

**The  
Office of Police Ombudsman  
Annual Report  
2009  
“Trust, but Verify”  
April 12, 2010**

**INTRODUCTION**

This report shall be produced on an annual basis. It is intended to provide the residents of Spokane and City officials with statistical analysis documenting the number of complaints made against members of the Spokane Police Department on an annual basis.

Pursuant to Spokane Municipal Code Section 04.32.110 C1, 2 the data shall include the number of complaints received by category, disposition and action taken. The report shall also include analysis of trends and patterns and recommendations.

The report is also intended to provide the community and its elected representatives with an opportunity to understand and evaluate the performance of the Office of Police Ombudsman. **Accomplishments for 2009 will appear in bold text.**

The ombudsman is accountable to the Mayor, City Council, and the elected representatives of the residents of Spokane. The Office of Police Ombudsman has an obligation to perform in a professional, ethical, and service-oriented manner.

The ombudsman position was created by ordinance in October of 2008 to increase the public’s trust in Spokane Police Department This will be accomplished by providing independent civilian oversight of law enforcement misconduct complaints which may involve members of the Spokane Police Department.

Recognizing that no police department can operate effectively without the trust of the community it serves, the Spokane City Council approved the ordinance which created the Office of Police Ombudsman to provide for a professional presence to ensure quality internal affairs investigations of law enforcement misconduct complaints and to provide for a visible independent oversight to reassure the public.

The Office of Police Ombudsman may recommend policies and procedures for review, audit the complaint resolution process, and review and recommend changes in departmental policies to improve the quality of police investigations and practices.

***Through these means, the operation and actions of the Spokane Police Department and their officers will become more transparent to the community.***

Recognizing that the Ombudsman took office on August 24, 2009, the inaugural Report will provide a comprehensive overview of Spokane Police Department Internal Affairs' statistical data however, information involving the Office of Police Ombudsman will be limited to data accrued during the fourth quarter of the calendar year.

This report is divided into five sections to explain the various functions of the office. The sections are:

1. Profile of the Police Ombudsman and Support Staff.
2. The Office of Police Ombudsman.
3. Requirements – Accomplishments in 2009.
4. Statistical Data for 2009
5. Next Steps for 2010.

## **1. Profile of the Police Ombudsman and Support Staff**

### **POLICE OMBUDSMAN**

#### **Tim Burns**

Tim Burns is the Police Ombudsman for the City of Spokane. Tim is an accomplished professional who takes a realistic, no non sense approach to problem solving and conflict resolution. Tim is a result driven professional with over 35 years of experience in Law Enforcement, Code Enforcement, Teaching, Licensed Contracting and Conflict Resolution. Tim has achieved a reputation as a resourceful person and problem solver.

Tim is responsible for providing independent civilian oversight to Spokane Police Department in conduct related matters Tim works under the direction of Mayor Verner and has prescribed authority through the Municipal Code. Tim frequently meets with the Spokane Police Administration, Spokane Police Department's Internal Affairs Unit, special interest organizations and concerned residents.

Tim was previously employed by the City of Visalia in California. Tim managed the Code Enforcement Program, the Substandard Housing Program, the Affordable Housing Program, the Administrative Citation and Hearing Program, the Neighborhood Preservation Committee and the Historical Preservation Advisory Committee. Tim was the appointed Project Manager for the CalTrans Context Sensitive Environmental Justice Planning Grant, the City of Visalia Substandard Housing Abatement Fund and the Fox Theatre Exterior Repainting Project.

Tim served as an appointed Hearing Officer for the County of Tulare in California, presiding over land use and zoning violation administrative hearings. In 2009, he was elected, and is completing a 2 year term as a Regional Director for the California Association of Code Enforcement Officers representing 12 Central Valley California Counties.

While employed by the City of Visalia Tim received 4 Certificates of Appreciation. He was involved in the development of several new municipal code ordinances and text

amendments. He has participated in several hiring boards for positions ranging from entry level to department head level throughout the Central California Region.

In the past Tim frequently dealt with dangerous housing, substandard housing, public nuisance properties and special projects.

