



**OFFICE OF THE
POLICE OMBUDSMAN COMMISSION
2022 ANNUAL REPORT**

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OFFICE OF THE POLICE OMBUDSMAN COMMISSION

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Monthly meetings every 3rd Tuesday, unless otherwise indicated.

Mission

The OPOC exists to promote public confidence in the professionalism and accountability of the members of the Spokane Police Department by providing, through the Ombudsman, independent review of police actions, thoughtful policy recommendations, and ongoing community outreach. The Commission also assists the OPO in communicating with Spokane's diverse communities and the general public about the complaint filing and investigation process.



COMMISSIONERS



Luc Jasmin III (September 2020 – Present), Chair

Luc is the owner of Parkview Early Learning Center in Spokane County. Luc began his career in the public school system and decided to transition to early childhood education. Growing up as a first-generation Haitian- American has really propelled him to understand and focus on equity, racial bias, and cultural differences. He is also invested in protecting small businesses by mitigating the economic strain they face on a regular basis.



Jenny Rose (September 2015 – Present), Vice Chair

Jenny recently retired from teaching after being in the education field for almost 30 years. She also served eight years as President of the Spokane Education Association. She has a B.A. in elementary education from WSU and a M.A. in Curriculum and Instruction from EWU.



Ladd Smith (August 2015 – Present)

Ladd recently retired from teaching after being an elementary teacher and has over 30 years in public education. He has a B.A. in Elementary Education and an M.A. in School Administration.



James Wilburn Jr. (October 2017 – Present)

James specializes in administrative leadership with over 15 years of teaching experience. He has served as the Supervisor for Youth Initiative and Community/Parent relations with Spokane Public Schools and Adjunct Professor of Interdisciplinary Studies at Whitworth. He has also served as President for the NAACP Spokane Branch from 2008-2010.



Lili Navarrete (January 2021 - Present)

Lili was born and raised in Mexico City. She has been living in Spokane for 33 years. She is also a Commissioner on Hispanic Affairs for Washington State and the Director for Social Justice at the Hispanic Business and Professionals Association.

LETTER FROM THE OPOC CHAIR

May 2023

Mayor Woodward
Council President Breean Beggs
City Council Members
Office of Police Ombudsman
Chief Craig Meidl

The Office of the Police Ombudsman Commission (OPOC) continued expanding our reach in 2022 by exercising untested authorities provided by our ordinance and charter. The OPOC has the authority to determine whether to authorize an independent investigation but is a cumbersome process. The Office of the Police Ombudsman (OPO) and the Spokane Police Department (SPD) usually reach an agreement when a complaint is filed. However, after an impasse with the Chief regarding the thoroughness of the Internal Affairs (IA) investigation into a complaint, the OPO requested we authorize an independent investigation into the matters SPD refused to investigate in the complaint investigation. We authorized the first OPO independent investigation in June and accepted the OPO's recommendations in their Closing Report in December 2022.

We are proud of the work the Police Ombudsman and Deputy Police Ombudsman did to produce the report on this investigation. They faced many obstacles in the investigative process but were able to find workarounds to deliver a final product that answered the Complainant's concerns and brought as much transparency as possible to the matter. A fully authorized and empowered Ombudsman office would have the ability to ask for anything necessary to investigate the matter with complete compliance from the City. However, the OPO faced a lack of ability to compel interviews from pertinent witnesses and lacked the statutory authority to compel all documents that fell within the parameters of the investigation. In this case, the Administration did not interfere and provided the OPO access to the materials requested. However, the OPO was unable to interview key personnel with information pertinent to the investigation despite their employment with the city. At least one of them was not a police officer and had no Collective Bargaining Agreement stating they did not have to participate. The OPO's City Legal representative strongly discouraged pushing the issue further.

The OPOC approved 13 recommendations for policy and training from the OPO's closing reports in 2022. One of the changes under the most recent Collective Bargaining Agreement is that the OPO must send their report to the Police Guild to review for potential contract violations prior to public release. While we have concerns this infringes on independence, this process has allowed for regular discourse between the OPO and the Police Guild which has improved the relationship between the Guild and the OPO/OPOC.

