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# Office of Police Ombudsman 2012 Annual Report

## “Back to Basics”

### Introduction

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The Annual Report is a compilation of the work performed by the Office of Police Ombudsman in 2012.

The following information is a chronology of events that occurred in 2012. Much of the progress made in 2012 has been a collaborative effort that involved elected and appointed officials, members of our community, police personnel and the staff of the Office of Police Ombudsman.

In November 2011, Spokane voters elected a new Mayor, a new City Council President and three new City Council members. The Mayor and City Council members made a strong commitment to the community to reform the Police Department and improve the level of service provided in 2012.

In December 2011, the Police Ombudsman individually met with Mayor elect Condon and the City Council members to discuss Ombudsman recommendations for proposed changes within the Police Department ([see attachment A](#)). Several of the recommendations were memorialized in the 2011 Annual Report presented to the community on February 15, 2012.

Upon taking office, Mayor Condon immediately announced his Police Action Plan to address concerns expressed by the community ([see attachment B](#)).

In January 2012, the City Council adopted a Council Resolution with recommendations for proposed changes within the Police Department ([see attachment C](#)).

In January 2012, Mayor Condon approved an increase in the Office of Police Ombudsman Assistant position from a 3/5<sup>th</sup> position to a full-time position increasing office coverage and availability.

2012 was a year for discussion, recommendations, assessment and implementation of proposed changes for cause within the Police Department. Some changes were implemented immediately while others are in process.

The Use of Force Commission was seated and began their work in 2012. On June 7, 2012 the Ombudsman met with the Commission and presented recommendations for change within the Police Department and the Office of Police Ombudsman (see attachment D). On December 20, 2012, the Use of Force Commission presented their draft report to the community for comment and presented their final report on February 28, 2013 (see attachment E).

On October 1, 2012, Frank Straub became the Police Chief replacing Interim Chief Scott Stephens. On December 21, 2012, Chief Straub presented his strategic and reorganization plan for the Police Department to the community (see attachment F).

Between October 7, 2012 and October 12, 2012, the Office of Police Ombudsman hosted the United States Ombudsman Association's Annual Conference in Spokane. There were a total of 84 attendees from throughout the nation as well as international attendees from Antigua and Barbuda, Australia, Canada, Kenya, Korea and Pakistan.

On December 17, 2012, the Spokane City Council unanimously agreed to a special election ballot initiative, Proposition 1 (see attachment G), requesting that the voters decide whether the Spokane City Charter should be amended to include the Office of Police Ombudsman and whether the Office should have independent investigation authority and a Commission.

While 2013 holds great promise, we need to get "back to basics." We need to get back into the people business by being better listeners and more effective communicators. Hopefully, as public servants we were better listeners and more effective communicators in 2012 and will continue to improve in the years to come. The evidence in 2012 would suggest that we are on the right path.

## **The Annual Report**

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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 the analysis of trends, 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.

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

Recognizing that no Police Department can operate effectively without the trust of the community it serves, the Spokane City Council approved an ordinance in 2008 which created the Office of Police Ombudsman. The Office was created to increase the public's trust in the Spokane Police Department. The mission of the Office of Police Ombudsman is to provide a professional presence to ensure quality Internal Affairs investigations of law enforcement misconduct complaints and to provide for 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.*

**The report is divided into six sections to explain the various functions of the office:**

- I. Staff Profiles
- II. The Office of Police Ombudsman
- III. Ordinance Requirements
- IV. Statistical Data for 2012
- V. Recommendations
- VI. 2012 Accomplishments and Next Steps for 2013

## I. Staff Profiles

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### **TIM BURNS, POLICE OMBUDSMAN**

In August 2009, Tim Burns was appointed Spokane's first Police Ombudsman. Tim is an accomplished professional who takes a realistic, no nonsense approach to problem solving and conflict resolution. Tim is a result driven professional with 38 years of experience in law enforcement, code enforcement, teaching, licensed contracting and conflict resolution. Tim has a reputation as a resourceful problem solver.

Tim is responsible for providing independent civilian oversight for the Spokane Police Department in conduct-related matters. Tim works under the direction of the Mayor 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, concerned residents and members of the community.

Tim is a member of the National Association for Civilian Oversight of Law Enforcement (NACOLE) and the United States Ombudsman Association (USOA). In 2010, Tim was certified as a mediator through the Fulcrum Institute of Spokane.

### **MELISSA NYSTROM, OFFICE OF POLICE OMBUDSMAN ASSISTANT**

Melissa Nystrom graduated from the University of Washington with a Bachelor of Arts in Communication and Sociology in 2005. Melissa went on to graduate from Gonzaga University School of Law with a Juris Doctorate in 2009; she is a member of the Washington State Bar Association.

After graduating, Melissa spent two years working for Spokane Neighborhood Action Partners (SNAP), a local non-profit organization, with the Long Term Care Ombudsman Program. Melissa is dedicated to serving the people of Spokane.

Melissa began working in the Office of the Police Ombudsman in February, 2012. Among other things, she acts as the main point-of-contact for citizens contacting the office. Additionally, in April 2012 Melissa was certified as a mediator through the Fulcrum Institute of Spokane.

### **SCOTT RICHTER, VOLUNTEER**

Scott Richter received a Bachelor of Arts from Eastern Washington University with a double major in Sociology and Criminal Justice and a minor in Psychology in 2010. In December 2011, Scott received his Master's in Public Administration from Eastern Washington University. Scott is passionate about advocacy and will continue to pursue his interests in social research and providing equal opportunities for all.

### **REBEKAH HOLLWEDEL, INTERN**

Rebekah Hollwedel is originally from the state of Florida and moved to Washington in 2006. In June 2011 she graduated from Eastern Washington University with a Bachelor of Arts in Sociology and a minor in Criminal Justice. Rebekah is currently working on a Master's in Criminal Justice at Washington State University.

### **KATHERINE FREEMAN-OTTE, INTERN**

Katherine Freeman-Otte began her internship with the Office of Police Ombudsman in January, 2012. She graduated Cum Laude from Whitworth University in May of 2012 and is now a student at Gonzaga University's School of Law. As an intern, Katherine's goal was to understand how the City of Spokane can build a more positive connection between the Police Department and the public.

### **BENJAMIN GALLION, INTERN**

Benjamin Gallion has been a resident of Spokane County for 19 years. He received his Bachelor of Arts in Sociology with a minor in Psychology from Eastern Washington University in June, 2012.

Before beginning his current position at the Office of Police Ombudsman in April, 2012, Benjamin interned with the Eastern Washington University's Children's Studies Program called "the Hangout." During his junior year of college, Benjamin spent over a year studying at the University of Sydney and working in Sydney, Australia.

### **JAMES SEARCY, INTERN**

Originally from Florida, James Sercey moved to Spokane in 2010. He began his undergraduate studies at Spokane Community College in August of 2010 and later transferred to Eastern Washington University. He is majoring in Criminal Justice and will receive his Bachelor of Arts in 2014. Before relocating to Spokane, James worked in the Criminal Justice field as a Correctional Officer and Patrol Deputy in Florida for nearly five years.

### **KORTNEY DRAGOO, INTERN**

Kortney Dragoo moved to Spokane County in August of 2011 from Aberdeen, WA after graduating from Grays Harbor College Spring 2011 with an Associate in Arts. She is currently studying Sociology and Criminal Justice at Eastern Washington University and plans to complete a Bachelor's Degree in 2013.

### **ALEYSHA HONABLUE, INTERN**

Aleysha Honablue was born and raised in Spokane, WA. She graduated from Lewis and Clark High School and through the Running Start Program obtained her Associates Degree from Spokane Community College. Aleysha attends Eastern Washington University and is currently working on her Bachelor of Arts in Government and Sociology. After graduation, Aleysha

aspires to receive a Master's in Education Policy and eventually become involved in the process of opening charter schools in Washington.

## **TIM SZAMBELAN, POLICE OMBUDSMAN ATTORNEY**

Tim Szambelan grew up in Chehalis, WA, a small rural town 30 miles south of Olympia, WA. In 1986 he received a Bachelor's Degree from Seattle University in Public Administration. In 1987, Tim moved to Spokane to attend Gonzaga University's School of Law. He graduated from Gonzaga University School of Law in 1990.

Upon graduation from law school, Tim worked at the Spokane law firm of Huppig, Ewing, Anderson and Paul in their Litigation Department. In 1991, Tim accepted a position with the Spokane City Attorney's Office in the Criminal Division as a prosecutor. In 1998, Tim transferred to the Civil Division of the City Attorney's Office and currently represents the Ombudsman Office and other Departments within the City of Spokane.

Tim is licensed to practice law in Washington and Arizona.

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

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### **MISSION**

The Office of Police Ombudsman exists 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 ongoing 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 socioeconomic standing.
- **Ensure 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.

## CODE OF ETHICS

In 2010, the Office of Police Ombudsman adopted the National Association for Civilian Oversight of Law Enforcement's (NACOLE) Code of Ethics. In 2012, NACOLE confirmed that the Office of Police Ombudsman is in compliance with the NACOLE Code of Ethics, listed below.

### **Personal Integrity**

Demonstrate the highest standards of personal integrity, commitment, truthfulness and fortitude in order to inspire trust among your stakeholders, and to set an example for others. Avoid conflicts of interest. Conduct yourself in a fair and impartial manner and recuse yourself or personnel within your agency when a significant conflict of interest arises. Do not accept gifts, gratuities or favors that could compromise your impartiality and independence.

### **Independent and Thorough Oversight**

Conduct investigations, audits, evaluations and reviews with diligence, an open and questioning mind, integrity, objectivity and fairness, in a timely manner. Rigorously test the accuracy and reliability of information from all sources. Present the facts and findings without regard to personal beliefs or concern for personal, professional, or political consequences.

### **Transparency and Confidentiality**

Conduct oversight activities openly and transparently providing regular reports and analysis of your activities and explanations of your procedures and practices to as wide an audience as possible. Maintain the confidentiality of information that cannot be disclosed and protect the security of confidential records.

### **Respectful and Unbiased Treatment**

Treat all individuals with dignity and respect and without preference or discrimination including but not limited to the following protected classes: age, ethnicity, culture, race, disability, gender, religion, sexual orientation, socioeconomic status or political beliefs.

### **Outreach and Relationships with Stakeholders**

Disseminate information and conduct outreach activity in the Communities that you serve. Pursue open, candid and non-defensive dialog with your stakeholders. Educate and learn from the community.

### **Agency Self-examination and Commitment to Policy Review**

Seek continuous improvement in the effectiveness of your oversight agency, the law enforcement agency it works with and their relations with the Communities they serve. Gauge your effectiveness through evaluation and analysis of your work product. Emphasize policy review aimed at substantive organizational reforms that advance law enforcement accountability and performance.

### **Professional Excellence**

Seek professional development to ensure competence. Acquire the necessary knowledge and understanding of the policies, procedures, and practices of the law enforcement agency you oversee. Keep informed of current legal, professional and social issues that affect the community, the law enforcement agency and your oversight agency.

### **Primary Obligation to the Community**

At all times, place your obligation to the community, duty to uphold the law and to the goals and objectives of your agency above your self-interest.

## **ENABLING ORDINANCE**

In October of 2008, the Spokane City Council and Mayor approved an ordinance that led to the authorization for an Office of Police Ombudsman. The ordinance is located in the City of Spokane Municipal Code under Title 04, Chapter 04.32.

In June of 2010, the Spokane City Council amended the Enabling Ordinance to increase the responsibilities and authority of the Office of Police Ombudsman. The Spokane Police Guild immediately filed an Unfair Labor Practice complaint against the City of Spokane.

On July 11, 2011, the City Council's decision was reversed through the decision of an arbitrator. The increased authority was rescinded and the Office currently operates under the original ordinance.

**On December 20, 2012, the Spokane City Council unanimously agreed to a special election ballot initiative (Proposition 1) requesting that the voters decide whether the Spokane City Charter should be amended to include the Office of Police Ombudsman and whether the Office should have independent investigative authority and be assisted through the establishment of a Commission.**

## **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
- Interview complainants and witnesses of misconduct allegations upon receipt of a complaint
- 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 Spokane Police Department interviews of officers, complainants and witnesses involving complaints received by the Ombudsman
- Attend, observe and participate in Spokane Police Department interviews of officers when the consequences of a misconduct investigation could result in suspension, demotion or termination of an officer
- Certify Internal Affairs investigations that are timely, thorough and objective
- Make statistical observations regarding the disciplinary results of sustained internal investigations
- Recommend policies and procedures for review or implementation
- Audit the complaint resolution process and review and recommend changes in Spokane Police Department policies to improve the quality of police investigations and practices
- Within five business days of case closure of all complaints of a serious matter and all complaints originated by the Office of Police Ombudsman, the Office of Police Ombudsman shall send a closing letter to and/or conduct a closing interview with the complainant to summarize the case findings

### III. Ordinance Requirements

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When reporting on statistical data, figures from the 2011 and 2010 Office of Police Ombudsman Annual Reports will be added in blue for comparison.

#### MEDIATION (SMC 04.32.030 (D))

Pursuant to Spokane Municipal Code Section 04.32.030 (D), 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.

When the Office of Police Ombudsman authority was increased, the Ombudsman was required to provide the complainant with a copy of subsection (D) and obtain a signed statement from the complainant acknowledging that he or she has read and understands that the complaint will be resolved through the mediation process and the investigation into the complaint will be terminated. Although no longer required, the Ombudsman continues this procedure as a “best practice.”

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, 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 2012, **four** complaints were resolved through the mediation process (**eight in 2011 and eight in 2010**).

#### 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 in 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 2012, the Ombudsman independently interviewed 94 complainants and 11 witnesses (**85 complainants and 17 witnesses in 2011; 76 complainants in 2010**). The Ombudsman participated with Spokane Police Department Internal Affairs' staff in the interviewing of 149 officers, 15 complainants and 36 witnesses (**123 officers, 10 complainants and 44 witnesses in 2011; 96 officers, 16 complainants and 32 witnesses in 2010**). The Ombudsman hosted 12 closing interviews with complainants and staff from Internal Affairs (**16 in 2011**).

#### 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.

In 2009, a call out procedure was established and implemented by the Office of the Chief of Police to notify the Ombudsman in a timely manner when a critical incident occurs.

#### WHEN A CRITICAL INCIDENT OCCURS:

When the Critical Incident Protocol is invoked, members from the Spokane Police Department, the Spokane County Sheriff's Office and the Washington State Patrol will respond to the location of the incident. These agencies have entered into a mutual agreement to investigate each other's critical incidents. The Critical Incident Protocol can be reviewed at the Office of Police Ombudsman website ([www.spdombudsman.org](http://www.spdombudsman.org)) in the "Documents and Reports" section.

Immediately after the incident occurs, a criminal investigation begins. Upon completion of the criminal investigation, the case is referred to the Spokane County Prosecutor's Office for review

and consideration of any potential criminal violations that may have occurred. The Spokane Police Department's Internal Affairs Unit conducts an administrative investigation immediately after the criminal case is sent to the Prosecutor. Upon completion of the administrative investigation, the case is sent to an Administrative Review Panel (ARP) to review and address questions regarding policy compliance and then to a Deadly Force Review Board (DFRB) to consider issues of tactics, training, investigative follow-up, equipment and any other pertinent issue.

**In 2012, the Spokane Police Department was involved in one critical incident requiring the Ombudsman's notification and response. The incident involved the use of deadly force by an officer (four incidents in 2011 and four incidents in 2010; for more detail regarding these incidents, view the 2011 and 2010 OPO Annual Reports available at [www.spdombudsman.org](http://www.spdombudsman.org)).**

On **Sunday, June 17, 2012**, at approximately 4:34 a.m., the Ombudsman was advised by Spokane Police Department Internal Affairs Sergeant McCabe of an officer involved shooting on Mission Street in Spokane. The shooting occurred after officers responded to a man with a gun call at 4:08 a.m. and arrived on scene at 4:09 a.m. The Ombudsman responded to the location for a briefing of the incident and viewing of the scene.

The Critical Incident Protocol was invoked and the Spokane Investigative Regional Response Team (SIRR) conducted an investigation into the circumstances that led to the individual's injury. The Spokane County Sheriff's Office led the investigation of this incident. Review of the investigation by the Prosecutor's Office determined that the officers' actions were justified under the circumstances. A Spokane Police Department's internal review of the incident determined that the incident was handled within the scope of policy, procedures and training.

**Upon review of the critical incident that occurred in 2012 where a Spokane police officer used deadly force, it is the Ombudsman's opinion that police personnel responded in a professional, necessary and appropriate manner in this incident.**

Officers received a "man with gun" call at 4:08 a.m. and arrived at 4:09 a.m.; their prompt response may have been a factor in preventing a more serious incident from occurring. It is important for the community to recognize that the involved officer did not create the circumstances or situation that led to the shooting and injury of the individual. The officer simply reacted to the situation created by the individual. While it is a reasonable expectation that members of the Police Department be accountable for their actions, we must also demand that members of our community be responsible for their behavior and accountable for their actions.

## RELEVANT CASE LAW REGARDING OFFICERS' ACTIONS

When evaluating the performance of an officer, the following case law must be complied with in all instances.

**U.S. Supreme Court *Graham v. Connor*, 490 U.S. 386 (1989):** The Fourth Amendment "reasonableness" inquiry is whether the officers' actions are "objectively reasonable" in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. The "reasonableness" of a particular use of force must be judged from the perspective of a reasonable officer on the scene, and its calculus must embody an allowance for the fact that police officers are often forced to make split-second decisions about the amount of force necessary in a particular situation. Pp. 490 U. S. 396-397.

***Garrity v. New Jersey*, 385 U.S. 493 (1967):** The Supreme Court of the United States held that law enforcement officers and other public employees have the right to be free from compulsory self-incrimination. It gave birth to the Garrity warning, which is administered by government employees to officers accused of misconduct in internal and administrative investigations. This warning is issued in a similar manner as the Miranda warning is administered to suspects in criminal investigations.

***Cleveland Board of Education v. Loudermill*, 470 U.S. 532 (1985):** Certain public-sector employees can have a property interest in their employment, per Constitutional Due Process. This property right entails a right to "some kind of hearing" before being terminated -- a right to oral or written notice of charges against them, an explanation of the employer's evidence, and an opportunity to present their side of the story. Thus, the pre-disciplinary hearing should be an initial check against mistaken decisions -- not a full evidentiary hearing, but essentially a determination of whether there are reasonable grounds to believe that the allegations against the employee are true and support the proposed action.

***NLRB v. J. Weingarten Inc.*, 420 U.S. 251 (1975):** In 1975, the United States Supreme Court upheld a decision by the Labor Board that employees have a right, protected by Section 7 of the National Labor Relations Act, to insist upon union representation during an investigatory interview by the employer, provided the employee "reasonably believes" the interview "might result in disciplinary action." The Supreme Court explained that this right arises from Section 7's "guarantee of the right of employees to act in concert for mutual aid and protection." The right has been applied to unionized workforces and is limited to situations in which an employee specifically requests representation. An employer is not required to advise the employee of this right in advance, and it applies only to investigatory meetings and not to meetings when, for example, the employer communicates a decision regarding a disciplinary matter.

Whether the belief that discipline might result from the interview is reasonable is based on "objective standards" and upon an evaluation of all the circumstances. If the employee does

have a reasonable belief that discipline may result from the interview, the employer must grant the request, dispense with the interview, or offer the employee the option of continuing the interview unrepresented or not having an interview. If an employer refuses to allow union representation but goes ahead with the interview, or if the employer disciplines the employee for refusing to participate in the interview after denying the employee union representation, the employer has committed an unfair labor practice in violation of the National Labor Relations Act.

### 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 residents of Spokane on matters subject to the Ombudsman's jurisdiction.

#### OUTREACH EFFORTS

In 2009, the Office of Police Ombudsman established satellite offices at the East Central, Northeast and West Central Community Centers to provide community outreach while attempting to minimize the cost and inconvenience to members and visitors of the community.

In 2013, the Office of Police Ombudsman will no longer maintain satellite hours at the Community Centers, however, the Office will have office hours at two COPS Office locations in an effort to be accessible to different areas of Spokane. The current Office of Police Ombudsman outreach locations are the NevaWood COPS Office and the East Central COPS Office. We hope to expand to more COPS Office locations as the year progresses. Please contact the Office of Police Ombudsman to confirm specific dates and times.

The Office of Police Ombudsman also hosts satellite office hours on a monthly basis at the House of Charity, the Spokane Transit Authority Plaza located in downtown Spokane and at the NATIVE Project. Additionally, the Office of Police Ombudsman has an increased presence and visibility in the community by attending neighborhood fairs and community events. Please contact the Office of Police Ombudsman for specific dates and times.

If you would like the Ombudsman to participate in your event, please contact the Office of Police Ombudsman. You can also follow the Office of Police Ombudsman on Facebook at [www.facebook.com/spdombudsman](http://www.facebook.com/spdombudsman).

**In 2012, the Ombudsman attended the following meetings and events:**

- **80** Neighborhood Council meetings were attended. In 2012, the Ombudsman attended at least one meeting for 26 of the 27 Neighborhood Councils
- **33** Spokane City Council meetings, **4** Town Hall meetings
- **12** Spokane Community Assembly meetings and the Community Assembly retreat
- **8** Spokane Human Rights Commission meetings and the Human Rights Commission Planning Retreat
- **8** Use of Force Commission meetings
- **5** Spokane Police Advisory Committee meetings
- **5** East Central "Community Café" meetings

**In 2012, the Ombudsman provided presentations to:**

- 26 of the 27 Neighborhood Councils
- Chief Garry Park Neighborhood Block Watch
- Community Assembly Meeting
- Eastern Washington University's panel discussion on "business after hours"
- ITT Institute Guest Speaker
- National Association of Retired Railway Employees
- Spokane City Human Rights Commission
- SNAP's Long Term Care Ombudsman Program Advisory Council
- Spokane Republican's weekly breakfast
- TV Talk Show with Bob Apple and Victor Noder
- Use of Force Commission

**In 2012, the Office of Police Ombudsman participated in the following community events:**

- Center for Justice Winter Party
- Chase Youth Commission's Awards Breakfast
- Chief Garry Park Neighborhood's 100 year celebration
- Chief Garry Park Neighborhood's "meet and eat with Sheriff Knezovitch"
- Crosswalk Open House
- East Central Community Center's Health Equity in Spokane event
- East Central Community Center's Santa Toy Distribution
- Eastern Washington University's Commencement Ceremony
- Garland Street Fair
- Gonzaga University's Institute for Hate Studies "Take Action Against Hate Banquet"
- "Justice System that Works" at the Bing Crosby Theater
- League of Women Voters Annual Elected Officials Luncheon
- Martin Luther King Jr. Parade
- Native American Youth Leadership Camp presented by the NATIVE Project
- NATIVE Project's Indian Youth Summer Camp graduation

- NATIVE Project's Native Youth Leadership Training Camp
- PJALS Peace and Economic Justice Action Conference
- Pow Wow for the Heart sponsored by The NATIVE Project
- Smart Justice Symposium
- Spokane Falls Northwest Indian Encampment and Pow Wow
- Spokane's PRIDE Parade
- Public Safety Workshop at West Central Community Center
- Unity in the Community Event
- West Central Community Center's Board of Directors Retreat
- West Central Community Center's Coats4Kids Distribution
- West Central Neighborhood's Neighborhood Days
- West Central Neighborhood's Night Out Against Crime at Cannon Park
- West Central Neighborhood's Public Safety Committee meeting
- Youth Leadership Forum hosted by the Governor's Council on Disabilities at Western Washington University in Bellingham, WA

### PROFESSIONAL TRAINING (SMC 04.32.070)

Pursuant to Spokane Municipal Code Section 04.32.070, the Ombudsman shall continue his/her 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
- Completion of the Spokane Police Department's Citizen Academy within one year of appointment

### TRAINING RECEIVED

#### **In 2012, Office of Police Ombudsman staff attended:**

- Fulcrum Institute Dispute Resolution Clinic Mediation Training (OPO Assistant)
- IA Pro training in Tacoma, WA (OPO Assistant)
- Intellectual Disabilities Training hosted by the Division of Developmental Disabilities (Ombudsman, OPO Assistant and Intern)
- Spokane County's Customer Service Training (OPO Assistant)
- Spokane County's Supervisor Training (OPO Assistant)
- Spokane Police Academy's In-Service Training – Mental Health Awareness, Community Resources, Legal Updates (Ombudsman)
- Spokane Police Department's "Enhancing the Survival Mindset" (OPO Assistant and Intern)
- Spokane Police Department's "Media Academy" (OPO Intern)

- Spokane Regional’s Certified Tourism Ambassador Training (OPO Assistant and Intern)
- United States Ombudsman Association Annual Conference in Spokane, WA (Ombudsman and OPO Assistant)

Due to budgetary constraints, the Spokane Police Department did not offer a Citizen Academy in 2012. As a result, the Ombudsman has been invited to attend future police in-service and leadership training classes the Department intends to offer.

Due to budgetary limitations the Ombudsman was not able to attend the 2012 NACOLE National conference.

In 2012 the Ombudsman participated in 10 ride alongs with different Spokane police officers on different shifts. The Ombudsman also participated in one ride along with the Coeur d’Alene Tribal Police. In addition, other OPO staff participated in 10 ride alongs with the Spokane Police Department in 2012.

### 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, the 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

In 2012, 12 monthly reports were made to the Public Safety Committee and the Ombudsman presented highlights from the report at the Legislative Session of the City Council meeting that occurred the same day as the Public Safety Committee meeting. The reports were also provided to the Mayor, the City Administrator and the Chief of Police.

In 2012, the Public Safety Committee was comprised of City Council President Stuckart and Council Members McLaughlin (Chair), Snyder, Waldref, Allen, Fagan and Salvatori. The Public Safety Committee meets and continues to meet at the Spokane City Hall, Conference Room 5A on the third Monday of each month at 1:30 p.m. Public Safety Committee Meetings are open to the public. Public comment is not received during these meetings.

The Office of Police Ombudsman Report contains information from the previous month and can also be located on the website for the Office of Police Ombudsman ([www.spdombudsman.org](http://www.spdombudsman.org)) in the “Documents & Reports” section.



The Ombudsman is also required to complete and present an Annual Report to the Spokane City Council. The 2009 inaugural Report was completed and presented to the City Council on Monday, April 12, 2010 during the 6:00 p.m. Legislative Session. Recognizing that information needs to be timely, significant effort has been placed on completing future annual reports as soon as possible after the calendar year ends.

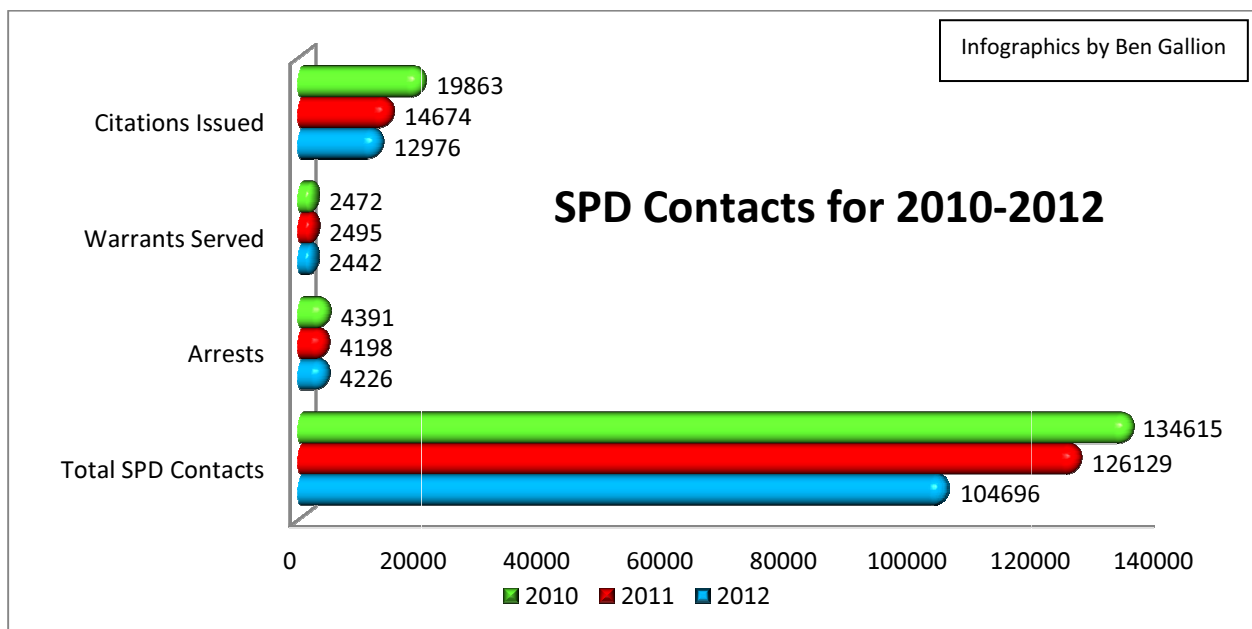
The 2010, the Annual Report was presented to the Spokane City Council on Monday, March 7, 2011 during the 6:00 p.m. Legislative Session. In 2011, a Mid Year Report was published in July. The 2011 Annual Report was presented to the Spokane City Council on Monday, February 20, 2012 during the 6:00 p.m. Legislative Session. In 2012, a Mid Year Report was published in July. The Annual report was presented to the Spokane City Council on Monday, February 25, 2013 during the 6:00 p.m. Legislative Session.

## IV. Statistical Data for 2012

### PERSPECTIVE

In 2012, officers from the Spokane Police Department made a minimum of **104,696 contacts** with individuals in the community (**126,129 in 2011; 134,615 in 2010**). In 2012, the contacts resulted in the following enforcement action:

- 4,226 Arrests (**4,198 in 2011; 4,391 in 2010**)
- 2,442 Warrants Served (**2,495 in 2011; 2,472 in 2010**)
- 12,976 Citations Issued (**14,674 in 2011; 19,863 in 2010**)



## COMPLAINT CLASSIFICATIONS

While the primary focus of the Ombudsman's Office has been to ensure that complaints received are investigated in a timely, thorough and objective manner, this responsibility is one of several duties the Office of Police 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.

For the purpose of documentation, the Office of Police Ombudsman defines civilian interactions in one of 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 I obtain a restraining order? Is panhandling against the law? Who can I contact for assistance with an imminent eviction? How can I retrieve a driver's license that was not returned during a traffic stop?*

**CITIZEN INQUIRY** – In 2010 the Spokane Police Department adopted the Lexipol Department Manual as a “best practices” document which included the adoption of the Citizen Inquiry classification. Pursuant to Spokane Police Department Policy 1020, when an uninvolved police supervisor receives a complaint and determines, after contacting a complainant, that the reporting complainant is satisfied that their complaint required nothing more than an explanation regarding the proper implementation of Police Department policy or procedure, a complaint need not be taken. A Citizen Inquiry form will be completed and forwarded to Internal Affairs ([refer to attachment H for the Spokane Police Department Internal Affairs Unit Policy 1020](#)). Not all complaints received by patrol supervisors are classified as Citizen Inquiries.

This policy does not directly impact the Office of Police Ombudsman. The Office of Police Ombudsman has no input in this classification and only becomes aware that a complaint has been classified as a Citizen Inquiry after the classification has occurred.

This procedure has not been problematic; however, in order to promote community awareness and organizational transparency, this procedure has been recognized in this report.

The Office has also requested that Citizen Inquiries be redacted and published as complaints in the future. The Police Department agreed with this request.

**INVESTIGATIVE INQUIRY** – All complaints received directly by the Office of Police Ombudsman and the Internal Affairs Unit are processed and referred to the Office of the Chief for review and classification. 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.

**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.

**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, complaints will either be classified as a Formal Complaint or Investigative Inquiry pursuant to Spokane Municipal Code Section 04.32.030e. In the event that the Ombudsman disagrees with the classification, the Ombudsman can appeal the classification and the matter is subject to review by the Chief of Police and, if necessary, the Mayor.

## FINDINGS

In 2012, pursuant to Spokane Municipal Code Section 04.32.030, the Office of Police Ombudsman certified **57** completed Internal Affairs Unit investigations as timely, thorough and objective (**45 in 2011; 60 in 2010**).

In 2012, the Office of Police Ombudsman appealed one complaint that was classified as an Inquiry by the Interim Chief of Police. Interim Chief Stephens reconsidered and directed the Internal Affairs Unit to conduct further investigation. Upon completion of the additional investigative work, the investigation was certified by the Office of Police Ombudsman.

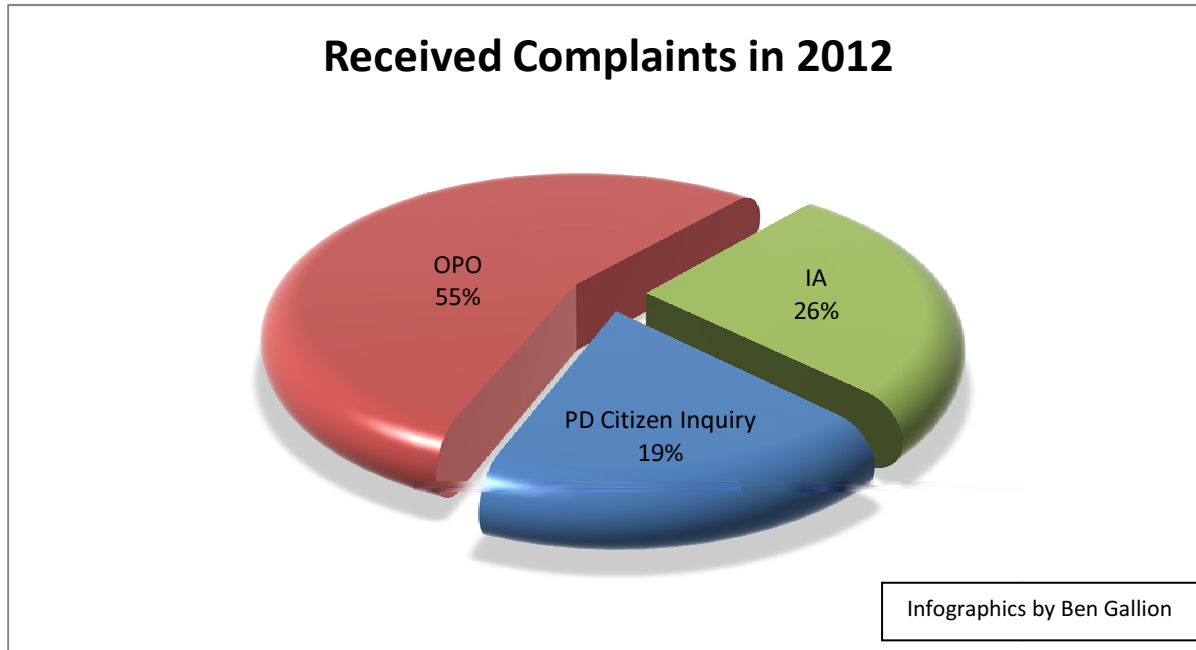
## INTERNAL AFFAIRS COMPLAINTS RECEIVED IN 2012

In 2012, the Spokane Police Department received 109 complaints directly (**105 in 2011; 119 in 2010**). 45 were classified as Citizen Inquiries, 17 were classified as Investigative Inquiries and the remaining 47 were formally investigated.

In 2012, the Office of Police Ombudsman also forwarded 135 complaints to the Internal Affairs Unit for review and consideration (**92 in 2011; 77 in 2010**). Ninety-six of the complaints were classified as Investigative Inquiries, 36 were assigned for investigation and three were referred to other agencies or resolved through other means.

One complaint assigned for investigation in 2012 was carried over from an OPO complaint accepted and reported on in 2011.

In 2012, a combined total of 244 (197 in 2011; 196 in 2010) complaints were received between the Office of Police Ombudsman and the Spokane Police Department.



#### INTERNAL COMPLAINTS

In 2012, 22 of the 84 complaints assigned for investigation were internally generated, typically by police supervisors, (10 in 2011; 11 in 2010) and involved 30 employees of the Spokane Police Department; 11 police officers, 6 sergeants, 5 civilian employees, 4 detectives, 2 lieutenants, 1 captain and 1 assistant chief.

**In 2012, the 22 internally generated complaints resulted in 52 allegations. The 52 allegations were resolved through the following processes (13 complaints involving 26 allegations remained open as of December 31, 2012):**

- 5 complaints were Exonerated meaning the investigation discloses that the alleged act occurred, but that the act was justified, lawful and/or proper.
- 1 allegation was Unfounded meaning the investigation disclosed that the alleged act(s) did not occur or did not involve department personnel.
- 3 allegations were Administratively Suspended due to inability to contact the complainant after multiple attempts.
- 7 allegations were Not Sustained meaning the investigation disclosed that there was insufficient evidence to sustain the complaint or fully exonerate the employee.
- 10 allegations were Sustained meaning the investigation disclosed sufficient evidence to establish that the act occurred and that it constituted misconduct.

Internal complaints included allegations of Demeanor, Racial Bias, Failure to Secure a Firearm, Inadequate Response, Insubordination, Absent without Leave, Harassment, Untruthfulness, Release of Records, Civil Service Rule 9, Excessive Force, Misuse of Department Property, Pursuit Policy, Under the Influence on Duty, Flying while Armed and Conduct Unbecoming.

CITIZEN COMPLAINTS (including OMBUDSMAN RECEIVED COMPLAINTS)

Sixty-two **citizen** complaints were assigned for investigation in 2012 (57 in 2011; 68 in 2010). Thirty-seven, approximately 60%, originated through the Office of Police Ombudsman (56% in 2011; 59% in 2010).

**In 2012, the 62 investigations generated by citizens resulted in 125 allegations. The 125 allegations were resolved through the following processes (10 investigations involving 24 allegations remained open as of December 31, 2012):**

- 57 complaints were Exonerated meaning the investigation discloses that the alleged act occurred, but that the act was justified, lawful and/or proper.
- 21 allegations were Unfounded meaning the investigation disclosed that the alleged act(s) did not occur or did not involve department personnel.
- 10 allegations were Administratively Suspended due to inability to contact the complainant after multiple attempts.
- 5 allegations were resolved through Mediation as an alternative to the investigation, adjudication and disciplinary process.
- 4 allegations were Not Sustained meaning the investigation disclosed that there was insufficient evidence to sustain the complaint or fully exonerate the employee.
- 4 allegations were Sustained meaning the investigation disclosed sufficient evidence to establish that the act occurred and that it constituted misconduct.

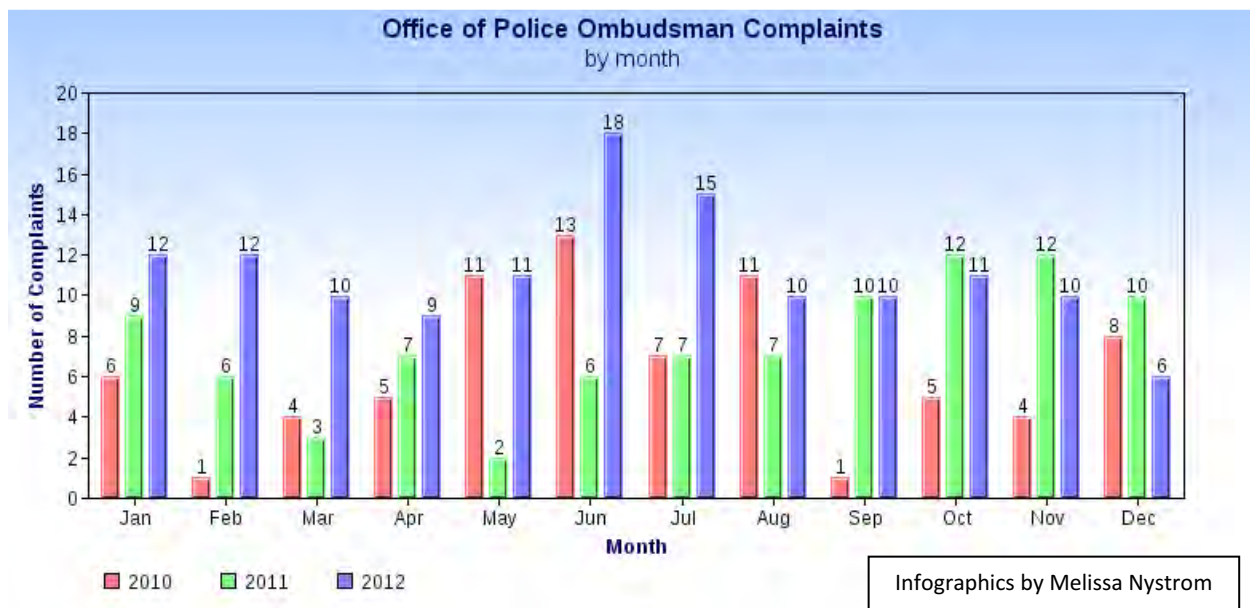
The 62 investigations involved 114 different employees of various ranks; civilian employees received 10 complaints, police officers received 68 complaints, one reserve officer received a complaint and one corporal received a complaint. Detectives received 11 complaints, sergeants received 16 complaints, lieutenants received two complaints, one captain received a complaint and the Assistant Chief received complaint. Additionally, three complaints were received by Internal Affairs that did not accurately identify a particular employee.