Prior to being employed by the City of Visalia, Tim worked for the City of Hollister California as Hollister's first full time Code Enforcement Officer. Tim was responsible for development and implementation of the code enforcement program. He was involved in the development and implementation of the city's relocation ordinance.

Tim graduated from San Jose State University with a Bachelors of Science Degree in the Administration of Criminal Justice with a minor in Sociology. He holds a life time, part time, California Junior College Teaching Credential and is a certified Verbal Judo instructor. He has advanced certifications from the Police Officers Standards and Training Commission (POST) and the California Association of Code Enforcement Officers (CACEO). He has received certification from the California Apartment Association (CAA), as a Certified Residential Manager/Superior Achievement and has a Code Enforcement Credential from the California Association of Building Officials (CALBO). He is a licensed contractor in the State of California

## **POLICE OMBUDSMAN ATTORNEY**

### **Bruce Cox**

Bruce Cox is an Assistant City Attorney with the City of Spokane. He was born in Dallas, Texas but was raised in Spokane, graduating from Shadle Park High School; Eastern Washington University (BA Economics); and Gonzaga University School of Law (J.D. 1996). His first significant position was as an Assistant City Prosecutor (under former City Prosecutor, now Assistant City Attorney, Sam Faggiano). After that he worked in civil litigation, primarily providing personal injury defense for local firms and he was also previously employed as house counsel for Safeco Insurance Company in Liberty Lake.

Bruce has effectively mediated and arbitrated hundreds of cases in eastern Washington and Idaho; he has tried several cases in the Municipal, District and Superior courts of Washington; and has successfully defended those verdicts in the Court of Appeals and Supreme Court. Bruce has also served as an arbitrator and mediator.

When not working, Bruce enjoys spending time with his wife, going to the gym, reading and golfing.

## **2. The Office of Police Ombudsman**

### **MISSION**

The Office of Police Ombudsman exist to promote public confidence in the professionalism and accountability of the members of the Spokane Police Department by

providing independent review of police actions, thoughtful policy recommendations and on going community outreach.

### **GUIDING PRINCIPLES**

The Office of Police Ombudsman will strive to:

- Provide equal, fair and impartial access to the services of the Office of Police Ombudsman without regard to age, race, gender, creed, color, nationality, sexual orientation, or socio economic standing.
- Insure that all individuals will be treated with courtesy, dignity and respect regardless of their attitude or demeanor.
- Deliver service in a timely, thorough and objective manner.

The Ombudsman believes:

- In the empowerment of all people to solve problems and receive service.
- Individuals must be responsible and accountable for their personal and professional actions and behavior.

### **ENABELING ORDINANCE**

The ordinance which led to the creation and implementation of the Office of Police Ombudsman can be located in the City of Spokane Municipal Code in Title 04, Chapter 04.32.

### **DUTIES AND RESPONSIBILITIES**

**In summation, the responsibilities and duties of the Police Ombudsman are to:**

- respond to critical incidents and act as an observer;
- actively monitor all Spokane Police Department complaints and investigations;
- receive complaints that are alleged to involve employees of the Spokane Police Department;
- make recommendations to the Office of the Chief of Police to mediate complaints that involve employees of the Spokane Police Department when appropriate ;
- mediate complaints when aggrieved parties agree to mediation ;
- attend, observe and participate in the interviewing of Officers involving complaints received by the Ombudsman;
- attend, observe and participate in the interviewing of Officers when the consequence of a misconduct complaint could result in a suspension, demotion or termination of an Officer;
- determine whether Internal Affairs investigations are timely, thorough and objective;
- make statistical observations regarding the disciplinary results of sustained internal investigations;
- recommend policies and procedures for review;

- audit the complaint resolution process and review and recommend changes in the Police Department policies to improve the quality of police investigations and practices.

### **3. Requirements – Achievements 2009 (bold text)**

#### **MEDIATION (SMC 04.32.030 E)**

Pursuant to Spokane Municipal Code Section 04.32.030 E the Office of Police Ombudsman will have the opportunity to make a recommendation for mediation to the Chief of Police prior to investigation. In the event the department, the complainant, and the officer all agree to mediation, that process will be utilized rather than sending the matter on for investigation.