The OPOC continued to expand our base of knowledge by attending the NACOLE Annual Conference and by holding our second retreat for Commissioners that was facilitated by NACOLE. The retreat helped the Commission share our goals with each other and shape the direction of the Commission.

Looking forward to 2023, the OPOC will continue to support the OPO's quest for true independence. We will also revive our pursuit of a proper OPO workspace so that it provides confidentiality and additional security. Lastly, we acknowledge the workload undertaken by the OPO and support and encourage the OPO to formally request an additional Full Time Employee dedicated to an analyst position. An example of this is the reduction of complaint closing reports produced while the office was working on the investigation. The OPO is working far beyond capacity and will greatly benefit from additional staff to assist with research, analysis, and reports as the office continues to provide professional oversight of the Spokane Police Department.

Respectfully Submitted,



Luc Jasmin III
Chair

STATUTORY AUTHORITY

This OPOC Annual Report is a compilation of the work performed by the OPOC in 2022. The annual report is a requirement of §04.32.150 of the Spokane Municipal Code (SMC), and includes a summary of the OPOC's activities, findings, and recommendations; the OPOC's community engagement; the OPO's recommendations for changes to the police department's policies, procedures and training; and an evaluation of the work of the OPO.

The report is divided into five sections to explain the various functions of the OPOC:

- I. Summary of OPOC Actions and Developments
- II. Community Engagement
- III. Training
- IV. OPO Recommendations
- V. Evaluation of the OPO



I. SUMMARY OF OPOC ACTIONS AND DEVELOPMENTS

2022 continued to experience the challenges created by a global pandemic that kept many people working remotely for most of the year. However, during this time, the Washington State legislature enacted some of the most progressive police accountability laws in the country following the protests and civil unrest we saw across the country following the death of George Floyd. OPOC Commissioner Jenny Rose provided testimony in support of SB5436 (2021-2022 Regular Session). This bill concerned collective bargaining over the content of reports by ombuds and selection of their staff who oversee law enforcement personnel. Commissioner Rose also wrote a guest blog piece for the ACLU called, “Police Oversight in Spokane, Washington.”

Governor Inslee did not end the state of emergency in Washington until October 31, 2022. While restrictions were loosened, the OPO and the OPOC still worked within the restrictions that had been imposed on the state by the Governor. With the support from the City of Spokane administration, the OPOC was able to hold a combination of 5 regular meetings and 4 special meetings, utilizing a hybrid format of in-person and virtual options for the meetings. Throughout the year, Commissioners also held hybrid meetings with the Ombudsman, City Council President Beggs, Council Members, Assistant Chief Lundgren and Police Chief Meidl.

UPDATE ON PREVIOUS OPOC ACTIONS

UPDATE #1: OPOC 2022 Budget

Summary: In October 2021, the OPOC voted unanimously to request City Council restore the OPOC budget be restored to the pre-Covid pandemic levels. This was to allow the OPOC to participate in trainings pertaining to civilian oversight.

Outcome: Completed – After discussions with City Council members, the OPOC budget was restored to pre-pandemic levels.



2022 OPOC ACTIONS

Action #1: Approve OPO Recommendations to SPD

1. OPOC meeting
 - a. C19-082/F19-056
 - i. R22-01
 - ii. R22-02
 - iii. R22-03
 - iv. R22-04
 - v. R22-05
 - vi. R22-06
 - vii. R22-07
 - viii. R22-08
2. December OPOC meeting
 - a. C21-070/OPO 21-33
 - i. R22-09
 - ii. R22-10
 - iii. R22-11
 - iv. R22-12
 - v. R22-13

Action #2: OPOC voted to have the OPO conduct an independent investigation

During the April 2022 OPOC meeting, the OPO briefed a case that they had declined to certify; C21-070 / OPO 21-33. The OPO presented information on the case and the reason an investigation was requested. The Police Department also provided information regarding their decision.