## OMBUDSMAN RECEIVED COMPLAINTS

During 2012, the Office of Police Ombudsman was contacted 690 times for various reasons (560 in 2011; 456 in 2010). Contacts increased approximately 23% from 2011.

Of the 690 contacts, 135 complaints (19.6%) were received (92 in 2011; 77 in 2010) and forwarded to the Internal Affairs Unit for classification and assignment, 96 complaints were classified as Investigative Inquiries, 36 complaints were assigned for investigation and three complaints were referred to other agencies or resolved through other means.

See below for a graph of complaints received by the Office of Police Ombudsman by month for 2010, 2011 and 2012.



There were 19 additional complaints received by the Office of Police Ombudsman involving jurisdiction outside the City of Spokane. Those complaints were documented and referred to the appropriate jurisdiction with authority to investigate the complaint(s).

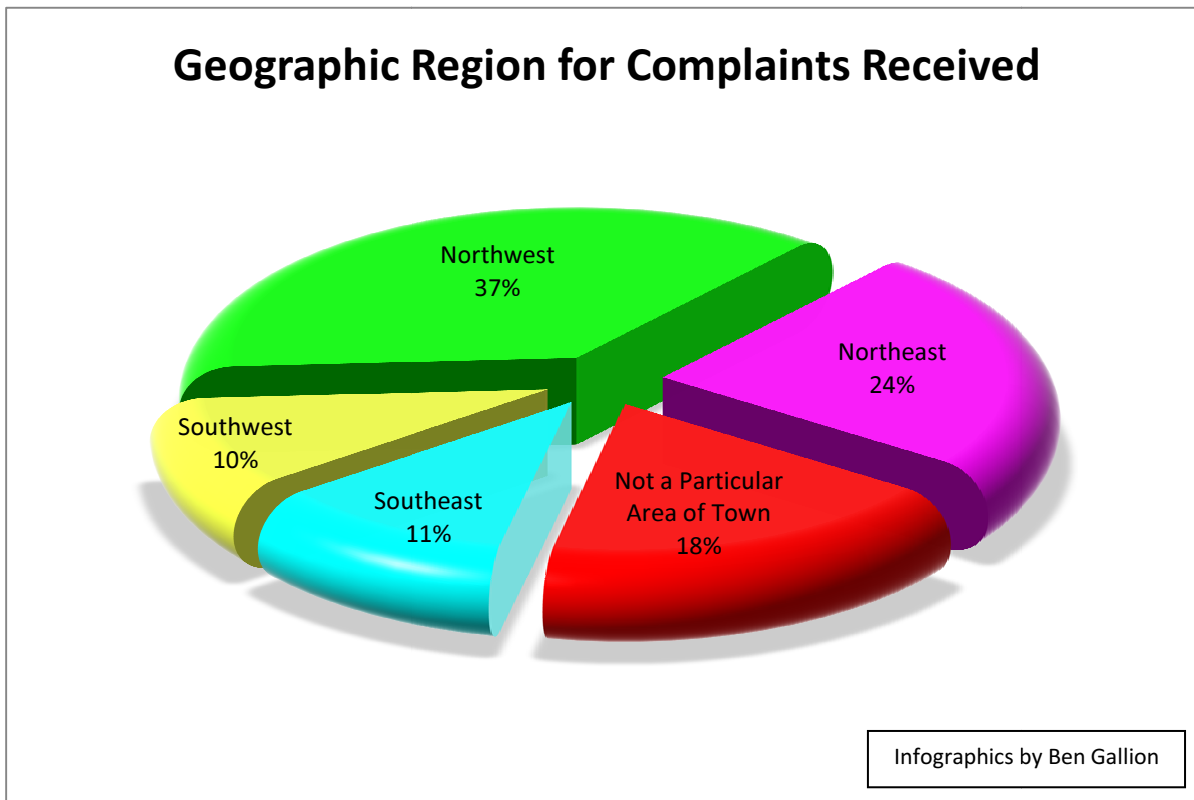
The 36 Ombudsman-received complaints assigned for investigation resulted in the following 58 misconduct allegations:

- Inadequate Response (17)
- Demeanor (9)
- Civil Service Rule 9 (8)
- Excessive Force (7)
- Harassment (5)
- Unlawful Arrest (2)
- Unlawful Detention (2)

- Unlawful Search (2)
- Bias Policing (1)
- Discrimination (1)
- Failure to Identify (1)
- False Arrest (1)
- Speeding (1)
- Unlawful Entry (1)

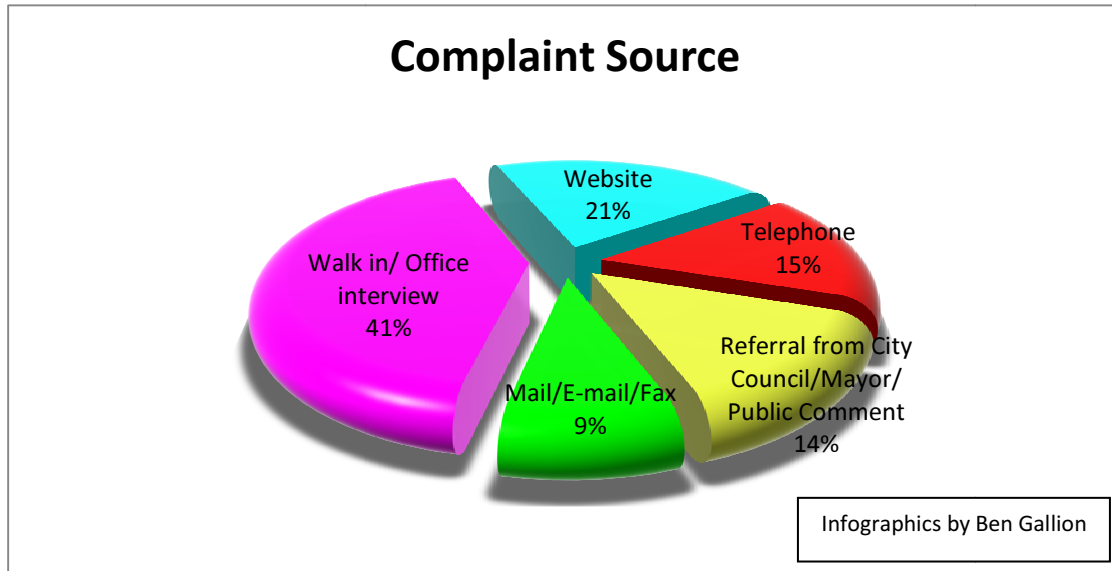
In 2012, the Office of Police Ombudsman documented the area each OPO complaint occurred in to identify where complaints occur. The OPO divided Spokane into four quadrants; the north-south borderline is Sprague Avenue and the east-west borderline is Division Street. Of the 135 complaints received by the Office of Police Ombudsman in 2012:

- 50 complaints originated in the Northwest
- 32 complaints originated in the Northeast
- 15 complaints originated in the Southeast
- 13 complaints originated in the Southwest
- 25 complaints did not originate from a particular area of town (i.e. phone calls, etc.)



In 2012, the Office of Police Ombudsman received complaints through the following means:

- Walk in/Office interview: 55 (41%)
- Website: 28 (21%)
- Telephone: 21 (15%)
- Referral from City Council/Mayor/Public comment: 19 (14%)
- Mail/E-mail/Fax: 12 (9%)



### EXCESSIVE FORCE COMPLAINTS

In 2012, 14 excessive force complaints were received involving 24 different officers (15 complaints involving 16 officers in 2011; 13 complaints involving 12 officers in 2010). None of the excessive force complaints received in 2012 (0 in 2011; 0 in 2012) were sustained. In each case, the Internal Affairs investigation determined that the accused officers performed within the scope of their legal authority and within Department policies, procedures and training. Two excessive force complaint investigations remain open as of December 31, 2012.

### DISCIPLINE

In 2012, 84 Internal Affairs complaint investigations resulted in nine members of the Spokane Police Department being disciplined for the following 11 violations (seven members in 2011; eight members in 2010):

- 3 Inadequate Response
- 3 Violations of Civil Service Rule 9
- 1 Demeanor
- 1 Failure to Identify



- 1 Failure to Secure Firearm
- 1 Racial Bias
- 1 Release of Records Violation

Sanctions imposed by the Chief of Police, as reported by the Internal Affairs Unit, were:

- 1 Suspension
- 4 Written Reprimands
- 2 Oral Reprimands
- 2 Employees Received Counseling

Sanctions imposed involving vehicle collisions is provided on page 27.

## OTHER STATISTICS OF INTEREST

### TASER USE

In 2012, Spokane police officers used the taser 38 times in 33 incidents in the performance of their duties (32 applications in 23 incidents in 2011; 32 applications in 26 incidents in 2010). In each instance, the use of the taser was determined to be necessary, appropriate and used within the scope of Department policies, procedures and training.

**In 2012, there were two complaints received by the Office of Police Ombudsman and the Internal Affairs Unit regarding the use of the taser. One complaint was classified and closed as an Investigative Inquiry. The other complaint was administratively suspended based on Internal Affairs' inability to contact the complainant after multiple attempts.**

### DEADLY FORCE

In 2012, Spokane police officers were involved in **one** critical incident requiring the use of Deadly Force. No complaints were received regarding this incident. The incident is discussed on page 11.

### SPECIAL WEAPONS AND TACTICS (SWAT) CALL OUTS

In 2012, there were 50 Special Weapons and Tactics (SWAT) Team call activations (52 in 2011; 42 in 2011). Of these, 21 were for high risk drug searches, 18 were for stand-off, weapons or barricade calls and 11 were for special event activations.

No complaints were received by the Office of Police Ombudsman or the Spokane Police Department Internal Affairs Unit related to any SWAT deployments in 2012.

### SEARCH WARRANTS

In 2012, Spokane Police Department served no less than 225 search warrants (372 in 2011; 281 in 2010). The 225 search warrants were served by detectives. The number of warrants served

by patrol officers and the Targeted Crimes Unit were not tracked. In 2012, no complaints were received that involved the serving of a search warrant.

### DOMESTIC VIOLENCE

In 2012, Spokane police officers responded to 6,818\* Domestic Violence calls (6,782 in 2011; 6,446 in 2010). The neighborhood distribution of domestic violence related calls for service is:

- 105 Browne's Addition
- 251 Cannon Hill
- 266 Downtown
- 375 East Central
- 160 East Sprague
- 731 Emerson/Garfield
- 118 Five Mile
- 285 Garry Park
- 54 Gonzaga
- 706 Hillyard
- 58 Indian Trail
- 45 Latah Creek
- 148 Lincoln Heights
- 133 Lincoln Park
- 34 Linwood
- 243 Logan
- 69 Manito/Comstock
- 94 Manito Park
- 1064 NevaWood
- 329 North Hill
- 292 Shadle Park
- 514 Shiloh Hills
- 13 Spokane Falls
- 55 Sunset
- 637 West Central
- 39 West Plains

\*In 2012, the Spokane Police Department made changes to their police blocks to match the city neighborhood council boundaries. This data is through December 27<sup>th</sup>, 2012 and excludes the last four days of 2012.

Due to the potential for violence and the possibility of mandatory arrests, domestic violence calls typically require a minimum response of two officers. Because domestic violence calls are one of the most dangerous types of calls that officers respond to, more than two officers are frequently required to respond to these calls.

Calls that do not rise to the level of a domestic violence call may be classified as an argument, but officers are trained not to assume domestic violence calls are simply arguments. Due to the nature of domestic violence calls and the number of officers required to respond to these calls, domestic violence calls are a considerable drain on Police Department resources.

Initially, the Office of Police Ombudsman only reported the cumulative number of domestic violence calls responded to by the Police Department throughout the city. While presenting information from a previous Annual report, members of the Hillyard Neighborhood Council requested the Ombudsman provide specific numbers for calls of domestic violence responded to in each neighborhood.

The Ombudsman was recently contacted by members of a group called Hillyard Community Futures. The members expressed an interest in bringing the play “Domestic Violence, the Musical” to Spokane to help educate Spokane.

The Ombudsman supports pro active efforts like this. There may also be an opportunity for the City and/or Police Department to partner with Hillyard Community Futures to make this event or another program like it a reality.

While there is a direct cost for education, there is also a significant cost to responding to these types of calls. It makes sense to be proactive for a variety of reasons. Though there may be a front end cost, there may be savings in the end if the Police Department responds to less domestic violence calls in the future.

### VEHICLE PURSUITS and ACCIDENTS

In 2012, members of Spokane Police Department patrol were involved in 42 patrol vehicle pursuits (39 in 2011) (refer to attachment I for the Spokane Police Department Vehicle Pursuit Policy 314).

In 2012, 51 members of the Spokane Police Department were involved in 60 collisions (56 collisions in 2011; 58 collisions in 2010). Four officers were involved in two collisions, one officer was involved in three collisions and one officer was involved in four collisions. Investigation of the collisions revealed that:

- 16 collisions were through Legal Intervention (12 in 2011; 17 in 2010)
- 19 collisions were Not Preventable (23 in 2011; 16 in 2010)
- 21 collisions were determined to have been Preventable (12 in 2011; 25 in 2010)
- 1 collision involved property damage only (9 in 2011)
- 3 collisions had not yet been determined by December 31, 2012

In 2012, no officers were seriously injured in traffic collisions.

Discipline received for preventable vehicle accidents was:

- 8 employees received oral counseling
- 7 employees received a written reprimand
- 4 employees received an oral reprimand
- 1 employee received shift level counseling
- 1 employee was suspended

### MENTAL HEALTH RESPONSE

In 2012, Spokane police officers responded to 1,446 incidents involving citizens with mental illness or disability (633 in 2011; 580 in 2010\*). The results of the contacts were:

- 878 contacts required no law enforcement action (325 in 2011; 287 in 2010),
- 476 contacts resulted in an individual being transported to a medical or mental health facility (285 in 2011; 268 in 2010),
- 83 contacts resulted in an individual being arrested (12 in 2011; 23 in 2010), and
- 9 individuals contacted exhibited symptoms of “Excited Delirium” (11 in 2011).

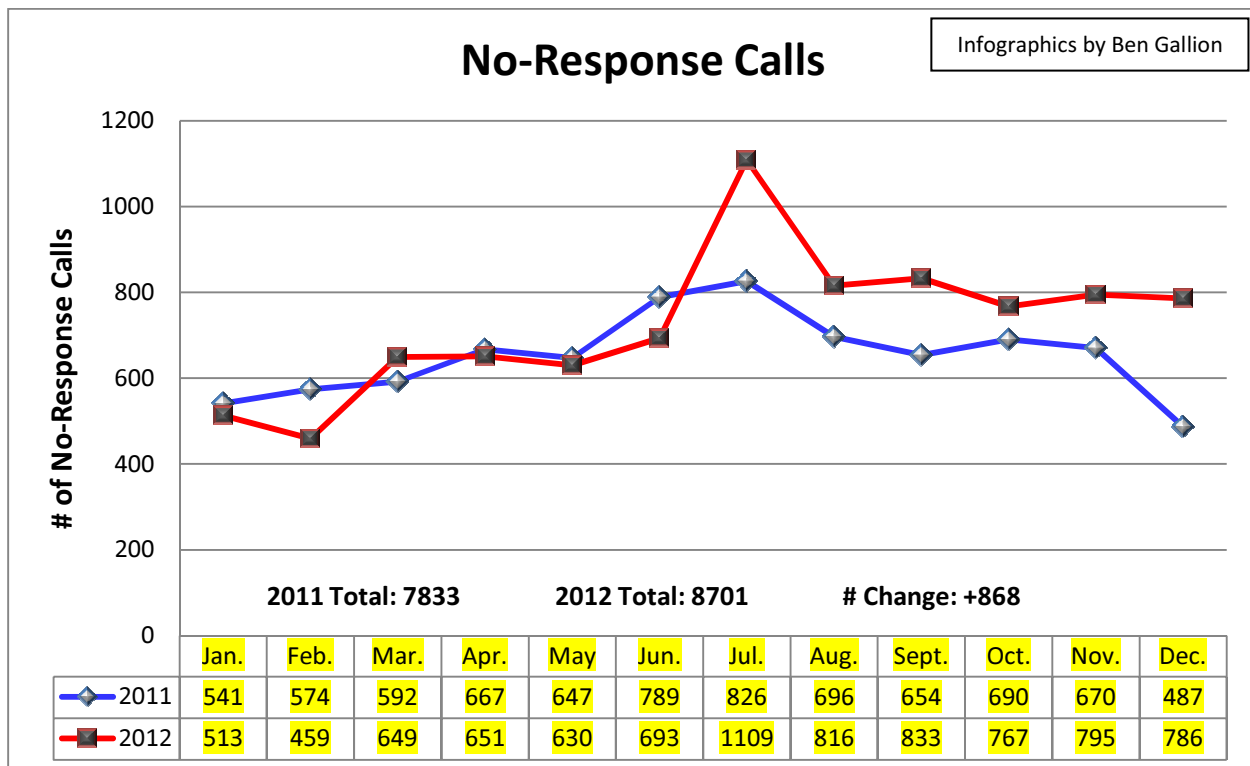
\*The number of reported contacts involving citizens with mental illness or disability has significantly increased from previous years due to increased Crisis Intervention Team training for officers which has promoted awareness for the importance of tracking and reporting this data.

### CITIZEN RIDE ALONGS

In 2012, the Spokane Police Department hosted 284 ride alongs (234 in 2011); 165 of these were citizens riders and 119 were Police Department citizen volunteer riders.

### NO RESPONSE CALLS

The Spokane Police Department receives a number of calls from citizens which do not require a police response or where personnel were not available to respond to the call. When this occurs, a Police Department Communications Supervisor will “clear” the call from the list of waiting calls as a “non-response” call. In 2012, **8,701** calls were cleared in this manner (7,833 in 2011).



## V. Status of the 2011 Recommendations

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The following recommendations were suggested by the Ombudsman to the Mayor, the City Council President, City Council Members, the Chief and Acting Chief of Police for consideration in 2012. They are in no particular order of significance or importance. **The status of the recommendation appears directly after the recommendation in green text.**

- **The Police Department** as an organization and the leadership for the Police Department and city must publically take ownership of the Otto Zehm incident (OPO 2011 Annual Report Closing Comments). **Completed.**
- **The City of Spokane** celebrate Mr. Zehm’s life by naming a park, roadway or public building after Mr. Zehm or by erecting a statue of Mr. Zehm in a public place (OPO 2011 Annual report Closing Comments). **Completed. A plaque was installed in Mission Park in memorial to Mr. Zehm.**
- **DOJ- US Attorney Audit Review of SPD:** In November 2011 the Ombudsman requested that Mayor Verner request that a pattern and practice audit be conducted. Mayor Verner made the request. Mayor Condon pursued the request. The request is also supported by the City Council and the Chief of Police. **Department of Justice has started this process with the Technical Assistance Program.**
- **SPD Adopt the COPS Standards and Guidelines Manual for Internal Affairs Units:** The Internal Affairs Personnel Complaint Procedure is addressed through Department Policy 1020. While attending the 2011 NACOLE National Conference, the Ombudsman became aware that a “best practices” manual exists. After reviewing the manual, the Ombudsman has recommended to the Chief that the Department adopt the COPS Standards and Guidelines Manual to further formalize, strengthen and enhance the Police Department’s investigation process for personnel complaints. **Department of Justice will review this process during their visit; Internal Affairs investigators being sent to IACP training.**
- **Adopt a Discipline Matrix (Tucson PD):** While attending the NACOLE National Conference, the Ombudsman attended a presentation regarding the Tucson Arizona Police Department’s creation and use of a discipline matrix to address discipline issues with Department members. Believing that everyone benefits from knowing the consequences for unacceptable actions before the act occurs and believing strongly in the consistency of consequences in most instances, the Ombudsman recommended to the Chief that work begin to create a discipline matrix using Tucson’s experience and matrix as a template where possible. **Internal Affairs Lieutenant will get a copy of Tucson Police Department’s discipline matrix and review for possible implementation.**

- **Recruit and Hire a civilian Public Information Officer:** In 2011 certain instances occurred where the need for a civilian public information officer became apparent to the Ombudsman. The lack of a well delivered message regarding the elimination of the Property Crimes Unit created and continues to create a misunderstanding throughout the community. Comments like “it sucks for the community,” while true (which may have been taken out of context), could certainly have been stated in a more professional way. The LGBT community has also raised concerns regarding the way incidents involving members of their community have been reported to the media by the Police Department. The members of the Police Department are well trained police officers, however, they are clearly not professional media liaison persons. **Completed; Police Department hired Monique Cotton.**
- **Create a display of force policy to document weapons displayed by Officers:** Spokane police officers encounter a number of challenging, difficult and sometimes dangerous situations that may require an officer to point their firearm at an individual. While the intent of this recommendation is not to create a “chilling effect” on officers, the intent is to require officers to document the encounter after the fact. This is not the current practice. In addition, when the situation has been resolved, officers should take the time to explain to individuals why they pointed their firearm at the individual. Officers have been given significant latitude in this area (RCW 9.41.270) where members of the community might find themselves in violation of the law if they were engaged in similar circumstances. With this authority comes great responsibility. As incidents are documented, patterns may be identified and training opportunities may exist. **In progress.**
- **Create an-un arrest policy:** In 2011 officers arrested an individual for impersonating a police officer. When probable cause for the arrest diminished, the officers released the individual. There was no formal or official documentation of the incident. There is no policy requiring or regulating the documentation of an arrest and release when probable cause ceased to exist. Although this recommendation was based on a specific set of circumstances, anytime an individual is arrested and released, formal documentation should be required regardless of the nature or cause for the arrest and release. **All contacts are documented in CAD, including the event of an “un-arrest.” Officers should make notes in CAD at a minimum and consults a supervisor when unsure of when to write a formal report.**
- **Re-establish a Property Crimes Unit:** In 2011 a theme for public safety was “See Something, Say Something.” In January of 2011, as a community we saw the direct benefit when an abandoned backpack containing a bomb was located on the Martin Luther King Parade route and disarmed. Members of the community have been told that it is important to report crime regardless of whether the crime will be followed up on or not. While this is true for resource allocation, at some point members of the community will become apathetic and stop reporting when their reports are not

followed up on. In 2011 the Ombudsman received a complaint where a visitor had their credit card used by an establishment without authorization. Several hundred dollars was charged on the card. When the complainant reported the crime it was documented but the complainant was told that no further action would be taken even though the perpetrator was known. There are additional similar types of complaints. This lack of follow up by the Police Department on property crimes has significant potential ramifications. **Property crime detectives never completely went away; Police Department is filling positions as staffing allows. Balance is necessary with limited officers and hiring has been difficult due to background check failures.**

- **Provide for a more thorough investigation process for victims of minor assaults:** This recommendation is based on a specific incident where a complainant was involved in an altercation and was the possible victim of an assault. The complainant provided officers with the names of two suspects and two potential witnesses. Because the seriousness of the incident did not meet a minimum threshold established by the Police Department, the suspects and one of the witnesses were not contacted. There was no internal requirement or expectation that either would be contacted, however, the complainant certainly had a reasonable expectation that the case would be followed up on. **Police Department only has resources to follow-up on felony assaults; even then resources are limited and based on factors like seriousness, case load, solvability, etc.**
- **Revise use of sick leave policy to address abuse of leave:** In 2011 the Ombudsman participated in an internally generated complaint where an officer was accused of inappropriately using sick leave. Although the investigation determined that the officer's use of sick leave was within policy, the Ombudsman is recommending that the policy be revised to address similar situations eliminating any confusion regarding what would be appropriate use versus inappropriate use of sick leave. **Police Department will work with City of Spokane Human Resources and City Legal to explore this.**
- **Further restrict use of in car computer while driving:** In January of 2011 a Spokane police officer was involved in a fatal auto-pedestrian traffic accident while responding to a call for service. During the investigation, the officer advised that he had used his car computer moments before striking the pedestrian. Although use of the computer was within Department policy, the distracted driving was a contributing factor in the incident. The Ombudsman is recommending that the use of the in car computer be further restricted. **Police Department requests proposal or sample policies for review.**
- **Provide Officers with body video cameras:** In the 2010 Annual Report, the Ombudsman recommended the acquisition of dash cameras for police vehicles. No significant progress was made with regard to the recommendation in 2010. As a result of the recent Federal prosecution of Officer Thompson, it was clear that store video of the incident played a significant factor in the jury's verdict. Comments were also made that the store video did not depict the entire incident as parts of the incident were

obstructed by store shelving and/or merchandise. Had the officer(s) been equipped with body cameras, a more complete version of the incident would have been recorded. Body cameras are in essence an “independent witness”. Video may also improve officer’s safety, have potential evidentiary value and assist officers’ in report writing and addressing complaints received involving officers. This recommendation has been updated to include the proper storage, retention and dissemination of the video equipment. **TASER model chosen; waiting for funding from Spokane City Council.**

- **Commission on Accreditation for Law Enforcement (CALEA) re-certification:** The CALEA website promotes standards that give the Chief Executive Officer a proven management system of written directives, sound training, clearly defined lines of authority and routine reports that support decision-making and resource allocation. Many agencies report a reduction in its liability insurance costs and/or reimbursement of accreditation fees. Accredited agencies are better able to defend themselves against civil lawsuits. Also, many agencies report a decline in legal actions against them once they become accredited. Accreditation provides objective evidence of an agency's commitment to excellence in leadership, resource management and service-delivery. Thus, government officials are more confident in the agency's ability to operate efficiently and meet community needs. Accreditation embodies the precepts of community-oriented policing. It creates a forum in which law enforcement agencies and citizens work together to prevent and control challenges confronting law enforcement and provides clear direction about community expectations.

The Spokane Police Department was previously certified but allowed their certification to lapse. **Police Department has started WASPC accreditation and anticipates being certified in 2013.**

## V. 2012 Office of Police Ombudsman Recommendations, Accomplishments and the Next Steps for 2013

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2012 Recommendations:

- Create a policy requiring that all voided citations be reviewed and approved by a supervisor before a citation can be voided for cause. **Most citations are SECTOR/electronically mailed to Department of Licensing directly from the patrol car; will direct Patrol to have supervisor void paper citations.**
- Once contract negotiations are completed between the city and the Guild and a contract is ratified by the Guild, the Ombudsman recommends that the city and the Guild reopen negotiations to discuss the removal of the language that allows for officers



to be in compliance of the labor agreement with a .04 Blood Alcohol level or less.  
Pending.

- Amend existing policy regarding officer demeanor to allow for members of the Department to use profanity in the performance of their duties where necessary to establish control or to quote another person in reports or in testimony. Members of the Department shall not be permitted to use epithets or terms that tend to denigrate any particular gender, race, nationality, sexual orientation, ethnic or religious group, except when necessary to quote another person in reports or in testimony. **At Chief of Police's discretion. Police Department believes this is best reviewed on a case-by-case basis rather than a rigid policy.**
- Create a policy to provide for complainant call back when a police response to their complaint has been cancelled by a patrol supervisor or communications supervisor. **This is already in police communications standards of practice; will ensure this is occurring.**
- Create a policy to address when a member of the Police Department adjusts or repositions video equipment for officer safety precautions (OPO Attorney recommendation). **Police Department expects officers to notify the owner of the property as a courtesy, but creating a policy would require unnecessary report writing time and reduce availability of officers.**
- Create a policy to address when a member of the Department damages someone's property intentionally or unintentionally. Provide the property owner with written notification on how to file a claim for compensation with the city. **Police Department concurs; in progress.**
- Training bulletin regarding control of public sidewalks be provided to Police Department personnel. **Police Department requests more information.**
- Improve the phone equipment at the front desk of the Public Safety Building to ensure that people calling are not automatically placed in a hold position or left on hold for extended periods of time. It was further recommended that conversations be recorded. **Police Department will work with the City of Spokane's Management Information Services. Washington State law requires two-party consent and requires storage of recordings, redaction and significant work for requests.**
- Require that all Internal Affairs investigations be recorded with the consent of the involved parties regardless of whether the investigation is being conducted by Internal Affairs staff or other staff. **Patrol Sergeants will have recorders made available to them**

and used as an option. Mandatory recording for Internal Affairs. This issue is one of training for the Sergeants as well as use of resources.

- Require that all personnel who have been trained and demonstrated proficiency in the use of a baton and taser carry the tool on their person throughout their tour of duty. Police Department concurs; exceptions only in unusual circumstances.
- Create a formal operations agreement between the Spokane Police Department and the U. S. Border Patrol that clearly identifies and defines the relationship between the two agencies and how they will utilize each other's resources. Border Patrol has changed their internal policies which addresses this issue.
- Track and report when U. S. Border Patrol assistance has been requested by Spokane Police Department personnel or when they appear on scene without having been requested. Border Patrol has changed their internal policies which addresses this issue.
- The Citizen Inquiry process not be used for potential excessive force complaints or where physical force is applied in an arrest situation and the person arrested (or someone who witnessed the application of force) makes a complaint. Also, police supervisors advise the individuals they speak with during the Citizen Inquiry process that if they are not satisfied with the Citizen Inquiry process, they can file a complaint with the Internal Affairs Unit or the Office of Police Ombudsman. Should be addressed by Department of Justice review of Police Department's Use of Force investigative policy.
- Members of the Police Department receive training on traumatic brain injury through a Department training bulletin or other source. Police Department will work with Dr. Lawson from Washington State University on training.
- Police Department personnel accelerate the redaction of closed Internal Affairs investigations for release and placement on the Spokane Police Department or Office of Police Ombudsman website. Completed.
- Police Department work with the tow industry, their association, City Legal and City Council to create an ordinance to regulate the tow truck rotation tow list process. Completed.

#### New Recommendations:

- **Implement a School Resource Officers Program:** The Spokane Police Department had a School Resource Officer Program through 2006. The program was eliminated due to budgetary constraints. As I have previously suggested, we need to get "back to basics."

Where better to begin than with our children? Our children are our future. Opinions are formed at an early age. Although the results may not be easily measured, building strong, positive relationships with our youth during the formative years can only help. Maybe an opportunity could exist to partner with the School District to advance this idea; there could be mutual benefits to working collaboratively. Regardless of how the program restarts, the conversation needs to begin now. **Police Department currently in discussions with School District 81 concerning school security issues.**

- **Improved service delivery related to Public Records Requests:** In the past two years the Police Department's inability to provide requested records within a reasonable period of time has been a reoccurring complaint from requestors. Though, as it has been pointed out to me, the city meets its obligation to fulfill the mandatory five day letter requirement, the estimated time for responsive records is within 90-120 days and that is simply unacceptable. It is unacceptable that citizens involved in a traffic collision in Spokane can get a copy of the Spokane police accident report more quickly from the Washington State Patrol than they can from the Spokane Police Department.

It is also unfortunate that the Records Unit is not open to the public on Wednesdays. Whether there needs to be an increase in staffing resources or an investment in technology or both, change needs to take place to improve the delivery of services **(refer to attachment J for specific information regarding the Records Division).** **Police Department has updated automation software and is scheduled to have backlog caught up by summer 2013.**

- **Medical Examiner Inquests:** During the past year the Office of Police Ombudsman has conducted significant research that would suggest that the use of an inquest process would be helpful to the community and law enforcement in officer involved deaths that occur throughout the region. Although this is a county issue, it directly impacts the City of Spokane. **N/A.**
- **County Prosecutor's Office Investigator:** The creation of an investigative position for the most high profile and serious criminal investigations such as homicide and potential criminal cases involving law enforcement personnel such as officer involved deaths and excessive force complaints would add a layer of independence to the current process. **N/A.**

2012 Accomplishments were:

- The continuing refinement of the Office of Police Ombudsman website.
- The hiring of Melissa Nystrom as the Assistant to the Police Ombudsman.
- All closed and redacted Internal Affairs investigation reports published on the Spokane Police Department web site at the request of the Office of Police Ombudsman.

- The Office of Police Ombudsman researched various models of civilian oversight and issued a report to the Mayor and Council as a possibility for enhancing civilian oversight in Spokane.
- The development and implementation of an Intern Program for the Office of Police Ombudsman.
- The increased visible presence for the Office of Police Ombudsman at several community events.
- The identification of performance measures for the Office of Police Ombudsman.
- The City of Spokane as host of the 2012 United States Ombudsman Association National Conference.

The “Next Steps” for 2013 for the office of Police Ombudsman, in no particular order, are:

- Continue to evaluate the Spokane Municipal Code ordinance regulating the Office of Police Ombudsman to assure that the ordinance is providing the tools necessary and appropriate to perform the duties for Police Ombudsman in an effective and efficient manner.
- The Office of Police Ombudsman will have an increased presence at community and neighborhood meetings.
- The Office of Police Ombudsman to work with the Police Department to annually report information collected about the race, age and gender of individuals contacted by the police. Work will include working with local courts to access data regarding individuals who have been cited or arrested.
- The Office of Police Ombudsman will work with the Police Department to publish the Student Guide to Police Practices.
- Refine performance measures for the Office of Police Ombudsman.

## CLOSING REMARKS

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We must continue to “trust but verify” the actions of our Police Department. Public Safety must be our top priority. Without a safe community, nothing else matters.

In 2012, significant changes occurred. A new Mayor, a new City Council President and three new Council members were elected. A new Chief of Police and new City Attorney were hired. The leadership of the Risk Management Department was changed. The Use of Force Commission was created and their analysis and report have been completed.

While 2013 holds great promise and opportunity, staff must continue to aggressively pursue change for cause. 2013 will be a make or break year for our Police Department. Future conversations regarding our Police Department should focus on what they did right, not what they did wrong.

During my tenure with the City of Spokane, elected officials have regularly faced the difficult task of finding solutions for significant budget deficit gaps. In 2012, the approved 2013 city budget eliminated 19 commissioned officer positions from the Police Department. The Police Department continues to work harder and smarter despite these reductions; however, the Department has reached the point where they can no longer continue to meet the needs and expectations of the community with their current resource allocation.

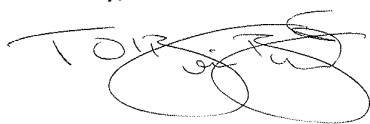
In the past it has been said that the community does not have an appetite for increased taxes. While this philosophy is hard to argue with, at some point the city and the community must find additional funding streams for public safety to ensure that the Police Department has the necessary resources available to provide the community with the services it needs and deserves. Whether those resources are established through a sales tax initiative, a levy lid lift, a bond or through some other means, the conversation needs to begin immediately. As a community, we need to find a way to overcome this funding dilemma. While the elimination of 19 commissioned officer positions from the approved 2013 budget may have been necessary, the elimination of those positions or future positions is simply unacceptable.

The Annual Report is intended to provide the people 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. In the 2012 Annual Report, the reader has been provided with the statistical information necessary to evaluate the performance of members of the Police Department in 2012.

Respect is defined as “to feel or show honor or esteem for; hold in high regard; to consider or treat with deference or dutiful regard or to show consideration for.” Based on the statistical information for 2012, it is my opinion that members of the Spokane Police Department continued to perform exceptionally well under very difficult and challenging circumstances. Based on their performance in 2012, members of the Spokane Police Department continue to earn my respect. I hope that after careful review and consideration, the members of the Spokane Police Department have earned your respect and also the respect of the community.

I would like to express my gratitude to Melissa Nystrom, Assistant to the Ombudsman, current Interns Aleysha Honablu and Benjamin Gallion and former Interns Scott Richter, Rebekah Hollwedel, Katherine Otte, James Searcy and Kortney Drago for the tireless efforts in 2012.

Sincerely,

A handwritten signature in black ink, appearing to read "Tim Burns". The signature is stylized and somewhat cursive, with the first name "Tim" being more prominent.

Tim Burns  
Police Ombudsman  
City of Spokane Washington

Potential changes may require collective bargaining.

## **Police Department**

- Discipline Matrix
- Change in uniform (eliminate jumpsuits)
- Change in car paint
- Change in work schedule
- Review, assessment and possible changes to hiring practices
- Civilian Public Information Officer
- Hire Public Relations Firm
- Increased supervision
- Increased police visibility at Neighborhood Council and similar meetings
- Reinstitution of Property Crimes Unit
- Change in process of simple assault investigation process
- Increase educational requirements for promotional opportunities
- Un doing racism training, LGBT Training
- Take Home Vehicle Policy revision
- Pro active ride along program
- Increase utilization of reserves, interns and volunteers
- All members read “Who Moved My Cheese?” by Spencer Johnson M.D.

## **Office of Police Ombudsman (OPO)**

- Change name to either Public Safety Ombudsman or Community Ombudsman
- Greater visibility
- Increased staffing
- Independent Attorney
- Consider changing classification process (Inquiry v. Investigation)
- Consider changing term limitations (retention process) for ombudsman

## **Chief**

- Outside of department hire
- Long term commitment
- Supportive of Civilian Oversight
- History/success of dealing with difficult situations within police department
- Face of Spokane Police Department
- Effective Public Safety Committee, utilizing different members of PD then currently used

## **Mayor**

- Civilian Advisory Committee for Public Safety
- Otto Zehm Memorial( Park dedication, statue or plaque on Public Safety Building)

**Immediate Police Action Plan**  
**Mayor David Condon**  
**City of Spokane**  
February 2012

The Mayor's Immediate Police Action Plan identifies a series of actions designed to help restore public trust and confidence in the Spokane Police Department. Since taking office on Jan. 1, Mayor David Condon's top priority has been his work to reform the Police Department.

Public Safety was the focus of one of the Mayor's Transition Team committees, which developed a series of recommendations to improve the City's police services. And, in his first official act as Mayor of the City of Spokane on Jan. 3, Mayor David Condon named an interim Police Chief along with a number of other initial steps designed to address public trust and confidence.

Additionally, the Spokane City Council also has identified the need for police reforms. In an action on Monday, Feb. 6, the Council approved a resolution designed to "achieve improvement in accountability and confidence in the Police Department and in law enforcement."

This plan includes actions resulting from information and recommendations provided by the Transition Team Public Safety Committee, the City Council, the Police Ombudsman, the Mayor's Advisory Board on Policing, the interim Police Chief, and many comments provided by Spokane citizens.

As part of its resolution, the Council identified four areas of concentration, and the Mayor's plan is organized according to those priorities. They include:

- **Oversight:** The City believes open, transparent and accountable government works best for the citizens of Spokane.
- **Community Involvement:** Community involvement is a key element to an improved relationship between citizens and the Police Department.
- **Training:** Additional areas of training and possible changes to existing training will improve the quality of and confidence in law enforcement.
- **Enhanced Delivery of Service:** By improving the delivery of services, including data collection, the Police Department can improve accountability and public confidence.

In addition to the actions defined in this plan, the Spokane Police Department will work to validate the actions taken. The Department will adopt COPS Standards and Guidelines for Internal Affairs and other standardized procedures, where appropriate, to ensure compliance with best practices within the industry and will seek recertification through the Commission on Accreditation for Law Enforcement (CALEA).

The work undertaken will be subject to review by the Use of Force Commission as well as the U.S. Department of Justice. In late 2011, the City requested that the DOJ conduct what's called a "pattern or practice" investigation into the Spokane Police Department.

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### **Oversight**

- **Publish redacted Internal Affairs investigations.** The City will develop a policy on the review and publication of closed internal affairs investigation reports, with participation by the Office of Police Ombudsman.
- **Evaluate the use of Police body video cameras.** The Police Department will research the steps will be necessary to implement a body camera program, including estimated costs.
- **Implement independent investigative authority for civilian oversight of Police.** The Office of Police Ombudsman will research the Police Commission model of civilian oversight and report back to the Mayor and Council with a plan for enhancing such oversight in Spokane by June 1, 2012.
- **Re-energize citizen advisory role.** The Police Department will re-energize the existing Police Advisory Committee (PAC) and continue to hold quarterly community outreach meetings.

### **Community Involvement**

- **Increase access to officers within the community.** The Police Department and Office of Police Ombudsman will be available at many community and neighborhood meetings. Police officers will regularly attend Neighborhood Council meetings.
- **Increase community participation in law enforcement.** The City will encourage citizens to volunteer in the COPS Program, in the Reserve Officer Program, or as interns in the Police Department or the Office the Police Ombudsman. The Citizen Academy will be reinvigorated and reformatted to allow more citizens to participate. Community members will be encouraged to participate in ride-alongs with police officers.
- **Enhance communication with the public.** Police Department Command staff will communicate with the media and citizens at high-profile incidents to ensure accurate and reliable information. The City will provide information that is consistent and easily accessible for citizens.
- **Communicate community-generated accolades.** Include opportunities during the legislative portion of City Council meetings to recognize police personnel for accomplishments and exceptional service as submitted by community members. Include information on City web sites.