Assuming the officer participates in good faith during the mediation process, the officer will not be subject to discipline, and no disciplinary finding will be entered against the officer. Good faith means that the officer listens to all information presented and considers the issues raised by the complainant, and acts and responds appropriately.

Agreement with either the complainant or the mediator is not a requirement of good faith. In the event an agreement to mediate is reached and the complainant thereafter refuses to participate, the officer will be considered to have participated in good faith.

**In 2009, one situation was resolved through the mediation process.**

#### **ADMINISTRATIVE INTERVIEWS (SMC 04.32.030 F)**

Pursuant to Spokane Municipal Code section 04.32.030 F the Internal Affairs Unit will notify the Office of Police Ombudsman of all administrative interviews on all complaints of a serious matter (complaints that could lead to suspension, demotion, or discharge) and all complaints originating at the Office of Police Ombudsman. The Police Ombudsman may attend and observe interviews and will be given the opportunity to ask questions after the completion of questioning by the department.

**In 2009, the Police Ombudsman participated in the interviewing of five officers and two Civilian Witnesses.**

#### **CRITICAL INCIDENT RESPONSE (SMC 04.32.040)**

Pursuant to Spokane Municipal Code Section 04.32.040 in the event an employee of the Police Department is involved as a principal, victim, witness or custodial officer, where death or serious bodily injury results, or where deadly force was used regardless of whether a death or injury resulted, the Police Ombudsman shall be notified immediately and shall act as an observer to any administrative or civil investigation conducted by or on behalf of the Department. The Police Ombudsman and the Chief shall develop the necessary protocols for summoning the Ombudsman to the incident for purposes of firsthand observation and subsequent monitoring of the investigation.

Once the Ombudsman took office a call out procedure was established and implemented by the Office of the Chief of Police to notify the Ombudsman in a timely manner in the event a Critical Incident occurs. During the Ombudsman's brief tenure in 2009 no Critical Incidents occurred that required the Ombudsman's notification and response.

### **COMMUNITY OUTREACH (SMC 04.32.050)**

Pursuant to Spokane Municipal Code Section 04.32.050 the Ombudsman shall develop and maintain a regular program of community outreach and communication for the purpose of listening to and communicating with the citizens of Spokane on matters subject to the Ombudsman's jurisdiction.

### **OUTREACH EFFORTS**

In 2009, satellite offices were established at the following locations to provide community outreach and to promote effective communications in the community while attempting to minimize the cost and inconvenience to the members and guests of the community:

- **Northeast Community Center (Tuesday, mid morning);**
- **West Central Community Center (Wednesday, mid afternoon);**
- **East Central Community Center (Thursday, mid afternoon).**

In 2009 the Ombudsman attended:

- **5 City Council Meetings.**
- **2 Community Assembly Meetings.**
- **The Community Assembly Retreat.**
- **A Police Advisory Committee Meeting.**
- **A Rockwood Neighborhood Council Meeting.**
- **A Chief Gary Park Neighborhood Council Meeting.**
- **A Logan Neighborhood Council Meeting.**
- **A West Central Neighborhood Council Meeting.**
- **The NAACP Freedom Awards Banquet.**
- **The Northeast Community Center Ground Breaking.**
- **The East Central Community Center Santa Toy Give Away.**
- **The Spokane Homeless Coalition Food for Thought Community Dinner.**

In 2009 the Ombudsman met with:

- **The Peace and Justice Action League of Spokane (PJALS) 3 times.**
- **The League of Women Voters.**
- **The ACLU, State of Washington, Assistant Director.**
- **The House of Charity.**
- **The Spokane Police Guild.**

**In 2009 the Ombudsman addressed:**

- **The International Foot Printers' Association, Spokane Chapter.**
- **The Spokane Black Clergy.**