The OPOC voted unanimously to authorize the OPO to conduct an independent investigation regarding the circumstances alleged in the complaint C21-070 / OPO 21-33.

Action #3: OPOC voted to renew the Ombudsman's contract

Prior to voting on renewing the Ombudsman's contract, The OPOC conducted a yearly evaluation on the Police Ombudsman and gave the public an opportunity to make comment during the August OPOC meeting.

The OPOC voted unanimously to renew the Ombudsman's contract for an additional 3 years.

II. COMMUNITY ENGAGEMENT

In 2022, Commissioners continued to face obstacles engaging in the community due to many events and meetings being cancelled. As the restrictions of COVID-19 started to lessen, the Commissioners were able to attend Unity in the Community and SPD's Faith and Blue event. Commissioners continued to attend virtual meetings with various community groups.

III. TRAINING

While training opportunities in civilian oversight continue to be an area of focus for the Commissioners, the opportunities during 2022 continued to be limited. Four Commissioners attended the NACOLE (National Association of Civilian Oversight over Law Enforcement) Annual Conference in Fort Worth, Texas. In September, one Commissioner attended the NACOLE Annual Conference virtually by completing 3 Days of 8-hour webinars on demand over one month. During the month of the November, the OPOC arranged a strategic planning/training retreat that was facilitated by the Executive Director and a Board Member of NACOLE.



IV. RECOMMENDATIONS AND FINDINGS

The OPO made 13 recommendations to SPD in 2022 through reports issued. The following is a summary of the recommendations and SPD's responses if not fully implemented. To view SPD's full responses and corresponding OPO reports, please visit my.spokanecity.org/opo/documents/closing-reports.

Response to Recommendations – Implemented: 8

- 1. Subject Matter Expert Documentation of Analysis/Assessment (R22-01)** – Subject Matter Experts should be required to document any assessment and analysis they provide and recommendations as a matter of policy. This will support any officer or supervisor that relies on this assessment and adds a level of accountability to the SME's evaluations.
- 2. Case Study (R22-02)** – To improve future analysis, the OPO recommends SPD use the reasoning in this case as a case study to determine the type of analysis that supervisors, administrative review panels, and review boards are expected to conduct.
- 3. ARP and IA Identify and Incorporate Disputed Facts (R22-03)** – The OPO recommends that the ARP or IA identify disputed facts and incorporate disputed facts as part of their analysis. The OPO previously recommended to SPD in C19-040, Recommendation #1 that IA Investigators should identify disputed facts and provide available evidence for both sides of the dispute, document them clearly so the designated person can make fully informed determinations on how to view the facts.
- 4. Evaluate Intent in Use of Force (R22-04)** – The OPO recommends SPD carefully consider an officer's intent when evaluating any use of force incident.
- 5. Dissenting Opinion and Further Investigation (R22-05)** – The OPO recommends any department review include a dissenting opinion if a review feels like their opinion or concerns have not been addressed by the majority. Further, if a member of the ARP or Chain of Command review feels the IA investigation did not address an issue in its investigation, the ARP or reviewer should send the issue back to IA for further investigation.
- 6. Update Review Board Function / Enhance Chain of Command Function (R22-07)** – As previously recommended in C19-040, Recommendation #2 and R21-09, the OPO recommends SPD either update the function of the review boards to critically analyze the officer's tactical conduct and make findings like LVMPD and/or enhance the Chain of Command function of the categorical uses of force like LAPD that examine an officer's tactics and uses of force that result in specific findings.
- 7. Release of Body Worn Camera Footage (R22-11)** – The OPO recommends SPD reconsider Recommendation #23 from C19-040 where the OPO recommended SPD update its Policy 703.11, Release of Body Camera Videos to maintain compliance with case law on public record requests that involve internal investigation records.
- 8. Influence of IA Investigation Process (R22-13)** – Case updates should be solely between IA and the Chief/Designee. No other party should be allowed to influence or direct IA investigations. The Chief should withhold decisions on findings until investigations are complete and should direct IA investigators to give their best efforts in investigations regardless of where the information takes them.