## Training

- **Evaluate Use of Force Policy and implement recommended changes.** The Police Department's Use of Force Policy will be reviewed by the Mayor's Advisory Board on Policing as well as the separate Use of Force Commission. Recommendations will be implemented and training related to the changes will be provided to the appropriate Police Department personnel.
- **Train officers to better serve vulnerable populations.** Train the City's police officers to better serve vulnerable populations, including the mentally ill, to be completed on a regular schedule. Curriculum will be reviewed in collaboration with mental health professionals.

## Enhanced Service Delivery

- **Improve Property Crime investigation.** Using best practice models from around the country, the Police Department will establish a strategy for investigating property crimes that will deliver the best results. The department will proactively educate citizens on the approach and how they will benefit.
- **Continue to report who is interacting with Police.** The Police Department and Office of Police Ombudsman will report information collected about individuals contacted by the Police to deliver more effective community outreach and education.
- **Review all completed Internal Affairs investigations.** The Office of Police Ombudsman will review all completed Internal Affairs investigations. The Office will include and publish policy and training recommendations on a case-by-case basis.

Work on this plan will commence immediately.



*Revised 2/15/2012*

RESOLUTION NO. \_\_\_\_\_

A resolution regarding steps to be taken to achieve reform in the Police Department and in law enforcement.

WHEREAS, the issue of reform in the Police Department and law enforcement has been a pressing concern for the citizens of Spokane, the City administration and the City Council for several years; and

WHEREAS, on October 19, 2009, the City Council passed Resolution No. 2009-0079 requesting that the Mayor and the City administration bargain with the City of Spokane Police Guild and the Spokane Police Lieutenants and Captains Association to grant explicit independent investigatory authority to the Office of Police Ombudsman; and

WHEREAS, several steps have been taken to improve accountability and confidence in the Police Department and law enforcement, including the creation of the Office of Police Ombudsman and the adoption of Lexipol best practices policies by the Police Department in conjunction with the Spokane Police Guild and the Spokane Police Lieutenants and Captains Association; and

WHEREAS, the opportunity to improve accountability and confidence in the Police Department and in law enforcement is provided by various means including legislative action by the City Council, administrative action by the City, and negotiations with the affected labor unions; and

WHEREAS, it is the desire of the City Council to coordinate its efforts with the City administration and the affected labor unions to take effective and progressive steps over the course of the next year to implement changes in law enforcement at all levels to improve the accountability and confidence in the Police Department for the benefit of the citizens of the City, members of the Police Department and the City government.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF SPOKANE that in order to achieve improvement in accountability and confidence in the Police Department and in law enforcement, the City Council proposes that the City administration take the following steps:

- I. OVERSIGHT. The City Council believes open, transparent and accountable government works best for the citizens of Spokane. Examples of steps to improve police oversight includes:
  1. Internal Affairs Reports. Publish all Internal Affairs reports from 2009-2011 on the Office of Police Ombudsman website by March 1, 2012, as well as all subsequent reports when issued with appropriate redaction in compliance with the Washington State Public Records Act.

2. Body Camera Program. Institute a program to purchase and equip police officers with body cameras.
3. Discipline Matrix. Develop a discipline matrix to address discipline issues related to members of the Police Department.
4. Office of Police Ombudsman – Administrative Steps. Implement administrative changes to the Office of Police Ombudsman including:
  - a. Create annual goals and objectives;
  - b. Pursue discussions with Spokane County regarding contracting with the OPO for services to the County Sheriff's Office; and
  - c. Publish critical incident reports on all use of deadly force cases subject appropriate redaction pursuant to the Washington State Public Records Act.
5. Office of Police Ombudsman – Ordinance Amendments. Amend the Office of Police Ombudsman (OPO) ordinance to:
  - a. restore independent investigative authority of the OPO;
  - b. restore published closing reports and recommendations;
  - c. remove Police Guild pre-screening requirement for the OPO; and
  - d. allow the OPO investigations to be considered for disciplinary purposes.

II. COMMUNITY INVOLVEMENT. Community involvement is a key element to improved relationship between citizens and the Police Department. Examples of steps to improve community involvement include:

1. Police Commendations. Create a section to the Office of Police Ombudsman website to present all official commendations to City of Spokane police officers and announce the commendations at weekly City Council meetings.
2. Public Information Officer. Review the functions of the Public Information Officer for the Police Department (PIO) with consideration as to whether the functions of the PIO should be performed by a civilian employee and/or whether other police officers should receive training in public information tasks.

III. TRAINING. Additional areas of training and possible changes to existing training will improve the quality of and confidence in law enforcement. Examples of steps to be taken to improve training include:

1. Re-Certification of Commission on Accreditation for Law Enforcement (CALEA).
2. Use of Force Policy. Review and revise when appropriate the Police Department's Use of Force Policy with consideration given to the outcome of the Mayor's Advisory Board on Policing and the Use of Force Commission.
3. COPS Standard and Guidelines for Internal Affairs. Review and revise when appropriate the Police Department's policies regarding Internal Affairs in light of the COPS Standards and Guidelines for Internal Affairs.
4. Comprehensive Crisis Intervention Training Program. Review Police Department policies regarding crisis intervention training with the intent to assist officers in better understanding of how to interact with those under the influence of alcohol, drugs or untreated mental illness. Explore opportunities for engaging community mental health professionals in training and response.

IV. ENHANCED DELIVERY OF SERVICE. By improving the delivery of services, including data collection, the Police Department can improve accountability and public confidence. Examples of steps to enhance delivery of service include:

1. Property Crimes Unit. Review whether the Property Crimes Unit should be re-established, including providing the necessary funds, or whether other procedures can be established to investigate property crimes.
2. Routine Traffic Enforcement Information — Data Collection. Collect accurate data on race, age, and gender of all persons stopped and searched by the Police Department as set out in RCW 43.43.480-.490, report such data to the public annually and work proactively with minority and other diverse communities to address the issue of racial profiling.

BE IT FURTHER RESOLVED that the City Council recognizes that many of the steps presented in this resolution may affect the working conditions of represented employees and would need to be negotiated with the affected unions. By passing this resolution, the City Council does not intend to bypass the required negotiations. The City Council anticipates all parties negotiating in good faith while taking into consideration the fiscal reality facing the City.

DRAFT 1-24-12

Adopted this \_\_\_\_\_ day of \_\_\_\_\_ 2012.

\_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
Assistant City Attorney

# Office of Police Ombudsman recommendations for the

## Use of Force Commission

### Recommended Changes to the Oversight Process:

- Change the name from Office of Police Ombudsman to the Public Safety Ombudsman Office
- Board of Directors for Office of Police Ombudsman
- Outside Legal Counsel
- All complaints investigated by the Office of Police Ombudsman
- Committee to review all officer involved deaths
- Subpoena authority

### Requests for Consideration:

- Mandatory documentation and reporting when a firearm is pointed at a member of the community
- Officers be required to carry on their person a baton and taser
- Increased supervision (sergeants and lieutenants)
- All commissioned and limited commissioned officers attend Crisis Intervention Training (CIT)
- Deadly Force Review Board be conducted in a public meeting

### Next Steps:

- Hire an outside expert consultant to evaluate and report on the Zehm incident to address the community's expressed concerns
- Hire a local consultant to begin the reparative justice process to rebuild the community's trust in the Police Department

**DRAFT REPORT OF THE CITY OF  
SPOKANE USE OF FORCE COMMISSION**

***SUBMITTED FOR PUBLIC REVIEW AND COMMENT***  
**December 20, 2012**

## **I. INTRODUCTION**

On March 18, 2006, Spokane Police Department (SPD) Officer Karl Thompson responded to a dispatch call of an attempted or actual robbery at an ATM near the Zip Trip convenience store at 1712 North Division Street. Arriving at the scene, Officer Thompson saw Otto Zehm entering the Zip Trip. Officer Thompson exited his car and followed Mr. Zehm into the store. Officer Thompson then rushed at Mr. Zehm and knocked him to the floor. Baton strikes, Taser™ charges and other forms of force were used by Officer Thompson and other SPD officers who responded to the scene to subdue Mr. Zehm. Less than two days later, Mr. Zehm died at Deaconess Medical Center. His death was ruled a homicide by the Spokane County Medical Examiner.

Officer Thompson was indicted by a federal grand jury on one count of violating Mr. Zehm's civil rights and one count of obstructing justice. On November 2, 2011, following a lengthy jury trial, Officer Thompson was convicted in the U.S. District Court for Eastern Washington on both counts. He was sentenced on November 15, 2012, to fifty-one months in federal prison.

On March 13, 2009, members of Mr. Zehm's family commenced a civil suit against the City of Spokane as a result of the actions at the Zip Trip and Mr. Zehm's death. On August 22, 2012, the City of Spokane and the Zehm family mediated and settled this civil action. Terms of the settlement included a \$1.67 million payment to the family and other commitments by the City, to include funds for Crisis Intervention training for Spokane Police officers, funds for implementing new policies regarding the use of force, and the creation of a permanent memorial to Mr. Zehm.

From Mr. Zehm's death to Officer Thompson's conviction and the settlement of the civil suit, the Spokane community has struggled to come to terms with what happened to Mr. Zehm and with the confines in which SPD officers use force in carrying out their duties. It is certainly the case that Mr. Zehm's death and its aftermath have shaken public trust in the police department and in those civilians tasked to oversee that department. It was against this background that the City of Spokane Use of Force Commission was established by Mayor David Condon on January 3, 2012.

While the Use of Force Commission would most likely not have come into existence but for the tragic events surrounding Otto Zehm's death, the Commission's task is broader than the unique circumstances of any specific case. The Commission has been charged to take an expansive view of the issue of the use of force by the Spokane Police Department. In doing so, as recounted in greater detail below, the Commission, with the assistance of legal counsel and expert consultants, has systematically and thoroughly examined SPD use of force policies, procedures, practices and customs, as well as explored the issues of civilian oversight and the role of the City's legal department in use of force cases. The totality of this work has involved numerous public meetings, private interviews, on-site visits, consultations with subject matter experts from around the country, and the review and analysis of a multitude of articles,



records, policies, cases, web pages, and reports. Throughout this work, notwithstanding that the body was not formed as the “Zehm Commission”, each member of the Commission has remained cognizant of the fact that a core purpose of our work is to help avoid future tragedies like what happened to Otto Zehm.

In presenting this report and the Commission’s recommendations, it is important to note at the outset that no one occurrence defines the Spokane Police Department, its members or its service to the citizens of Spokane. The Department is comprised of approximately 275 uniformed officers (with an authorized strength of 295) and nearly 100 civilian employees. Each of the department’s members is responsible to perform his or her role in the most professional and legally correct manner. Each is responsible for their personal contribution to the department’s public service mission and to the safety of the City and its citizens. And, each is responsible for the overall reputation and credibility of the department in the City of Spokane.

The Commission’s members thank the officers and civilian employees of the SPD for their service to this community. Their efforts, which are often not seen or recognized publicly, involve the ability to make difficult and fast decisions in challenging circumstances, the need to pay ever vigilant attention to fairness, and the resilience of spirit to not be bogged down by the conditions they encounter on a daily basis.

The SPD and those who serve the City in other capacities are part of ever changing institutions. At the time of Otto Zehm’s death, Jim Nicks was the Acting Chief of Police and Dennis Hession was the Mayor of Spokane. In July of 2007 Anne Kirkpatrick became the Chief of Police and she served in this role until the end of 2011, with most of that time occurring under the administration of Mayor Mary Verner. David Condon was sworn into the Mayor’s office on January 1, 2012, and, shortly thereafter, he appointed Scott Stephens as Interim Chief of Police. Major Stephens served in that role until Frank Straub was recently sworn as Spokane’s new Chief of Police. Across this same span of time, there have also been changes in the make-up of the Spokane City Council and in the Office of the City Attorney. Likewise, many new members have joined the uniformed services of the SPD and many have retired at the end of their careers.

The SPD’s leaders and its officers, along with the political and administrative leadership of the City of Spokane, are responsible for continuously furthering the interest of public safety through constructive change and improvement. This obligation remains constant notwithstanding who is serving this City as Mayor, as Councilperson, as Chief of Police or as a patrol officer. The recommendations that follow are offered in the spirit of helping those who carry this obligation, as a matter of office or function, to better serve the citizens of Spokane.

## **II. ESTABLISHING THE COMMISSION**

The Use of Force Commission was formed on January 3, 2012, under City Charter provision Section 24(o) which grants the Mayor “the power to make investigation into the affairs of the City.” Mayor Condon charged the Commission to review and make recommendations to his office regarding the SPD’s use of force policies and practices, civilian oversight of the police department, and how city agencies respond to cases when it is claimed that a SPD officer has used excessive force. Mayor Condon explicitly affirmed that the Commission serves on behalf of the entire Spokane community free of influence by City administration, and that the Commission is at liberty to determine the specifics of what it includes in its recommendations. Acknowledging the role of the Otto Zehm case in the creation of the Use of Force Commission, Mayor Condon stated that the past must be considered in order to make meaningful change for the future and that public trust is not given - it must be earned.

Mayor Condon appointed the following individuals as members of the Commission:

- Earl F. Martin (Chair), Executive Vice President of Gonzaga University
- William D. Hyslop (Vice-Chair), principal in the Lukins & Annis, P.S., law firm
- Chief Justice (retired) Gerry L. Alexander, Washington State Supreme Court
- Ivan Bush, Equal Opportunity Officer (retired) for Spokane Public Schools
- Susan Hammond, RN, (former) Director of Outpatient and Psychology Services at Spokane Mental Health, a Division of Frontier Behavioral Health

(Complete bios of Commission members are at Appendix A)

On January 30, 2012, the Spokane City Council passed Resolution 2012-0013 in which it expressed support for the establishment of the Use of Force Commission.

## **III. COMMISSION ADMINISTRATION**

The Commission held nine public meetings between February 29 and June 28 during which it explored various topics related to its charge. The Commission also met via phone conference and in person on numerous occasions to: coordinate future meetings; recap past meetings; discuss the current condition of the SPD and its many challenges and opportunities, and how it might be improved; and work on the Commission’s report. The Commission reviewed many publications relevant to its charge (Appendix B) and the four Spokane based Commission members participated in ride-alongs with SPD officers. Additionally, Commission members, both individually and in numbers less than the full membership, interviewed persons who have knowledge of, or an interest in, the use of force by police departments. Examples of the latter include conversations with Spokane County Sheriff Ozzie Knezovich and various members of his staff, former Seattle Chief of Police Norm Stamper, Director of Microsoft’s Office of Legal Compliance-Investigations Sam Pailca, Lexipol Chief Executive Officer Gordon

Graham, LEEDA –FBI Executive Director Tom Stone, Washington State Criminal Justice Training Commission Defensive Tactics/Firearms Program Manager Bob Bragg, ACLU Deputy Director for Washington Jennifer Shaw, former U.S. Attorney for the Eastern District of Washington James McDevitt, SPD Interim Chief Scott Stephens, and former SPD Chiefs of Police Anne Kirkpatrick and Roger Bragdon.

The Commission has been assisted in its work by three expert consultants, engaged through contracts with the City of Spokane. Stanley Schwartz, a principal in the law firm of Witherspoon – Kelley, served as the Commission's independent legal counsel. The Commission hired Mildred O'Linn, an expert in police civil liability and police training and tactics, to review the SPD use of force training program and Field Training Officer (FTO) program. Ms. O'Linn, a former police officer, is a partner in the law firm of Manning & Kass, Ellrod, Ramirez LLP in Los Angeles, California. The Commission also engaged Mike Gennaco to review the SPD use of force reporting program, the Internal Affairs protocols for investigating use of force cases, and the SPD Fatal Incident Protocols and Deadly Force Review Policy. Mr. Gennaco is a former U.S. Department of Justice attorney who now heads the Office of Independent Review (OIR) for Los Angeles County. The OIR is a civilian oversight group that was created by the LA County Board of Supervisors in 2001 to monitor the LA County Sheriff's Department and provide legal advice to ensure that allegations of officer misconduct involving the LASD are investigated in a thorough, fair, and effective manner. Mr. Gennaco was engaged through his consulting practice, OIR Group.

In the case of Ms. O'Linn and Mr. Gennaco, extensive reports have been filed on their respective areas of inquiry. See Exhibits C and D. In many instances, the material compiled by Ms. O'Linn and Mr. Gennaco is incorporated directly into this report. Prime examples of this include the recommendations regarding SPD training improvements, certifying defensive tactics instructors, reforming the use of force reporting system, and improving investigatory practices. In regards to other matters raised by these two experts, although the Commission has chosen not to repeat their recommendations in its own report, it does not intend to signal in any way that these recommendations are lacking in significance. To the contrary, the entirety of both reports, particularly their recommendations for improvement, are forwarded to the SPD for its serious review and consideration. See, e.g., Exhibit D at 20-23 (*Canine Cases*). Finally, the Commission notes that the engagement of the consultants has already resulted in positive operational changes within the SPD. Just a few examples of this include modifications to Pre-FTO training procedures (Exhibit C at 6), revisions to the annual in-service firearms training (*Id.* at 25), and efforts to create a more formalized annual training needs assessment consistent with SPD policy 208.5 (*Id.* at 32-33).

All of the Commission's public meetings were held in the Spokane City Council Chambers. Public notices were sent out prior to the meetings and time was reserved during each meeting for public comment. Every meeting was broadcast on Spokane City Channel 5 and the recordings of each were posted to the City Channel 5 web site. Appendix E – CD-Rom.

The following are brief summaries of the nine public meetings held by the Commission:

February 29, 3:00 to 5:30 p.m. – The meeting opened with remarks from Mayor David Condon. The Commission Chair, Earl Martin, invited all present to observe a moment of silence for Otto Zehm, and spoke to the administration of the Commission (budget, staff support, etc.), the scheduling and management of the public meetings, and the topics that the Commission planned to explore. With the exception of Ivan Bush, who was absent due to a medical issue, each of the Commission members introduced themselves. Commissioner Bush later viewed a recording of the session. The Commission received a briefing from its legal counsel, Stanley Schwartz, on the subjects of the Open Public Meetings Act, Public Records Act, Municipal Code of Ethics, and indemnity for Commission members. The Commission received a presentation from Gonzaga University School of Law Professor Jason Gillmer on the law regarding the use of force by police officers. The Commission received a presentation from SPD Interim Chief Scott Stephens on the SPD Manual and the department's Defensive Tactics Manual (use of force training materials). Four individuals commented during the public comment period.

March 15, 3:00 to 5:30 p.m. - Commissioner Gerry Alexander attended the meeting via phone conference. Commissioner Ivan Bush was absent due to medical issues, but later viewed a recording of the session. The Chair shared that the Commission's independent legal counsel, Stanley Schwartz, had provided a legal opinion stating that the Washington State Public Records Act governs the work of the Commission. The Commission explored how the SPD's canons and ethical standards inform the full scope of its use of force policies and practices. Interim Chief of Police Scott Stephens, Captain Brad Arleth (Uniform Operations Division Commander), Lieutenant Bill Drollinger (SPD Academy Director of Training), and Detective and Spokane Police Guild President Ernie Wuthrich all appeared before the Commission to address the topic. Two individuals commented during the public comment period.

March 29, 3:00 to 5:30 p.m. – All Commission members were present for the meeting. Commissioner Ivan Bush introduced himself at the invitation of the Chair. The Commission received presentations on the SPD's use of force training program from three members from the SPD Academy - Lieutenant Bill Drollinger (Director of Training), Officer Robert Booth (defensive tactics instructor), and Officer Terry Preuninger (patrol tactics instructor). Two individuals commented during the public comment period.

April 10, 3:00 to 5:30 p.m. – All Commission members were present. The Commission received a presentation on the SPD's Field Training Officer program from Captain Judi Carl (Administrative Services Division Commander). The Commission received a presentation on the SPD's use of force reporting protocols from Major Frank Scalise (Operations Bureau Commander). One individual commented during the public comment period.

April 26, 3:00 to 6:00 p.m. – All Commission members were present. The Commission received a presentation from Lieutenant Keith Cummings (Internal Affairs Commander) on the role of the Internal Affairs office in the administration of the use of force by SPD officers. Sergeant Mark Griffiths (Major Crimes Unit) presented on the SPD's Fatal Incident Protocol and its Deadly Force Review process. Three individuals commented during the public comment period.

May 8, 3:00 to 6:00 p.m. – All Commission members were present. The Chair announced that the Commission had engaged the services of two expert consultants. Mildred O'Linn, an expert in police civil liability and police training and tactics, was hired to review the SPD use of force training program and its Field Training Officer program. Mike Gennaco, a former U.S. Department of Justice attorney who now heads the Office of Independent Review for Los Angeles County, was hired to review the SPD use of force reporting program, the Internal Affairs protocols for investigating use of force cases, and the SPD Fatal Incident Protocols and Deadly Force Review policy. The Commission received multiple presentations on SPD use of force policies and practices with regard to citizens with mental illness or developmental disabilities. Specifically, the Commission heard from Sergeant Sam Yamada and Jan Dobbs (Director of Crisis Response Services at Frontier Behavioral Health) on the SPD Crisis Intervention Training program, and from Community Resource Officers Wayne Downing and Shaney Redmon on the impact of CIT on their work. One individual commented during the public comment period.

May 22, 3:00 to 6:00 p.m. – All Commission members were present. The Commission continued its exploration of the SPD's use of force policies and practices with regard to citizens with mental illness or developmental disabilities. Dr. Matt Layton (Washington State University – WWAMI Spokane), Jan Dobbs (Frontier Behavioral Health), and Lieutenant Keith Cummings presented on the subject of excited delirium. City of Spokane Police Ombudsman Tim Burns provided his perspective on the SPD's engagement with mentally ill and developmentally disabled citizens. Tamara Rossi and Dave Barrett from the Spokane House of Charity discussed the challenges associated with rendering services to special populations. Two individuals commented during the public comment period.

June 7, 3:00 to 6:00 p.m. – All Commission members were present, except Susan Hammond. Commissioner Hammond later viewed a recording of the session. The subject of the meeting was citizen/independent oversight of the SPD's use of force. Tim Burns, City of Spokane Police Ombudsman, presented on the history and functions of his office, and shared recommendations for improvement. Pierce Murphy, Community Ombudsman for the City of Boise, presented on how his office carries out its charge to oversee the work of the Boise Police Department. Five individuals commented during the public comment period.

June 28, 1:00 to 4:00 p.m. – All Commission members were present. The Commission received a presentation from Michael Painter, Director of Professional Services for the Washington Association of Sheriffs and Police Chiefs, on the subject of WASPC accreditation for the SPD. The Commission was addressed by Spokane City Attorney Nancy Isserlis on the recent settlement of the Otto Zehm civil suit against the City. The Commission then received a presentation from Assistant City Attorney Mary Muramatsu on the role of the City Attorney's Office in officer involved use of force incidents. Three individuals commented during the public comment period.

## **IV. RECOMMENDATIONS**

The Commission's recommendations are organized under four headings – Culture, SPD Policies and Practices, Civilian Oversight, and City Administration. In each instance, a discussion follows the recommendation. The Commission's recommendations are the product of its independent research and review. In the case of the majority of the recommendations, the Commission does not comment on the budget implications of the proposed activity due to the fact that the Commission is not staffed to undertake this work.

The recommendations are not presented in ranked order of importance. Rather, the recommendations are presented in the order that follows how the issues presented themselves to the Commission. Each recommendation is expected, if implemented, to have a positive effect on making Spokane a safer community for both citizens and SPD officers.

### **A. Culture**

An organization's culture is the sum total of its past and present assumptions, experiences, philosophy, and values. It is drawn from the collective attitudes, beliefs, customs, and values of its members. It can affect, among other things, the way the organization carries out its duties, how it treats its internal members and external constituencies, and how it reacts to changing circumstances. The health of this culture is critical to the performance and efficient operation of the organization. In light of the fact that police officers have the lawful authority to use force, including deadly force, against their fellow citizens, it is incredibly important that a police department's culture foster respect for the law, a commitment to public service, and respect for the rights and dignity of the citizenry.

Throughout the work of the Use of Force Commission many have shared, in public sessions and private conversation, the opinion that the SPD has a dysfunctional organizational culture. In many of these instances, the occasion of SPD officers (reported to be fifty in number) saluting Karl Thompson as he was taken into custody by federal marshals after his pre-sentencing hearing on November 4, 2011, was offered as

an example of an unhealthy SPD culture. Additionally, and understandably, the Otto Zehm case, including the circumstances of his death and the response of the SPD leadership, was also frequently mentioned.

The Commission is not in a position to draw any definitive conclusions regarding the health or lack thereof of the SPD organizational culture. However, the Commission is convinced that there is concern in this community that the current culture of the SPD does not promote transparency or an atmosphere of generous service and continuous quality improvement. Therefore, the Commission makes the following recommendations in the spirit of enhancing the culture of the Spokane Police Department.

## **Recommendation #1 – Conduct a culture audit of the SPD.**

The City should retain qualified professionals to perform an institutional audit of the SPD's culture and its influence on employee behavior. This audit should enable the Mayor and the Chief of Police to determine whether officers and civilian employees think, feel and act the way leadership believes they should, and it can provide a baseline for future improvements.

The goal of the culture audit would be to secure a map of the formal and informal systems that permeate the work and the workplace. It should illuminate the SPD's overall working environment, identify unwritten norms and rules, and highlight possible barriers to effective work practices and communication. Without intending to limit other possible lines of inquiry, it would be helpful if the audit explored: the generally held beliefs among employees regarding the department's mission, values, goals and management practices; the department's informal motivational systems; the informal centers of power and influence within the SPD, to include alliances and coalitions; how critical information is shared across the department and with City administration; and, who the respected employees are at all levels within the SPD.

## **Recommendation #2 – Bring greater transparency to the City's negotiations with the Spokane Police Guild and the Spokane Police Lieutenants and Captains Association.**

Many of the conversations that Commission members have experienced around the issue of the SPD's culture have included references to the Spokane Police Guild and the Spokane Police Lieutenants and Captains Association. An overwhelming majority of those references have blamed these collective bargaining units for what the speaker believes is an unhealthy culture within the SPD. Even if that opinion is inaccurate on one or both accounts, the perception still remains that the bargaining units within the SPD are having a negative influence on the department's operations, its reputation, and its credibility within the community.

The Commission encourages the City to be as open as legally possible regarding its negotiations with the Spokane Police Guild and the Spokane Police Lieutenants and

Captains Association. At a minimum, the Commission encourages City representatives to meet with the community to vet important issues that will be part of any negotiations prior to the commencement of collective bargaining and to hold public sessions after the negotiations to directly engage with the community regarding outcomes. It is critically important that City leadership and Spokane police officers fully understand, and feel the impact of, the reality that the SPD exists to serve and protect the citizens of Spokane within an economic framework that makes good fiscal sense for the community.

Related to this recommendation, the Commission believes that neither collective bargaining unit should use the bargaining process to extract additional compensation when confronted with the need to make work place condition changes that do not materially change their members' job responsibilities. The Commission realizes that many of its recommendations could be defined as a change in work place conditions (e.g., deployment of body cameras, empowering the Ombudsman with investigatory power, etc.). While the Commission would expect that officers from all ranks would have an interest in making sure that such changes are carried out in the best way possible, the Commission discounts any suggestion that either bargaining unit should receive additional compensation and benefits as a condition for the implementation of such changes. The Commission urges that its recommendations be accepted or rejected solely because they either serve or fail to serve the best interests of the public.

The above discussion should not be interpreted as a lack of support on the part of the Commission for SPD officers, their right to be fairly compensated for their work, or their right to collective bargaining. The Commission fully recognizes the challenges faced by police officers and appreciates that the SPD is populated with professional men and women trying to do their best under difficult circumstances.

### **Recommendation #3 – Rewrite the SPD Mission Statement.**

The SPD's current Mission, Vision and Values statements declare:

Mission – Working together to build a safe community.

Vision – To become the safest city of our size in America.

Values of the Spokane Police Department:

Service - SPD strives to provide efficient, effective, and courteous service.

Pride - SPD is proud to serve the community through honorable and professional policing.

Dedication - SPD is dedicated to results through accountability and leadership.

Referring back to the idea that any police department should be supported by a culture that respects the rights and dignity of the citizens it serves, this sentiment should be explicitly reflected in the Mission Statement of the SPD. A Mission Statement is a declaration of the fundamental reason an organization exists, and in this instance it is to protect the citizens of Spokane from the criminal activity of others in a way that preserves constitutional rights and affirms human dignity. The current SPD Mission and



Vision Statements both speak only to the issue of security and not to the issues of liberty, and gaining the trust and confidence of the community. Additionally, although the Values Statements call upon SPD officers to professionally render services to the community, there is nothing in those statements that explicitly provides the necessary counterpoints to the overwhelming emphasis on security.

#### **Recommendation #4 – The SPD should secure WASPC accreditation.**

One of the best ways to create and maintain healthy organizational culture is to expose the organization to the regular review of external knowledgeable parties. This is what securing and holding accreditation from the Washington Association of Sheriffs and Police Chiefs (WASPC) would do for the SPD (which is not presently accredited). Having to satisfy 140 accreditation standards for both initial accreditation and reaccreditation, and having those efforts documented for public review would call on the SPD to place and keep itself in a space of continuous improvement. Most notably for present purposes, the department would have to embrace continuous improvement in areas that are directly relevant to the issue of the use of force.

WASPC (<http://www.waspc.org/index.php>) was founded in 1963 to lead collaboration among law enforcement executives to enhance public safety. In 1976 the Washington State Legislature directed WASPC to develop standards and goals for law enforcement agencies. The association has maintained an operational accreditation program since that time.

The current accreditation program was created in 2007 and is overseen by the WASPC Accreditation Committee, the Accreditation Commission and the organization's Board of Directors. The Committee is responsible for maintaining accreditation standards. The Commission is responsible for reviewing accreditation on-site reports and making recommendations to the Board of Directors. The Board is responsible for conferring accreditation.

The purpose of the WASPC accreditation program is to help professionalize the law enforcement community by providing a review process for agencies to be certified as operating under best practices and standards. The program includes standards covering twenty major law enforcement areas. Those areas that have particular relevance to the subject of the use of force include Chapters 3 (Use of Force), 10 (Recruitment and Selection), 11 (Training), 13 (Code of Conduct), 14 (Internal Affairs), 15 (Patrol Function), and 19 (Prisoner Security).

There are two types of fees associated with the WASPC Accreditation program, application and on-site fees. The application fee for agencies is \$100. On-site assessment fees are related to the accreditation inspection process once assessors arrive at an agency, and vary by department and availability of assessors. Agencies seeking accreditation agree to pay the travel costs associated with bringing in assessors from around the state and the WASPC employees staff time needed to

facilitate agency accreditation. It should also be anticipated that significant SPD staff time would need to be devoted to securing and maintaining accreditation.

**Recommendation #5 – Ensure corporate ownership of the SPD Policy Manual.**

In private conversations and public presentations, numerous SPD officers, including members of the department's command staff, referred to the SPD Policy Manual as the "Lexipol manual." Additionally, the link on the SPD's web page to its manual states, "Click here for the Lexipol Policy Manual." The continuing reference to Lexipol comes from the fact that the SPD engaged the services of Lexipol, a risk management company, in creating the current SPD Policy Manual and continues to subscribe to that service for updates.

Notwithstanding Lexipol's involvement in providing source material for the department's manual, it is important that the department both take full ownership of the manual and affirm that ownership in the way it refers to the same. The SPD Policy Manual contains the departments Canons and Ethical Standards, and its governing operating policies. These are the SPD's guiding principles, not boilerplate content from Lexipol. Every officer needs to understand and accept this distinction, and be committed to the entirety of the SPD Policy Manual.

In multiple locations in the remainder of this report the Commission notes instances where the department's actions are inconsistent with the dictates of the policies contained in its manual. Additionally, in her report, Ms. O'Linn concludes that the SPD needs to do a better job of expeditiously revising the SPD Policy Manual as updates are released by Lexipol and systematically tracking and complying with policy provisions across the entire force. Exhibit C at 30. The Commission is confident that such concerns would diminish if the department took full ownership of its manual.

**Recommendation #6 – Explicitly link SPD Canons and Ethical Standards to hiring decisions and all force management actions.**

While the SPD's Canons and Ethical Standards speak to how each officer is expected to conduct him or herself on a daily basis in carrying out the department's mission. Accordingly, it is imperative that these Canons and Ethical Standards be highly visible and concretely affirmed in the on-going life of the department. Of particular relevance to the work of the Commission, the SPD's Canons and Ethical Standards explicitly promote values and practices that are intended to ensure that SPD officers only use force when absolutely necessary and legally permissible.

The SPD should test and screen applicants for their willingness and ability to comply with the department's Canons and Ethical Standards. The Chief of Police should be personally responsible for ensuring that only those applicants are hired onto the force that possess characteristics that will enable them to internalize and practice the values expressed in the department's Canons and Ethical Standards.

The SPD should acknowledge and reward behavior that is consistent with the values expressed in the Canons and Ethical Standards. Progression through the Field Training Officer Program, moving from probationary to regular status, positive performance evaluations, promotions, and commendations should all be explicitly tied to compliance with the Canons and Ethical Standards. The department has policies and procedures governing all of these activities that draw attention to values and practices that can be found in the Canons and Ethical Standards. However, there is not sufficient intentional and comprehensive congruence between those policies and procedures and the content of the Canons and Ethical Standards (e.g., citation to the relevant Canon and Ethical Standard when awarding commendations). No one should be left with any doubt that in order to advance and be recognized within the SPD, one must embrace and live the values expressed in the department's Canons and Ethical Standards.

Correspondingly, the department should also connect instances of unfavorable behavior to the failure to practice the values articulated in the Canons and Ethical Standards. For example, citizen and internal complaints, whether processed through Internal Affairs or the Office of the Police Ombudsman, should associate the complained of behavior with the relevant Canon and Ethical Standard. Likewise, unsatisfactory performance evaluations and department disciplinary actions should be explicitly connected to the failure on the part of the officer receiving the negative outcome to uphold the dictates of the Canons and Ethical Standards.

The constant reinforcement of the critical importance of adherence to the SPD Canons and Ethical Standards will improve officer performance and improve the overall culture of the organization. These outcomes will, in turn, improve public safety and enhance the public's respect and confidence in the department.

## **B. SPD Policies and Practices**

The Commission appreciates the cooperation extended to it and to its expert consultants by SPD officers throughout the organization. The members of the Commission have been impressed by the professionalism and courteousness of so many of the officers that have aided it in its work. The Commission's task would have been far more difficult without the assistance of these public servants.

### **Recommendation #7 – The Chief of Police and his command staff should actively engage the community in an ongoing dialogue about the department.**

The Chief of Police is the face of the department as its main representative and advocate to the community. The Chief must seek out community leaders and forums where an ongoing dialogue about the department can occur. Members of the department's command staff should be expected to participate in this effort as well. The public must know that the department is approachable and accessible, and that its leadership will take seriously and respond to the public's concerns.

**Recommendation #8 – Ensure complete understanding of the governing legal standards for the use of force.**

The event of a police officer using force against a citizen unfolds against a constitutional backdrop designed to protect both the citizen and the officer. The use of excessive force in the course of an arrest, investigatory stop, or other seizure violates the Fourth Amendment to the United States Constitution. *Graham v. Connor*, 490 U.S. 386, 394-95 (1989). Courts analyze claims of excessive force under the objective reasonableness standard -- balancing the nature and quality of the intrusion of the individual's Fourth Amendment interests against the legitimate governmental interests at stake. *Id.* at 394-96; *Miller v. Clark Cnty.*, 340 F.3d 959, 964 (9<sup>th</sup> Cir. 2003). Assessing the reasonableness of an officer's use of force is a fact-dependent inquiry based on the "totality of the circumstances." *Graham*, 490 U.S. at 394-95. *Graham* framed the issue to be whether the officer's actions are "objectively reasonable" in light of the facts and circumstances confronting him, without regard to his underlying intent or motivation. *Id.* at 396. In weighing the government's interest in the use of force, courts will examine, among other relevant factors, whether the subject posed an immediate threat to officer or public safety, the severity of the crime at issue, whether the suspect was actively resisting arrest or attempting to escape, and whether law enforcement could have used other methods to accomplish its purpose. *Id.*; *Davis v. City of Las Vegas*, 478 F.3d 1048, 1054-56 (9<sup>th</sup> Cir. 2007). The Commission is concerned that these legal rules are not as well understood across the SPD as they need to be.

At the beginning of its work in February, the SPD provided the Commission with a copy of what was purported to be the current version of the department's Defensive Tactics Manual (DTM). The DTM serves as a course reference for SPD Academy training, is used by officers for self-improvement, and is an important defensive tactics resource document for the entire department. The version of the DTM provided to the Commission included the following sentence in its introduction under the heading *Use of Force*: "If that evaluation (i.e., an assessment of threatening behavior by a suspect) leads the officer to believe that the application of deadly force is his only means of protecting himself or others, then he is authorized, pursuant to departmental policy, to employ such (i.e., deadly) force." (parentheticals and emphasis added) This sentence, in the context of the material that surrounds it, is an incorrect statement of the relevant legal standard. The sentence casts the evaluation of an officer using deadly force as being dependent upon that officer's subjective interpretation of the situation instead of such being dependent upon an objective interpretation as required by law.

It was discovered in October by one of the Commission's expert consultants that the DTM provided to the Commission in February was a version that was, in the words of one SPD officer, "decades old". The current version of the SPD DTM, adopted in 2007, does not include the language cited above. While this somewhat mitigates the concern raised in the previous paragraph, it does not eliminate it altogether. It is the case that the officers most intimately involved with training in the SPD affirmed to the Commission the validity of the DTM provided to it in February. The fact that this could occur raises

concerns regarding the attention the department is giving to this critical training and operational resource.

In multiple locations throughout her report, Ms. O'Linn identifies instances of SPD training materials containing out-of-date or incorrect information regarding the rules governing the use of force by police officers. For example, Ms. O'Linn identified deficiencies in the department's current DTM regarding the use of force against purely passive resistors (Exhibit C at 8), in the current DTM's force options scale (*Id.*), and in the case law that has been used in the SPD's use of force training presentations (*Id.* at 9). The culmination of these, and other similar findings, prompted Ms. O'Linn to comment that the department's use of force training materials require systematic attention to on-going policy and training updates. *Id.*

On more than one occasion, the Commission was addressed in the public comment section on the subject of SPD Officer Terry Preuninger's testimony at the Karl Thompson trial. Officer Preuninger, the patrol tactics instructor for the SPD Academy, testified for the defense at the Thompson trial on the subject of Officer Thompson's use of force in the encounter with Otto Zehm. While under cross examination by the prosecuting attorney, Officer Preuninger provided answers that suggest the proper standard of review is to focus on the subjective beliefs of an officer when assessing that officer's use of force. Again, the proper legal standard is the objective reasonableness standard.

The importance of SPD officers understanding and operating under the correct legal standard when it comes to the use of force is two-fold. First, the objective standard exercises a check on a police officer's ability to use force against a citizen that is not present under the subjective standard. This check creates a greater likelihood that force will only be used in those circumstances that truly demand its use. Second, as SPD officers will be held to account to the legally valid objective standard, they need to understand that standard and be prepared to follow it in their work. To not prepare them in such a fashion is a great disservice to their own interests and to the interest of public safety.

**Recommendation #9 – Update and maintain certifications of the department's defensive tactics instructors.**

The Washington State Criminal Justice Training Center (WSCJTC) is tasked by Washington State law to "[p]rovide programs and standards for the training of criminal justice personnel." RCW 43.101.020. As the main criminal justice training entity in the state, WSCJTC administers and manages approximately two hundred programs. Some of the more notable programs are the Basic Law Enforcement Academy, the Corrections Officers Academy, the Peace Officer Certification course, and the certification of law enforcement instructors in particular fields. Pursuant to the latter function, the WSCJTC is responsible for certifying defensive tactics instructors within the State of Washington. The SPD presently does not have any defensive tactics

instructors whose WSCJTC certification is current. In fact, no officers in the department have received instructor re-certification since 2007. Exhibit C at 12.

WSCJTC re-certification programs are in place to insure that instructors have access to up-to-date training materials and techniques, and to the current rules, including case law, governing the use of force by police officers. There is a significant need for the SPD to adopt a plan that enables its instructors to be re-certified in their respective areas and to then be able to consistently maintain that certification. Exhibit C at 11-12. Closely related to this need, the Commission endorses Ms. O'Linn's recommendation that the SPD invest in securing master level status for two of its instructors so as to maintain an appropriate level of internal expertise that can provide instructional updates and conduct re-certifications for the department's other defensive tactics instructors. *Id.*

### **Recommendation #10 – Review current officer staffing levels and practices to ensure that sufficient patrol officers are available to maintain public safety.**

Providing precise recommendations for staffing a complex organization like a police department requires expertise, time, and support not possessed by the Commission. Nevertheless, over the course of its work, the Commission has become aware of two facts which raise concerns about the ability of the SPD to put adequate numbers of officers on the streets necessary to provide acceptable levels of safety for the public and members of the department. First, the SPD currently has a working force that is less than what it possessed in the mid-1990s despite the department having to work in an environment of greater challenge and complexity. Second, the current patrol shift configuration is constrained by an inability on the part of the SPD leadership to change shift configurations without negotiating with the Spokane Police Guild.