**In 2009 the Ombudsman attended the criminal trial of Officer Boothe.**

### **PROFESSIONAL TRAINING (SMC 04.32.070)**

Pursuant to Spokane Municipal Code Section 04.32.070 the Ombudsman shall continue their education throughout the period of employment as the Ombudsman in subjects consistent with the responsibilities of employment. At a minimum, such training shall include:

- a training program in police procedures and orientation to the Spokane Police Department, including at least one ride along with the police within six months of appointment; and
- completion of the Spokane Police Department's Citizen Academy within one year of appointment

### **TRAINING RECEIVED**

**In 2009 the ombudsman attended:**

- **The United States Ombudsman Association National Conference and New Ombudsman Training in Estes Park Colorado.**
- **The National Association for Civilian Oversight of Law Enforcement Conference in Austin Texas.**
- **Internal Affairs Training, Northern Florida University in Jacksonville Florida.**
- **Sexual Harassment and Disability Awareness training by the City of Spokane.**
- **Substance Abuse Training by the City of Spokane.**
- **Conflict Resolution Training by the City of Spokane.**
- **Marshallese 101 Training at Rogers High School in Spokane.**
- **Spokane Regional Tourism Ambassador Training by the Spokane Regional Convention and Visitors Bureau.**

**Due to budgetary constraints the Spokane Police Department may not offer a Citizens Academy in 2010. As a result the Ombudsman has been invited and will attend several police in service and leadership training classes the Department intends to offer.**

**In 2009 the Ombudsman rode with patrol personnel on 2 occasions; a Saturday Swing Shift and a Sunday Day Shift.**

## REPORTING REQUIREMENTS (SMC 04.32.110)

Pursuant to Spokane Municipal Code Section 04.32.110 C the Ombudsman shall make a monthly report to the Mayor, Chief of Police and the Public Safety Committee. In addition, the Ombudsman shall make an annual report to the City Council during a City Council meeting.

The report shall contain:

- statistical analysis documenting the number of complaints by category, disposition, and action taken;
- analysis of trends and patterns;
- recommendations.

## REPORTING

**Monthly reports have been made to the Mayor, Chief of Police and Council Members who comprise the Public Safety Committee through the monthly report presented to the Public Safety Committee on the third Monday of each month. Reports contained information for the month preceding the meeting. Reports were presented on the following dates:**

- **October 19, 2009**
- **November 16, 2009**
- **December 21, 2009**
- **January 19, 2010**

**The 2009 Annual Report will be presented to the Members of the Spokane City Council on Monday, April 12, 2010 during the Legislative Session.**

## ANALYSIS of TRENDS and PATTERNS

**There were no trends or patterns to report in 2009.**

## TRAINING RECOMMENDATIONS

**The following training recommendations have been made to the Office of the Chief of Police for implementation in 2010:**

- A recent study of training records of 19 Police Corporals which included three Corporals who were recently promoted to the rank of Sergeant indicated that five Corporals received 80 hours of supervisory training in 2008; four Corporals received 40 hours of training, two in 2005 and two in 1989, while ten Corporals have not received any formal supervisory training.

***It is the opinion of the Police Ombudsman that the first line of supervision is the most important line of supervision to an organization. The Office of Police Ombudsman therefore recommends that all Corporals be provided a level of***



*supervisory training comparable to the level of training received by a recently promoted a Sergeant.*

**Additional training recommendations include:**

- Provide all department employees with Cultural Awareness and Sensitivity Training and repeat this training within a 3 year period thereafter;
- Provide Tactical Language training to all patrol personnel and repeat this training within a 3 year period thereafter;
- Provide a training procedure for “Rendering Safe” firearms discovered by police personnel in the performance of their duties;
- Provide training to patrol personnel regarding the license plate requirements as the requirement is applicable to residency requirements for the State of Washington. Provide resource information detailing the number of license plates issued per vehicle by other states to assist personnel in applying the law correctly regarding the number of license plates required and attached to a vehicle in the State of Washington.