Response to Recommendations – In Progress: 3

1. **Prohibition of Striking Handcuffed Subjects (R22-06)** – The OPO recommends SPD update its policy to unambiguously prohibit allowing striking handcuffed subjects, with a few caveats. Force against handcuffed persons should be deemed significant and immediate notification of the Chief/Command duty officer should be made detailing the facts.

Chief's Response: The Spokane Police Department discourages the striking of handcuffed prisoners. If officers strike a handcuffed subject, immediate notification will be made to an on-duty supervisor who will review the facts of the use of force to ensure a complete and thorough investigation occurs.

Policy 308 will be updated to include this notification requirement.

2. **Requests for Public Records (R22-09)** – All requests for data and/or records that are not publicly or readily available from the public should go through the Public Records Request system. Further, it would be beneficial to sit down with the City Clerk's Office to determine up front when requests do not need to go through the PRR process as well as agreeing when a case-by-case basis advisement is appropriate.

Chief's Response: Overwhelmingly public records requests are referred to Police Records for processing. However, in the interests of transparency there are times when the Spokane Police Department may facilitate the sharing of information that is not law enforcement protected outside of the public records request system. For example, there are times when generalized information or information that is shared publicly in other realms, for example crime trends, may be shared outside of the public records request system. If some of this generalized information had to go through a formal Public Records Request system, it would be contrary to community engagement efforts. Those releasing this type of information are expected to follow all appropriate laws related to redaction of sensitive or confidential information.

The City Administrator has advised that he will work with Legal and the City Clerk's Office to review this recommendation and possible implementation.

3. **Universal Policy and Disclosure Agreement for All City Employees (R22-12)** – The City should consider establishing a policy and disclosure agreement for all employees, which outlines what is releasable to the public and provides guidance to employees on when it is necessary to utilize the public records request process.

Chief's Response: The Spokane Police Department does not have purview over other City departments and is not able to implement this proposal. The City Administrator has advised that he will work with Legal and the City Clerk's Office to review this recommendation and possible implementation.



Response to Recommendations – Partially Implemented: 1

When a Criminal Investigation is Releasable for Public Records Requests (R22-10) – The OPO recommends SPD define in policy that the “bulk of the investigation is complete” is when SPD sends a case to the Prosecutor’s Office for review or when an investigation reaches a logical conclusion and is not referred to the Prosecutor’s Office. Further, SPD should require Records Clerks, subject matter experts, and employees who respond to PRRs are trained on Department policy and ensure that all responsive records are captured.

Chief’s Response: The Spokane Police Department follows the Washington Supreme Court’s 2013 ruling in *Sargent v. Seattle* that open and active criminal investigations are exempt from public disclosure until the case has been referred to the prosecutor for charging or are no longer being investigated.

Spokane Police Department employees will complete a Field In-Service Training (FIT) once a year regarding public records requests.

Response to Recommendations – Not implemented: 1

Remove Exceptional Techniques from Policy Manual (R22-08) – The OPO recommends SPD remove the use of exceptional techniques from its policy manual. In the alternative, the Defensive Tactics Manual and policy should list the department’s expectations of what constitutes thorough documentation.

Chief’s Response: Pursuant to State legislation passed in 2021, SPD’s Use of Force policy was modified, and the term “exceptional technique” was removed from our Use of Force policy (301). “Exceptional technique” is still mentioned in our Control Devices and Techniques policy (308). Approved tactics and devices are listed in the Defensive Tactics manual.

SPD relies heavily on *Graham v. Connor* where the Court recognizes that uses of force in “tense, dynamic and rapidly evolving” situations are not capable of “precise definition or mechanical application”, though all Washington State law enforcement officers and deputies receive a handful of tactics endorsed by the Criminal Justice Training Commission. The ultimate assessment of the legality and policy-compliance for a use of force is the “reasonable officer” standard, for reasons highlighted by SCOTUS. The number of appropriate tactics or techniques an officer may use that would fall under the “reasonable officer” standard are limitless. The “exceptional technique” category was designed to capture techniques outside the limited tactics taught by CJTC (whether those tactics were in compliance with policy or not). Similar to the other categorical uses of force formally tracked by SPD (e.g., TASER, OC-10, baton, strikes, less-lethal, canine deployment, pointing a firearm, etc.), SPD developed a category to track uses of force that are “not capable of precise definition” (e.g., fit in one of the specific categories of use of force that we track, as noted above).