There is a direct correlation between the numbers of patrol officers on the street and the safety of the community and those officers. Inadequate staffing of officers compromises public safety in at least two ways. First, insufficient numbers of officers means delayed response times when citizens need assistance. Second, insufficient numbers of officers means that in some circumstances a single officer or small numbers of officers have to respond with force that would otherwise be unnecessary if greater numbers of officers were available to otherwise contain a volatile situation without resorting to force. SPD and City leadership are strongly encouraged to ensure that the department has the necessary number of officers and that it deploys those officers in a way that maximizes public safety.

### **Recommendation #11 – Improve training plans and practices.**

The reports submitted by Ms. O'Linn and Mr. Gennaco contain numerous recommendations related to improving the SPD training program. As stated above, the Commission has chosen not to repeat all of those recommendations in its report. The Commission does, however, want to highlight themes that have emerged regarding the SPD training program.

Recommendation #5 calls on the SPD to take corporate ownership of the SPD Policy Manual. One way of furthering this goal would be to cross-reference the department's training materials to the applicable policy provisions contained in the department's manual. Such a practice would also consistently reaffirm the justifications and limitations that govern the right of SPD officers to use force in the course of their duties. One example of this would be to revise the department's DTM so that its various parts cite to the applicable use of force policy sections in the SPD Policy Manual. Exhibit C at 8. Another example would be to require reality based training (RBT) scenarios to include opportunities to test knowledge and understanding of the departmental policies governing the use of force. Exhibit C at 10-11; See *a/so* Exhibit D at 9.

Related to the practice of cross-referencing material, there is a need for the SPD to better reconcile training plans and practices with departmental policies. For example, SPD Policy Manual section 436.2.2 requires that Field Training Officers (FTO) engage in at least two hours of training per month. Ms. O'Linn's reports that this requirement is apparently not being met and she recommends that the discontinued once a month FTO meetings be reinstated as a forum for providing training updates and exchanging information regarding how trainees are progressing through the FTO program. Exhibit C at 27.

The Commission is concerned that helpful, even essential, use of force/defensive tactics training modules are not being delivered with appropriate frequency. For example, the department does not require annual re-certification training on electronic control devices (ECD) (Exhibit C at 14), and the current ECD training is lacking in regards to the law governing the use of ECDs and the tactical deployment of the device in ways that mitigate the application of force (e.g., cuffing under power, three-point stunning, etc.) (*Id.* at 16). Additionally, the department's policy regarding firearms training was recently amended to reduce the number of firearms training and qualifications per officer from four times annually to two. *Id.* at 21-22. This reduction in training for such a basic defensive tactics weapon raises concerns regarding maintaining proficiency in marksmanship and decision-making (e.g., shoot, don't shoot), and in fostering understanding of the governing law and policy.

There is a need for the department to enhance its auditing of compliance with training requirements. Ms. O'Linn expresses concern in her report regarding the department keeping track of personnel who are out of compliance with defensive tactics training requirements due to those individuals coming off of leave or light duty status. Exhibit C at 24. As a specific remedy for this problem, and as a general good practice, Ms. O'Linn recommends an internal audit at the beginning of the last quarter of each year of officer training records to confirm compliance with all state, city and department training mandates. *Id.* at 7. Ms. O'Linn recommends that a follow-up review of those officers that have yet to meet these requirements be conducted every thirty days thereafter until all officers are up-to-date with training requirements. *Id.*

**Recommendation #12 – Establish a continuing Crisis Intervention Training program and adopt protocols for the deployment of CIT officers.**

Individuals who suffer from mental illness or who are under the influence of drugs or alcohol are relatively more vulnerable to the use of force by police officers due to the volatility of the encounters between those citizens and the police. In the absence of practices and strategies to de-escalate and control these encounters, they can escalate quickly to the detriment of the safety of both the citizen and the officers involved. In recognition of this reality, the law requires that police practices extend special consideration to individuals in mental health crisis. See *Bryan v. MacPherson*, 630 F.3d 805, 829 (9<sup>th</sup> Cir. 2010) (“The government has an important interest in providing assistance to a person in need of psychiatric care; thus, the use of force that may be justified by that interest necessarily differs both in degree and in kind from the use of force that would be justified against a person who has committed a crime or who poses a threat to the community.”); *Deorle v. Rutherford*, 272 F.3d 1272, 1282 (9<sup>th</sup> Cir. 2001) (officers must take into account the subject’s mental and emotional state before using force).

The Commission endorses that part of the Otto Zehm civil suit settlement that commits to all SPD officers undergoing Crisis Intervention Training (CIT). Such training for the officers, to include the department’s leadership, will increase public safety by providing SPD members with a better understanding of the conditions that often engender behavior which can be perceived as threatening and by providing officers with tactics to defuse or control such situations without having to resort to dangerous levels of force.

In order for a CIT program to have long-lasting positive effects on public safety, the program must ensure that SPD officers receive refresher CIT at appropriate intervals and that all officers coming into the department, whether as an entry level or lateral hire, receive CIT in close proximity to the start of their employment. Additionally, to promote a department-wide commitment to the CIT program, SPD leadership should market the value of the training within and outside the department (e.g., promote officer testimonials on how the application of CIT makes them more effective in their work, invite the media to attend training, etc.).

One component of an effective CIT program that deserves particular attention is the subject of Excited Delirium. Excited Delirium is a life-threatening medical emergency, typically in the context of stimulant drug abuse (e.g., cocaine, PCP, methamphetamine, etc.), characterized by an individual evidencing agitation, excitability, confusion, paranoia, and bizarre behavior. Officers are frequently called upon to make instantaneous decisions with regard to both recognizing the condition and in containing the chaos and danger its occurrence creates for the citizen and others. A coordinated response with paramedics and a “contain rather than restrain” approach with sufficient officer assistance is often imperative to prevent sudden death. Excited Delirium training, in the context of a CIT program, should, at a minimum, include instruction on: the signs and symptoms of the condition; the imperative to call for emergency medical assistance as soon as possible; the need to contain, if possible, rather than restrain an



individual suffering from Excited Delirium; the need to use communication tactics that calm rather than confront; the need to have sufficient officers available to control the situation; and, how to report and collect accurate data on the incidence of Excited Delirium.

Once a CIT program is in place, it is imperative that the SPD establish protocols that maximize the benefits of the training and which continuously assess the efficacy of the department's efforts in dealing with these at risk populations. The department should ensure that all shifts have adequate numbers of crisis intervention trained officers, create dispatch guidelines that properly deploy those officers, and establish the on-scene primacy of crisis intervention trained officers in situations that call for their expertise. The SPD should create a reporting system that comprehensively and accurately collects data on all contacts with citizens who are suffering from a mental illness or who are under the influence of drugs or alcohol. In turn, that data should be used to improve its CIT program and how the department uses crisis intervention trained officers.

While the Commission endorses CIT for all SPD officers, it anticipates that, as with the acquisition and deployment of any particular skill set, there will be variation in the competency and commitment levels of SPD officers to this program. This variety will undoubtedly make itself apparent over time. In light of this, the Commission encourages SPD leadership to be diligent about leveraging the talent and commitment of those officers who prove to be most adept at dealing with persons in crisis due to their deteriorating mental health and/or their use of alcohol or drugs. The Commission believes that the greatest possible positive effect on public safety would be achieved by creating a cadre of these officers who receive advanced and continuous CIT, are deployed in a way that provides maximum coverage across all shifts, are given the authority to use their skills on-scene to best effect, and whose work is publicly recognized and appropriately supported by SPD and City leadership.

**Recommendation #13 – Affirm the de-escalation of potentially violent encounters as a primary goal of the department.**

The Commission has been exposed to a variety of statements from members of the SPD to the effect that it is the citizen in an officer/citizen encounter who determines how much force the officer will use. This position was endorsed in private conversations with various SPD officers and in the public testimony presented by Operations Bureau Commander Major Frank Scalise during the April 10, 2012, Commission hearing. Additionally, Officer Terry Preuninger, the patrol tactics instructor for the SPD, expressed similar sentiments in his testimony in the Karl Thompson trial when he said that an officer should "come in at a level above the level of force that [a] person [is] going to direct at you." Thompson Trans. at 2378. Finally, Mr. Gennaco noted in his report that the department's analysis of a November 2010 deadly force incident stated that the deceased subject created the situation that led to the use of deadly force against him. Exhibit D at 12.

Mr. Gennaco reports that it is not unusual for police officers to express that the citizen is the person who exercises greatest control over the amount of force used by an officer. *Id.* However, Mr. Gennaco goes on to state:

*A progressive policing model equips officers with strategies that do not allow subjects to dictate the response. It is the peace officer that must effectuate an effective plan of detention that avoids the use of deadly force if at all possible and still safely takes a dangerous individual into custody. The police should dictate the situation; not the subject, and should approach any tactical situation with that mindset. Id.*

During the Commission's May 22, 2012, public hearing Tamara Rossi and Dave Barrett of the Spokane House of Charity discussed the challenges associated with rendering services to special populations. That testimony included a discussion of the Management of Aggressive Behavior (MOAB) training program. MOAB is used by law enforcement, corrections, and mental health providers across the country and locally to reduce the need for restraint and force in dealing with high risk, agitated, and escalating behaviors in individuals. MOAB teaches how to let people burn out their verbal escalation without using force to stop behavior, and is founded on the understanding that individuals respond to personal space, voice tone, and affect even when in an extremely agitated condition.

On June 22<sup>nd</sup> of this year the Las Vegas Metropolitan Police Department adopted an extensive revision of its use of force policies. Part IX of that revision addressed the issue of de-escalation. As a basic principle, the new policy acknowledged that not every potential violent confrontation can be de-escalated, but it does affirm that "officers have the ability to impact the direction and the outcome of many situations they handle, based on their decision-making and the tactics they choose to employ." Las Vegas Metropolitan Police Department, General Order 021-21 at 7 (June 21, 2012). The policy directs officers to "use advisements, warnings, verbal persuasion, and other tactics and alternatives to higher levels of force" while performing their work "in a manner that avoids unduly jeopardizing their own safety or the safety of others through poor tactical decisions." *Id.* at 8.

The practices emphasized in the preceding two paragraphs stand in contrast to the expression that the citizen is the person who exercises greatest control over the amount of force used by an officer. It is critically important that SPD officers are prepared not just to win the conflict, but also to avoid such in the first place. The Commission strongly encourages the SPD to explore using the MOAB program for public safety officers to bring greater intentionality, rigor, and accountability to the SPD's de-escalation training outcomes. In the absence of using the MOAB program, the SPD should ensure that it adopts a certified de-escalation training program with measurable outcomes that both impresses upon its officers the obligation to do everything in their power to de-escalate potentially violent situations and prepares them to use de-escalation techniques, when appropriate and feasible, to reduce the need for force.

**Recommendation #14 – Improve the use of force reporting system.**

A police department's use of force reporting system should be designed to track compliance with legal and policy restrictions on the use of force against the citizenry and to provide information and insight that can be used to improve departmental training and communication. There is a strong correlation between the confidence a community has in its police department and that department's practice of ensuring that all use of force is consistently reported and monitored. A department's failure to meet reasonable expectations in this regard sends a message of indifferent institutional concern and oversight regarding the use of force. Alternatively, a department that proactively and effectively identifies and responds to inappropriate conduct not only is better situated to enhance officer performance and create a robust culture of reflection and improvement, it is also better situated to build public confidence and protect the agency from frivolous complaints and litigation.

Per SPD policies 300.4 and 300.5, an officer must complete a use of force report when his or her application of force appears to have caused physical injury, a subject has expressed a complaint of injury or been rendered unconscious, a level II lateral neck restraint or control device has been utilized, or there has been an intentional discharge of a firearm. In such instances, SPD policy 300.5 requires a supervisor to: respond to the scene (if needed); interview involved officers, witnesses, and other involved persons; collect evidence (when appropriate); and, prepare and submit a use of force report through the chain-of-command, to include completing the recommendation section on the report. In the event a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the policy's requirements as possible.

A fundamental element in a police department's use of force reporting system is the definition of what types of incidents trigger reporting requirements. The previous paragraph details those triggering events within the SPD. In his report, Mr. Gennaco recommends that the criteria for prompting a use of force report be expanded to include: "head strikes, knee strikes, elbow strikes, open and closed hand strikes; baton/flashlight strikes; all applications of less lethal devices (OC spray, foam or wood rounds, beanbag rounds, etc.); carotid neck restraint (Level I) ...; [and] all takedowns and prone handcuffing incidents that result in any head or facial injury." Exhibit D at 28. Mr. Gennaco advances this recommendation as a means of improving the department's ability to evaluate practices, policies, and individual officer actions, and to improve the tracking of the type and frequency of uses of force. *Id.*

The Commission endorses Mr. Gennaco's recommendation for expanding the criteria that trigger use of force reports within the SPD. Additionally, the Commission recommends adding the drawing and directing of a firearm at a subject as a triggering event for a use of force report. Such an action is a significant use of force by an officer to gain compliance over a subject and can be expected to generate great fear on the part of the subject. Accordingly, this use of force should be reported as such with a clear articulation as to why the firearm was pointed at a citizen.

As recounted above, SPD policy 300.5 requires a supervisor to respond to the scene of a reportable use of force "if needed". Recognizing that staffing limitations preclude supervisors from responding to all scenes where reportable use of force occurs, the Commission recommends that, to the maximum extent possible, supervisors do respond to all scenes wherein an officer's use of force has resulted in an injury to another. Once present at any use of force scene, consistent with SPD policy 300.5 and expanding upon the same, the supervisor should ensure that a full inquiry of the event is conducted, to include: identifying, separating, and interviewing all involved witness officers; interviewing those subjected to force; directing the canvassing for witnesses and the taking of statements from all witnesses; collecting evidence surrounding the use of force (e.g., photos of injuries, EMT and hospital reports, Taser™ downloads, diagrams, status of any charges against the subject, etc.); reviewing officers' reports for completeness, accuracy, and quality; and, assessing whether further investigation is required. In the event a supervisor is not able to respond to a scene, it is critical that a supervisor conduct a thorough and timely review of the completed use of force report and all available evidence to ensure a full and accurate account of the incident consistent with the requirements just listed. Finally, in an effort to take full advantage of the valuable perspective that supervisors have on use of force incidents, SPD policy should require supervisors to document their observations about the force used and any related training, tactics, policy, or supervision issues. Exhibit D at 18 & 23.

Although it is included within the previous paragraph, one enhancement to the current SPD use of force reporting system that deserves highlighting is the need to expand the reporting policy so as to require that officers document all that they observe in reported use of force incidents. Mr. Gennaco details an instance in which two officers used force against a subject that was witnessed by a third officer. The two officers who used force did not report the use of force by one another and the witness officer did not file any report at all. Exhibit D at 17. Similarly, Mr. Gennaco documents an instance of a Spokane Police Guild attorney reminding an officer that the officer was instructed to report only what he did and not what other officers might have done. *Id.* A far better practice would be to require officers who are trained to be effective witnesses to use that skill to provide a more complete record of how a use of force incident unfolded.

#### **Recommendation #15 – Improve investigation practices in use of force incidents.**

An open, impartial, and effective process of receiving and investigating citizen and officer complaints regarding the inappropriate use of force serves several important purposes. An appropriate complaint procedure ensures officer accountability and supervision, deters misconduct, and helps maintain good community relations by increasing public confidence and respect in the department. Improving SPD investigative practices in use of force cases is an important element to accomplishing all of these positive outcomes.

Mr. Gennaco's exploration of various departmental policies and practices surrounding the use of force required him to review multiple SPD investigative files associated with

the work of Internal Affairs and with the administration of Administrative Review Panels and Deadly Force Review Boards. Out of this review, Mr. Gennaco has advanced a number of recommendations that focus on improving various SPD investigative practices. While the Commission encourages the SPD to give serious consideration to all of the findings and recommendations contained in Mr. Gennaco's report, the Commission wishes to call particular attention to the following matters associated with the investigation of use of force cases:

- a. Recognizing the inherent seriousness and formality of the matters under review, the SPD should ensure that all investigations refer to those involved by their last names. Exhibit D at 3, 13 & 15.
- b. Ensure that investigators avoid the use of leading questions in the interest of objective fact gathering. Exhibit D at 4-5, 16, 25 & 27.
- c. Ensure that officers involved in use of force incidents are segregated from each other and from any others who might potentially contaminate their testimony until such time as their statements are taken. Exhibit D at 4 & 15.
- d. All officers involved in a use of force incident, both those exercising force and those witnessing the same, should be interviewed in detail (i.e., beyond a tactical briefing at the scene) on the date of the incident about their observations and actions. Exhibit D at 6 & 16. In the event an officer refuses to participate in that interview, they should be subject to a compelled administrative interview as close in time to the incident as possible. Exhibit D at 6 & 16.
- e. Ensure that all reasonable efforts are made to identify and interview potential witnesses to all use of force incidents. Exhibit D at 25 & 27.
- f. Ensure that all relevant evidence (e.g., status of charges sought against subjects, evidence of the presence or absence of injuries, etc.) is gathered and documented. Exhibit D at 25 & 27.
- g. Whenever possible, avoid collecting witness statements or even follow-up responses from witnesses through methods (e.g., email, voice mail, etc.) other than in-person interviews. Exhibit D at 25-27.

**Recommendation #16 – Improve the administrative review of the use of deadly force by officers.**

Policy 302.2 of the SPD Policy Manual requires an Administrative Review Panel (ARP) to review the completed investigative file in all cases of an officer using deadly force. The purpose of that panel's work is to make recommendations to the Chief of Police as to whether the use of force was consistent with departmental policy. In cases where the use of deadly force by an officer has resulted in injury or death to a person, the department will convene a Deadly Force Review Board (DFRB) to conduct an administrative review of the incident and make recommendations regarding tactical and training considerations, the quality of supervisor in the incident, equipment performance, and any other relevant observations or considerations. SPD Policy Manual 302.3 *et seq.*

In his review of a November 2010 deadly force incident that involved the discharge of a firearm by six different law enforcement officers, Mr. Gennaco noted that the ARP's report on the incident contained a single paragraph which concluded that all involved officers' use of force was in compliance with departmental policy. Exhibit D at 7. This

was done notwithstanding that the officers arrived on the scene at different times during the encounter with the subject, from different directions, witnessed different behavior by the subject, and offered various specific justifications for their individual use of deadly force. *Id.* A far better result would be for the ARP to carry out an exacting force analysis of each officer's actions and compare such to the department's training and policy expectations and requirements. *Id.* at 7 & 16.

A DFRB was also convened to review the November 2010 deadly force incident. Two issues that go directly to public and officer safety that were identified by Mr. Gennaco in connection with that review were the consideration of the twenty-four rounds fired by the officers (out of twenty-six total rounds) that failed to strike the subject and the existence of a cross-fire situation in the encounter. Exhibit D at 9-10. In regards to the expended rounds, Mr. Gennaco recommends that the DFRB examine each officer's use of deadly force individually and arrive at an assessment of whether the officer was tactically sound and proficient when he discharged his weapon. *Id.* at 9 & 16. Similarly, Mr. Gennaco considered the DFRB's review of the cross-fire issue to be incomplete due to its failure to sufficiently explore the question based upon the placement and actions of all of the officers involved in the incident. *Id.* at 10 & 16. Recognizing that a single instance does not necessarily represent a consistent pattern, the Commission nevertheless calls for the SPD to reflect upon Mr. Gennaco's findings and to ensure that DFRBs always thoroughly explore deadly force encounters for lessons learned that will enhance public and officer safety.

**Recommendation #17 – Create and deploy a fully developed Early Intervention System.**

Operating under the premise that small issues will lead to big problems if left unattended, an Early Intervention System (EIS) is a valuable administrative tool that can enhance accountability and integrity in a law enforcement agency. An EIS is a data-based management tool designed to identify officers whose behavior is problematic and to spur intervention to correct that performance before the situation escalates into a formal disciplinary action or worse. A department's EIS must be part of its larger efforts to support and improve officer performance. Frontline supervisors are key actors in the use of an EIS, but the Chief of Police and his command staff must be committed to the full deployment of the system.

The information collected as part of an EIS can be as expansive as a department desires. Of particular relevance to the issue of the use of force, an EIS should track all reported uses of force, searches and seizures, number of arrests, and any civilian or internal complaints, civil suits, or criminal charges regarding the use of force. Additionally, recognizing that aberrant behavior in a multitude of performance areas can be a precursor to a use of force problem, an EIS system should capture other information that could identify outliers in the department. This could include, for example, such things as unusual numbers of pedestrian stops, the failure to meet training obligations, disciplinary actions, negative performance evaluations, and any

civilian or internal complaints, civil suits, or criminal charges against an officer for matters other than the use of force.

It is important to make sure that EIS thresholds are set at an appropriate level so as to initiate relevant and effective intervention (i.e., not so high that intervention never occurs or occurs too late). For example, recognizing that the officers who are of particular concern are indeed the outliers on the force, thresholds for triggering intervention can be set to capture approximately 3-5% of the line officer population. Additionally, the criteria for the system should take into account the need to create single-event thresholds for occurrences that are so critical that they require immediate department intervention and should implement rolling thresholds, thereby ensuring that an officer who has received an intervention is not permitted to engage in the initial threshold number of additional events before again triggering the EIS. Finally, the structure of the system must ensure that interventions follow close in time to the actual triggering event.

Once the EIS is triggered for an officer, it is critical that the supervisor conduct a thorough review, take appropriate action, and be diligent in tracking resolution. The supervisor should review any triggering event in its entirety and prescribe appropriate resolutions or training opportunities specifically targeted to the behavior that prompted the intervention. At a minimum, supervisors should be required to review the EIS files on each subordinate every two months and a response by a supervisor should be required within two weeks of detecting a red flag. Thereafter, the supervisor should check the EIS on that officer every month for twelve months to determine if the response has satisfactorily resolved the issue. In each instance of a red flag, the supervisor should document what action was taken and document the event in at least the subject officer's next performance evaluation and the officer's next promotion recommendation. Ideally, a regular audit of the system would be conducted to make sure that it is being optimally deployed.

**Recommendation #18 – Equip officers with body cameras.**

Providing officers with body cameras will preserve important evidence of the circumstances surrounding encounters between the SPD and citizens. Although no recording can be a perfect record of the totality of an event, body cameras will help SPD officers gather evidence, improve the quality of their reports, and protect them from false citizen complaints, and they will provide valuable evidence when the circumstances of an encounter are called into question by any source.

**Recommendation #19 – Explore standardizing the weapons carried by officers in the line of duty.**

The Commission is aware that there is variation in the types of weapons that SPD officers are allowed to carry. For example, officers are allowed, with permission, to carry non-standard firearms or batons. While some have expressed a concern about this practice, the Commission is not in a position to state that it should be continued or disbanded. Rather, the Commission recommends that the Chief of Police review the

matter and report to the Mayor on whether weapons standardization should be implemented, and if not, then why not.

### **C. Citizen Oversight**

Although this report is organized in a way that this section is set apart from the earlier “Culture” section, this should not take away from the fact that citizen oversight can, and should be, an incredibly positive force on the culture of a police department. Internally, in the absence of appropriate citizen oversight it can be difficult for individual officers to speak up in the face of peer pressure promoting a code of silence. Externally, a primary value of citizen oversight is its ability to bring transparency to the work of a police department, and thus, lessen distrust between the department and the citizens it serves. Holistically, a police force that welcomes independent citizen oversight can use that engagement as a feedback channel that leads to better insight into the department, better training, better community relations, increased officer morale, and, ultimately, an improved organizational culture.

#### **Recommendation #20 – Invest the Office of the Police Ombudsman with the authority and discretion to open and conduct independent investigations concerning the operations, actions, or omissions of the SPD.**

Investing the Office of the Police Ombudsman with the authority and discretion to conduct independent investigations is essential to both establishing objective oversight and building public trust. As a function of human nature, individuals who are part of a group are more likely to favor the interests of the group over “outsiders.” In the context of an investigation into a fellow group member’s alleged misconduct, the peer investigator is apt to be more selective about the investigation’s scope and depth, and may be inclined to avoid a transparent process. All of this behavior can compromise the quality of the investigation and negatively impact the public’s trust in the process and the institution. Conversely, the more independent the investigator, the more likely the investigation will be perceived to be credible to those involved and to the general public.

The ability of the Office of the Police Ombudsman to open and conduct an investigation should not be dependent on the receipt of a complaint from a member of the public. While the expectation is that most of the office’s investigations would originate from such a complaint, the Office of the Police Ombudsman should have the authority to open an investigation when the Ombudsman has knowledge of evidence sufficient to form a reasonable basis for the investigation – whatever the source of the knowledge.



**Recommendation #21a** – All City employees and those acting on behalf of the City should be required to cooperate fully and truthfully with the Office of the Police Ombudsman.

**Recommendation #21b** – Subject to legal privilege, the Office of the Police Ombudsman should be given full, unrestricted, and complete access to any and all City information, files, evidence, or other material which the Ombudsman deems necessary to the performance of his/her duties.

The ability to conduct an independent investigation is severely undermined if the Office of the Police Ombudsman does not have the authority to require the cooperation of all City employees and agents, and to secure all necessary records. All City employees and agents, as conditions of employment, should be required to truthfully and completely answer all of the Office of the Police Ombudsman inquiries and fully comply with all requests for records. Appropriate policies and procedures should be adopted so as to extend the protections put forth in *Garrity v. New Jersey*, 385 U.S. 493 (1967) to employees who are required to appear and provide testimony (i.e., compelled statements related to an employee's job and job duties have immunity in any subsequent criminal prosecution of the statement maker).

Prior to conducting any investigative interviews of City employees or agents, the Police Ombudsman should give the employee a memorandum that clearly informs the employee of his or her obligation to truthfully and completely answer all questions asked by the Ombudsman as a condition of employment. If the Ombudsman determines, by a preponderance of the evidence, that a City employee has either knowingly provided false information to, or failed to cooperate fully with, the Office of the Police Ombudsman, the Ombudsman should contact the Chief of Police or appropriate department director and request that the employee be notified of his or her obligation to completely and truthfully cooperate with the Ombudsman. If, after being so notified, the City employee refuses or fails to cooperate completely and truthfully with the Ombudsman, the Ombudsman should file a formal complaint of misconduct against the employee with the Chief of Police or appropriate department director.

**Recommendation #22** – Create a Citizen Advisory Board for the Office of the Police Ombudsman.

A Citizen Advisory Board should be established to provide oversight to the Office of the Police Ombudsman. The members of this Board (seven in total) should be appointed by the Mayor and confirmed by the City Council. The Board should be empowered, at a minimum, to: advise the Office of the Police Ombudsman on practices and policies; make recommendations regarding SPD complaint investigation practices, procedures, and policies; request review, monitoring, or inquiry into specific incidents or issues; and, assist the Ombudsman in community communication, outreach, and education.

## D. City Administration

**Recommendation #23** – The Mayor should maintain an active and visible role in SPD oversight and administration, and in promoting the department to the community.

As the elected executive of the City, the Mayor should play a visible and active role in SPD oversight, administration, and public engagement. The Mayor appoints the Chief of Police. The Mayor should be an advocate for the entire SPD and for the Chief's administration. The success of the Chief is dependent, in significant part, upon the support of the Mayor.

The Mayor should have an active discussion with the community on the establishment of the proper resources for the department and what the community should expect in terms of greater or lesser levels of service associated with the City's budget. The Mayor should create forums where members of the community can ask questions about the department, express their opinions on the SPD's performance, and make recommendations for improvement.

The Mayor has an important role in recognizing and communicating to the citizens the many positive aspects of the SPD and in fostering the community's trust in, and respect for, its officers. The Mayor should seek opportunities to publicly honor officers who are recognized within the department for excellence in service and performance.

The public must know that the Mayor is personally committed to supporting a department that exemplifies professionalism, respect for others, and a high degree of service to the public. This is particularly important for the current Mayor and his leadership team who are being called upon to make changes within the department following Otto Zehm's death, Officer Thompson's conviction, and the aftermath of both.

**Recommendation #24** – The City Attorney's Office should maintain separation of duties and functions between litigation support, employment law representation, and police legal advising.

In her June 28, 2012, presentation to the Commission, Assistant City Attorney Mary Muramatsu explained how the City Attorney's Office (CAO) assigns responsibilities when it comes to providing support to the SPD. That support is now organized around three activities: litigation support, employment law representation, and police legal advising. Litigation support and employment law representation are provided by the appropriate lawyers in the CAO Civil Division. Police legal advice is provided by an Assistant City Attorney who is assigned to the SPD for that function. This separation of duties is the appropriate way for the CAO to render services to the SPD. It ensures that the appropriate subject matter experts are providing direct support to the SPD, that the interests in one area are not unduly put above interests in another area, that conflicts of interest are mitigated, and that a broader understanding of the needs and challenges associated with the SPD is maintained within the CAO.

The organizational structure described above is new. From approximately 2005 until these changes were recently made, the SPD was advised in all matters by a lead attorney out of the CAO. That attorney served as the single point of primary contact for the SPD on all legal matters – litigation, employment, and general advice. It is the Commission's position that the "lead attorney" model creates both real and perceived conflicts of interest that compromise the quality of service received by the SPD and that increase the City's risk profile. The Commission strongly recommends that the lead attorney model not be re-established at any time in the future.

**Recommendation #25 – The CAO should adopt strict policies and procedures that ensure the office maintains appropriate distance from all criminal prosecutions of SPD personnel.**

The CAO has the responsibility of providing a defense for SPD officers facing civil law suits arising out of officers acting within the scope of their employment. The CAO does not, however, have the same responsibility when it comes to SPD officers facing criminal prosecution. As explained by Assistant City Attorney Muramatsu to the Commission, in that instance the CAO is supposed to remove itself from all involvement in the criminal case. The City Attorney should adopt policies and procedures that ensure the appropriate separation is observed in criminal prosecutions of SPD officers.

**Recommendation #26 – The CAO should take an active role in the development and updating of the SPD's use of force policies, and the department's use of force training materials and program.**

The use of force by a police officer is strictly regulated by legislation and case law implemented through SPD policies, training, and oversight. In light of this and in light of the concerns raised in Ms. O'Linn's report regarding the weakness of the legal content in the department's use of force training materials, the CAO should take an active role in the development and updating of the SPD's use of force policies and in the entirety of the SPD's use of force training program. At a minimum, the CAO should be required to sign off on the department's use of force policies and any revisions to those policies, it should be required to periodically review and approve all use of force training materials, and it should assume primary responsibility for instructing on the law that regulates the use of force by a police officer. See *also* Recommendation #8.

## V. CLOSE

*"The police are the community and the community are the police." (Sir Robert Peel)*

For policing to be effective in a free society it cannot be a solitary activity. To protect public safety the police must have the public's cooperation and that requires that it first have the public's trust. Policing that is grounded in adherence to the U.S. Constitution, Washington State laws, and the duly adopted policies of the department will create an

environment in which the community can build confidence and trust in its police department. All must understand that there is no “them” in the equation – there is only “us”. Spokane and its police officers are all part of the same community, and all want the same thing – a safe and prosperous community.

While the focus of this Commission has been on those instances where SPD officers use force against civilians, the vast majority of interactions between the department and the public don't involve any force whatsoever. Opportunities for the SPD to build the necessary public trust that it needs when it comes under scrutiny for using force present themselves every day. It is critical that every member of the department commit himself or herself to adding to that trust in every encounter he or she has with a member of the Spokane community.

The Spokane Police Department, supported by City leadership, must operate as an agency whose members honor their oath to protect and serve the community. Human life must take priority over personal property, inconvenience, individual attitudes, and organizational culture. It is the hope of the Use of Force Commission that its recommendations, if implemented, will foster a better relationship between the SPD and the community, and thus, foster a safer Spokane for all.

## **I. INTRODUCTION**

On March 18, 2006, Spokane Police Department (SPD) Officer Karl Thompson responded to a dispatch call of an attempted or actual robbery at an ATM near the Zip Trip convenience store at 1712 North Division Street. Arriving at the scene, Officer Thompson saw Otto Zehm entering the Zip Trip. Officer Thompson exited his car and followed Mr. Zehm into the store. Officer Thompson then rushed at Mr. Zehm and knocked him to the floor. Baton strikes, Taser™ charges and other forms of force were used by Officer Thompson and other SPD officers who responded to the scene to subdue Mr. Zehm. Less than two days later, Mr. Zehm died at Deaconess Medical Center. His death was ruled a homicide by the Spokane County Medical Examiner.

Officer Thompson was indicted by a federal grand jury on one count of violating Mr. Zehm's civil rights and one count of obstructing justice. On November 2, 2011, following a lengthy jury trial, Officer Thompson was convicted in the U.S. District Court for Eastern Washington on both counts. He was sentenced on November 15, 2012, to fifty-one months in federal prison.

On March 13, 2009, members of Mr. Zehm's family commenced a civil suit against the City of Spokane as a result of the actions at the Zip Trip and Mr. Zehm's death. On August 22, 2012, the City of Spokane and the Zehm family mediated and settled this civil action. Terms of the settlement included a \$1.67 million payment to the family and other commitments by the City, to include funds for Crisis Intervention training for Spokane Police officers, funds for implementing new policies regarding the use of force, and the creation of a permanent memorial to Mr. Zehm.

From Mr. Zehm's death to Officer Thompson's conviction and the settlement of the civil suit, the Spokane community has struggled to come to terms with what happened to Mr. Zehm and with the confines in which SPD officers use force in carrying out their duties. It is certainly the case that Mr. Zehm's death and its aftermath have shaken public trust in the police department and in those civilians tasked to oversee that department. It was against this background that the City of Spokane Use of Force Commission was established by Mayor David Condon on January 3, 2012.

While the Use of Force Commission would most likely not have come into existence but for the tragic events surrounding Otto Zehm's death, the Commission's task is broader than the unique circumstances of any specific case. The Commission has been charged to take an expansive view of the issue of the use of force by the Spokane Police Department. In doing so, as recounted in greater detail below, the Commission, with the assistance of legal counsel and expert consultants, has systematically and thoroughly examined SPD use of force policies, procedures, practices and customs, as well as explored the issues of civilian oversight and the role of the City's legal department in use of force cases. The totality of this work has involved numerous public meetings, private interviews, on-site visits, consultations with subject matter experts from around the country, and the review and analysis of a multitude of articles,

records, policies, cases, web pages, and reports. Throughout this work, notwithstanding that the body was not formed as the "Zehm Commission", each member of the Commission has remained cognizant of the fact that a core purpose of our work is to help avoid future tragedies like what happened to Otto Zehm.

In presenting this report and the Commission's recommendations, it is important to note at the outset that no one occurrence defines the Spokane Police Department, its members or its service to the citizens of Spokane. The Department is comprised of approximately 275 uniformed officers (with an authorized strength of 295) and nearly 100 civilian employees. Each of the department's members is responsible to perform his or her role in the most professional and legally correct manner. Each is responsible for their personal contribution to the department's public service mission and to the safety of the City and its citizens. And, each is responsible for the overall reputation and credibility of the department in the City of Spokane.

The Commission's members thank the officers and civilian employees of the SPD for their service to this community. Their efforts, which are often not seen or recognized publicly, involve the ability to make difficult and fast decisions in challenging circumstances, the need to pay ever vigilant attention to fairness, and the resilience of spirit to not be bogged down by the conditions they encounter on a daily basis.

The SPD and those who serve the City in other capacities are part of ever changing institutions. At the time of Otto Zehm's death, Jim Nicks was the Acting Chief of Police and Dennis Hession was the Mayor of Spokane. In July of 2007 Anne Kirkpatrick became the Chief of Police and she served in this role until the end of 2011, with most of that time occurring under the administration of Mayor Mary Verner. David Condon was sworn into the Mayor's office on January 1, 2012, and, shortly thereafter, he appointed Scott Stephens as Interim Chief of Police. Major Stephens served in that role until Frank Straub was recently sworn as Spokane's new Chief of Police. Across this same span of time, there have also been changes in the make-up of the Spokane City Council and in the Office of the City Attorney. Likewise, many new members have joined the uniformed services of the SPD and many have retired at the end of their careers.

The SPD's leaders and its officers, along with the political and administrative leadership of the City of Spokane, are responsible for continuously furthering the interest of public safety through constructive change and improvement. This obligation remains constant notwithstanding who is serving this City as Mayor, as Councilperson, as Chief of Police or as a patrol officer. The recommendations that follow are offered in the spirit of helping those who carry this obligation, as a matter of office or function, to better serve the citizens of Spokane.

## **II. ESTABLISHING THE COMMISSION**

The Use of Force Commission was formed on January 3, 2012, under City Charter provision Section 24(o) which grants the Mayor “the power to make investigation into the affairs of the City.” Mayor Condon charged the Commission to review and make recommendations to his office regarding the SPD’s use of force policies and practices, civilian oversight of the police department, and how city agencies respond to cases when it is claimed that a SPD officer has used excessive force. Mayor Condon explicitly affirmed that the Commission serves on behalf of the entire Spokane community free of influence by City administration, and that the Commission is at liberty to determine the specifics of what it includes in its recommendations. Acknowledging the role of the Otto Zehm case in the creation of the Use of Force Commission, Mayor Condon stated that the past must be considered in order to make meaningful change for the future and that public trust is not given - it must be earned.

Mayor Condon appointed the following individuals as members of the Commission:

- Earl F. Martin (Chair), Executive Vice President of Gonzaga University
- William D. Hyslop (Vice-Chair), principal in the Lukins & Annis, P.S., law firm
- Chief Justice (retired) Gerry L. Alexander, Washington State Supreme Court
- Ivan Bush, Equal Opportunity Officer (retired) for Spokane Public Schools
- Susan Hammond, RN, (former) Director of Outpatient and Psychology Services at Spokane Mental Health, a Division of Frontier Behavioral Health

(Complete bios of Commission members are at Appendix A)

On January 30, 2012, the Spokane City Council passed Resolution 2012-0013 in which it expressed support for the establishment of the Use of Force Commission.

## **III. COMMISSION ADMINISTRATION**

The Commission held nine public meetings between February 29 and June 28 during which it explored various topics related to its charge. It held two public meetings after release of its draft report on December 20, 2012, in order to gather public comment on that report. The Commission also met via phone conference and in person on numerous occasions to: coordinate future meetings; recap past meetings; discuss the current condition of the SPD and its many challenges and opportunities, and how it might be improved; and work on the Commission’s report. The Commission reviewed many publications relevant to its charge (Appendix B) and the four Spokane based Commission members participated in ride-alongs with SPD officers. Additionally, Commission members, both individually and in numbers less than the full membership, interviewed persons who have knowledge of, or an interest in, the use of force by police departments. Examples of the latter include conversations with Spokane County Sheriff Ozzie Knezovich and various members of his staff, former Seattle Chief of Police Norm

Stamper, Director of Microsoft's Office of Legal Compliance-Investigations Sam Pailca, Lexipol Chief Executive Officer Gordon Graham, LEEDA –FBI Executive Director Tom Stone, Washington State Criminal Justice Training Commission Defensive Tactics/Firearms Program Manager Bob Bragg, ACLU Deputy Director for Washington Jennifer Shaw, former U.S. Attorney for the Eastern District of Washington James McDevitt, former SPD Interim Chief Scott Stephens, former SPD Chiefs of Police Anne Kirkpatrick and Roger Bragdon, and current SPD Chief of Police Frank Straub.

The Commission has been assisted in its work by three expert consultants, engaged through contracts with the City of Spokane. Stanley Schwartz, a principal in the law firm of Witherspoon – Kelley, served as the Commission's independent legal counsel. The Commission hired Mildred O'Linn, an expert in police civil liability and police training and tactics, to review the SPD use of force training program and Field Training Officer (FTO) program. Ms. O'Linn, a former police officer, is a partner in the law firm of Manning & Kass, Ellrod, Ramirez LLP in Los Angeles, California. The Commission also engaged Mike Gennaco to review the SPD use of force reporting program, the Internal Affairs protocols for investigating use of force cases, and the SPD Fatal Incident Protocols and Deadly Force Review Policy. Mr. Gennaco is a former U.S. Department of Justice attorney who now heads the Office of Independent Review (OIR) for Los Angeles County. The OIR is a civilian oversight group that was created by the LA County Board of Supervisors in 2001 to monitor the LA County Sheriff's Department and provide legal advice to ensure that allegations of officer misconduct involving the LASD are investigated in a thorough, fair, and effective manner. Mr. Gennaco was engaged through his consulting practice, OIR Group. He was assisted on the project by OIR Staff Attorney Cynthia L. Hernandez.