*It is the opinion of the Police Ombudsman that it is important for members of the Police Department to demonstrate their proficiency in Cultural Awareness, Sensitivity and the use of Tactical Language. These skills are perishable skills and therefore this training needs to be provided on a regularly scheduled 3 year cycle with mandatory attendance required.*

**POLICY & PROCEDURE RECOMMENDATIONS**

**The following Policy – Procedure recommendations have been made to the Office of the Chief of Police for implementation in 2010**

- Document the number of police encounters with individuals that display symptoms of Excited Delirium and report the results to the Public Safety Committee on an annual basis;
- Develop Department policy to specifically address the viewing of video in a timely manner which may have some potential evidentiary value.

**4. Statistical Data for 2009**

**PERSPECTIVE**

In 2009, Officer’s from the Spokane Police Department responded to 132,044 Calls for Service. In 2009 contacts resulted in:

- 4,516 Arrests;
- 2,649 Warrants Being Served;
- 21,954 Citations Being Issued.

These numbers are intended to provide a perspective on the number of public contacts made by members of the Spokane Police Department in 2009. These numbers are not intended to minimize the significance of complaints received by either the Office of the Police Ombudsman or the Internal Affairs Unit.

## **2009 STATISTICS**

While the primary focus of the Ombudsman's Office has been to insure that complaints received are investigated in a timely, thorough and objective manner this responsibility is one of several duties the Ombudsman performs on a daily basis. The office spends a significant amount of time assisting people who have questions regarding the actions of the Spokane Police Department or may be dissatisfied with the service they have received from the Police Department.

## **COMPLAINT CLASSIFICATIONS**

**For the purpose of documentation the Office of Police Ombudsman defines civilian interactions in the following terms:**

### **CONTACT**

Most contacts are received through phone calls. Many of the contacts do not rise to the level of a complaint or inquiry but typically involve general information questions such as: How do we dispose of ammunition? How do we hire an off duty Police Officer to work a private special event? Who do I call to report a credit card scam? Where do I get a police report?

### **FORMAL COMPLAINT**

A "FORMAL complaint" is an allegation received from a citizen alleging conduct by a Spokane Police Department employee which, if sustained would constitute a violation of law or the policies and/or procedures of the Spokane Police Department.

### **INQUIRY**

This classification may only be made by the Chief of Police or the Chief's designee. An Inquiry is a matter which constitutes a question involving Spokane Police Department policies, procedures, points of law or other issues not pertaining to misconduct.

**NOTE: Information received by the Office of Police Ombudsman is submitted to the Spokane Police Department Internal Affairs Unit for classification. Based on a case by case review of the information provided it will be either classified as a Formal Complaint or Inquiry pursuant to Spokane Municipal Code Section 04.32.030**

**In the event that the Ombudsman disagrees with the classification designation the matter is subject to review by the Chief of Police and Mayor if necessary.**

## FINDINGS

**In 2009 pursuant to Spokane Municipal Code Section 04.32.030 the Office of Police Ombudsman Certified 18 Internal Affairs Unit investigations as timely, thorough and objective. The Ombudsman determined that one investigation was not timely, thorough and objective and declined to certify that investigation.**

**The investigation that was not certified involved the Police Department's failure to request and review potential video evidence prior to the merchant erasing the video.**

### INTERNAL AFFAIRS COMPLAINTS RECEIVED 2009

In 2009, there were 78 complaints received by the Spokane Police Department Internal Affairs Unit. **Ten** of the 78 complaints were received through the Office of the Police Ombudsman.

Fifty six of the 78 complaints were received from citizens. The remaining 22 complaints were internally generated complaints.

The 78 complaints received involved 74 different Spokane Police Department employees. Sixty seven of the 74 employees were commissioned officers. Seven complaints involved civilian employees.