As stated in our 2021 response, we are willing to work with your office to determine a method to accurately track this “other” category when we transition to Axon Standards from our current reporting system.

Total responses received: 13



V. EVALUATION OF THE OPO

The OPOC recognizes the OPO's efforts in 2022 to successfully conduct its first independent investigation at our direction. We would like to commend the OPO's efforts in conducting this investigation while maintaining their regular functions and duties for the office. The OPOC authorized the independent investigation in June 2022. The OPO requested to interview 46 witnesses, conducted 31 witness interviews, and reviewed over 4,500 responsive documents related to this case. The OPO produced its report in December 2022. We note that the OPO has minimal staff to undertake the duties and functions assigned to them in their everyday work, but we were impressed by their ability to conduct an independent investigation on top of their daily functions. The OPOC supports the expansion of the OPO staff to include an Analyst position. This would help ensure the continued progress and bandwidth in report writing.

The OPOC continues to support the OPO's quest for independence. Despite the OPO's extensive work on the independent investigation, their report on the matter highlights several shortcomings in the reporting and investigative mandates. First and foremost, the OPO does not have the ability to compel testimony. The OPO had to rely on requesting interviews and subsequent secondary and tertiary notice of requests to convince witnesses to participate. They had no recourse when a key witness declined to be interviewed or if they agreed to the interview but declined to answer specific questions. The OPO still does not have the ability to opine or make findings in their reports. They are also restricted from using names, despite Washington having public records laws that lean on the side of disclosure of documents, including names that were omitted.

The OPO's engagement with community members increased in 2022. The OPO responded to 1715 contacts and conducted 83 interviews with community members with ongoing or potential complaints. The Ombudsman and the Deputy Ombudsman attended and participated in 45 officer and complainant interviews in SPD; attended 452 meetings in SPD; and attended 20 SPD review boards. The OPO oversaw 31 complaints against SPD brought through the OPO with oversight of 89 total complaints, and 29 complaint referrals to other agencies. The OPO has continued to stay engaged with oversight efforts on a statewide and national level.

The OPO continued writing closing reports in 2022. The OPO tackled fewer cases, but the cases had more complex issues. The OPO issued two reports, a policy and procedure report and an independent investigation closing report with a total of 13 recommendations. The OPO's independent investigation resulted from an impasse between the OPO and the Chief over a submitted





complaint. The OPO requested to conduct the additional investigation that IA refused to conduct and investigated reasonable leads they discovered. The OPO's independent investigation started as a complaint on a potential inappropriate disclosure of body worn camera footage or information about such footage. The OPO's subsequent report uncovered concerns about public records, when records are releasable to the public, disclosure policies, and interference with the Internal Affairs investigation process. The OPO also issues closing reports on cases with opportunities to improve policy and training. In one case, an officer kicked a handcuffed subject in the groin. The use of force warranted enough concern that the case was referred to an outside agency for investigation. The Prosecutor's Office later declined to prosecute the case. This case was also unusual because the case was submitted for arbitration. The OPO's closing report highlighted the issues in that case and called for SPD's Administrative Review Panel to be more critical in their reviews.

Mr. Logue continues to provide exceptional police oversight as the Police Ombudsman. He continues to impress with his abilities to navigate through complex issues that have not been previously attempted. Mr. Logue proved his investigative abilities and remarkable commitment to provide the best possible investigation and report despite major obstacles. Mr. Logue has tremendous vision for the OPO and has shown tenacity and perseverance as he continues to push the office forward. Mr. Logue provided instruction in general session on police officer rights and the First Amendment at the NACOLE conference in Dallas. Mr. Logue was elected to the Board of Directors for NACOLE at the national level and also continues to serve as a commissioner on the Washington State Criminal Justice Training Commission.