In the case of Ms. O'Linn and Mr. Gennaco, extensive reports have been filed on their respective areas of inquiry. See Appendixes C and D. In many instances, the material compiled by Ms. O'Linn and Mr. Gennaco is incorporated directly into this report. Prime examples of this include the recommendations regarding SPD training improvements, certifying defensive tactics instructors, reforming the use of force reporting system, and improving investigatory practices. In regards to other matters raised by these two experts, although the Commission has chosen not to repeat their recommendations in its own report, it does not intend to signal in any way that these recommendations are lacking in significance. To the contrary, the entirety of both reports, particularly their recommendations for improvement, are forwarded to the SPD for its serious review and consideration. See, e.g., Appendix D at 20-23 (*Canine Cases*). Finally, the Commission notes that the engagement of the consultants has already resulted in positive operational changes within the SPD. Just a few examples of this include modifications to Pre-FTO training procedures (Appendix C at 6), revisions to the annual in-service firearms training (*Id.* at 25), and efforts to create a more formalized annual training needs assessment consistent with SPD policy 208.5 (*Id.* at 32-33).

All of the Commission's nine fact gathering meetings were held in the Spokane City Council Chambers. Public notices were sent out prior to the meetings and time was reserved for public comment on each occasion. Every meeting was broadcast on



Spokane City Channel 5 and the recordings of each were posted to the City Channel 5 web site. Appendix E – DVD-R (2 disks).

The following are brief summaries of the fact gathering meetings held by the Commission:

February 29, 3:00 to 5:30 p.m. – The meeting opened with remarks from Mayor David Condon. The Commission Chair, Earl Martin, invited all present to observe a moment of silence for Otto Zehm, and spoke to the administration of the Commission (budget, staff support, etc.), the scheduling and management of the public meetings, and the topics that the Commission planned to explore. With the exception of Ivan Bush, who was absent due to a medical issue, each of the Commission members introduced themselves. Commissioner Bush later viewed a recording of the session. The Commission received a briefing from its legal counsel, Stanley Schwartz, on the subjects of the Open Public Meetings Act, Public Records Act, Municipal Code of Ethics, and indemnity for Commission members. The Commission received a presentation from Gonzaga University School of Law Professor Jason Gillmer on the law regarding the use of force by police officers. The Commission received a presentation from SPD Interim Chief Scott Stephens on the SPD Manual and the department's Defensive Tactics Manual (use of force training materials). Four individuals commented during the public comment period.

March 15, 3:00 to 5:30 p.m. - Commissioner Gerry Alexander attended the meeting via phone conference. Commissioner Ivan Bush was absent due to medical issues, but later viewed a recording of the session. The Chair shared that the Commission's independent legal counsel, Stanley Schwartz, had provided a legal opinion stating that the Washington State Public Records Act governs the work of the Commission. The Commission explored how the SPD's canons and ethical standards inform the full scope of its use of force policies and practices. Interim Chief of Police Scott Stephens, Captain Brad Arleth (Uniform Operations Division Commander), Lieutenant Bill Drollinger (SPD Academy Director of Training), and Detective and Spokane Police Guild President Ernie Wuthrich all appeared before the Commission to address the topic. Two individuals commented during the public comment period.

March 29, 3:00 to 5:30 p.m. – All Commission members were present for the meeting. Commissioner Ivan Bush introduced himself at the invitation of the Chair. The Commission received presentations on the SPD's use of force training program from three members from the SPD Academy - Lieutenant Bill Drollinger (Director of Training), Officer Robert Booth (defensive tactics instructor), and Officer Terry Preuninger (patrol tactics instructor). Two individuals commented during the public comment period.

April 10, 3:00 to 5:30 p.m. – All Commission members were present. The Commission received a presentation on the SPD's Field Training Officer program from Captain Judi Carl (Administrative Services Division Commander). The Commission received a

presentation on the SPD's use of force reporting protocols from Major Frank Scalise (Operations Bureau Commander). One individual commented during the public comment period.

April 26, 3:00 to 6:00 p.m. – All Commission members were present. The Commission received a presentation from Lieutenant Keith Cummings (Internal Affairs Commander) on the role of the Internal Affairs office in the administration of the use of force by SPD officers. Sergeant Mark Griffiths (Major Crimes Unit) presented on the SPD's Fatal Incident Protocol and its Deadly Force Review process. Three individuals commented during the public comment period.

May 8, 3:00 to 6:00 p.m. – All Commission members were present. The Chair announced that the Commission had engaged the services of two expert consultants. Mildred O'Linn, an expert in police civil liability and police training and tactics, was hired to review the SPD use of force training program and its Field Training Officer program. Mike Gennaco, a former U.S. Department of Justice attorney who now heads the Office of Independent Review for Los Angeles County, was hired to review the SPD use of force reporting program, the Internal Affairs protocols for investigating use of force cases, and the SPD Fatal Incident Protocols and Deadly Force Review policy. The Commission received multiple presentations on SPD use of force policies and practices with regard to citizens with mental illness or developmental disabilities. Specifically, the Commission heard from Sergeant Sam Yamada and Jan Dobbs (Director of Crisis Response Services at Frontier Behavioral Health) on the SPD Crisis Intervention Training program, and from Community Resource Officers Wayne Downing and Shaney Redmon on the impact of CIT on their work. One individual commented during the public comment period.

May 22, 3:00 to 6:00 p.m. – All Commission members were present. The Commission continued its exploration of the SPD's use of force policies and practices with regard to citizens with mental illness or developmental disabilities. Dr. Matt Layton (Washington State University – WWAMI Spokane), Jan Dobbs (Frontier Behavioral Health), and Lieutenant Keith Cummings presented on the subject of excited delirium. City of Spokane Police Ombudsman Tim Burns provided his perspective on the SPD's engagement with mentally ill and developmental disabled citizens. Tamara Rossi and Dave Barrett from the Spokane House of Charity discussed the challenges associated with rendering services to special populations. Two individuals commented during the public comment period.

June 7, 3:00 to 6:00 p.m. – All Commission members were present, except Susan Hammond. Commissioner Hammond later viewed a recording of the session. The subject of the meeting was citizen/independent oversight of the SPD's use of force. Tim Burns, City of Spokane Police Ombudsman, presented on the history and functions of his office, and shared recommendations for improvement. Pierce Murphy, Community Ombudsman for the City of Boise, presented on how his office carries out its charge to

oversee the work of the Boise Police Department. Five individuals commented during the public comment period.

June 28, 1:00 to 4:00 p.m. – All Commission members were present. The Commission received a presentation from Michael Painter, Director of Professional Services for the Washington Association of Sheriffs and Police Chiefs, on the subject of WASPC accreditation for the SPD. The Commission was addressed by Spokane City Attorney Nancy Isserlis on the recent settlement of the Otto Zehm civil suit against the City. The Commission then received a presentation from Assistant City Attorney Mary Muramatsu on the role of the City Attorney's Office in officer involved use of force incidents. Three individuals commented during the public comment period.

Following the release of the Commission's draft report on December 20, 2012, public comments were solicited and received via email and through two public meetings held specifically for the purpose of gathering public comments. The first meeting was held in the Spokane City Council Chambers on January 16, 2013, from 2:00 to 4:00 p.m. The second meeting was held at the Northeast Community Center in Spokane from 2:00 to 4:00 p.m. Numerous comments were received at each meeting. Appendix F – DVD-R.

## **IV. RECOMMENDATIONS**

The Commission's recommendations are organized under four headings – Culture, SPD Policies and Practices, Civilian Oversight, and City Administration. In each instance, a discussion follows the recommendation. The Commission's recommendations are the product of its independent research and review. In the case of the majority of the recommendations, the Commission does not comment on the budget implications of the proposed activity due to the fact that the Commission is not staffed to undertake this work.

The recommendations are not presented in ranked order of importance. Rather, the recommendations are presented in the order that follows how the issues presented themselves to the Commission. Each recommendation is expected, if implemented, to have a positive effect on making Spokane a safer community for both citizens and SPD officers.

### **A. Culture**

An organization's culture is the sum total of its past and present assumptions, experiences, philosophy, and values. It is drawn from the collective attitudes, beliefs, customs, and values of its members. It can affect, among other things, the way the organization carries out its duties, how it treats its internal members and external constituencies, and how it reacts to changing circumstances. The health of this culture

is critical to the performance and efficient operation of the organization. In light of the fact that police officers have the lawful authority to use force, including deadly force, against their fellow citizens, it is incredibly important that a police department's culture foster respect for the law, a commitment to public service, and respect for the rights and dignity of the citizenry.

Throughout the work of the Use of Force Commission many have shared, in public sessions and private conversations, the opinion that the SPD has a dysfunctional organizational culture. In many of these instances, the occasion of SPD officers (reported to be fifty in number) saluting Karl Thompson as he was taken into custody by federal marshals after his pre-sentencing hearing on November 4, 2011, was offered as an example of an unhealthy SPD culture. Additionally, and understandably, the Otto Zehm case, including the circumstances of his death and the response of the SPD leadership, was also frequently mentioned.

The Commission has its own concerns about the health of the SPD's culture. Appreciating that the organization is made up of many individuals of good faith who are doing their best in a noble profession, the Commission nevertheless sees room for improvement in the department's underlying culture. In encounters with SPD members, some members of the Commission were struck by a sense of demoralization or defensiveness by some within the ranks and, at the same time, a lack of appreciation for the extent of the breach of trust that has occurred between the SPD and the community that it serves. The Commission believes that the SPD's culture needs to be improved when it comes to issues of professionalism, transparency, public mindedness, and generosity of service, especially towards community members from marginalized populations. The Commission is confident that public support in the department would move in tandem with improvements in the health of the Spokane Police Department's culture.

## **Recommendation #1 – Conduct a culture audit of the SPD.**

The City should retain qualified professionals to perform an institutional audit of the SPD's culture and its influence on employee behavior. This audit should enable the Mayor and the Chief of Police to determine whether officers and civilian employees think, feel and act the way leadership believes they should, and it can provide a baseline for future improvements.

The goal of the culture audit would be to secure a map of the formal and informal systems that permeate the work and the workplace. It should illuminate the SPD's overall working environment, identify unwritten norms and rules, and highlight possible barriers to effective work practices and communication. Without intending to limit other possible lines of inquiry, it would be helpful if the audit explored: the generally held beliefs among employees regarding the department's mission, values, goals and management practices; the department's informal motivational systems; the informal centers of power and influence within the SPD, to include alliances and coalitions; how

critical information is shared across the department and with City administration; and, who the respected employees are at all levels within the SPD.

**Recommendation #2 – Bring greater transparency to the City’s negotiations with the Spokane Police Guild and the Spokane Police Lieutenants and Captains Association.**

Many of the conversations that Commission members have experienced around the issue of the SPD’s culture have included references to the Spokane Police Guild and the Spokane Police Lieutenants and Captains Association. An overwhelming majority of those references have blamed these collective bargaining units for what the speaker believes is an unhealthy culture within the SPD. Even if that opinion is inaccurate on one or both accounts, the perception still remains that the bargaining units within the SPD are having a negative influence on the department’s operations, its reputation, and its credibility within the community.

The Commission encourages the City to be as open as legally possible regarding its negotiations with the Spokane Police Guild and the Spokane Police Lieutenants and Captains Association. At a minimum, the Commission encourages City representatives to meet with the community to vet important issues that will be part of any negotiations prior to the commencement of collective bargaining and to hold public sessions after the negotiations to directly engage with the community regarding outcomes. It is critically important that City leadership and Spokane police officers fully understand, and feel the impact of, the reality that the SPD exists to serve and protect the citizens of Spokane within an economic framework that makes good fiscal sense for the community.

Related to this recommendation, the Commission believes that neither collective bargaining unit should use the bargaining process to extract additional compensation when confronted with the need to make work place condition changes that do not materially change their members’ job responsibilities. The Commission realizes that many of its recommendations could be defined as a change in work place conditions (e.g., deployment of body cameras, empowering the Ombudsman with investigatory power, etc.). While the Commission would expect that officers from all ranks would have an interest in making sure that such changes are carried out in the best way possible, the Commission discounts any suggestion that either bargaining unit should receive additional compensation and benefits as a condition for the implementation of such changes. The Commission urges that its recommendations be accepted or rejected solely because they either serve or fail to serve the best interests of the public.

The above discussion should not be interpreted as a lack of support on the part of the Commission for SPD officers, their right to be fairly compensated for their work, or their right to collective bargaining. The Commission fully recognizes the challenges faced by police officers and appreciates that the SPD is populated with professional men and women trying to do their best under difficult circumstances.

## **Recommendation #3 – Rewrite the SPD Mission Statement.**

The SPD's current Mission, Vision and Values statements declare:

- Mission – Working together to build a safe community.
- Vision – To become the safest city of our size in America.

Values of the Spokane Police Department:

- Service - SPD strives to provide efficient, effective, and courteous service.
- Pride - SPD is proud to serve the community through honorable and professional policing.
- Dedication - SPD is dedicated to results through accountability and leadership.

Referring back to the idea that any police department should be supported by a culture that respects the rights and dignity of the citizens it serves, this sentiment should be explicitly reflected in the Mission Statement of the SPD. A Mission Statement is a declaration of the fundamental reason an organization exists, and in this instance it is to protect the citizens of Spokane from the criminal activity of others in a way that preserves constitutional rights and affirms human dignity. The current SPD Mission and Vision Statements both speak only to the issue of security and not to the issues of liberty, and gaining the trust and confidence of the community. Additionally, although the Values Statements call upon SPD officers to professionally render services to the community, there is nothing in those statements that explicitly provides the necessary counterpoints to the overwhelming emphasis on security.

## **Recommendation #4 – The SPD should secure WASPC accreditation.**

One of the best ways to create and maintain healthy organizational culture is to expose the organization to the regular review of external knowledgeable parties. This is what securing and holding accreditation from the Washington Association of Sheriffs and Police Chiefs (WASPC) would do for the SPD (which is not presently accredited). Having to satisfy 140 accreditation standards for both initial accreditation and reaccreditation, and having those efforts documented for public review would call on the SPD to place and keep itself in a space of continuous improvement. Most notably for present purposes, the department would have to embrace continuous improvement in areas that are directly relevant to the issue of the use of force.

WASPC (<http://www.waspc.org/index.php>) was founded in 1963 to lead collaboration among law enforcement executives to enhance public safety. In 1976 the Washington State Legislature directed WASPC to develop standards and goals for law enforcement agencies. The association has maintained an operational accreditation program since that time.

The current accreditation program was created in 2007 and is overseen by the WASPC Accreditation Committee, the Accreditation Commission and the organization's Board of Directors. The Committee is responsible for maintaining accreditation standards. The

Commission is responsible for reviewing accreditation on-site reports and making recommendations to the Board of Directors. The Board is responsible for conferring accreditation.

The purpose of the WASPC accreditation program is to help professionalize the law enforcement community by providing a review process for agencies to be certified as operating under best practices and standards. The program includes standards covering twenty major law enforcement areas. Those areas that have particular relevance to the subject of the use of force include Chapters 3 (Use of Force), 10 (Recruitment and Selection), 11 (Training), 13 (Code of Conduct), 14 (Internal Affairs), 15 (Patrol Function), and 19 (Prisoner Security).

There are two types of fees associated with the WASPC Accreditation program, application and on-site fees. The application fee for agencies is \$100. On-site assessment fees are related to the accreditation inspection process once assessors arrive at an agency, and vary by department and availability of assessors. Agencies seeking accreditation agree to pay the travel costs associated with bringing in assessors from around the state and the WASPC employees staff time needed to facilitate agency accreditation. It should also be anticipated that significant SPD staff time would need to be devoted to securing and maintaining accreditation.

## **Recommendation #5 – Ensure corporate ownership of the SPD Policy Manual.**

In private conversations and public presentations, numerous SPD officers, including members of the department's command staff, referred to the SPD Policy Manual as the "Lexipol manual." Additionally, prior to the publication of the Commission's draft report the link on the SPD's web page to its manual stated, "Click here for the Lexipol Policy Manual." The continuing reference to Lexipol comes from the fact that the SPD engaged the services of Lexipol, a risk management company, in creating the current SPD Policy Manual and continues to subscribe to that service for updates.

Notwithstanding Lexipol's involvement in providing source material for the department's manual, it is important that the department both take full ownership of the manual and affirm that ownership in the way it refers to the same. The SPD Policy Manual contains the departments Canons and Ethical Standards, and its governing operating policies. These are the SPD's guiding principles, not boilerplate content from Lexipol. Every officer needs to understand and accept this distinction, and be committed to the entirety of the SPD Policy Manual.

In multiple locations in the remainder of this report the Commission notes instances where the department's actions are inconsistent with the dictates of the policies contained in its manual. Additionally, in her report, Ms. O'Linn concludes that the SPD needs to do a better job of expeditiously revising the SPD Policy Manual as updates are released by Lexipol and systematically tracking and complying with policy provisions across the entire force. Appendix C at 30. The Commission is confident that such concerns would diminish if the department took full ownership of its manual.

## **Recommendation #6 – Explicitly link SPD Canons and Ethical Standards to hiring decisions and all force management actions.**

The SPD's Canons and Ethical Standards speak to how each officer is expected to conduct him or herself on a daily basis in carrying out the department's mission. Accordingly, it is imperative that these Canons and Ethical Standards be highly visible and concretely affirmed in the on-going life of the department. Of particular relevance to the work of the Commission, the SPD's Canons and Ethical Standards explicitly promote values and practices that are intended to ensure that SPD officers only use force when absolutely necessary and legally permissible.

The SPD should test and screen applicants for their willingness and ability to comply with the department's Canons and Ethical Standards. The Chief of Police should be personally responsible for ensuring that only those applicants are hired onto the force that possess characteristics that will enable them to internalize and practice the values expressed in the department's Canons and Ethical Standards.

The SPD should acknowledge and reward behavior that is consistent with the values expressed in the Canons and Ethical Standards. Progression through the Field Training Officer Program, moving from probationary to regular status, positive performance evaluations, promotions, and commendations should all be explicitly tied to compliance with the Canons and Ethical Standards. The department has policies and procedures governing all of these activities that draw attention to values and practices that can be found in the Canons and Ethical Standards. However, there is not sufficient intentional and comprehensive congruence between those policies and procedures and the content of the Canons and Ethical Standards (e.g., citation to the relevant Canon and Ethical Standard when awarding commendations). No one should be left with any doubt that in order to advance and be recognized within the SPD, one must embrace and live the values expressed in the department's Canons and Ethical Standards.

Correspondingly, the department should also connect instances of unfavorable behavior to the failure to practice the values articulated in the Canons and Ethical Standards. For example, citizen and internal complaints, whether processed through Internal Affairs or the Office of the Police Ombudsman, should associate the complained of behavior with the relevant Canon and Ethical Standard. Likewise, unsatisfactory performance evaluations and department disciplinary actions should be explicitly connected to the failure on the part of the officer receiving the negative outcome to uphold the dictates of the Canons and Ethical Standards.

The constant reinforcement of the critical importance of adherence to the SPD Canons and Ethical Standards will improve officer performance and improve the overall culture of the organization. These outcomes will, in turn, improve public safety and enhance the public's respect and confidence in the department.



## B. SPD Policies and Practices

The Commission appreciates the cooperation extended to it and to its expert consultants by SPD officers throughout the organization. The members of the Commission have been impressed by the professionalism and courteousness of so many of the officers that have aided it in its work. The Commission's task would have been far more difficult without the assistance of these public servants.

### **Recommendation #7 – The Chief of Police and his command staff should actively engage the community in an ongoing dialogue about the department.**

The Chief of Police is the face of the department as its main representative and advocate to the community. The Chief must seek out community leaders and forums where an ongoing dialogue about the department can occur. Members of the department's command staff should participate in this effort as well. The public must know that the department is approachable and accessible, and that its leadership will take seriously and respond to the public's concerns.

### **Recommendation #8 – Ensure complete understanding of the governing legal standards for the use of force.**

The event of a police officer using force against a citizen unfolds against a constitutional backdrop designed to protect both the citizen and the officer. The use of excessive force in the course of an arrest, investigatory stop, or other seizure violates the Fourth Amendment to the United States Constitution. *Graham v. Connor*, 490 U.S. 386, 394-95 (1989). Courts analyze claims of excessive force under the objective reasonableness standard -- balancing the nature and quality of the intrusion of the individual's Fourth Amendment interests against the legitimate governmental interests at stake. *Id.* at 394-96; *Miller v. Clark Cnty.*, 340 F.3d 959, 964 (9<sup>th</sup> Cir. 2003). Assessing the reasonableness of an officer's use of force is a fact-dependent inquiry based on the "totality of the circumstances." *Graham*, 490 U.S. at 394-95. *Graham* framed the issue to be whether the officer's actions are "objectively reasonable" in light of the facts and circumstances confronting him, without regard to his underlying intent or motivation. *Id.* at 396. In weighing the government's interest in the use of force, courts will examine, among other relevant factors, whether the subject posed an immediate threat to officer or public safety, the severity of the crime at issue, whether the suspect was actively resisting arrest or attempting to escape, and whether law enforcement could have used other methods to accomplish its purpose. *Id.*; *Davis v. City of Las Vegas*, 478 F.3d 1048, 1054-56 (9<sup>th</sup> Cir. 2007). The Commission is concerned that these legal rules are not as well understood across the SPD as they need to be.

At the beginning of its work in February, the SPD provided the Commission with a copy of what was purported to be the current version of the department's Defensive Tactics Manual (DTM). The DTM serves as a course reference for SPD Academy training, is used by officers for self-improvement, and is an important defensive tactics resource document for the entire department. The version of the DTM provided to the

Commission included the following sentence in its introduction under the heading *Use of Force*: “If that evaluation (i.e., an assessment of threatening behavior by a suspect) leads the officer to believe that the application of deadly force is his only means of protecting himself or others, then he is authorized, pursuant to departmental policy, to employ such (i.e., deadly) force.” (parentheticals and emphasis added) This sentence, in the context of the material that surrounds it, is an incorrect statement of the relevant legal standard. The sentence casts the evaluation of an officer using deadly force as being dependent upon that officer’s subjective interpretation of the situation instead of such being dependent upon an objective interpretation as required by law.

It was discovered in October by one of the Commission’s expert consultants that the DTM provided to the Commission in February was a version that was, in the words of one SPD officer, “decades old”. The current version of the SPD DTM, adopted in 2007, does not include the language cited above. While this somewhat mitigates the concern raised in the previous paragraph, it does not eliminate it altogether. It is the case that the SPD officers most intimately involved with training affirmed to the Commission the validity of the DTM provided to it in February. The fact that this could occur raises concerns regarding the attention the department is giving to this critical training and operational resource.

In multiple locations throughout her report, Ms. O’Linn identifies instances of SPD training materials containing out-of-date or incorrect information regarding the rules governing the use of force by police officers. For example, Ms. O’Linn identified deficiencies in the department’s current DTM regarding the use of force against purely passive resistors (Appendix C at 8), in the current DTM’s force options scale (*Id.*), and in the case law that has been used in the SPD’s use of force training presentations (*Id.* at 9). The culmination of these, and other similar findings, prompted Ms. O’Linn to comment that the department’s use of force training materials require systematic attention to on-going policy and training updates. *Id.*

On more than one occasion, the Commission was addressed in the public comment section on the subject of SPD Officer Terry Preuninger’s testimony at the Karl Thompson trial. Officer Preuniger, the patrol tactics instructor for the SPD Academy, testified for the defense at the Thompson trial on the subject of Officer Thompson’s use of force in the encounter with Otto Zehm. While under cross examination by the prosecuting attorney, Officer Preuninger provided answers that suggest the proper standard of review is to focus on the subjective beliefs of an officer when assessing that officer’s use of force. Again, the proper legal standard is the objective reasonableness standard.

The importance of SPD officers understanding and operating under the correct legal standard when it comes to the use of force is two-fold. First, the objective standard exercises a check on a police officer’s ability to use force against a citizen that is not present under the subjective standard. This check creates a greater likelihood that force will only be used in those circumstances that truly demand its use. Second, as SPD officers will be held to account to the legally valid objective standard, they need to

understand that standard and be prepared to follow it in their work. To not prepare them in such a fashion is a great disservice to their own interests and to the interest of public safety.

**Recommendation #9 – Update and maintain certifications of the department’s defensive tactics instructors.**

The Washington State Criminal Justice Training Center (WSCJTC) is tasked by Washington State law to “[p]rovide programs and standards for the training of criminal justice personnel.” RCW 43.101.020. As the main criminal justice training entity in the state, WSCJTC administers and manages approximately two hundred programs. Some of the more notable programs are the Basic Law Enforcement Academy, the Corrections Officers Academy, the Peace Officer Certification course, and the certification of law enforcement instructors in particular fields. Pursuant to the latter function, the WSCJTC is responsible for certifying defensive tactics instructors within the State of Washington. The SPD presently does not have any defensive tactics instructors whose WSCJTC certification is current. In fact, no officers in the department have received instructor re-certification since 2007. Appendix C at 12.

WSCJTC re-certification programs are in place to insure that instructors have access to up-to-date training materials and techniques, and to the current rules, including case law, governing the use of force by police officers. There is a significant need for the SPD to adopt a plan that enables its instructors to be re-certified in their respective areas and to then be able to consistently maintain that certification. Appendix C at 11-12. Closely related to this need, the Commission endorses Ms. O’Linn’s recommendation that the SPD invest in securing master level status for two of its instructors so as to maintain an appropriate level of internal expertise that can provide instructional updates and conduct re-certifications for the department’s other defensive tactics instructors. *Id.*

**Recommendation #10 – Review current officer staffing levels and practices to ensure that sufficient patrol officers are available to maintain public safety.**

Providing precise recommendations for staffing a complex organization like a police department requires expertise, time, and support not possessed by the Commission. Nevertheless, over the course of its work the Commission has become aware of two facts which raise concerns about the ability of the SPD to deploy adequate numbers of patrol officers to maintain acceptable levels of safety for the public and members of the department. First, the SPD currently has a working force that is less than what it possessed in the mid-1990s despite the department having to work in an environment of greater challenge and complexity. Second, the current patrol shift configuration is constrained by an inability on the part of the SPD leadership to change shift configurations without negotiating with the Spokane Police Guild.

There is a direct correlation between the numbers of patrol officers on the street and the safety of the community and those officers. Inadequate staffing of officers compromises

public safety in at least two ways. First, insufficient numbers of officers means delayed response times when citizens need assistance. Second, insufficient numbers of officers means that in some circumstances a single officer or small numbers of officers have to respond with force that would otherwise be unnecessary if greater numbers of officers were available to contain a volatile situation without resorting to force. SPD and City leadership are strongly encouraged to ensure that the department has the necessary number of officers and that it deploys those officers in a way that maximizes public safety.

## **Recommendation #11 – Improve training plans and practices.**

The reports submitted by Ms. O'Linn and Mr. Gennaco contain numerous recommendations related to improving the SPD training program. As stated above, the Commission has chosen not to repeat all of those recommendations in its report. The Commission does, however, want to highlight themes that have emerged regarding the SPD training program.

Recommendation #5 calls on the SPD to take corporate ownership of the SPD Policy Manual. One way of furthering this goal would be to cross-reference the department's training materials to the applicable policy provisions contained in the department's manual. Such a practice would also consistently reaffirm the justifications and limitations that govern the right of SPD officers to use force in the course of their duties. One example of this would be to revise the department's DTM so that its various parts cite to the applicable use of force policy sections in the SPD Policy Manual. Appendix C at 8. Another example would be to require reality based training (RBT) scenarios to include opportunities to test knowledge and understanding of the departmental policies governing the use of force. *Id.* at 10-11; *See also* Appendix D at 9.

Related to the practice of cross-referencing material, there is a need for the SPD to better reconcile training plans and practices with departmental policies. For example, SPD Policy Manual section 436.2.2 requires that Field Training Officers (FTO) engage in at least two hours of training per month. Ms. O'Linn's reports that this requirement is apparently not being met and she recommends that the discontinued once a month FTO meetings be reinstated as a forum for providing training updates and exchanging information regarding how trainees are progressing through the FTO program. Appendix C at 27.

The Commission is concerned that helpful, even essential, use of force/defensive tactics training modules are not being delivered with appropriate frequency. For example, the department does not require annual re-certification training on electronic control devices (ECD) (Appendix C at 14), and the current ECD training is lacking in regards to the law governing the use of ECDs and the tactical deployment of the device in ways that mitigate the application of force (e.g., cuffing under power, three-point stunning, etc.) (*Id.* at 16). Additionally, the department's policy regarding firearms training was recently amended to reduce the number of firearms training and qualifications per officer from four times annually to two. *Id.* at 21-22. This reduction in

training for such a basic defensive tactics weapon raises concerns regarding maintaining proficiency in marksmanship and decision-making (e.g., shoot, don't shoot), and in fostering understanding of the governing law and policy.

There is a need for the department to enhance its auditing of compliance with training requirements. Ms. O'Linn expresses concern in her report regarding the department keeping track of personnel who are out of compliance with defensive tactics training requirements due to those individuals coming off of leave or light duty status. Appendix C at 24. As a specific remedy for this problem, and as a general good practice, Ms. O'Linn recommends an internal audit at the beginning of the last quarter of each year of officer training records to confirm compliance with all state, city and department training mandates. *Id.* at 7. Ms. O'Linn recommends that a follow-up review of those officers that have yet to meet these requirements be conducted every thirty days thereafter until all officers are up-to-date with training requirements. *Id.*

**Recommendation #12 – Establish a continuing Crisis Intervention Training program and adopt protocols for the deployment of CIT officers.**

Individuals who suffer from mental illness or who are under the influence of drugs or alcohol are relatively more vulnerable to the use of force by police officers due to the volatility of the encounters between those citizens and the police. In the absence of practices and strategies to de-escalate and control these encounters, they can escalate quickly to the detriment of the safety of both the citizen and the officers involved. In recognition of this reality, the law requires that police practices extend special consideration to individuals in mental health crisis. *See Bryan v. MacPherson*, 630 F.3d 805, 829 (9<sup>th</sup> Cir. 2010) ("The government has an important interest in providing assistance to a person in need of psychiatric care; thus, the use of force that may be justified by that interest necessarily differs both in degree and in kind from the use of force that would be justified against a person who has committed a crime or who poses a threat to the community."); *Deorle v. Rutherford*, 272 F.3d 1272, 1282 (9<sup>th</sup> Cir. 2001) (officers must take into account the subject's mental and emotional state before using force).

The Commission endorses that part of the Otto Zehm civil suit settlement that commits to all SPD officers undergoing Crisis Intervention Training (CIT). Such training for the officers, to include the department's leadership, will increase public safety by providing SPD members with a better understanding of the conditions that often engender behavior which can be perceived as threatening and by providing officers with tactics to defuse or control such situations without having to resort to dangerous levels of force.

In order for a CIT program to have long-lasting positive effects on public safety, the program must ensure that SPD officers receive refresher CIT at appropriate intervals and that all officers coming into the department, whether as an entry level or lateral hire, receive CIT in close proximity to the start of their employment. Additionally, to promote a department-wide commitment to the CIT program, SPD leadership should market the value of the training within and outside the department (e.g., promote officer

testimonials on how the application of CIT makes them more effective in their work, invite the media to attend training, etc.).

One component of an effective CIT program that deserves particular attention is the subject of Excited Delirium. Excited Delirium is a life-threatening medical emergency, typically in the context of stimulant drug abuse (e.g., cocaine, PCP, methamphetamine, etc.), characterized by an individual evidencing agitation, excitability, confusion, paranoia, and bizarre behavior. Officers are frequently called upon to make instantaneous decisions with regard to both recognizing the condition and in containing the chaos and danger its occurrence creates for the citizen and others. A coordinated response with paramedics and a "contain rather than restrain" approach with sufficient officer assistance is often imperative to prevent sudden death. Excited Delirium training, in the context of a CIT program, should, at a minimum, include instruction on: the signs and symptoms of the condition; the imperative to call for emergency medical assistance as soon as possible; the need to contain, if possible, rather than restrain an individual suffering from Excited Delirium; the need to use communication tactics that calm rather than confront; the need to have sufficient officers available to control the situation; and, how to report and collect accurate data on the incidence of Excited Delirium.

Once a CIT program is in place, it is imperative that the SPD establish protocols that maximize the benefits of the training and which continuously assess the efficacy of the department's efforts in dealing with these at risk populations. The department should ensure that all shifts have adequate numbers of crisis intervention trained officers, create dispatch guidelines that properly deploy those officers, and establish the on-scene primacy of crisis intervention trained officers in situations that call for their expertise. The SPD should create a reporting system that comprehensively and accurately collects data on all contacts with citizens who are suffering from a mental illness or who are under the influence of drugs or alcohol. In turn, that data should be used to improve its CIT program and how the department uses crisis intervention trained officers.

While the Commission endorses CIT for all SPD officers, it anticipates that, as with the acquisition and deployment of any particular skill set, there will be variation in the competency and commitment levels of SPD officers to this program. This variety will undoubtedly make itself apparent over time. In light of this, the Commission encourages SPD leadership to be diligent about leveraging the talent and commitment of those officers who prove to be most adept at dealing with persons in crisis due to their deteriorating mental health and/or their use of alcohol or drugs. The Commission believes that the greatest possible positive effect on public safety would be achieved by creating a cadre of these officers who receive advanced and continuous CIT, are deployed in a way that provides maximum coverage across all shifts, are given the authority to use their skills on-scene to best effect, and whose work is publicly recognized and appropriately supported by SPD and City leadership.

## **Recommendation #13 – Affirm the de-escalation of potentially violent encounters as a primary goal of the department.**

The Commission has been exposed to a variety of statements from members of the SPD to the effect that it is the citizen in an officer/citizen encounter who determines how much force the officer will use. This position was endorsed in private conversations with various SPD officers and in the public testimony presented by Operations Bureau Commander Major Frank Scalise during the April 10, 2012, Commission hearing. Additionally, Officer Terry Preuninger, the patrol tactics instructor for the SPD, expressed similar sentiments in his testimony in the Karl Thompson trial when he said that an officer should “come in at a level above the level of force that [a] person [is] going to direct at you.” Thompson Trans. at 2378. Finally, Mr. Gennaco noted in his report that the department’s analysis of a November 2010 deadly force incident stated that the deceased subject created the situation that led to the use of deadly force against him. Appendix D at 12.

Mr. Gennaco reports that it is not unusual for police officers to express that the citizen is the person who exercises greatest control over the amount of force used by an officer. *Id.* However, Mr. Gennaco goes on to state:

*A progressive policing model equips officers with strategies that do not allow subjects to dictate the response. It is the peace officer that must effectuate an effective plan of detention that avoids the use of deadly force if at all possible and still safely takes a dangerous individual into custody. The police should dictate the situation; not the subject, and should approach any tactical situation with that mindset. Id.*

During the Commission’s May 22, 2012, public hearing Tamara Rossi and Dave Barrett of the Spokane House of Charity discussed the challenges associated with rendering services to special populations. That testimony included a discussion of the Management of Aggressive Behavior (MOAB) training program. MOAB is used by law enforcement, corrections, and mental health providers across the country and locally to reduce the need for restraint and force in dealing with high risk, agitated, and escalating behaviors in individuals. MOAB teaches how to let people burn out their verbal escalation without using force to stop behavior, and is founded on the understanding that individuals respond to personal space, voice tone, and affect even when in an extremely agitated condition.

On June 22, 2012, the Las Vegas Metropolitan Police Department adopted an extensive revision of its use of force policies. Part IX of that revision addressed the issue of de-escalation. As a basic principle, the new policy acknowledged that not every potential violent confrontation can be de-escalated, but it does affirm that “officers have the ability to impact the direction and the outcome of many situations they handle, based on their decision-making and the tactics they choose to employ.” Las Vegas Metropolitan Police Department, General Order 021-21 at 7 (June 21, 2012). The policy directs officers to “use advisements, warnings, verbal persuasion, and other tactics and alternatives to

higher levels of force" while performing their work "in a manner that avoids unduly jeopardizing their own safety or the safety of others through poor tactical decisions." *Id.* at 8.

The practices emphasized in the preceding two paragraphs stand in contrast to the expression that the citizen is the person who exercises greatest control over the amount of force used by a police officer. It is critically important that SPD officers are prepared not just to win the conflict, but also to avoid such in the first place. The Commission strongly encourages the SPD to explore using the MOAB program for public safety officers to bring greater intentionality, rigor, and accountability to the SPD's de-escalation training outcomes. In the absence of using the MOAB program, the SPD should ensure that it adopts a certified de-escalation training program with measurable outcomes that both impresses upon its officers the obligation to do everything in their power to de-escalate potentially violent situations and prepares them to use de-escalation techniques, when appropriate and feasible, to reduce the need for force.

**Recommendation #14 – Improve the use of force reporting system.**

A police department's use of force reporting system should be designed to track compliance with legal and policy restrictions on the use of force against the citizenry and to provide information and insight that can be used to improve departmental training and communication. There is a strong correlation between the confidence a community has in its police department and that department's practice of ensuring that all use of force is consistently reported and monitored. A department's failure to meet reasonable expectations in this regard sends a message of indifferent institutional concern and oversight regarding the use of force. Alternatively, a department that proactively and effectively identifies and responds to inappropriate conduct not only is better situated to enhance officer performance and create a robust culture of reflection and improvement, it is also better situated to build public confidence and protect the agency from frivolous complaints and litigation.

According to SPD policies 300.4 and 300.5 an officer must complete a use of force report when his or her application of force appears to have caused physical injury, a subject has expressed a complaint of injury or been rendered unconscious, a level II lateral neck restraint or control device has been utilized, or there has been an intentional discharge of a firearm. In such instances SPD policy 300.5 requires a supervisor to: respond to the scene (if needed); interview involved officers, witnesses, and other involved persons; collect evidence (when appropriate); and, prepare and submit a use of force report through the chain-of-command, to include completing the recommendation section on the report. In the event a supervisor is unable to respond to the scene of an incident involving the reported application of force, the supervisor is still expected to complete as many of the policy's requirements as possible.

A fundamental element in a police department's use of force reporting system is the definition of what types of incidents trigger reporting requirements. The previous paragraph details those triggering events within the SPD. In his report, Mr. Gennaco



recommends that the criteria for prompting a use of force report be expanded to include: "head strikes, knee strikes, elbow strikes, open and closed hand strikes; baton/flashlight strikes; all applications of less lethal devices (OC spray, foam or wood rounds, beanbag rounds, etc.); carotid neck restraint (Level I) ...; [and] all takedowns and prone handcuffing incidents that result in any head or facial injury." Appendix D at 28. Mr. Gennaco advances this recommendation as a means of improving the department's ability to evaluate practices, policies, and individual officer actions, and to improve the tracking of the type and frequency of uses of force. *Id.*

The Commission endorses Mr. Gennaco's recommendation for expanding the criteria that trigger use of force reports within the SPD. Additionally, the Commission recommends adding the drawing and directing of a firearm at a subject as a triggering event for a use of force report. Such an action is a significant use of force by an officer to gain compliance over a subject and can be expected to generate great fear on the part of the subject. Accordingly, this use of force should be reported as such with a clear articulation as to why the firearm was pointed at a citizen.

As recounted above, SPD policy 300.5 requires a supervisor to respond to the scene of a reportable use of force "if needed". Recognizing that staffing limitations preclude supervisors from responding to all scenes where reportable use of force occurs, the Commission recommends that, to the maximum extent possible, supervisors do respond to all scenes wherein an officer's use of force has resulted in an injury to another. Once present at any use of force scene, consistent with SPD policy 300.5 and expanding upon the same, the supervisor should ensure that a full inquiry of the event is conducted, to include: identifying, separating, and interviewing all involved witness officers; interviewing those subjected to force; directing the canvassing for witnesses and the taking of statements from all witnesses; collecting evidence surrounding the use of force (e.g., photos of injuries, EMT and hospital reports, Taser™ downloads, diagrams, status of any charges against the subject, etc.); reviewing officers' reports for completeness, accuracy, and quality; and, assessing whether further investigation is required. In the event a supervisor is not able to respond to a scene, it is critical that a supervisor conduct a thorough and timely review of the completed use of force report and all available evidence to ensure a full and accurate account of the incident consistent with the requirements just listed. Finally, in an effort to take full advantage of the valuable perspective that supervisors have on use of force incidents, SPD policy should require supervisors to document their observations about the force used and any related training, tactics, policy, or supervision issues. Appendix D at 18 & 23.

Although it is included within the previous paragraph, one enhancement to the current SPD use of force reporting system that deserves highlighting is the need to expand the reporting policy so as to require that officers document all that they observe in reported use of force incidents. Mr. Gennaco details an instance in which two officers used force against a subject that was witnessed by a third officer. The two officers who used force did not report the use of force by one another and the witness officer did not file any report at all. Appendix D at 17. Similarly, Mr. Gennaco documents an instance of a Spokane Police Guild attorney reminding an officer that the officer was instructed to

report only what he did and not what other officers might have done. *Id.* A far better practice would be to require officers who are trained to be effective witnesses to use that skill to provide a more complete record of how a use of force incident unfolded.