*\*For a comprehensive statistical overview of the Spokane Police Department Internal Affairs Unit's data analysis for 2009 please refer to the attachments provided by the Spokane Police Department.*

### OMBUDSMAN COMPLAINTS

**In fourth quarter of 2009 the Office of Police Ombudsman received 52 contacts which were general in nature. The Office also received 30 potential complaints that were forwarded to the Internal Affairs Unit for classification and assignment in 2009. The complaints were classified and processed through one of the following actions:**

- **Investigations – 10**
- **Pending Investigation – 5**
- **Inquiries – 7**
- **Previously Investigated – 2**
- **Mediated – 1**
- **Referred to the Spokane County Sheriffs Department - 5**

**In 2009 the 10 Ombudsman complaints that were investigated by the Internal Affairs Unit were classified as:**

- **Unlawful Arrest/ Improper Search (2);**
- **Inadequate response (2);**
- **Demeanor/ Ethics (2);**

- **Demeanor/ Ethics/ Excessive Force (1);**
- **Demeanor/ Inadequate Response (1);**
- **Demeanor (1);**
- **Bias Policing (1).**

### **EXCESSIVE FORCE COMPLAINTS**

In 2009 there were 15 Excessive Force complaints received by the Internal Affairs Unit. The complaints involved 22 Officers. Internal Affairs investigations revealed that the accused Officers performed within the scope of their authority, within the law, and within department policies, procedures and training. **None of the Excessive Force complaints received in 2009 were sustained.**

### **TASER USE**

In 2009 Spokane Police Officers used the taser 31 times in 27 incidents in the performance of their duties. The report initially reported 23 uses. The number was corrected through an audit conducted by the Office of Police Ombudsman and the report was subsequently corrected. **The Office of Police Ombudsman and the Internal Affairs Unit did not receive any complaints regarding the use of the taser in 2009.** In each instance the use of the taser was determined to be necessary, appropriate and to have been used within the scope of department policies, procedures and training.

### **VEHICLE ACCIDENTS**

In 2009 members of the Spokane Department were involved in 68 collisions. Investigation of the collisions revealed that:

- 10 collisions were through legal Intervention;
- 19 collisions were not preventable;
- 39 collisions were determined to have been preventable.

### **DEADLY FORCE**

In 2009 Spokane Police Officers were involved in 2 shootings prior to the Ombudsman's employment. No Internal Affairs complaints were generated from either incident. Internal review of the shootings revealed that the shootings were determined to be justified, necessary, appropriate, within the law and scope of department policies, procedures and training.

### **DISCIPLINE**

In 2009, 20 complaints investigated resulted in 22 members of the Spokane Police Department receiving some level of discipline. The sanctions imposed by the Chief of Police were:

- 2 Terminations;
- 3 Suspensions;
- 9 Letters of Reprimand;

- 8 Employees Receiving Counseling.

## TRENDS

The number of collisions involving police personnel in 2009 was within the range of the number of collisions between the years 2006 and 2008 (53-72). The increase in the number of preventable accidents in 2009 increased by ten in 2008 (19 to 29). This matter has been referred to the Police Academy Staff for additional research and analysis to determine if some level of training might be implemented to address this matter through additional training.

There was also a noticeable increase in the use of Level 2 Neck restraints and complaints regarding Improper Entry, Search and Detention. These items have also been referred to the Police Academy Staff for research and analysis to determine if there may be an opportunity for additional training to address these matters.

## 5. The Next Steps

### 2010

While considerable effort has been expended and visible progress has been made in 2009, the Office of Police Ombudsman remains a work in progress. The Next Steps will include:

- The relocation and opening of the Office of Police Ombudsman to “The Old City Hall” building located at 221 N Wall Street, Suite 238.
- The launching of the website for the Office of Police Ombudsman.
- The hiring of an employee to serve as an Assistant to the Police Ombudsman.
- The development and implementation of a mediation process to assist in dispute resolution.
- A policy review of the use of tasers by the Spokane Police Department in 2009 to ensure that the Best Practices are being utilized.
- Creating an Ad Hoc Committee to provide input to the Office of Police Ombudsman in evaluating specific police practices in a timely manner.
- Attending the Criminal Trial of Spokane Police Officer Thompson as an observer.
- The on going, day to day, evaluation of the Spokane Municipal Code ordinance regulating the Office of Police Ombudsman to insure that the ordinance is providing the tools necessary and appropriate to perform the duties as Police Ombudsman in an effective and efficient manner.