Professionalism Officers Will Not Engage in Bias-Based Policing Voluntary Contacts and Terry Stops Use of Force Core Principals Officers Shall Use De-Escalation Tactics	10/8/2015	Pending
2014-0555 2014-0656 2015-0080	Employees Must Avoid Conflicts of Interest Employees Must Adhere to Laws and Department Policy Truthfulness Cooperation with Internal Investigations Professionalism Employees Will Perform a System Check Employees Will Record Enforcement – Related Activity Which Occurs Within Camera Range Employees Obey any Lawful Order Issued by a Superior Officer Secondary Employment	9/14/2015	Settled: Retirement in lieu of termination

⁶ Previously reported cases which have been settled or withdrawn are not included.

* Not previously reported in OPA's 2015 Annual Report.



2014-0580	Officers Shall Conduct a Thorough and Complete Search for Evidence	6/25/2015	PSCSC granted City's motion to dismiss appeal
2014-0233	Use of Force: When Authorized	4/24/2015	Pending
2015-0358	Malicious Harassment Professionalism Operating the In-Car Video System Officers Shall Conduct A Thorough & Complete Search for Evidence Employees Will Record Police Activity Employees Shall Be Truthful and Complete In All Communication	11/16/2015	Appeal Withdrawn
2015-0607	Obedience to Orders	4/15/2016	Pending
2015-0655	Use of Force: Necessary and reasonable to effect a lawful purpose Conformance to Law	8/22/2016	Pending
2015-1522	Use of Force: When Prohibited Use of Force: When Authorized	8/22/2016	Pending
2015-1586	Performance of Duty Professionalism	9/26/2016	Pending
2015-1859	Use of Force: De-Escalation	10/5/2016	Pending
2014-0216	Use of Force: When Authorized Use of Force: When Prohibited Use of Force: Officers Shall Use De-escalation Tactics Voluntary Contacts and Terry Stops	11/18/2016	Pending
2016-0400	Use of Force Tools	12/13/2016	Pending
2016-0497	Video and Audio Recording	12/14/2016	Pending
2016-0439	Professionalism	2/22/2017	Pending
2016-0518	Property and Evidence: Submitting Evidence	3/21/2017	Pending