### **Recommendation #15 – Improve investigation practices in use of force incidents.**

An open, impartial, and effective process of receiving and investigating citizen and officer complaints regarding the inappropriate use of force serves several important purposes. An appropriate complaint procedure ensures officer accountability and supervision, deters misconduct, and helps maintain good community relations by increasing public confidence and respect in the department. Improving SPD investigative practices in use of force cases is an important element to accomplishing all of these positive outcomes.

Mr. Gennaco's exploration of various departmental policies and practices surrounding the use of force required him to review multiple SPD investigative files associated with the work of Internal Affairs and with the administration of Administrative Review Panels and Deadly Force Review Boards. Out of this review, Mr. Gennaco has advanced a number of recommendations that focus on improving various SPD investigative practices. While the Commission encourages the SPD to give serious consideration to all of the findings and recommendations contained in Mr. Gennaco's report, the Commission wishes to call particular attention to the following matters associated with the investigation of use of force cases:

- a. Recognizing the inherent seriousness and formality of the matters under review, the SPD should ensure that all investigations refer to those involved by their last names. Appendix D at 3, 13 & 15.
- b. Ensure that investigators avoid the use of leading questions in the interest of objective fact gathering. *Id.* at 4-5, 16, 25 & 27.
- c. Ensure that officers involved in use of force incidents are segregated from each other and from any others who might potentially contaminate their testimony until such time as their statements are taken. *Id.* at 4 & 15.
- d. All officers involved in a use of force incident, both those exercising force and those witnessing the same, should be interviewed in detail (i.e., beyond a tactical briefing at the scene) on the date of the incident about their observations and actions. Appendix D at 6 & 16. In the event an officer refuses to participate in that interview, they should be subject to a compelled administrative interview as close in time to the incident as possible. *Id.* at 6 & 16.
- e. Ensure that all reasonable efforts are made to identify and interview potential witnesses to all use of force incidents. *Id.* at 25 & 27.
- f. Ensure that all relevant evidence (e.g., status of charges sought against subjects, evidence of the presence or absence of injuries, etc.) is gathered and documented. *Id.* at 25 & 27.
- g. Whenever possible, avoid collecting witness statements or even follow-up responses from witnesses through methods (e.g., email, voice mail, etc.) other than in-person interviews. *Id.* at 25-27.

**Recommendation #16 – Improve the administrative review of the use of deadly force by officers.**

Policy 302.2 of the SPD Policy Manual requires an Administrative Review Panel (ARP) to review the completed investigative file in all cases of an officer using deadly force. The purpose of that panel's work is to make recommendations to the Chief of Police as to whether the use of force was consistent with departmental policy. In cases where the use of deadly force by an officer has resulted in injury or death to a person, the department will convene a Deadly Force Review Board (DFRB) to conduct an administrative review of the incident and make recommendations regarding tactical and training considerations, the quality of supervisor in the incident, equipment performance, and any other relevant observations or considerations. SPD Policy Manual 302.3 *et seq.*

In his review of a November 2010 deadly force incident that involved the discharge of a firearm by six different law enforcement officers, Mr. Gennaco noted that the ARP's report on the incident contained a single paragraph which concluded that all involved officers' use of force was in compliance with departmental policy. Appendix D at 7. This was done notwithstanding that the officers arrived on the scene at different times during the encounter with the subject, from different directions, witnessed different behavior by the subject, and offered various specific justifications for their individual use of deadly force. *Id.* A far better result would be for the ARP to carry out an exacting force analysis of each officer's actions and compare such to the department's training and policy expectations and requirements. *Id.* at 7 & 16.

A DFRB was also convened to review the November 2010 deadly force incident. Two issues that go directly to public and officer safety that were identified by Mr. Gennaco in connection with that review were the consideration of the twenty-four rounds fired by the officers (out of twenty-six total rounds) that failed to strike the subject and the existence of a cross-fire situation in the encounter. Appendix D at 9-10. In regards to the expended rounds, Mr. Gennaco recommends that the DFRB examine each officer's use of deadly force individually and arrive at an assessment of whether the officer was tactically sound and proficient when he discharged his weapon. *Id.* at 9 & 16. Similarly, Mr. Gennaco considered the DFRB's review of the cross-fire issue to be incomplete due to its failure to sufficiently explore the question based upon the placement and actions of all of the officers involved in the incident. *Id.* at 10 & 16. Recognizing that a single instance does not necessarily represent a consistent pattern, the Commission nevertheless calls for the SPD to reflect upon Mr. Gennaco's findings and to ensure that DFRBs always thoroughly explore deadly force encounters for lessons learned that will enhance public and officer safety.

**Recommendation #17 – Create and deploy a fully developed Early Intervention System.**

Operating under the premise that small issues will lead to big problems if left unattended, an Early Intervention System (EIS) is a valuable administrative tool that can enhance accountability and integrity in a law enforcement agency. An EIS is a data-

based management tool designed to identify officers whose behavior is problematic and to spur intervention to correct that performance before the situation escalates into a formal disciplinary action or worse. A department's EIS must be part of its larger efforts to support and improve officer performance. Frontline supervisors are key actors in the use of an EIS, but the Chief of Police and his command staff must be committed to the full deployment of the system.

The information collected as part of an EIS can be as expansive as a department desires. Of particular relevance to the issue of the use of force, an EIS should track all reported uses of force, searches and seizures, number of arrests, and any civilian or internal complaints, civil suits, or criminal charges regarding the use of force. Additionally, recognizing that aberrant behavior in a multitude of performance areas can be a precursor to a use of force problem, an EIS system should capture other information that could identify outliers in the department. This could include, for example, such things as unusual numbers of pedestrian stops, the failure to meet training obligations, disciplinary actions, negative performance evaluations, and any civilian or internal complaints, civil suits, or criminal charges against an officer for matters other than the use of force.

It is important to make sure that EIS thresholds are set at an appropriate level so as to initiate relevant and effective intervention (i.e., not so high that intervention never occurs or occurs too late). For example, recognizing that the officers who are of particular concern are indeed the outliers on the force, thresholds for triggering intervention can be set to capture approximately 3-5% of the line officer population. Additionally, the criteria for the system should take into account the need to create single-event thresholds for occurrences that are so critical that they require immediate department intervention and should implement rolling thresholds, thereby ensuring that an officer who has received an intervention is not permitted to engage in the initial threshold number of additional events before again triggering the EIS. Finally, the structure of the system must ensure that interventions follow close in time to the actual triggering event.

Once the EIS is triggered for an officer, it is critical that the supervisor conduct a thorough review, take appropriate action, and be diligent in tracking resolution. The supervisor should review any triggering event in its entirety and prescribe appropriate resolutions or training opportunities specifically targeted to the behavior that prompted the intervention. At a minimum, supervisors should be required to review the EIS files on each subordinate every two months and a response by a supervisor should be required within two weeks of detecting a red flag. Thereafter, the supervisor should check the EIS on that officer every month for twelve months to determine if the response has satisfactorily resolved the issue. In each instance of a red flag, the supervisor should document what action was taken and document the event in at least the subject officer's next performance evaluation and the officer's next promotion recommendation. Ideally, a regular audit of the system would be conducted to make sure that it is being optimally deployed.

## **Recommendation #18 – Equip officers with body cameras.**

Providing officers with body cameras will preserve important evidence of the circumstances surrounding encounters between the SPD and citizens. Although no recording can be a perfect record of the totality of an event, body cameras will help SPD officers gather evidence, improve the quality of their reports, and protect them from false citizen complaints, and they will provide valuable evidence when the circumstances of an encounter are called into question by any source.

## **Recommendation #19 – Explore standardizing the weapons carried by officers in the line of duty.**

The Commission is aware that there is variation in the types of weapons that SPD officers are allowed to carry. For example, officers are allowed, with permission, to carry non-standard firearms or batons. While some have expressed a concern about this practice, the Commission is not in a position to state that it should be continued or disbanded. Rather, the Commission recommends that the Chief of Police review the matter and report to the Mayor on whether weapons standardization should be implemented, and if not, then why not.

## **C. Citizen Oversight**

Although this report is organized in a way that this section is set apart from the earlier “Culture” section this should not take away from the fact that citizen oversight can, and should be, an incredibly positive force on the culture of a police department. Internally, in the absence of appropriate citizen oversight it can be difficult for individual officers to speak up in the face of peer pressure promoting a code of silence. Externally, a primary value of citizen oversight is its ability to bring transparency to the work of a police department, and thus, lessen distrust between the department and the citizens it serves. Holistically, a police force that welcomes independent citizen oversight can use that engagement as a feedback channel that leads to better insight into the department, better training, better community relations, increased officer morale, and, ultimately, an improved organizational culture.

## **Recommendation #20 – Invest the Office of the Police Ombudsman with the authority and discretion to open and conduct independent investigations concerning the operations, actions, or omissions of the SPD.**

Investing the Office of the Police Ombudsman with the authority and discretion to conduct independent investigations is essential to both establishing objective oversight and building public trust. As a function of human nature, individuals who are part of a group are more likely to favor the interests of the group over “outsiders.” In the context of an investigation into a fellow group member’s alleged misconduct, the peer investigator is apt to be more selective about the investigation’s scope and depth, and may be inclined to avoid a transparent process. All of this behavior can compromise the

quality of the investigation and negatively impact the public's trust in the process and the institution. Conversely, the more independent the investigator, the more likely the investigation will be perceived to be credible to those involved and to the general public.

The ability of the Office of the Police Ombudsman to open and conduct an investigation should not be dependent on the receipt of a complaint from a member of the public. While the expectation is that most of the office's investigations would originate from such a complaint, the Office of the Police Ombudsman should have the authority to open an investigation when the Ombudsman has knowledge of evidence sufficient to form a reasonable basis for the investigation – whatever the source of the knowledge.

**Recommendation #21a – All City employees and those acting on behalf of the City should be required to cooperate fully and truthfully with the Office of the Police Ombudsman.**

**Recommendation #21b – Subject to legal privilege, the Office of the Police Ombudsman should be given full, unrestricted, and complete access to any and all City information, files, evidence, or other material which the Ombudsman deems necessary to the performance of his/her duties.**

The ability to conduct an independent investigation is severely undermined if the Office of the Police Ombudsman does not have the authority to require the cooperation of all City employees and agents, and to secure all necessary records. All City employees and agents, as conditions of employment, should be required to truthfully and completely answer all of the Office of the Police Ombudsman inquiries and fully comply with all requests for records. Appropriate policies and procedures should be adopted so as to extend the protections put forth in *Garrity v. New Jersey*, 385 U.S. 493 (1967) to employees who are required to appear and provide testimony (i.e., compelled statements related to an employee's job and job duties have immunity in any subsequent criminal prosecution of the statement maker).

Prior to conducting any investigative interviews of City employees or agents, the Police Ombudsman should give the employee a memorandum that clearly informs the employee of his or her obligation to truthfully and completely answer all questions asked by the Ombudsman as a condition of employment. If the Ombudsman determines, by a preponderance of the evidence, that a City employee has either knowingly provided false information to, or failed to cooperate fully with, the Office of the Police Ombudsman, the Ombudsman should contact the Chief of Police or appropriate department director and request that the employee be notified of his or her obligation to completely and truthfully cooperate with the Ombudsman. If, after being so notified, the City employee refuses or fails to cooperate completely and truthfully with the Ombudsman, the Ombudsman should file a formal complaint of misconduct against the employee with the Chief of Police or appropriate department director.

## **Recommendation #22 – Create a Citizen Advisory Board for the Office of the Police Ombudsman.**

A Citizen Advisory Board should be established to provide oversight to the Office of the Police Ombudsman. The members of this Board (seven in total) should be appointed by the Mayor and confirmed by the City Council. The Board should be empowered, at a minimum, to: advise the Office of the Police Ombudsman on practices and policies; make recommendations regarding SPD complaint investigation practices, procedures, and policies; request review, monitoring, or inquiry into specific incidents or issues; and, assist the Ombudsman in community communication, outreach, and education.

### **D. City Administration**

## **Recommendation #23 – The Mayor should maintain an active and visible role in SPD oversight and administration, and in promoting the department to the community.**

As the elected executive of the City the Mayor should play a visible and active role in SPD oversight, administration, and public engagement. The Mayor appoints the Chief of Police. The Mayor should be an advocate for the entire SPD and for the Chief's administration. The success of the Chief is dependent, in significant part, upon the support of the Mayor.

The Mayor should have an active discussion with the community on the establishment of the proper resources for the department and what the community should expect in terms of greater or lesser levels of service associated with the City's budget. The Mayor should create forums where members of the community can ask questions about the department, express their opinions on the SPD's performance, and make recommendations for improvement.

The Mayor has an important role in recognizing and communicating to the citizens the many positive aspects of the SPD and in fostering the community's trust in, and respect for, its officers. The Mayor should seek opportunities to publicly honor officers who are recognized within the department for excellence in service and performance.

The public must know that the Mayor is personally committed to supporting a department that exemplifies professionalism, respect for others, and a high degree of service to the public. This is particularly important for the current Mayor and his leadership team who are being called upon to make changes within the department following Otto Zehm's death, Officer Thompson's conviction, and the aftermath of both.

**Recommendation #24 – The City Attorney’s Office should maintain separation of duties and functions between litigation support, employment law representation, and police legal advising.**

In her June 28, 2012, presentation to the Commission, Assistant City Attorney Mary Muramatsu explained how the City Attorney's Office (CAO) assigns responsibilities when it comes to providing support to the SPD. That support is now organized around three activities: litigation support, employment law representation, and police legal advising. Litigation support and employment law representation are provided by the appropriate lawyers in the CAO Civil Division. Police legal advice is provided by an Assistant City Attorney who is assigned to the SPD for that function. This separation of duties is the appropriate way for the CAO to render services to the SPD. It ensures that the appropriate subject matter experts are providing direct support to the SPD, that the interests in one area are not unduly put above interests in another area, that conflicts of interest are mitigated, and that a broader understanding of the needs and challenges associated with the SPD is maintained within the CAO.

The organizational structure described above is new. From approximately 2005 until these changes were recently made, the SPD was advised in all matters by a lead attorney out of the CAO. That attorney served as the single point of primary contact for the SPD on all legal matters – litigation, employment, and general advice. It is the Commission's position that the "lead attorney" model creates both real and perceived conflicts of interest that compromise the quality of service received by the SPD and that increase the City's risk profile. The Commission strongly recommends that the lead attorney model not be re-established at any time in the future.

**Recommendation #25 – The CAO should adopt strict policies and procedures that ensure the office maintains appropriate distance from all criminal prosecutions of SPD personnel.**

The CAO has the responsibility of providing a defense for SPD officers facing civil law suits arising out of officers acting within the scope of their employment. The CAO does not, however, have the same responsibility when it comes to SPD officers facing criminal prosecution. As explained by Assistant City Attorney Muramatsu to the Commission, in that instance the CAO is supposed to remove itself from all involvement in the criminal case. The City Attorney should adopt policies and procedures that ensure the appropriate separation is observed in criminal prosecutions of SPD officers.

**Recommendation #26 – The CAO should take an active role in the development and updating of the SPD's use of force policies, and the department's use of force training materials and program.**

The use of force by a police officer is strictly regulated by legislation and case law implemented through SPD policies, training, and oversight. In light of this and in light of the concerns raised in Ms. O'Linn's report regarding the weakness of the legal content in the department's use of force training materials, the CAO should take an active role in



the development and updating of the SPD's use of force policies and in the entirety of the SPD's use of force training program. At a minimum, the CAO should be required to sign off on the department's use of force policies and any revisions to those policies, it should be required to periodically review and approve all use of force training materials, and it should assume primary responsibility for instructing on the law that regulates the use of force by a police officer. See *also* Recommendation #8.

## **V. CLOSE**

*"The police are the community and the community are the police." (Sir Robert Peel)*

For policing to be effective in a free society it cannot be a solitary activity. To protect public safety the police must have the public's cooperation and that requires that it first have the public's trust. Policing that is grounded in adherence to the U.S. Constitution, Washington State Constitution, other federal and state laws, and the duly adopted policies of the department will create an environment in which the community can build confidence and trust in its police department. All must understand that there is no "them" in the equation – there is only "us". Spokane and its police officers are all part of the same community, and all want the same thing – a safe and prosperous community.

While the focus of this Commission has been on those instances where SPD officers use force against civilians, the vast majority of interactions between the department and the public don't involve any force whatsoever. Opportunities for the SPD to build the necessary public trust that it needs when it comes under scrutiny for using force present themselves every day. It is critical that every member of the department commit himself or herself to adding to that trust in every encounter he or she has with a member of the Spokane community.

The Spokane Police Department, supported by City leadership, must operate as an agency whose members honor their oath to protect and serve the community. Human life must take priority over personal property, inconvenience, individual attitudes, and organizational culture. It is the hope of the Use of Force Commission that its recommendations, if implemented, will foster a better relationship between the SPD and the community, and thus, foster a safer Spokane for all.

# Making Spokane a Safer City

Spokane Police Department Strategic Plan



## THE SPOKANE POLICE DEPARTMENT IN 2013 AND BEYOND

This report provides the Spokane Police Department's Crime Prevention and Reduction Strategy for 2013, an examination of the nature of crime in Spokane, and the Spokane Police Department's strategic vision with goals and objectives for the next five years.

There are four phases in the development of the Spokane Police Department's strategic plan:

- 1) Define the operational strategy, reorganize the department to be aligned with our mission, and establish performance measures.
- 2) Pilot major initiatives, refine our mission and establish a policing model appropriate for addressing crime and disorder in Spokane.
- 3) Establish goals, strategies and actions based on our policing model, and assign accountability at every level of the organization in order to accomplish our mission.
- 4) Continue to implement the Mayor's Immediate Police Action Plan, the Council's Resolution, as well as the Use of Force Commission's recommendations to ensure the integrity of the Spokane Police Department.

The Spokane Police Department model described in this report incorporates the best elements of traditional law enforcement, community policing, hot spot policing, intelligence-led policing, and other evidence-based and emerging practices. Our strategy will be dynamic and flexible. It is designed to respond to short-term demands, while institutionalizing long-term strategies that promote sustainability around community safety, police integrity, accountability, and continuous business improvement.

In today's economy, we must be smart and judicious about allocating our resources. We must understand **what works, how it works, and where it works**. The answers to these questions provide the foundation for our policing plan. To succeed, we must design our operations for flexibility, find new ideas, drop outdated approaches, invite and support innovation, take risks, and engage in continuous re-invention. To do this we will use real-time, accurate and actionable data from multiple sources as the platform for our decision-making as well as our actions.

The primary responsibility of the Spokane Police Department is community safety achieved by reducing crime, fear, and disorder. Integral to that responsibility is a police organization that conducts its activities lawfully, constitutionally, and respectfully at all times. A police department that protects individual rights and freedoms, as well as values the contributions made by every member of our community. The Spokane policing model is built on: **integrity, accountability, and transparency**.

We are demanding excellence from our sworn and civilian members. Therefore, we must provide our employees with the tools to achieve success. Training and education must, and will be, an integral part of our development as an organization. Over the next

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five years, the Spokane Police Department must, and will, develop a modern infrastructure in terms of equipment and technology that will support our members as we implement our policing strategy. We will work diligently to ensure our members are accountable to each other and the community we serve, and act in accordance with our values. We will complete the analysis necessary to right size the sworn and civilian workforce. Over the next five years, the Spokane Police Department will become a model of policing in the Pacific Northwest, as well as a model of excellence for the police profession.

### **MISSION:**

The mission of the Spokane Police Department is to demonstrate excellence in policing by working in partnership with the community we serve to:

- Prevent and reduce crime, the fear of crime, and improve the quality of life for our residents and visitors.
- Enforce laws while safeguarding the constitutional rights of all people.
- Provide high quality police services to all of our residents and visitors through integrity, compassion, and a commitment to innovation.
- Create a work environment in which we recruit, train, and develop an exceptional team of employees.

All members of the Spokane Police Department must dedicate themselves to accomplishing this mission. Whether sworn or civilian is essential to making the Spokane Police Department a model of excellence in policing. This requires that we hold each other and ourselves accountable for advancing our mission and performing our work with the highest level of integrity and professionalism.



### **GUIDING PRINCIPLES**

Our strategic plan reflects our commitment to working in collaboration with residents, businesses, city departments, and our law enforcement partners to address crime, the fear of crime, and disorder in Spokane. Five principles will guide our policing strategy. They serve as the foundation for developing programs, pursuing opportunities, and delivering enhanced police services.

#### **Integrity**

To build more effective community collaboration, the Spokane Police Department must be seen as a legitimate legal authority, engaged in proactive versus reactive policing activities. Trust and confidence in the Spokane Police Department is the foundation of

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cooperation between the Department and the community we serve. The SPD will be more accessible, more transparent, and more effective in its communications and practices. We will hold each and every member of the Spokane Police Department accountable for providing outstanding police services and for doing so with integrity, professionalism, and compassion.

The Department's top priority is to reduce crime in the City of Spokane with practices that are lawful, that respect all members of our community, and that ensure the safety of the men and women that police our neighborhoods.

We will restore trust between the community and the police department, between our officers and their own department, and we will do so in a constitutional, consistent, and compassionate manner. The Department will continue to implement the recommendations made by the Mayor, Council, and the Use of Force Commission. The Department will also continue to work closely with the Ombudsman.

### **Collaboration**

Public safety is a community responsibility. Neighbors, parents, youth, business owners, city employees, school employees and teachers, as well as county, state and federal law enforcement agencies all play a role in making Spokane a safer city. The Department will work diligently to create and sustain the kind of partnerships necessary to transform neighborhoods and improve the quality of life in our city.

We will collaborate with our partners in the social service and public health community to address the challenges posed by mental health, developmental disabilities, autism, domestic violence, and drug and alcohol dependency. We will reinvigorate our Crisis Intervention Team and establish police-mental health practitioner response teams to assist those in crisis and connect them to available services. We will also work with our partners to develop and implement programs focused on preventing youth violence and their involvement in the criminal justice system.



### **Smart Policing**

Our strategies and tactics will be guided by data, information, intelligence, and evidenced-based practices. In that regard, we will track, report, and respond to crime at the neighborhood level using an enhanced CompStat model. We will look at crime data on a daily basis and use weekly crime strategy meetings to direct our neighborhood

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resource officers, patrol, investigative, and specialized units to address the persons, activities, and places that our disrupting the quality of life in our neighborhoods. Weekly CompStat meetings will provide a forum for discussing innovative problem-solving solutions to crime and quality of life challenges, assess strategies and tactics, and re-align our assets as necessary.

Additionally, our smart policing strategies will incorporate traditional enforcement and non-traditional community-engaged problem-solving. We will, over the next five years, develop and utilize predictive analysis to anticipate criminal activity and introduce strategies that “head crime off at the pass.”

The Spokane Police Department’s CompStat model is based on four fundamental principles:

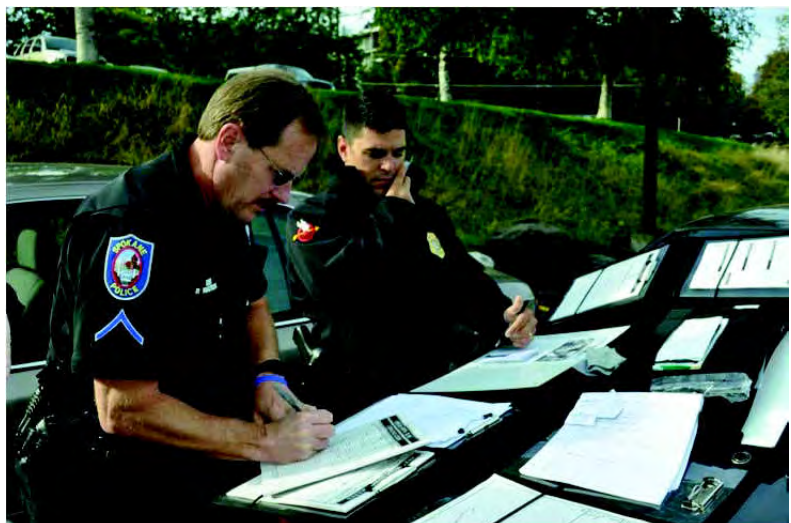
### **1. Accurate, Timely Intelligence.**

To respond effectively to crime patterns and trends, all members of the SPD will be provided accurate and timely intelligence regarding the persons committing crimes, their activities, and the places where criminal activity is taking place.

Our crime analysts will help turn real time data and intelligence into effective strategies and tactics. We will gather, analyze and report data with geographic specificity to ensure we are directing police resources to those neighborhoods most challenged by crime and/or quality of life issues and achieving desired outcomes.

### **2. Rapid Deployment of Resources.**

Personnel and other resources will be deployed promptly in response and/or in anticipation of crime. A rapid, focused response to crime and/or quality of life issues will be achieved by coordinating the activities of patrol, investigations, and specialized units under a single command. By bringing their specialized knowledge and skill together we will focus, with laser-like precision, on those individuals that threaten the safety of our community.



### **3. Effective Tactics.**

Tactics based on the analysis of accurate and timely crime data will be prudently designed and executed to reduce crime and improve the quality of life in our City. In order to avoid simply displacing crime and quality of life offenses, and to bring about permanent change, these tactics will be comprehensive, flexible, and adaptable.

### **4. Relentless Follow-up and Assessment.**

An ongoing process of rigorous follow-up and assessment is critical to ensuring the desired results are actually being achieved and that “unintended consequences” of enforcement activities are quickly identified and resolved. This constant and consistent evaluation will provide the redeployment of resources to meet new challenges once a problem has been abated. It will also permit the evaluation of particular tactics for developing future responses.

## **Prevention**

The ultimate goal of policing is to prevent crime and disorder from occurring in the first place. A sense of security arises from feeling safe in our home, in school or at work, on our streets, and in our neighborhood. Working with neighborhood residents, the business and academic community, as well as our law enforcement partners, we will develop and implement programs that address the underlying causes of crime and disorder in the City of Spokane.

## **Continuous Improvement in Operations and Administration**

We must, and will, continuously review and refine our policies, procedures, and operations to increase our efficiency and effectiveness. We will continue to look for opportunities to reduce bureaucracy and operating costs. We will ensure that the right people with the appropriate training are in the right positions to successfully execute and assess the implementation of our strategic plan. And we will develop our future leaders by exposing them to the best practices of the policing profession.

The Spokane Police Department will seek and obtain State accreditation in 2013, sustain accreditation, and continuously endeavor to identify and implement the best practices of the policing profession.

We will adopt and promote a mindset of never being satisfied with “good enough.” We will invite our employees to challenge assumptions based on past experiences and scrutinize “the way we’ve always done things.” By committing to creativity and innovation, we will challenge our most basic assumptions and continuously endeavor to test, tweak, and redesign our core business activities. Further, by using CompStat, we will create a culture of performance.

## **BUILDING AN ORGANIZATION ALIGNED WITH OUR MISSION AND PRINCIPLES**

The structure of the Spokane Police Department is critical to aligning our units, our personnel, and our resources to fit our core functions and to achieve our goal of becoming the best police department in the Pacific Northwest as well as a model for policing mid-size cities nationally. The Department's structure will also ensure we deliver the highest level of police services to the community, that our efforts will result in significant and sustained crime reductions, and that we execute our mission with integrity, accountability, and compassion. The new organization is described in Attachment 1.

In the past, the Spokane Police Department has relied on a traditional, vertical organizational structure, with separate bureaus designed around specific functions. In reality, however, most police work takes place laterally, moving across different units that are serving a common purpose. By reorganizing the Department into a flatter, more horizontal and connected organization, we can match units to their function.

### **Office of the Chief**

#### *Internal Affairs*

The Chief of Police, and all members of the Spokane Police Department, is dedicated to ensuring the integrity of the Department. In 2013, we will add a second sergeant to the Internal Affairs Unit improving our ability to thoroughly and objectively investigate allegations and complaints regarding the conduct of our sworn and civilian employees. We owe our employees and the community the highest quality investigations. Investigations will be completed and the results will be reported in a timely and accurate manner. In addition to the unit's investigative responsibilities, IA staff will conduct quality control audits and annual in-service ethics training. To further the unit's professional development, members will receive specialized training and visit their counterparts in other police departments.

#### *Public Information*

Recognizing that mutual understanding and consistent communication between the SPD, the community, and the media are critical to the success of our policing model, the public information office will be re-engineered and staffed with an experienced police officers and a civilian communications director who will report to the Chief of Police. It is a well-established tenet of community policing that openness of communication is a major building block to gain and maintain the trust and confidence of the public.

Additionally, the public information office will be charged with maintaining the Department's website, internal communications, social media, and developing and implementing a public relations strategy. We will continue to provide training and career



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development opportunities for our staff members engaged in collateral public information roles.

### **Assistant Chief of Police**

#### *Community Outreach*

The Assistant Chief and his staff will coordinate, plan, develop, implement, evaluate, and follow-up on specific projects, programs, and related services that help foster and maintain effective police-community partnerships.



We will reinvigorate and expand the Crisis Intervention Team (CIT). We will renew and expand our relationships with the mental health community and service providers. We will work with our partners to provide collaborative services to those members of our community that struggle with mental illness, developmental disabilities, autism, and other special needs. Additionally, we will ensure all members of the SPD receive annual in-service training regarding crisis intervention methods and tactics.

Over the next two (2) years we will ensure all members of the SPD receive forty (40) hours of crisis intervention training.

We will also strengthen our relationship with our school district to ensure our children have a safe and secure environment in which to learn.

#### *Organizational Development*

In 2013, the Spokane Police Department will achieve State accreditation, and establish a routinized schedule for reviewing and updating our policies and procedures to ensure they are consistent with the best practices of the police profession.

We will implement leadership training at all levels, recognizing that every police officer and civilian staff member is a leader. We will develop and implement specific training for our sergeants to ensure they are prepared to supervise, mentor, and develop our officers. We will develop and implement programs to ensure we are preparing our mid-level and senior leaders to meet the challenges of a dynamic and ever changing profession.

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We will continuously assess and evaluate our training policies, practices, and methods to ensure they are consistent with Washington State Police Training requirements and the best practices of the police profession.

### **Field Operations Bureau**

Patrol, investigations, traffic, and specialized units, previously under separate chains of command will be placed under a Field Operations Commander, creating a single line of command responsible for preventing and reducing crime, the fear of crime, and improving the quality of life in our community.

We will establish a Watch Commander in our dispatch center to ensure 24/7 situational and operational awareness. The Watch Commander will direct resources to current and emerging issues, supervise SPD dispatchers, and provide a senior police leader to assist members of our community.

To ensure that Field Operations' personnel receive the timely, accurate, and actionable crime and intelligence data the crime analysis unit will report to the Field Operations Commander.



### **Strategic and Tactical Operations Bureau**

Neighborhood Conditions Officers (formerly referred to as Neighborhood Resource Officers), will continue to work out of COPS shops (neighborhood resource centers) where they will continue to work with our volunteers and representatives of other City agencies to identify neighborhood challenges and implement strategies to reduce crime and resolve quality of life issues.

Recognizing the importance of a vibrant and dynamic downtown, we will assign a sergeant and seven (7) neighborhood conditions officers downtown. These officers will work in conjunction with other elements of the Strategic and Tactical Operations Bureau to bring an array of focused enforcement and problem-solving strategies to address crime and quality of life issues.

We will place our targeted crimes unit (detectives), patrol anti-crime teams, property crimes and fraud detectives under a single command, bringing together proactive and strategic investigative and uniform resources to rapidly respond to emerging crime and quality of life issues. This realignment will focus more uniform and investigative

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resources on property crime, street level drug activity, gangs, and other activities that threaten our quality of life.

Additionally, the abandoned auto and police special problem units will work closely with Bureau members and Code Enforcement resources to resolve the various factors that contribute to crime and quality of life issues in our neighborhoods.

### **Business Services Bureau**

Sworn police officers must focus their efforts on preventing and reducing crime, building strong community collaboration, and improving the quality of life in our neighborhoods. Therefore, we are establishing the business services bureau to centralize fiscal, human resources, and support services (records, property, planning, and fleet) under senior-level civilian leadership.



### **Summary**

The organizational changes are focused on providing a more streamlined command structure, greater coordination among units whose functions are similar, as well as increasing responsibility and accountability at all levels of the department for reducing crime. The new structure represents a transformation of the Spokane Police Department from an incident-driven organization, to a customer-service driven organization that develops partnerships that promote community safety and achieve organizational excellence.

## CRIME IN SPOKANE

Part I Crimes have increased 13% from 2009 to 2011 in Spokane, as shown in Chart 1. Chart 2 demonstrates the Violent Crime rate, increased nearly 3% from 2009 to 2011. Property Crimes, as shown in Chart 3, increased 14%.

Chart 1: Part I Crimes

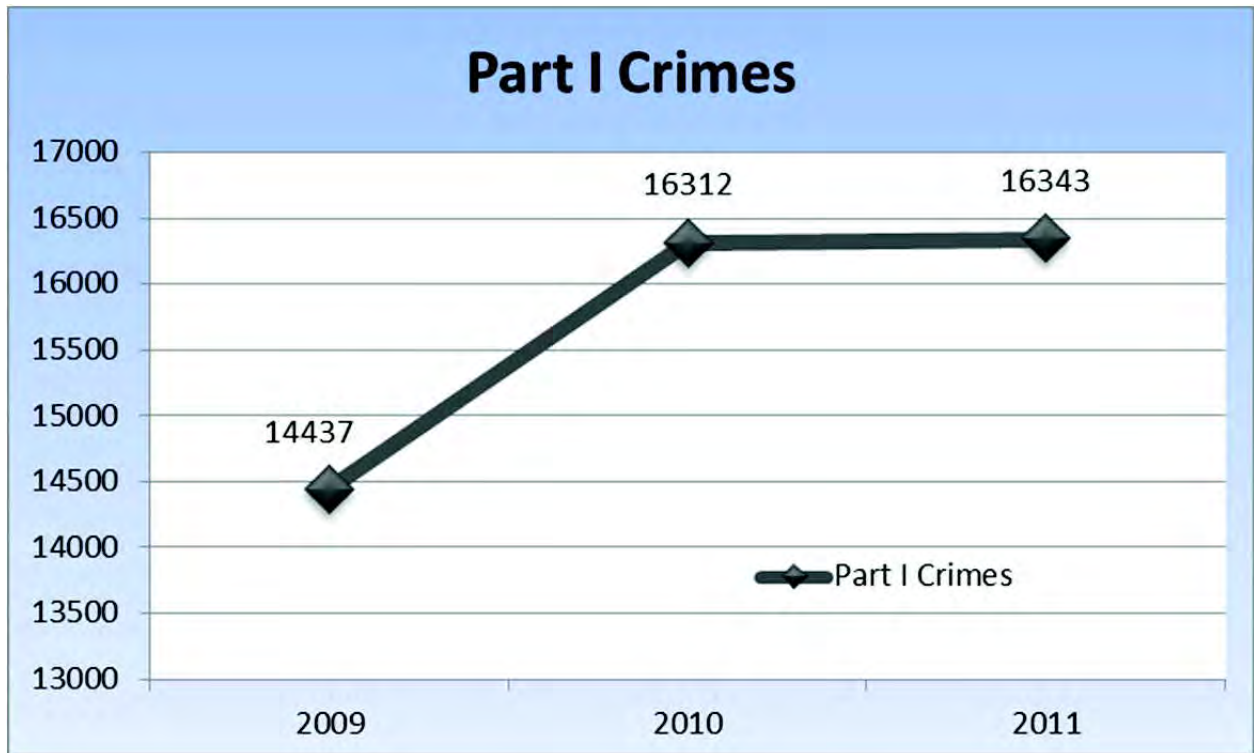


Chart 2: Violent Crimes

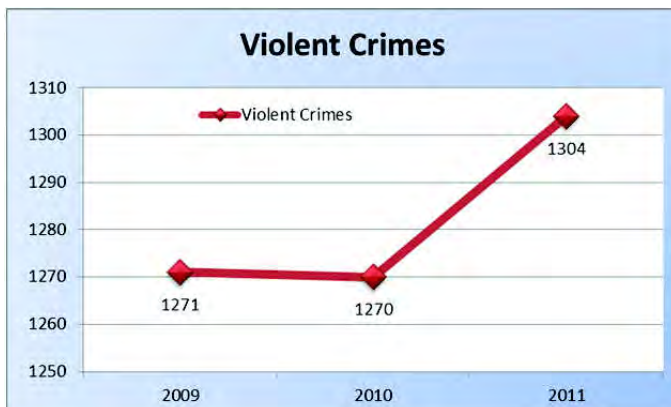
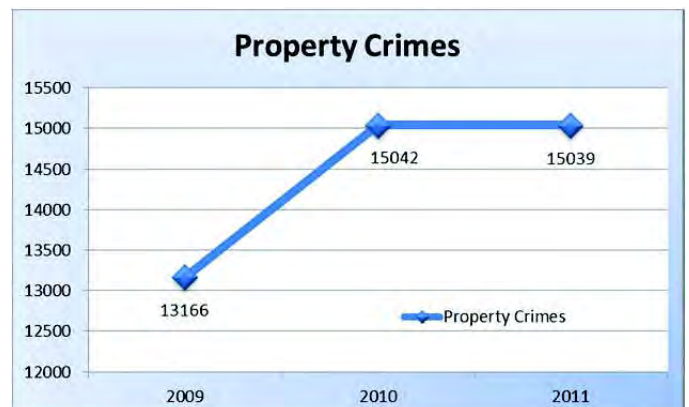


Chart 3: Property Crimes



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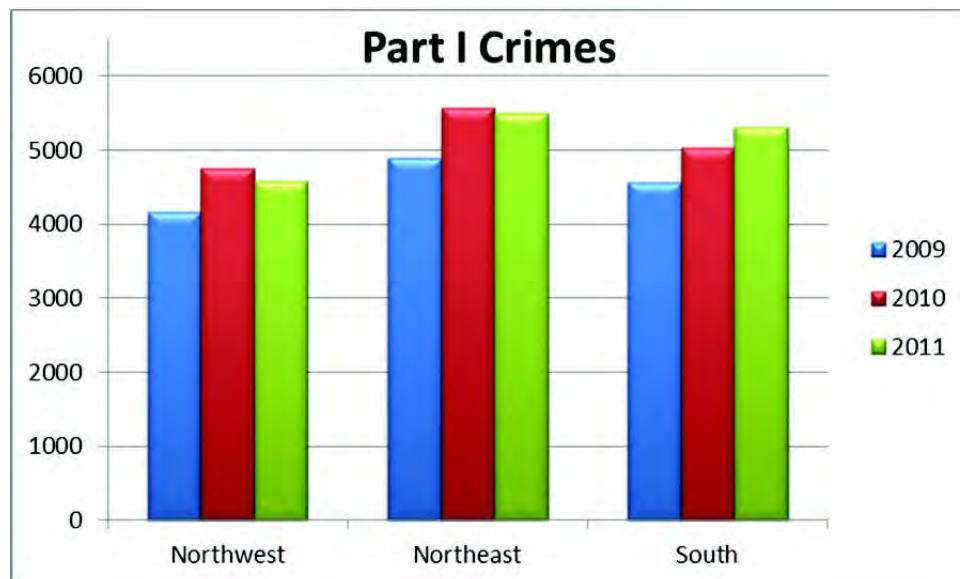
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The data in Table 1 and displayed in Chart 4 shows the breakdown in Part 1 Crimes by three sectors: Northwest, Northeast, and South.<sup>1</sup> While all three sectors have experienced an increase in Part 1 crime since 2009, the Northwest and Northeast actually reported less in 2011 than 2010.

*Table 1: Part I Crimes by Sector*

	2009	2010	2011	% change from 2009 to 2011	% change from 2010 to 2011
Northwest	4159	4761	4578	10.2%	-3.8%
Northeast	4895	5574	5500	12.5%	-1.3%
South	4559	5032	5313	16.6%	5.6%
Part I Crimes	13613	15367	15391	13.1%	0.2%

*Chart 4: Part I Crimes by Sector*



On the neighborhood level, Chart 5 shows the percent change in Violent and Property Crimes from 2009 to 2011 by the eight districts. Districts 1 and 2 are in the Northwest sector, Districts 3 and 4 are in the Northeast sector, and Districts 5-8 compose the South sector as shown in Map 1.

<sup>1</sup> Due to variances in mapping, numbers vary from official UCR data displayed in Charts 1-3.