Ms. Omana continues to shine as the Deputy Police Ombudsman as she navigates the responsibilities of the Police Ombudsman. Ms. Omana has proven adept at investigation review, participation in interviews, and most importantly standing firm when required on cases where there is significant disagreement regarding what the scope of the investigation should be. Ms.

Omana continues to be the primary OPO representative to Use of Force, Collision, and Pursuit review boards. She has used these experiences to identify cases that are candidates for closing reports cases for review in forthcoming closing reports. Ms. Omana also served as the acting Police Ombudsman without issue in the summer of 2022 while the Ombudsman was unavailable.

Ms. Coty also continued to ensure smooth operation of OPOC meetings, provided community members excellent customer service, and has continued to seek opportunities to excel in her areas of specialty. She achieves a delicate balance of providing a listening ear to sometimes frustrated community members while parsing out relevant complaint information. She has also taken initiatives to streamline the data reporting process for monthly and annual reports and regularly audits the OPO and OPOC budget. Ms. Coty ensures the OPOC maintains their compliance with the Open Public Meetings Act and ensures that Commissioners are well informed regarding items of interest in the OPO. Ms. Coty also successfully planned the OPOC's second retreat. It was no small feat to coordinate all the Commissioners' schedules with the facilitator's schedule.

Overall, the OPOC is pleased with Mr. Logue's leadership in the OPO for 2022. He continued to push the OPO forward into uncharted waters and lead the progress in police oversight in Spokane despite hurdles along the way.



FAQ OFFICE OF POLICE OMBUDSMAN FREQUENTLY ASKED QUESTIONS

1. What do I do if I'm stopped by the police?

The ACLU of Washington State has created a publication with tips on how to handle a police encounter. The handy wallet-sized "What to do if You're Stopped by the Police" card can be printed and carried with you or you can view the information in a larger format. This can be found on our website or at our office.

2. How do I file a complaint?

You can file a complaint in writing, via fax, online or by visiting our office in person.

3. Is there a time limit?

The Office of Police Ombudsman has adopted a one-year statute of limitations and must receive complaints within twelve months of the alleged misconduct.

4. Is there a cost involved?

There is no charge for using the services of the Office of Police Ombudsman.

5. Can I compliment an officer?

Yes, you can file a commendation in writing, via fax, online or by visiting our office in person.

6. How is the investigation handled?

When you contact our office, details of your complaint will be received by the Ombudsman and forwarded within 3 days to the Internal Affairs Unit of Spokane Police Department for investigation. After a timely, thorough and objective investigation by the police department, the investigation will be returned to the Ombudsman to certify within 5 days of receipt that the report is thorough and objective. Once certified, the report is returned to the Office of the Chief of Police for disposition. This process is outlined in the Office of Police Ombudsman Complaint Flow Chart, which can be found online.

7. Will I know the results?

Yes. You will be contacted in writing by the Ombudsman or the Chief of Police once the investigation is completed.

8. What problems does the Ombudsman deal with?

If you feel an employee of the Spokane Police Department did not treat you properly or violated a policy, you may contact our office with your concerns.

9. Are there matters that cannot be investigated?

The Ombudsman has jurisdiction regarding the City of Spokane Police Department and cannot investigate complaints outside this jurisdiction.

10. Can the Ombudsman get my charges dropped?

The Ombudsman's office cannot give legal advice or assist with a person's criminal defense.

11. What if I have a concern or want to ask a question?

The OPO is ready to answer any question a person might have about Spokane Police Department activities.

12. What if I have already filed a complaint with the Spokane Police Department?

If you filed a complaint with the Spokane Police Department before contacting the Office of Police Ombudsman, we ask that you wait until the Police Department has completed their investigation into your complaint. Once you receive notice that the Police Department has closed your case and if you are not satisfied with the outcome of their investigation, you may contact the Office of Police Ombudsman to discuss your concerns.



Office of Police Ombudsman

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