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Map 1

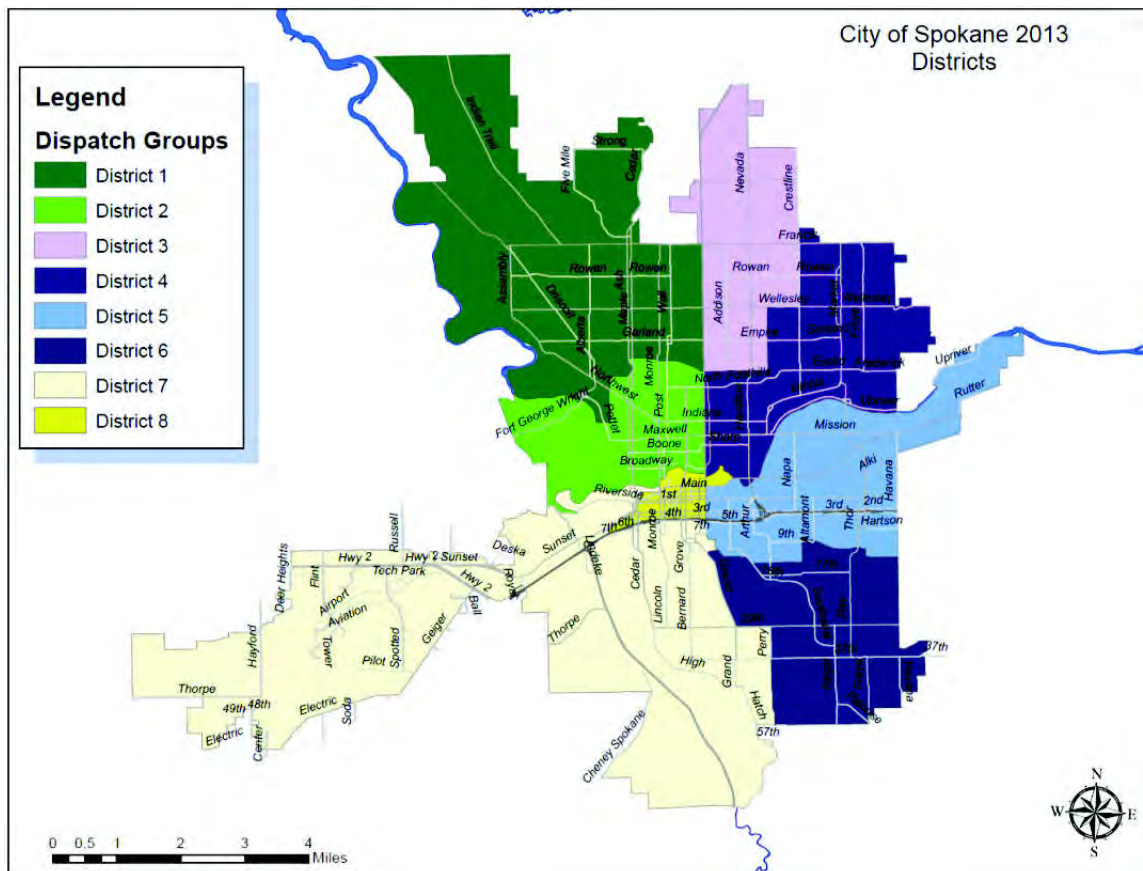
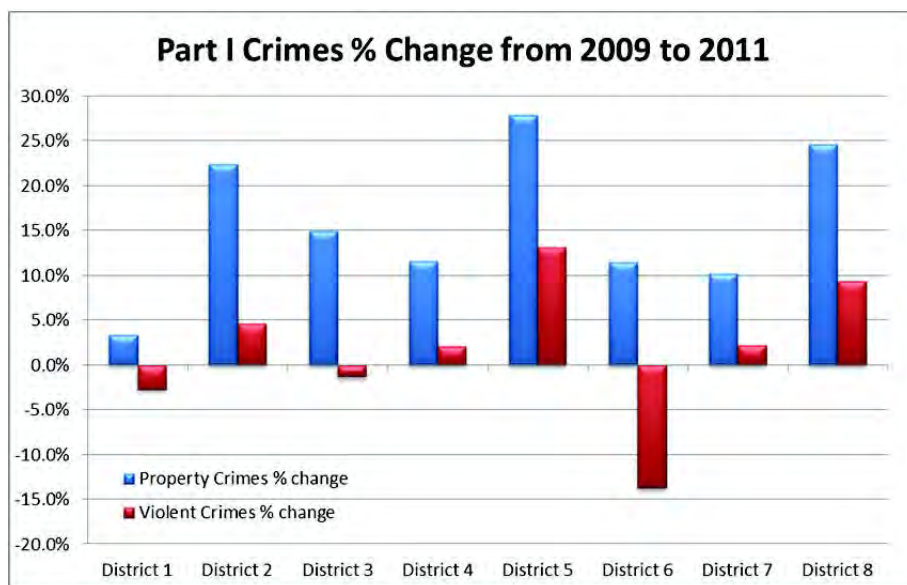
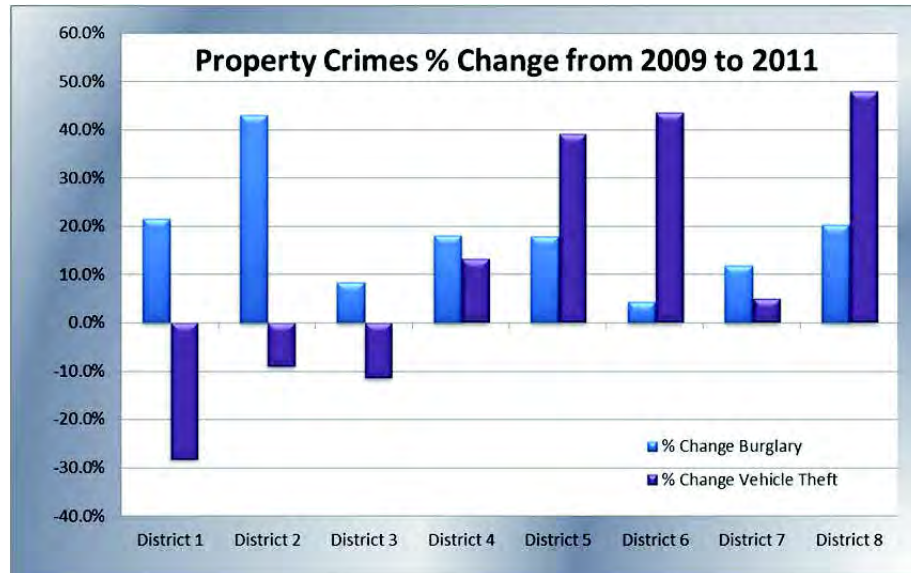


Chart 5: Part I Crimes by District



A further breakdown for these increases in Property Crimes (Burglary and Vehicle Theft) by District is shown in Chart 6.

Chart 6: Property Crimes by District



SPD must become more strategic about reducing crime. This requires a “long-view” of the causes of crime and the desired outcomes of our efforts. Short-term tactics will always be required to address emergent crime, but crime challenged neighborhoods tend to remain stable. In order to make Spokane a safer city, we must strategically coordinate police, city, and community resources to focus on the underlying causes of crime and disorder. Using our guiding principles of integrity, smart policing, collaboration, prevention, and continuous improvement, we will develop and implement strategies and tactics that focus on the specific challenges and opportunities found in each of our neighborhoods.

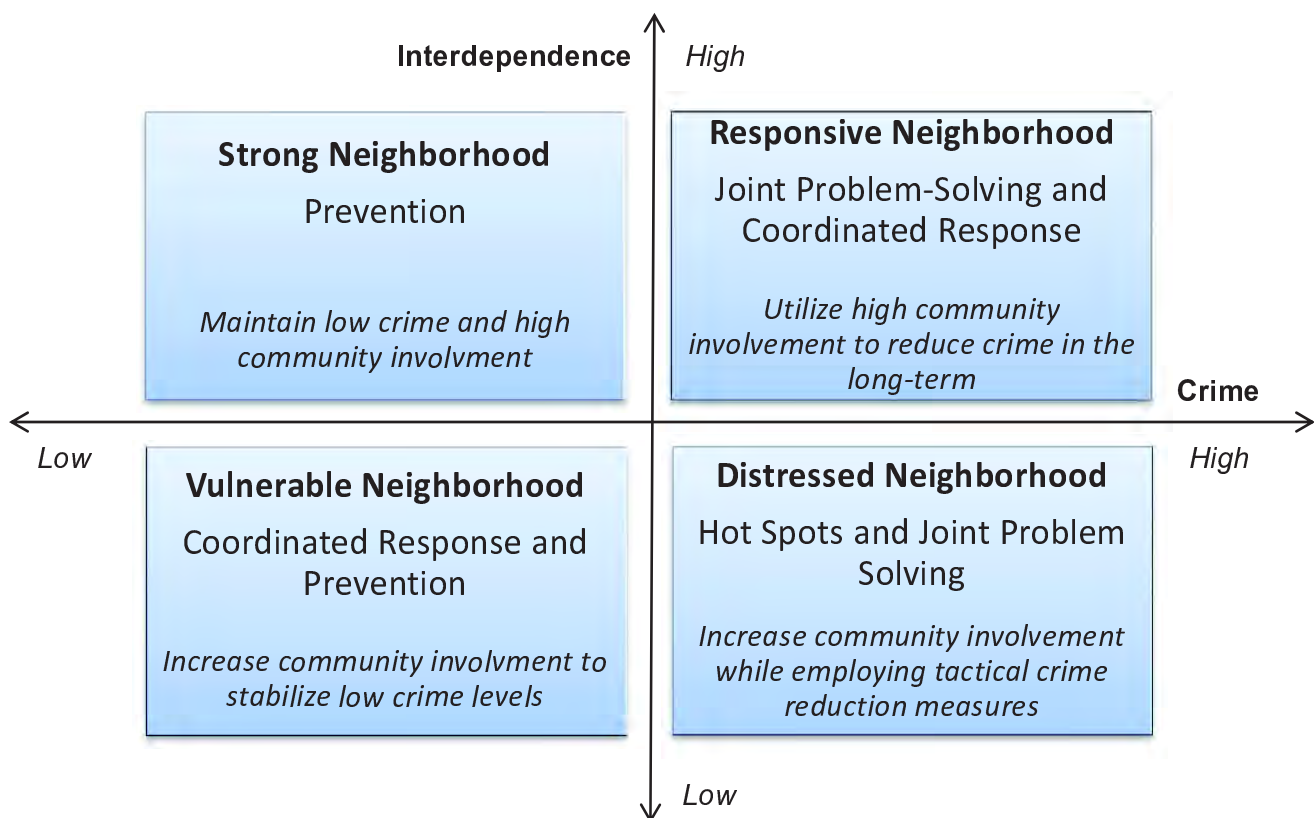
### A NEIGHBORHOOD-BASED APPROACH TO POLICING

The new SPD neighborhood-specific policing model places multi-agency and community collaborations at the center of crime reduction and sustainable neighborhood transformation. This model is dynamic, flexible, involves multiple stakeholders, and allows for different police strategies and tactics to be matched to the presenting issues of crime and disorder. Efforts will be geared toward the most violent and/or concentrated areas of crime within each neighborhood. Evidence-based tactics, such as problem solving, foot patrols, and offender-focused intelligence initiatives will be used to prevent and reduce crime in these “hot spot” areas.

The philosophy of neighborhood policing defines how we will organize and deliver police response and services. Residents and the police in Spokane are working together to make their neighborhoods a place where all people can live without fear. This is not just the rhetoric of community policing; this is the reality of neighborhood transformation.

Spokane's neighborhood-specific policing approach is based on work done in other cities, as well as crime theory and extensive research. The new SPD model recognizes that each neighborhood is different in terms of its strengths and challenges, therefore policing strategies and tactics must be implemented differently. **Effective policing involves not only reducing crime and disorder but facilitating neighborhood growth and development.** The overall goal for the Spokane Police Department is to partner with community members and other city agencies to help them transform neighborhoods into stronger, safer environments.

### Spokane Neighborhood-Based Policing Model



SOURCE: "Situational Policing" by Nolan, J.J., Conti, N., and McDevitt, J.

Recognizing that we must police the City with fewer officers, we will concentrate our resources on those neighborhoods most in need of change, with a particular focus on the persons, activities, and locations that are driving the crime problem.



## **THE VISION TO ACHIEVE OUR GOALS**

This strategic vision for the Department asks: ***What should the department look like in the year 2018?*** There are three phases in developing and achieving our strategic vision:

- 1) Define the operational strategy, reorganize the organization to be aligned with our mission and values, and establish performance measures;
- 2) Pilot major initiatives; refine our mission; establish a policing model appropriate for addressing crime and disorder in Spokane;
- 3) Establish goals, strategies and actions based on our neighborhood policing model, and assign accountability at every level of the organization in order to meet our vision.

Specific strategies and goals are organized around four areas: (1) Prevent and reduce crime and victimization (2) Improve Police-Community Partnerships and Collaboration (3) Increase Public Confidence in the Department (4) Create an exceptional team of employees. We expect that the goals and strategies will remain consistent over the next five years and that our actions will change or be refined as we make progress.

### **Prevent and reduce crime and victimization.**

- Use daily crime briefs and weekly CompStat meetings as a way to analyze data, measure progress, and foster collaboration amongst SPD units and the community to reduce crime and improve the quality of life in our neighborhoods.
- Regularly review staffing levels of all units and make adjustments as necessary.
- Enhance the capabilities of our crime analysis unit by improving business information tools to provide timely and accurate actionable information to operational personnel.
- Use effective, data-driven and evidenced-based strategies to reduce crime in neighborhood-specific problem locations.
- Identify the most violent offenders, serial burglars and auto thieves, and work with probation and parole, the prosecutor, and the courts to connect them with support services and/or develop criminal cases for prosecution.



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- Develop, implement, and assess targeted crime plans.
- Work with Neighborhood Services and Code Enforcement to address multi-agency, chronic crime and disorder problems.
- Ensure Neighborhood Conditions Officers are actively engaged in problem-solving, collaborating with community members, and achieving measurable results.
- Develop and implement youth programs to improve youth-police relations and reduce criminal activity.
- Work with our schools to enhance safety and security for students by ensuring the School Police and Spokane Police are closely aligned.

### **Improve Police/Community Partnerships and Collaboration.**

- Continue to improve the Department's initial response to persons in mental health crisis by updating policies and procedures, providing training, partnering with mental health practitioners, and monitoring responses.
- Enhance coordination between the SPD and the appropriate agencies to provide intervention services to high-risk individuals and families.
- Ensure members of the command and senior staff are attending community meetings as well as community events on a regular basis.
- Document and review the flow of information between the SPD and neighborhoods to ensure neighborhood satisfaction.
- In 2013, the SPD will, with the assistance and collaboration of the US Department of Justice COPS Office, administer the community policing self-assessment tool.
- Provide accurate and complete information to media about the Department's operations and programs.



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- Develop and implement a program that identifies officers who may benefit from additional training regarding community and/or problem-solving methodologies.
- Identify and implement alternative methods for the community to report crime and quality of life issues as well as receive incident and other reports.
- Develop and implement a plan for district policing.

### **Increase Public Confidence in the Department.**

- Continue to implement the Mayor's, Council's, and Use of Force Commission's recommendations.
- Provide constant reinforcement of values and ethical behavior through department-wide training and communications.
- Ensure 100% compliance with firearms and use of force training consistent with the Use of Force Commission's recommendations and the best practices of the policing profession.
- Document and audit field interviews and report the results on an annual basis.
- Develop and implement a training program for supervisors on how to address performance issues and concerns for personnel under their command.
- Explore and implement alternative approaches to discipline for first time violations of specific offenses with the intent of immediately correcting behavior.
- Continue coordination and collaboration with the Ombudsman.
- Achieve State accreditation within 2013, maintain accreditation, seek out and implement the best practices of the police profession.
- Purchase and deploy body cameras.

### **Create an Exceptional Team of Employees.**

- Create a master training plan that reflects the needs of sworn and civilian personnel.
- Implement leadership training for all members of the Spokane Police Department. In 2013, we will engage the International Association of Chiefs of Police and implement their "Leadership in Police Organizations" program.
- Develop and implement sergeant-specific training.

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- Ensure that senior and executive staff members continue to attend the FBI National Academy, Southern Police Institute, and the Police Executive Research Forum's Senior Management Institute for Police.
- Develop and implement a 5-year strategic plan for SPD information technology.
- Develop and implement an appropriate staffing plan that is consistent with current and future challenges.
- Establish an internal management advisory group with representatives from a cross section of the SPD.
- Identify and aggressively seek out grant opportunities.
- Build and maintain effective working relationships with the Guild and the Lieutenants and Captains Association.
- Encourage all employees to utilize the Employee's Assistance program, Chaplain's Office, and other opportunities to ensure staff health and wellness.



## CONCLUSION

The focus of the 2013 Strategic Plan is to better align the Spokane Police Department to meet the demands of our mission – to prevent and reduce crime, improve the quality of life for our residents and visitors, and to do so with integrity, accountability, and transparency. It reflects our commitment to continually improve, innovate, evolve and change.

The Spokane Police Department's policing model requires that we understand neighborhood-specific crime challenges, and that we develop and implement strategies and tactics to address them in partnership with the community we serve. The men and women in field operations will lead the Department in these efforts. The Community Advocacy and Strategic Initiatives Bureau will ensure we engage the community, other city agencies, mental health, faith-based, and other partners in crime prevention and reduction.



We are demanding excellence from our members and we must give them the tools to achieve that mission. We will review staffing levels of all units and make adjustments as necessary to ensure that our staffing levels are consistent with the challenges we face as well as the fiscal realities of the City we serve.

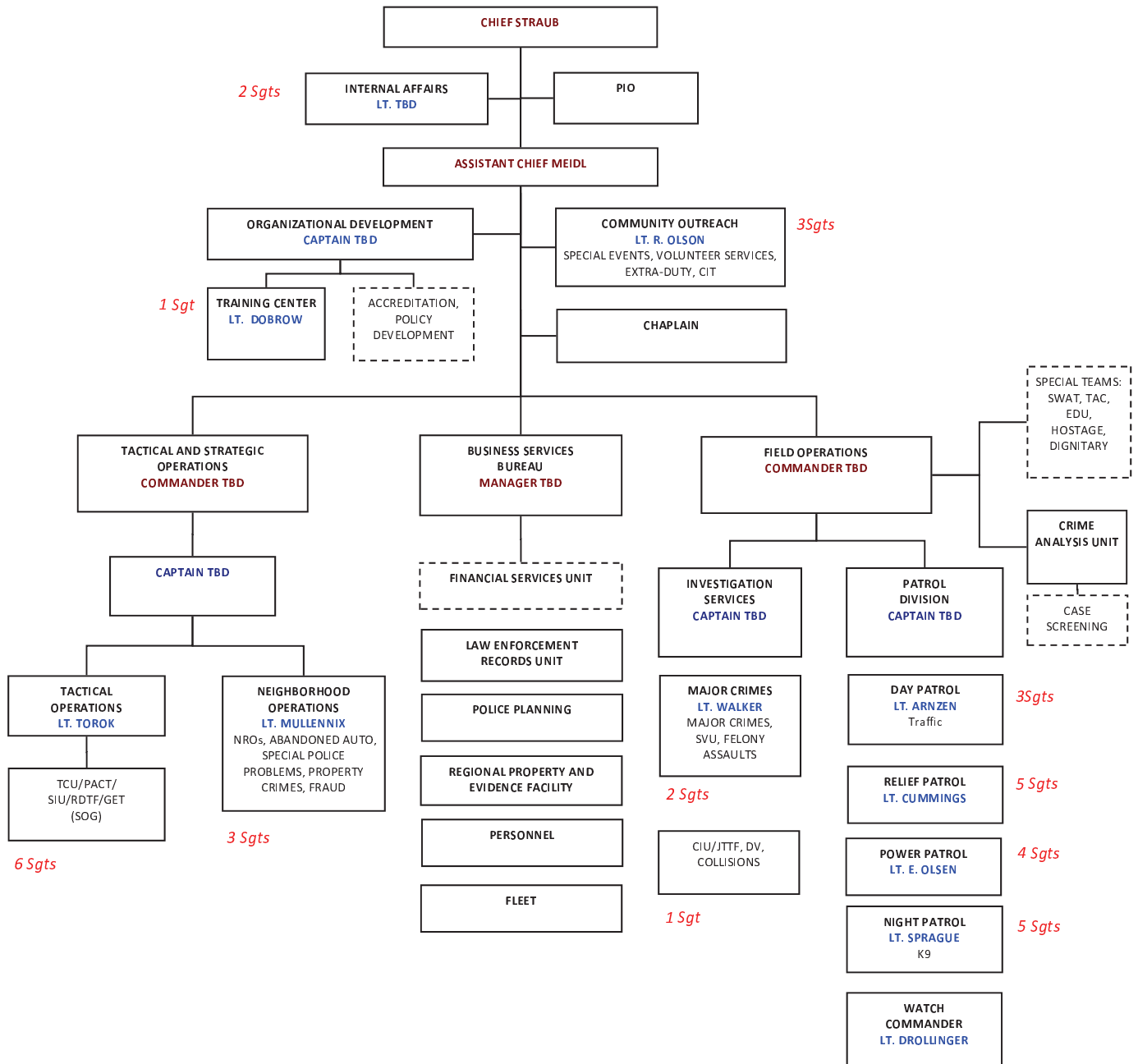
We must invest in our employees. They must be prepared not only to meet the demands of today, but those of the future. Training and education must remain an integral part of our development as an organization. We will work diligently to ensure our members are accountable to each other and act in accordance with our values of honor, integrity, and service. We will ensure that have state of the art equipment and the technology to support their efforts to serve the City of Spokane. And we will endeavor to

staff the SPD to meet current and future challenges.

SPD will serve all members of the Spokane community with integrity, accountability and transparency. We will protect all of our citizens and ensure their rights and freedoms.

The Spokane Police Department will become a model of excellence for the police profession, as well as a model of policing in the Pacific Northwest.

### SPD ORGANIZATION



RESOLUTION NO. 2012 - 0105

A RESOLUTION REQUESTING THE SPOKANE COUNTY AUDITOR TO HOLD A SPECIAL ELECTION ON FEBRUARY 12, 2013 IN CONJUNCTION WITH THE SCHEDULED SPECIAL ELECTION TO SUBMIT TO THE VOTERS OF THE CITY OF SPOKANE A PROPOSITION REGARDING AN AMENDMENT TO THE SPOKANE CITY CHARTER REGARDING THE OFFICE OF POLICE OMBUDSMAN, A POLICE OMBUDSMAN COMMISSION AND THE INDEPENDENT INVESTIGATIVE AUTHORITY OF BOTH ENTITIES.

WHEREAS, pursuant to Section 125 of the City Charter, the City Council, of its own motion, may submit to popular vote for adoption or rejection at any election, proposed amendments to the City Charter; and

WHEREAS, the City Council has determined, pursuant to its authority set forth in Section 125 of the City Charter, that an amendment to the City Charter regarding the Office of Police Ombudsman, a Police Ombudsman Commission and the independent investigative authority of both entities should be submitted to the voters of the City for their adoption or rejection on the February 12, 2013 scheduled special election; and

WHEREAS, RCW 29A.04.330 requires the City to transmit to this resolution calling for a special election to the Spokane County Auditor by December 28, 2012.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Spokane, pursuant to Section 125 of the City Charter, that:

1) the Spokane County Auditor is hereby requested pursuant to RCW 29A.04.330 to call a special municipal election to be held in conjunction with the scheduled special election to be held on February 12, 2013 for the purpose of submitting to the voters of the City of Spokane for their approval or rejection the following proposition:

**PROPOSITION NO. 1**

**CITY OF SPOKANE**

**AMENDMENT TO CITY CHARTER REGARDING A  
POLICE OMBUDSMAN AND COMMISSION**

This proposition will amend the Spokane City Charter by adding two new sections to provide for the establishment of an Office of Police Ombudsman, a Police Ombudsman Commission and the independent investigative authority of both entities, as set forth in Ordinance No. C – 34941.

Should this measure be enacted into law?

Yes .....   
No .....

2) the City Clerk is directed to deliver a certified copy of this resolution, along with Ordinance No. C – 34941 to the Spokane County Auditor no later than December 28, 2012.

Adopted December 17, 2012

*Leri J. Ryker*  
City Clerk

Approved as to form:

*Michael A. Piccolo*  
Assistant City Attorney



DATE: December 20, 2012  
I HEREBY CERTIFY THIS IS A TRUE AND ACCURATE COPY OF THE ORIGINAL WHICH IS ON FILE IN THE OFFICE OF THE CITY CLERK.

*Leri J. Ryker*  
CITY CLERK  
SEAL: CITY OF SPOKANE  
COUNTY OF SPOKANE  
STATE OF WA



## Personnel Complaint Procedure

### 1020.1 PURPOSE AND SCOPE

The purpose of this procedure is to provide guidelines for the reporting, investigation and disposition of complaints regarding the conduct of members and employees of this department.

#### 1020.1.1 DEFINITIONS

Personnel complaints consist of any allegation of misconduct or improper job performance against any department employee that, if true, would constitute a violation of department policy, federal, state or local law.

Personnel Complaints shall be classified in one of the following categories:

**Inquiry** - Questions about employee conduct which, even if true, would not qualify as a personnel complaint may be handled informally by a department supervisor and shall not be considered complaints.

**Complaint** - A matter in which the complaining party requests further investigation or which a department supervisor determines that further action is warranted. Such complaints may be investigated by a department supervisor of rank greater than the accused employee or referred to the Internal Affairs Unit depending on the seriousness and complexity of the investigation.

**Incomplete** - A matter in which the complaining party either refuses to cooperate or becomes unavailable after diligent follow-up investigation. At the discretion of the Assistant Chief, such matters need not be documented as personnel complaints, but may be further investigated depending on the seriousness of the complaint and the availability of sufficient information.

**Mediation** - Is a voluntary process and an alternative to investigation, adjudication and the disciplinary process.

### 1020.2 AVAILABILITY AND ACCEPTANCE OF COMPLAINTS

#### 1020.2.1 AVAILABILITY OF COMPLAINT FORMS

Personnel complaint forms will be maintained in a clearly visible location in the Public Safety Building lobby, at all COP Shops, from Internal Affairs, or at the Office of Police Ombudsman.

#### 1020.2.2 SOURCE OF COMPLAINTS

- (a) A department employee becoming aware of alleged misconduct shall immediately notify a supervisor.
- (b) A supervisor receiving a complaint from any source alleging misconduct of an employee which, if true, could result in disciplinary action.
- (c) A complaint may be filed directly with Internal Affairs or the Office of Police Ombudsman.

# Spokane Police Department

## Policy Manual

### *Personnel Complaint Procedure*

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- (d) Anonymous complaints and third party complaints should be accepted and investigated to the extent that sufficient information is provided.

#### **1020.2.3 ACCEPTANCE OF COMPLAINTS**

A complaint may be filed in person, in writing, or by telephoning the department. Although not required, every effort should be made to have the complainant appear in person. The following should be considered before taking a complaint:

- (a) When an uninvolved supervisor determines that the reporting person is satisfied that their complaint required nothing more than an explanation regarding the proper implementation of department policy or procedure, a complaint need not be taken. A Citizen Inquiry form will be completed and forwarded to Internal Affairs.
- (b) When the complainant's credibility appears to be unreliable, the person should be provided with a Personnel Complaint form and the supervisor should complete a Citizen Inquiry form, noting the credibility concerns.
- (c) Depending on the urgency and seriousness of the allegations involved, complaints from juveniles should generally be taken only with their parents or guardians present and after the parents or guardians have been informed of the circumstances prompting the complaint.

#### **1020.2.4 COMPLAINT DOCUMENTATION**

Complaints of alleged misconduct shall be documented by a supervisor on a personnel complaint form. The supervisor shall ensure that the nature of the complaint is defined as clearly as possible.

When a Personnel Complaint form is completed in person, the complainant should prepare a detailed narrative of his/her complaint. If circumstances indicate that this is not feasible, the complaint may be dictated to the receiving supervisor. In an effort to ensure accuracy in any complaint, it is recommended, if practicable, that a recorded statement be obtained from the reporting party. A refusal by a party to be recorded shall not alone be grounds to refuse to accept a complaint. Whether handwritten or dictated, the complainant's signature should be obtained at the conclusion of the statement.

#### **1020.3 SUPERVISOR RESPONSIBILITY**

In general, preliminary and follow-up investigative responsibility for some administrative complaints shall rest with the employee's immediate supervisor. The Chief of Police or authorized designee may, however, direct that another supervisor, Internal Affairs, or Human Resources, investigate the complaint. The supervisor shall be responsible for the following:

- (a) A supervisor receiving a complaint involving allegations of a potentially serious nature shall ensure that the Shift Commander is notified as soon as practicable. The Shift Commander will determine if the nature of the complaint warrants DSO notification.
- (b) A supervisor receiving or initiating a complaint, or conducting a preliminary investigation, shall ensure that a Personnel Complaint form has been completed as fully as possible to include; the names and contact information of all involved parties and witnesses, collection of evidence, photographing of alleged injuries as well as areas of non-injury, etc. The supervisor will send the original to Internal Affairs by the end of his/her shift, and forward a copy through the accused employee's chain of command. The chain of command will review the complaint and make recommendations as to the appropriate department response. The Assistant Chief

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### *Personnel Complaint Procedure*

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will determine if the allegation is criminal or administrative. If the allegation is criminal, the Assistant Chief will notify the Chief of Police. A decision will then be made as to the proper method of investigation.

- (c) When the nature of a personnel complaint relates to sexual, racial, ethnic or other forms of prohibited harassment or discrimination, the supervisor or commanding officer receiving the complaint shall immediately contact the employee's Bureau Commander or the Duty Staff Officer who will initiate appropriate action. Internal workplace complaints of this nature will be investigated by Human Resources in coordination with the department's Internal Affairs Unit. The Internal Affairs Unit will ensure that all complaints/investigations are documented, monitored, and reviewed for thoroughness and objectivity.

#### **1020.4 ASSIGNMENT TO ADMINISTRATIVE LEAVE**

The Chief of Police may elect to place an employee on administrative leave when circumstances dictate such leave to be in the best interest of the department.

##### **1020.4.1 ADMINISTRATIVE LEAVE**

An employee placed on administrative leave may be subject to the following guidelines:

- (a) Under such circumstances, an employee placed on administrative leave shall continue to receive regular pay and benefits pending the imposition of any discipline.
- (b) An employee placed on administrative leave may be required to relinquish any badge, departmental identification, assigned weapon(s) and any other departmental equipment.
- (c) An employee placed on administrative leave may be ordered to refrain from taking any action as a departmental employee or in an official capacity. The employee shall be required to continue to comply with all policies and lawful orders of a supervisor. The employee shall be available to the department by pager, or other electronic means, during normal business hours, 0800-1600 hr., Monday through Friday.
- (d) At the discretion of the Chief, as an alternative to administrative leave, the employee may be temporarily reassigned to a different shift (generally normal business hours) during the pendency of the investigation and the employee may be required to remain available for contact at all times during such shift and report as ordered.
- (e) The Chief of Police or designee, is authorized to place an employee on administrative leave.

#### **1020.5 ALLEGATIONS OF CRIMINAL CONDUCT**

Where an employee of this department is accused of potential criminal conduct, a separate supervisor or assigned investigator shall be assigned to investigate the criminal allegations apart from any administrative investigation. Any separate administrative investigation may parallel a criminal investigation.

The Chief of Police shall be notified as soon as practical when an employee is formally accused of criminal conduct. In the event of criminal allegations, the Chief of Police may request a criminal investigation by an outside law enforcement agency.

An employee accused of criminal conduct shall be provided with all rights and privileges afforded to a civilian and the employee may not be administratively ordered to provide any information to an assigned investigator.

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No information or evidence administratively coerced from an employee may be provided to a criminal investigator.

Any law enforcement agency is authorized to release information concerning the arrest or detention of a police officer, which has not led to a conviction, however, no disciplinary action, other than non-disciplinary paid administrative leave shall be taken against the accused employee based solely on an arrest or crime report. An employee charged with a crime may be placed on unpaid layoff status in accordance with Civil Service Rules.

#### **1020.6 ADMINISTRATIVE INVESTIGATION OF COMPLAINT**

Whether conducted by a supervisor, an assigned member of the Internal Affairs Unit, or the Human Resources Department, the following procedures shall be followed with regard to the accused employee(s):

- (a) Interviews of accused employees shall be conducted during reasonable hours, preferably when the employee is on-duty. If the employee is off-duty, the employee shall be compensated.
- (b) No more than two interviewers, and the Ombudsman if present, may ask questions of an accused employee.
- (c) Prior to their interview, an employee shall be informed of the nature of the investigation. If the employee is the subject of the investigation, they shall be given a general overview of the factual allegations in writing before the interview commences.
- (d) All interviews shall be for a reasonable period and the employee's personal needs shall be accommodated.
- (e) No employee shall be subjected to offensive or threatening language, nor shall any promises, rewards or other inducements be used to obtain answers. Any employee refusing to answer questions that are narrowly tailored to establish the facts of the investigation or the employee's fitness to hold office, may be ordered to answer questions administratively or be subject to discipline for insubordination. Nothing administratively ordered may be provided to a criminal investigator, except at the direction of the Chief.
- (f) Absent circumstances preventing it, the interviewer should record all interviews of employees and witnesses. If the employee has been previously interviewed, a copy of that recorded interview shall be provided to the employee prior to any subsequent interview if requested by the employee.
- (g) Any employee who becomes the subject of a criminal investigation shall, prior to their interview, be notified that he/she is the subject of a criminal investigation and, further, that he/she is under no obligation to answer any questions or to remain in an interview setting involuntarily. A criminal investigation shall be interpreted as any investigation which could result in the filing of a criminal charge against the employee.
- (h) All employees subjected to interviews that could result in punitive action shall have the right to have a Collective Bargaining Unit representative present at any interview. In addition, they may also have legal representation at their own expense. These representatives may participate to the extent allowed by law.
- (i) All employees shall provide truthful and non-evasive responses to questions posed during interviews.
- (j) An investigator will not ask, nor will an employee be compelled to submit to a polygraph examination, nor shall any refusal to submit to such examination be mentioned in any administrative investigation.

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#### **1020.6.1 ADMINISTRATIVE SEARCHES**

An employee of this department may be ordered to submit to a blood, breath, or urine test for alcohol and drugs as allowed by law.

Any employee may be compelled to disclose personal financial information pursuant to proper legal process.

Employees shall have no reasonable expectation of privacy in the use of city computers, telephones, radios, and electronic devices, and, in city property including desks, lockers, file cabinets, and vehicles, provided that employees retain a right of privacy in the personal possessions contained therein. Absent permission of the employee, no locker or vehicle search (excluding regular vehicle inspections) shall be conducted unless in the presence of a bargaining unit representative. Any removed items shall be inventoried.

#### **1020.6.2 ADMINISTRATIVE INVESTIGATION FORMAT**

Investigations of personnel complaints shall be detailed, complete and essentially follow this format:

**Introduction** - Include the identity of the employee(s), the identity of the assigned investigator(s), the initial date and source of the complaint.

**Synopsis** - Provide a very brief summary of the facts giving rise to the investigation.

**Summary Of Allegations** - List the allegations separately (including applicable policy sections) with a very brief summary of the evidence relevant to each allegation. A separate recommended finding should be provided for each allegation.

**Evidence As To Each Allegation** - Each allegation should be set forth with the details of the evidence applicable to each allegation provided, including comprehensive summaries of employee and witness statements. Other evidence related to each allegation should also be detailed in this section.

**Conclusion** - A recommendation of disposition will be provided during the chain of command review or by the Administrative Review Panel (ARP). Internal Affairs investigators will not submit a recommendation of disposition.

**Exhibits** - A separate list of exhibits (recordings, photos, documents, etc.) should be attached to the report.

#### **1020.7 DISPOSITION OF PERSONNEL COMPLAINTS**

Each allegation shall be classified with one of the following dispositions:

**Unfounded** - When the investigation discloses that the alleged act(s) did not occur or did not involve department personnel.

**Exonerated** - When the investigation discloses that the alleged act occurred, but that the act was justified, lawful and/or proper.

**Not Sustained** - When the investigation discloses that there is insufficient evidence to sustain the complaint or fully exonerate the employee.

**Sustained** - When the investigation discloses sufficient evidence to establish that the act occurred and that it constituted misconduct.

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**Training Failure** - Deficiency in training was the cause of the alleged act.

**Closed Due to Mediation** - Is an alternative to the investigation, adjudication and disciplinary process.

If an investigation discloses misconduct or improper job performance which was not alleged in the original complaint, the investigator shall take appropriate action with regard to any additional allegations.

#### **1020.8 COMPLETION OF INVESTIGATIONS**

Every investigator or supervisor assigned to investigate a personnel complaint shall proceed with due diligence. Recognizing that factors such as witness availability and the complexity of allegations will affect each case, every effort should be made to complete each investigation as required by Collective Bargaining Agreements. If the nature of the allegations dictate that confidentiality is necessary to maintain the integrity of the investigation, the involved employee(s) need not be notified of the pending investigation unless and until the employee is interviewed.

- (a) If the complaint is investigated by the shift/unit:
  - 1. The employee's supervisor will make a recommendation of finding and disposition. The supervisor will utilize the appropriate form, and forward the file through the chain of command to the Assistant Chief.
  - 2. The Assistant Chief will forward to the Internal Affairs Unit with recommendations or for submission of the case to the Administrative Review Panel (ARP).
  - 3. The Internal Affairs Unit will review the file for completeness and forward the case to the Chief for deliberation of finding and disposition. If the case was submitted to ARP, it will be returned to the Assistant Chief for review. The Assistant Chief will submit the completed file to the Chief for deliberation of finding and disposition.
  - 4. Upon completion of investigations involving allegations of a serious nature or originated by the Office of Police Ombudsman (OPO), IA will forward a complete copy of the case file to the OPO for review. The OPO will have five business days to determine whether the investigation was thorough and objective.
  
- (b) If the case was investigated by the Internal Affairs Unit:
  - 1. Once Internal Affairs has completed their fact-finding investigation, the case will be submitted to the Assistant Chief for review. The Assistant Chief will determine if the case will be submitted for a chain of command review or referred to the Administrative Review Panel.
  - 2. Upon completion of the chain of command review the case will be sent to Internal Affairs. The Internal Affairs Unit will review the file for completeness and forward the case to the Chief for deliberation of finding and disposition. If the case was submitted to ARP, it will be returned to the Assistant Chief for review. The Assistant Chief will submit the completed file to the Chief for deliberation of finding and disposition.
  - 3. Upon completion of investigations involving allegations of a serious nature or originated by the OPO, IA will forward a complete copy of the case file to the OPO for review. The OPO will have five business days to determine whether the investigation was thorough and objective.

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Within 30 days of case closure, written notice of the findings shall be sent to the complaining party. This notice shall indicate the findings, however, will not disclose the amount of discipline, if any imposed.

The OPO will be notified by IA within five business days of case closure of all complaints of a serious matter and all complaints originated by the OPO. The OPO, in addition to the department's written Notice of Finding letter to the complainant, may send a closing letter to the complainant. The letter may summarize the case findings.

Any complaining party who is not satisfied with the findings of the Department concerning their complaint may contact the Office of Police Ombudsman to discuss the matter further.

#### **1020.8.1 CONFIDENTIALITY OF INVESTIGATIONS AND PERSONNEL FILES**

All investigations of personnel complaints shall be considered confidential peace officer personnel files (Policy Manual § 1026). The contents of such files shall not be revealed other than as required by law, to the involved employee or authorized personnel, or pursuant to lawful process (RCW 42.56 et seq., and RCW 70.02).

Accused employees, while they have a right to prepare a response to the allegation and disclose to others that they are the subject of an investigation, must not interfere with the internal investigation process. In order to ensure that the integrity of the investigation is maintained and that all policies are understood and followed, employees shall not discuss the allegations or the investigation, nor allow anyone else to gain access to that information, without the express authorization of the Chief, his/her designate, or the Internal Affairs officer. The accused employee, however, may discuss the matter with his/her supervisor, collective bargaining unit representative, and/or his/her attorney without prior consultation with the Chief, his/her designate, or the Internal Affairs officer.

All investigative files shall be maintained for a period of no more than current year plus six years from the date of case disposition. Exceptions will be made for complaints associated with ongoing litigation.

A permanent history of all complaints shall be maintained in the employee's Internal Affairs electronic history file.

#### **1020.8.2 ADMINISTRATIVE REVIEW PANEL**

The Administrative Review Panel (ARP) will be comprised of a Bureau Commander or captain, serving as chair, with a panel comprised of captains and/or lieutenants. This panel will have both investigative and review/recommendation authority. Review/recommendation responsibilities would include reviewing for thoroughness and objectivity, and making recommendations as to finding and proposed discipline (Local 270 members will not include proposed discipline).

As part of the review/recommendation process, the Administrative Review Panel has certain investigative responsibilities, which could include, in certain cases, directing the Internal Affairs Unit to conduct additional investigation into a specific facet of the case.

The ARP may also direct employees to appear before the panel for specific questioning. In such instances, the employee's rights and responsibilities would be as provided in other areas of this policy.

ARP members will preserve the integrity of the process by maintaining the confidentiality of the complaint and investigative case file.

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#### **1020.8.3 OFFICE OF POLICE OMBUDSMAN**

- (a) The Office of Police Ombudsman (OPO) will provide a professional presence to help ensure a quality investigation in real time, and visible, independent oversight to reassure the public.
1. The OPO will actively monitor all police department internal investigations.
  2. The OPO may receive complaints from any complaining party, including, without limitation citizens or employees of the police department. The OPO will forward all complaints to IA within three business days for processing and, when appropriate, investigation. The OPO will not conduct independent disciplinary investigations.
  3. In addition to complaints received by the OPO, Internal Affairs will provide copies of all other complaints to the OPO within three business days.
- (b) Once the case is closed, the OPO will return all case file materials to IA for retention, but will have subsequent access to closed cases.
1. The OPO 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 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.
  2. Once any complaint is received by the Internal Affairs unit, it shall be submitted to the chain of command for review per existing policy. When either the Chief or her/his designee determines that the allegations warrant investigation, such investigation shall be approved, and IA will initiate the investigative process.
  3. Internal Affairs will notify the OPO 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 OPO. The OPO may attend and observe interviews, and will be given the opportunity to ask questions after the completion of questioning by the department. The OPO will not participate in criminal investigations of department employees but will be notified when the criminal case is concluded.
  4. Upon completion of investigations , IA will forward a complete copy of the case file to the OPO for review. The OPO will determine whether the investigation was thorough and objective.
  5. As a part of the review process, the OPO may conclude that additional investigation is needed on issues deemed material to the outcome. If there is any dispute between the assigned investigator(s) and the OPO regarding the necessity, practicality or materiality of the requested additional investigation, the Chief (or designee) will determine whether additional investigation will be undertaken. If the OPO is not satisfied with the determination of the Chief, the matter will be resolved by the Mayor, who's decision will be final. Once the matter has been referred to and resolved by the Mayor, the investigation will be completed consistent with the determination by the Mayor. After completion of



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the additional investigation, or the conclusion that no further investigation will be undertaken, the OPO will then certify whether or not, in the opinion of the OPA, the internal investigation was thorough and objective. This determination will be made within five business days. Once the above finding is entered in the investigation, the OPO will not be involved further in the disciplinary process in that case.

6. All disciplinary decisions will be made by the Chief (or designee).
  7. The OPO will be provided a copy of any letter or other notification to an officer informing them of actual discipline imposed as a result of an internal affairs investigation or any Notice of Finding in the event that the complaint is not sustained.
  8. The OPO will be notified by IA within five business days of case closure of all complaints of a Serious Matter and all complaints originated by the OPO. The OPO, in addition to the department's written Notice of Finding letter to the complainant, may send a closing letter to the complainant. The letter may summarize the case findings.
  9. Any complaining party who is not satisfied with the findings of the department concerning their complaint may contact the Office of Police Ombudsman to discuss the matter further. However, unless persuasive and probative new information is provided, the investigation will remain closed. In accordance with established arbitral case law, employees may not be disciplined twice for the same incident. In the event the investigation is re-opened and discipline imposed, the appropriate burden of establishing compliance with this section rests with the city in any subsequent challenge to the discipline.
  10. In addition to the investigative process, the OPO will have unimpeded access to all complaint and investigative files for auditing and reporting purposes. The OPO shall not retain investigative files beyond one year and will return the same to Internal Affairs for safekeeping. At all times and including, without limitation, issuing written reports, the OPO will not release the name(s) of employees or other individuals involved in incidents or investigations nor any other personally identifying information. The OPO may make statistical observations regarding the disciplinary results of sustained internal investigations, but shall not take issue with discipline imposed by the Chief of Police in specific cases.
  11. The OPO may recommend policies and procedures for the review and/or audit of the complaint resolution process, and review and recommend changes in departmental policies to improve the quality of police investigations and practices. Nothing herein shall be construed as a waiver of the Guilds right to require the city to engage in collective bargaining as authorized by law.
- (c) The OPO shall not have access to legally privileged documents held by the City Attorney or Attorney-Client communications held by the City Attorney's clients and shall not disclose confidential records.

#### **1020.8.4 MEDIATION**

Mediation is an alternative to investigation, adjudication and the disciplinary process. The OPO 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 and considers the issues raised by the

# Spokane Police Department

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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.

#### **1020.8.5 POSTING OF DISCIPLINARY ACTION**

Whenever any disciplinary action is taken which involves discipline beyond the level of a formal letter of reprimand (e.g., suspension, demotion, or termination), the Chief of Police shall cause to be posted on the department's official bulletin boards a notification setting forth the following: The name of the officer or employee being disciplined; a summary of the facts and findings in the disciplinary process; the nature and extent of the discipline imposed, with a summary of the rationale supporting that decision.

Copies of this notice shall remain posted on the official bulletin boards for six days in order to allow employees of the department who are on days off the opportunity to personally review them. After six days, the notices shall be collected and returned to the file. The contents of such notices shall be deemed as confidential and for internal use only, and any release of the information contained therein shall only be made through the office of the Chief of Police and with his/her authorization. The removal, defacing, or alteration of such notices and/or the release of their contents outside the department shall be considered improper conduct and/or a breach of confidentiality and therefore potentially subject to disciplinary action.

Discipline of AFSCME Local 270 employees will not be posted.

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## Vehicle Pursuit Policy

### 314.1 PURPOSE AND SCOPE

Vehicle pursuits expose innocent citizens, law enforcement officers and fleeing violators to the risk of serious injury or death. The primary purpose of this policy is to provide officers with guidance in balancing the safety of the public and themselves against law enforcement's duty to apprehend violators of the law. Another purpose of this policy is to minimize the potential for pursuit related collisions. Vehicular pursuits require officers to exhibit a high degree of common sense and sound judgment. Officers must not forget that the immediate apprehension of a suspect is generally not more important than the safety of the public and pursuing officers.

Deciding whether to pursue a motor vehicle is a critical decision that must be made quickly and under difficult and unpredictable circumstances. In recognizing the potential risk to public safety created by vehicular pursuits, no officer or supervisor shall be criticized or disciplined for deciding not to engage in a vehicular pursuit because of the risk involved.

This includes circumstances where department policy would permit the initiation or continuation of the pursuit. It is recognized that vehicular pursuit situations are not always predictable and decisions made pursuant to this policy will be evaluated according to the totality of the circumstances reasonably available at the time of the pursuit.

Officers must remember that the most important factors to the successful conclusion of a pursuit are proper self discipline and sound professional judgment. Officers' conduct during the course of a pursuit must be objectively reasonable<sup>3/4</sup>. That is, what a reasonable officer would do under the circumstances. An unreasonable individual's desire to apprehend a fleeing suspect at all costs has no place in professional law enforcement (RCW 43.101.225).

#### 314.1.1 VEHICLE PURSUIT DEFINED

A vehicle pursuit is an event involving one or more law enforcement officers attempting to apprehend a suspect who is attempting to avoid apprehension and is deliberately operating a motor vehicle in a reckless manner.

#### 314.1.2 VEHICLE FOLLOW DEFINED

A vehicle follow is an event involving one or more law enforcement officers attempting to detain a suspect vehicle that is failing to yield to the visual and/or audio signals of the law enforcement officers but not operating the vehicle in a reckless manner.

#### 314.1.3 ATTEMPTING TO ELUDE

Refers to the actions of a vehicle operator who after being given a visual or audible signal to bring the vehicle to a stop, fails or refuses to immediately stop the vehicle and drives in a reckless manner while attempting to elude a uniformed officer operating a pursuing police vehicle that is equipped with emergency lights and siren (RCW 46.61.024).

### 314.2 OFFICER RESPONSIBILITIES

It shall be the policy of this department that a motor vehicle pursuit shall be conducted only with emergency lights and siren as required by RCW 46.61.035 for exemption from compliance with the rules of the road. The following policy is established to provide officers

# Spokane Police Department

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### *Vehicle Pursuit Policy*

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with guidelines for driving with due regard and caution for the safety of all persons using the highway as required by RCW 46.61.035(4).

#### **314.2.1 WHEN TO INITIATE A PURSUIT**

It is the policy of the Spokane Police Department that pursuits are permissible only when the necessity for immediate apprehension outweighs the danger created by the pursuit itself. Officers shall not initiate a pursuit solely for traffic infractions nor property crimes, whether misdemeanor or felony. Officers may initiate pursuits for the following reasons:

Violent Felony or warrant for same, DV Assault (within mandatory arrest window) DUI, Reckless Driving of an egregious manner prior to the officer encountering the suspect vehicle.

While officers may initiate a pursuit for the above listed reasons, officers shall at all times consider the following factors individually and collectively in deciding whether to initiate or continue a pursuit:

- (a) The importance of protecting the public and balancing the known or reasonably suspected offense and the apparent need for immediate capture against the risks to officers, innocent motorists and others.
- (b) Apparent nature of the fleeing suspect(s) (e.g., whether the suspect(s) represent a serious threat to public safety).
- (c) Safety of the public in the area of the pursuit, including the type of area, time of day, the amount of vehicular and pedestrian traffic and the speed of the pursuit relative to these factors.
- (d) Pursuing officer(s) familiarity with the area of the pursuit, the quality of radio communications between the pursuing units and the dispatcher/supervisor and the driving capabilities of the pursuing officers under the conditions of the pursuit.
- (e) Weather, traffic and road conditions that substantially increase the danger of the pursuit beyond the worth of immediately apprehending the suspect.
- (f) Performance capabilities of the vehicles used in the pursuit in relation to the speeds and other conditions of the pursuit.
- (g) Vehicle speeds.
- (h) Other persons in or on the pursued vehicle (e.g., passengers, co-offenders and hostages).
- (i) Availability of other resources such as helicopter assistance.
- (j) The police unit is carrying passengers other than police officers. Pursuits shall not be undertaken with a prisoner(s) in the police vehicle. Pursuits shall not be initiated or entered into when a passenger is in the vehicle. Exceptions may be granted by the Office of the Chief or designee.

**As previously stated, pursuits are prohibited when initiated solely for traffic infractions and property crimes (whether felony or misdemeanor), or based on the mere fact that the vehicle is fleeing. The decision to initiate a pursuit must be based on the officer's conclusion that the immediate danger to the public and to the officer(s) created by the pursuit is less than the immediate or potential danger to the public/officer(s) should the suspect remain at large. Information not available to the officer at the time the pursuit was initiated will not be considered later in determining whether the pursuit was justified. In all instances involving vehicle**

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**pursuits, the initiating officer must be able to clearly articulate the reason(s) why the pursuit was initiated.**

#### **314.2.2 WHEN TO TERMINATE A PURSUIT**

Pursuits should be discontinued whenever the totality of objective circumstances known or which reasonably ought to be known to the officer or supervisor during the pursuit indicates that the present risks of continuing the pursuit reasonably appear to outweigh the risks resulting from the suspect(s)' escape.

The factors listed in Policy Manual § 314.2.1 are expressly included herein and will apply equally to the decision to discontinue as well as the decision to initiate a pursuit. Officers and supervisors must objectively and continuously weigh the seriousness of the offense against the potential danger to innocent motorists and themselves when electing to continue a pursuit. In the context of this policy, the term "terminate" shall be construed to mean discontinue or to stop chasing the fleeing vehicle(s).

"Terminate" shall mean all pursuing officers shall pull their vehicle to the side of the roadway, stop, shut off emergency equipment and notify the Combined Communications Center of their location. Officers not directly involved as primary or secondary vehicles shall discontinue following the pursuit.

In addition to the factors listed in Policy Manual § 314.2.1, the following factors should also be considered in deciding whether to terminate a pursuit:

- (a) Distance between the pursuing officers and the fleeing vehicle(s) is so great that further pursuit would be futile or require the pursuit to continue for an unreasonable time and/or distance.
- (b) Pursued vehicle's location is no longer definitely known.
- (c) Officer's pursuit vehicle sustains any type of damage that renders it unsafe to drive.
- (d) Extended pursuits of violators for misdemeanors not involving violence or risk of serious harm (independent of the pursuit) are discouraged.
- (e) Hazards to uninvolved bystanders or motorists.
- (f) If the identity of the felony offender is known and it appears that the immediate risks to the public and officer(s) associated with continuing the pursuit now outweigh the risks that the felony offender will continue to pose to the public if allowed to temporarily escape.
- (g) Directed by any commissioned supervisor, to include a corporal

#### **314.2.3 SPEED LIMITS**

The speed of a pursuit is a factor that should be evaluated on a continuing basis by the officer and supervisor. Evaluation of vehicle speeds shall take into consideration public safety, officer safety and the safety of the occupants of the fleeing vehicle. Should high vehicle speeds be reached during a pursuit, officers and supervisors shall also consider these factors when determining the reasonableness of the speed of the pursuit:

- (a) Pursuit speeds have become unreasonably unsafe for the surrounding conditions.
- (b) Pursuit speeds have exceeded the driving ability of the officer.
- (c) Pursuit speeds are beyond the capabilities of the pursuit vehicle thus making its operation unsafe.

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#### **314.3 PURSUIT UNITS**

Pursuit units should be limited to two vehicles<sup>1</sup>/<sub>4</sub> however, the number of units involved will vary with the circumstances. An officer or supervisor may request additional units to join a pursuit if, after assessing the factors outlined above, it appears that the number of officers involved would be insufficient to safely arrest the suspect(s). All other officers should stay out of the pursuit, but should remain alert to its progress and location. Any officer who drops out of a pursuit may then, if necessary, proceed to the termination point in a safe manner.

##### **314.3.1 AUTHORIZED PURSUIT VEHICLES**

The Crown Victoria is currently the only manufacturer certified pursuit vehicle in use by the Spokane Police Department. Special service vehicles to include sport utility vehicles, trucks, vans, traditional passenger cars, motorcycles and other non-pursuit certified vehicles should not be used in pursuits.

##### **314.3.2 VEHICLES WITHOUT EMERGENCY EQUIPMENT**

Vehicles not equipped with emergency lights and siren are generally prohibited from initiating or joining in any pursuit. Officer(s) in such vehicles, however, may become involved in emergency activities involving serious crimes or life threatening situations.

Those officers should terminate their involvement in any pursuit immediately upon arrival of a sufficient number of emergency police vehicles or any police helicopter. The exemptions provided by RCW 46.61.035 do not apply to officers using vehicles without emergency equipment.

##### **314.3.3 PRIMARY UNIT RESPONSIBILITIES**

The initial pursuing unit will be designated as the primary pursuit unit and will be responsible for the conduct of the pursuit unless it is unable to remain reasonably close enough to the violator's vehicle. The primary responsibility of the officer initiating the pursuit is the apprehension of the suspect(s) without unreasonable danger to themselves or other persons.

Notify the Combined Communications Center that a vehicle pursuit has been initiated and as soon as practical provide information including, but not limited to:

- (a) Reason for the pursuit.
- (b) Location and direction of travel.
- (c) Speed of the fleeing vehicle.
- (d) Description of the fleeing vehicle and license number, if known.
- (e) Number of known occupants.
- (f) The identity or description of the known occupants.
- (g) Information concerning the use of firearms, threat of force, injuries, hostages or other unusual hazards.
- (h) Traffic conditions, vehicular and pedestrian.
- (i) Weather conditions to include road surface.
- (j) Visibility and illumination.

The officer in the primary unit shall be responsible for broadcasting the progress of the pursuit unless directed otherwise by a supervisor or when practical circumstances indicate. Whenever possible, the primary unit, if a one-officer unit, should relinquish the

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responsibility of broadcasting the progress of the pursuit to a secondary unit or aircraft in order to concentrate on pursuit driving.

"Progress" shall mean updating speed, location, direction of travel and traffic conditions.

#### **314.3.4 SECONDARY UNIT(S) RESPONSIBILITIES**

The second officer in the pursuit is responsible for the following:

- (a) The officer in the secondary unit should immediately notify the dispatcher of entry into the pursuit.
- (b) Remain a safe distance behind the primary unit unless directed to assume the role of primary officer, or if the primary unit is unable to continue the pursuit.
- (c) The secondary officer should be responsible for broadcasting the progress of the pursuit unless the situation indicates otherwise.

#### **314.3.5 PURSUIT DRIVING TACTICS**

The decision to use specific driving tactics requires the same assessment of considerations outlined in the factors to be considered concerning pursuit initiation and termination. The following are tactics for units involved in the pursuit:

- (a) Officers, considering their driving skills and vehicle performance capabilities, will space themselves from other involved vehicles so that they are able to see and avoid hazards or react safely to maneuvers by the fleeing vehicle.
- (b) Because intersections can present increased risks, the following tactics should be considered:
  - 1. Available units not directly involved in the pursuit may proceed safely to controlled intersections ahead of the pursuit in an effort to warn cross traffic.
  - 2. Pursuing units should exercise due caution when proceeding through controlled intersections.
- (c) Officers should not pursue vehicles that proceed the wrong way on a highway, freeway, freeway access or one-way street unless specifically authorized by a supervisor.
- (d) Notifying the Washington State Patrol and/or other jurisdictional agency if it appears that the pursuit may enter their jurisdiction.
- (e) Officers involved in a pursuit should not attempt to pass other units unless the situation indicates otherwise or requested to do so by the primary unit.

#### **314.3.6 TACTICS/PROCEDURES FOR UNITS NOT INVOLVED IN THE PURSUIT**

Other officers in the area of the pursuit shall monitor the progress of the pursuit. They should not become directly involved in the pursuit unless requested to do so by the primary or secondary unit or the supervisor. They should be available in case they are needed to help provide resources that may be needed to terminate the pursuit and assist in the apprehension of the suspects after the pursuit has been terminated. Paralleling the pursuit is allowed for the limited purposes of assisting with traffic control or for other public safety purposes. Officers are authorized to use emergency equipment at intersections along the pursuit path to clear intersections of vehicular and pedestrian traffic to protect the public.

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Officers not involved directly in the pursuit, who are needed to assist, will operate their vehicles utilizing emergency equipment as necessary per RCW 46.61.035 and RCW 46.37.190.

The primary and secondary units should be the only units operating under emergency conditions (emergency lights and siren) unless other units are assigned to the pursuit.

#### **314.3.7 AIRCRAFT ASSISTANCE**

- When officers initiate a vehicle pursuit, the availability of air support should be considered.
  - The supervising sergeant and/or dispatch supervisor will ensure that this option is considered.
- If air support is available, officers or supervisors should request assistance.
  - "Available" means currently operating in-flight.
- When air support arrives on scene and is able to assume and maintain visual contact with the fleeing vehicle, SPD pursuing officers will discontinue close pursuit, unless the tactical needs of the situation clearly call for continuing close pursuit.
- The intent of discontinuing close pursuit is to encourage the fleeing vehicle to cease driving in a reckless manner because the driver believes police pursuit has ended. It is also recognized that a frequent result of discontinued pursuits is that the suspect driver stops the vehicle and flees on foot.
- When close pursuit is discontinued, units may continue to safely position themselves strategically to respond in the event that the fleeing vehicle stops and/or the suspect(s) flee on foot. This repositioning should be outside of the view of the fleeing vehicle and officers shall use due care and caution when doing so.

#### **314.4 SUPERVISORY CONTROL AND RESPONSIBILITY**

It is the policy of this department that available supervisory and management control will be exercised over all motor vehicle pursuits involving officers from this department. The field supervisor of the officer initiating the pursuit, or if unavailable, the nearest field supervisor (corporal or above) will be responsible for the following:

- (a) Upon becoming aware of a pursuit, immediately ascertain all reasonably available information to continuously assess the situation and risk factors associated with the pursuit in order to ensure that the pursuit is conducted within established department guidelines.
- (b) Engage in the pursuit, when appropriate, to provide on scene supervision.
- (c) Exercise management and control of the pursuit even if not engaged in it
- (d) Ensure that no more than the number of required police units needed are involved in the pursuit under the guidelines set forth in this policy.
- (e) Direct that the pursuit be terminated if, in his/her judgment, it is unjustified to continue the pursuit under the guidelines of this policy.
- (f) Ensure that aircraft are requested if available.
- (g) Ensure that the proper radio channel is being used.
- (h) Ensure the notification and/or coordination of outside agencies if the pursuit either leaves or is likely to leave the jurisdiction of this agency.
- (i) Control and manage SPD units when a pursuit enters another jurisdiction.



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- (j) Complete additional reports as necessary and/or Pursuit Review Report.

#### **314.4.1 SHIFT COMMANDER RESPONSIBILITY**

Upon becoming aware that a pursuit has been initiated, the Shift Commander should monitor and continually assess the situation and ensure the pursuit is conducted within the guidelines and requirements of this policy. The Shift Commander has the final responsibility for the coordination, control and termination of a motor vehicle pursuit and shall be in overall command. The Shift Commander shall review all pertinent reports for content and forward them through the chain of command to the Patrol Commander.

#### **314.4.2 PATROL COMMANDER RESPONSIBILITY**

The Patrol Commander shall review all pertinent reports for content. The Patrol Commander shall be responsible to identify and address any trends that require training or correction within the Patrol Division. The Patrol Commander shall forward the pursuit reviews to the Traffic Unit for storage.

#### **314.5 COMMUNICATIONS**

If the pursuit is confined within the City limits, radio communications will be conducted on the primary channel unless instructed otherwise by a supervisor or communications dispatcher.

If the pursuit leaves the jurisdiction of this department, involved units may switch radio communications, whenever available, to a channel that is most advantageous for effective radio communications.

#### **314.5.1 COMBINED COMMUNICATIONS CENTER RESPONSIBILITIES**

Upon notification that a pursuit has been initiated, the Combined Communications Center will:

- (a) Coordinate pursuit communications of the involved units and personnel.
- (b) Notify and coordinate with other involved or affected agencies as practical.
- (c) Ensure that a field supervisor is notified of the pursuit.
- (d) Assign an incident number and log all pursuit activities.
- (e) Broadcast pursuit updates as well as other pertinent information as necessary.
- (f) Notify the Shift Commander as soon as practical.

#### **314.6 INTER-JURISDICTIONAL CONSIDERATIONS**

When a pursuit enters another agency's jurisdiction, the primary officer or supervisor should determine whether or not to request the other agency to assume the pursuit, taking into consideration distance traveled, unfamiliarity with the area, and other pertinent facts. Unless entry into another jurisdiction is expected to be brief, it is generally recommended that the primary officer or supervisor ensure that notification is provided to each outside jurisdiction into which the pursuit is reasonably expected to enter, regardless of whether or not such jurisdiction is expected to assist.

The potential for a pursuit to continue to another jurisdiction should be considered a factor that could influence the decision of the supervisor or shift commander to terminate the pursuit.

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Officers making a felony arrest in another state are responsible to have the defendant taken, without unnecessary delay, before a magistrate of the county in the state in which the arrest is made.

#### **314.6.1 ASSUMPTION OF PURSUIT BY ANOTHER AGENCY**

Units originally involved will discontinue the pursuit when this agency has requested and the other agency has advised that it has assumed the pursuit and assistance of the Spokane Police Department is no longer needed. Upon discontinuing the pursuit, the primary unit may proceed upon request, and at the direction of a supervisor, to the termination point to assist in the investigation. The role and responsibilities of officers at the termination of a pursuit initiated by this department shall be coordinated with appropriate consideration of the units from the agency assuming the pursuit.

Notification of a pursuit in progress should not be construed as a request to join the pursuit.

Requests to or from another agency to assume a pursuit should be specific.

#### **314.6.2 PURSUITS EXTENDING INTO THIS JURISDICTION**

The agency that initiates a pursuit shall be responsible for conducting the pursuit. Units from this department should not join a pursuit unless specifically requested to do so by the agency whose officers are in pursuit. The exception to this is when a single unit from the initiating agency is in pursuit. Under this circumstance, a unit from this department may join the pursuit until sufficient units from the initiating agency join the pursuit. When a request is made for this department to assist or take over a pursuit from another agency that has entered this jurisdiction, the supervisor should consider these additional factors:

- (a) The original reason for the pursuit is compliant with SPD pursuit policy, section 314.2.1.
- (b) Ability to maintain the pursuit.
- (c) Adequate staffing to continue the pursuit.
- (d) The public's safety within this jurisdiction.
- (e) Safety of the pursuing officers.

As soon as practical, a supervisor or the Shift Commander should review a request for assistance from another agency. The Shift Commander or supervisor, after consideration of the above factors, may decline to assist in, or assume the other agency's pursuit.

Assistance to a pursuing allied agency by officers of this department will terminate at the City limits provided that the pursuing officers have sufficient assistance from other sources.

Ongoing participation from this department should continue until sufficient assistance is present.

In the event that a pursuit from another agency terminates within this jurisdiction, officers shall provide appropriate assistance to officers from the allied agency including, but not limited to, scene control, coordination and completion of supplemental reports and any other assistance requested or needed.

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#### **314.7 PURSUIT INTERVENTION/FORCIBLE STOPS**

Forcible stops are an attempt to terminate the ability of a suspect to continue to flee in a motor vehicle through tactical application of technology, road spikes, blocking, boxing, PIT (Pursuit Intervention Technique), ramming or roadblock procedures.

##### **314.7.1 WHEN USE AUTHORIZED**

In deciding whether to use forcible stops, officers/supervisors should balance the risks of allowing the pursuit to continue with the potential hazards arising from the use of each tactic to the public, the officers and persons in or on the pursued vehicle. With these risks in mind, the decision to use any forcible stop should be reasonable in light of the circumstances confronting the officer at the time of the decision.

It is imperative that officers act within the bounds of legality, good judgment and accepted practices

##### **314.7.2 DEFINITIONS**

**Blocking** A slow speed coordinated maneuver where two or more patrol vehicles simultaneously intercept and block the movement of a momentarily stopped suspect vehicle, the driver of which may be unaware of the impending enforcement stop, with the goal of containment and preventing a pursuit. Blocking is not a moving or stationary road block.

**Boxing Technique** A tactic designed to stop a violator's vehicle by surrounding it with law enforcement vehicles and then slowing all vehicles to a stop.

**Pursuit Intervention Technique (PIT)** A maneuver designed to cause the suspect vehicle to spin out and terminate the pursuit.

**Ramming** The deliberate act of impacting a violator's vehicle with another vehicle to functionally damage or otherwise force the violator's vehicle to stop.

**Roadblocks** A tactic designed to stop a violator's vehicle by intentionally placing an emergency vehicle or other immovable object in the path of the violator's vehicle.

**Spike Strips or Stop Sticks** A device that extends across the roadway designed to puncture the tires of the pursued vehicle.

##### **314.7.3 USE OF FIREARMS**

The use of firearms to disable a pursued vehicle is not generally an effective tactic and involves all the dangers associated with discharging firearms. Officers should not utilize firearms during an ongoing pursuit unless the conditions and circumstances dictate that such use reasonably appears necessary to protect life. Nothing in this section shall be construed to prohibit any officer from using a firearm to stop a suspect from using a vehicle as a deadly weapon.

##### **314.7.4 INTERVENTION/FORCIBLE STOP STANDARDS**

Any intervention/forcible stop tactic, depending upon the conditions and circumstances under which it is used, may present dangers to the officers, the public, or anyone in or on the vehicle being pursued. Certain applications of intervention/forcible stop tactics may be construed to be a use of deadly force and subject to the requirements for such use. Officers who have not received certified departmental training in the application and use of any forcible stop or intervention tactic or equipment shall consider these facts and

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requirements prior to deciding how, when, where, and if an intervention/forcible stop tactic should be employed.

- (a) Blocking should only be considered in cases involving felony suspects or impaired drivers who pose a threat to public safety when officers reasonably believe that attempting a conventional enforcement stop will likely result in the driver attempting to flee in the vehicle. Because of the potential risks involved this technique should only be employed by officers who have received training in such tactics after giving consideration to the following:
  - 1. The need to immediately stop the suspect vehicle or prevent it from leaving substantially outweighs the risks of injury or death to occupants of the suspect vehicle, officers, or other members of the public.
  - 2. All other reasonable intervention techniques have failed or reasonably appear ineffective.
  - 3. Employing the blocking maneuver does not unreasonably increase the risk to officer safety.
  - 4. The target vehicle is stopped or traveling at a low speed.
  - 5. At no time should civilian vehicles be used to deploy this technique.
- (b) Pursuit Intervention Technique (PIT) Only those officers trained and certified in the use of the Pursuit Intervention Technique (PIT) will be authorized to use this procedure. PIT is authorized to apprehend fleeing offenders when less intrusive measures have been tried or considered and have been judged to be ineffective.
  - 1. The officer employing the PIT must balance the necessity of apprehension of the suspect with the risk of utilizing the technique. PIT executed at 40 MPH or less is at the discretion of the officer. PIT executed at more than 40 MPH may be considered only after supervisory approval. The use of a PIT maneuver shall be reported in the incident report and the pursuit review form. Damage to vehicles or property as a result of a PIT maneuver shall be investigated as a collision.
- (c) Ramming a fleeing vehicle should be done only after other reasonable tactical means at the officer's disposal have been exhausted. This tactic should be reserved for situations where there does not appear to be another reasonable and alternative method. This policy is an administrative guide to direct officers in their decision making process before the fact of ramming another vehicle. It is not a standard for civil or criminal litigation to judge the propriety of the act<sup>1/4</sup> that is a matter for the courts to determine by established law. When ramming is to be employed as a means with which to stop a fleeing vehicle, one or more of the following factors should be present:
  - 1. The suspect is an actual or suspected felon who reasonably appears to represent a serious threat to society if not apprehended.
  - 2. The suspect is driving in willful or wanton disregard for the safety of persons<sup>1/4</sup> or, driving in a reckless and life endangering manner.
  - 3. If there does not reasonably appear to be a present or immediately foreseeable serious threat to the public, the use of ramming is not authorized.
- (d) Boxing Technique: Pursuing officers should obtain supervisor approval before attempting to box a suspect vehicle during a pursuit. The use of such a technique must be carefully coordinated with all involved units, taking into consideration the circumstances and conditions presented at the time as well as the potential risk of injury to officers, the public and occupants of the pursued vehicle. If the pursued vehicle is a motorcycle, a vehicle transporting hazardous materials, or a school

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bus transporting children, then officers and supervisors should weigh the potential consequences against the need to immediately stop the vehicle.

- (e) Spike strips should be deployed only when the involved officers are reasonably certain that only the pursued vehicle will be affected by their use. Officers should carefully consider the limitations of such devices as well as the potential risks to officers, the public and occupants of the pursued vehicle.
- (f) Because roadblocks involve a potential for serious injury or death to occupants of the pursued vehicle if the suspect does not stop, the intentional placement of roadblocks in the direct path of a pursued vehicle is discouraged and should not be deployed without prior approval of a supervisor and only then under extraordinary conditions when all other reasonable intervention techniques have failed or reasonably appear ineffective and the need to immediately stop the pursued vehicle substantially outweighs the risks of injury or death to occupants of the pursued vehicle, officers or other members of the public. If a roadblock is approved, there must be an escape route left for the pursued vehicle to use.

#### **314.7.5 CAPTURE OF SUSPECTS**

Proper self-discipline and sound professional judgment are the keys to a successful conclusion of a pursuit and apprehension of evading suspects. Officers shall use only that amount of force, which reasonably appears necessary under the circumstances, to properly perform their lawful duties.

Unless relieved by a supervisor, the primary officer should coordinate efforts to apprehend the suspect(s) following the pursuit. Officers should consider safety of the public and the involved officers when formulating plans to contain and capture the suspect.

#### **314.8 REPORTING REQUIREMENTS**

The following reports should be completed:

- (a) Officers shall complete appropriate crime/arrest reports. The primary officer shall complete a report, which shall minimally contain the following information.
  - 1. Whether any person involved in the pursuit or subsequent arrest was injured, specifying the nature of that injury and differentiating between the suspect driver, a suspect passenger and the officers involved.
  - 2. The violation(s) that caused the pursuit to be initiated.
  - 3. The identity of the officers involved in the pursuit.
  - 4. The means or methods used to stop the suspect being pursued.
  - 5. The conditions of the pursuit, including, but not limited to, all of the following:
    - (a) Duration
    - (b) Pursuit route
    - (c) Time of day
    - (d) Weather conditions
    - (e) Maximum speeds
  - 6. Whether the pursuit resulted in a collision and a resulting injury or fatality to an uninvolved third party, and the corresponding number of persons involved. Collisions involving serious injury or fatality, the Officer-Involved Fatal Incident Protocol shall be invoked.

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7. Whether the pursuit involved multiple agencies.
  8. How the pursuit was terminated.
- (b) Supervisors shall promptly complete a Pursuit Review Report summarizing the key details of the pursuit. This review will include:
1. Date and time of pursuit
  2. Initiating event
  3. Terminating event
  4. Forcible stop technique
  5. Arrest data
  6. Type of Police unit initiating pursuit
  7. Weather conditions
  8. Day of week
  9. Road type
  10. Locale
  11. Length of pursuit
  12. Number of police units involved
  13. Suspect vehicle type
  14. Police vehicle speed
  15. Suspect vehicle speed
  16. Collision information
  17. Supervisory and chain of command review
  18. Collisions involving serious injury or fatality, the Officer Involved Fatal Incident Protocol shall be invoked.

#### **314.9 VEHICLES FOLLOWS**

Officers will include the circumstances of a VEHICLE FOLLOW in the incident report in which it occurred. If the incident does not generate an incident report for some reason, officers will include detailed remarks in CAD. A pursuit review is not required for instances of VEHICLE FOLLOWS

#### **314.10 EVOC TRAINING**

In addition to initial and supplementary WSCJTC training on pursuits, all sworn members of this department will participate in periodic department and/or WSCJTC emergency vehicle operations training, thus addressing this policy and the importance of vehicle safety and protecting the public at all times.

## Organization of the Police Records Unit

This is a multi-jurisdictional unit. We perform the records management and all associated customer service functions for the **Spokane Police Department**, the **Spokane County Sheriff**, The **City of Spokane Valley Police Department** and some services for **Liberty Lake Police Department**, **Airway Heights Police Department** and the **Spokane International Airport Police Department**. This citizen base is approximately 440,000.

This unit is operational 24 hours per day, seven days per week. We do not close. We are open 365 days per year.

We currently have 28 approved Records Specialist positions (line staff), three Supervisors and one Manager. We have five relatively new employees. We utilize "peer" training so that means we have taken five of our seasoned employees out of the general production environment and assigned them as trainers. All tasks performed by new/probationary employees must be reviewed and audited by the trainer. All duties in this unit must be performed error free and within statutory deadlines. **As a result, we have 18 seasoned line Record Specialists performing various duties.** Our minimum staff is 6 persons Monday through Friday on day shift. Our minimum staffing for all other days/shifts is three persons.

We have four distinct work groups in this unit. Each employee is scheduled to work in two of the four work groups once they have completed their probationary training. The work group's titles are Processing, Hot Seat, Public Window and Public Disclosure. Training in multiple workgroups allows us flexibility in staffing so that we can respond to spikes in workload and unexpected absences.

During the 12 month probationary period employees are trained to learn how to sort, scan and index all incoming documents (we receive over 60,000 pages per month); how to perform many different types of data entry into local, state and federal computer systems; how to provide Faxed, Tele-typed, Counter and Call-in customer service support to law enforcement, criminal justice and citizens. Once the employee has been provided sufficient training and they exhibit the ability to perform base tasks independently they can then work in a partial-training mode with their trainer. This position requires up to 3 years to become fully proficient in the entire scope of duties performed.

Here is a list of the duties performed with some details of interest:

**Missing and runaway person** entries into the local and WACIC/NCIC system. Must be entered within 2 hours from the time report is received. These reports are very difficult to enter and they also require the fullest scope of detail for entry. We must provide all physical descriptors, clothing, medical conditions, medications, behaviors, contact information, last seen where, last seen with whom, guardian, etc. We enter approximately 300-400 missing persons reports each month. Each time new information is provided the entry is updated.

**WACIC/NCIC double checks.** Each entry (incidents and orders) in the WACIC/NCIC system is double checked/double entered by a co-worker. This is an FBI requirement for all NCIC entries.

**Court document/order entry into the WACIC/NCIC system.** Warrants, protection orders, recalls and re-issues, etc. On average we enter approximately 4,500 court documents into the systems each month. Each is double-checked by a co-worker.

**Data enter police/deputy incident reports.** We data enter from 20,000-25,000 pages of incoming officer/deputy reports each month.

**Teletype and Faxed incoming requests requiring review and responsive tasks.** We review and respond to an average of 6,000 teletypes each month. Teletypes for warrant confirmation require a response in 10 minutes or less according to FBI audit standards. Failure to respond in 10 minutes or less will result in an agency contact or warning.

**Sector Tickets.** Although this is an electronic system the Spokane Police Department does not have the technology to accept these into our imaging system electronically. Each is printed on paper and handled manually. We manually process and data enter approximately 700 Sector tickets manually each month.

**Customer phone requests for service.** We respond to approximately 3,000 phone calls for customer service each month.

**Reports provided to criminal justice agencies out of our routine dissemination.** We provide an average of 12,000 pages of reports to other police agencies and criminal justice agencies each month.

**Public Disclosure.** In 2012 we have provided an average of over 10,000 pages per month. We currently have about 1,400 pending requests. Our turnaround time on requests at this time is approximately 120 days. We recently reorganized and re-prioritized the pending requests. Insurance requests which represent 40% of our incoming requests are now completed as a priority. The back log of these requests has been reduced to a 30 day turnaround. Due to limits of staffing the trade-off for this re-organization is that other requestors may be asked to wait a little longer for completion of their request.

**Concealed Pistol License processing.** On average we process over 700 applications each month. Each application requires personal customer service, payment processing, full background research, communication with local, state and federal agencies, Department of Social & Health Services checks, etc. If any criminal activity or prohibiting information is discovered we are required to contact that agency for details regarding the incident. If it is determined to be a "Denied" request we are required to notify the FBI NICS agency. As a result of the mass shootings and the Sandy Hook mass shooting in particular, this volume of incoming applications has tripled as of December 2012 and has not yet begun to slow down.

**Gun (sale) processing.** On average we process 1,200 gun sales each month. Each application requires a full background research, communication with local, state and federal agencies, Department of Social & Health Services check, etc. If any criminal activity or prohibiting information is discovered we are required to contact that agency for details regarding the incident. If it is determined to be a "Denied"



request we are required to notify first the gun dealer and second the FBI NICS agency. As a result of the mass shootings and the Sandy Hook mass shooting in particular, this volume of incoming applications has tripled as of December 2012 and has not yet begun to slow down. As of December 15, 2012 we had 89 pending gun purchase applications. As of 12/31/2012 (14 days) the pending gun purchase applications has increased to over 1,500.

All of the tasks performed are subject to statutory guidelines and most tasks have statutory deadlines. The nature of the work is highly litigious because we are entering criminal records that can affect the arrest of citizens or the release of inmates. We perform background checks for law enforcement candidates for hire (approximately 300 per month); we perform background checks for gun purchases and concealed pistol licenses. We enter gun ownership prohibition data into the state and federal systems whether determined by court order, as a result of background checking, or by protection order conditions.

We have extremely high turnover in this unit. (See City Hall HR report by Gita George-Hatcher) This position is one of the lowest on the City of Spokane pay scale. It is apparent that employees seek a position in the Police Records Unit and as soon as another city position is available they apply for a transfer out of this unit. Other city positions, even those with less rigorous tasks provide a pay increase for the employee. There is a built in incentive for employees to stay only long enough to satisfy their 12 month probations. This has resulted in a state of constantly training up to 6 new employees simultaneously. We are not able to keep employees for the duration to progress them onto the more difficult work group's areas.

## STAFFING

Currently 27 positions

5 persons are in training

5 persons assigned as trainers

The remaining 17 people are fully trained and fill the minimum staffing needs.

Each employee is expected to be trained and working in at least 2 of the 4 work groups.

Processing.....incoming

Hot Seat.....data entry and law enforcement / criminal justice support

Public Window.....CPLs, Pistol Transfers, incoming public request, fingerprints.

Public Record Disclosure

We have turnover 3 times that of the rest of the City Positions

The position is not properly classified compared to other City Positions. For example: Mailroom Specialists make \$1 more per hour at every step and have much more favorable working conditions.

***If we had a stable workforce and we were not always training new staff we could be much more productive and we would be able to meet all deadlines with the staffing we currently have.***

## RETENTION OF RECORDS

For some time now we have had all of the mandatory retained records pulled from microfilm and scanned and indexed into the imaging system. I need the Chief and Sheriff to approve the purge of records but I need their support with the known resisters.

City Hall Clerks Office

Detectives and Officers

### **LACK OF APPROPRIATE SYSTEMS AND EQUIPMENT**

As with the rest of the entire Police Department we suffer from substandard tools for the execution of our duties.

Poor computer equipment and constant computer failures

Antiquated systems

Lack of efficient / safe workspace

### **LACK OF SUPPORT AND RESPECT FROM OUR CHAIN OF COMMAND**

There are tasks that we need to accomplish. We often rely on cooperation from the rest of the Police Department and cannot meet deadlines and goals without support and cooperation. This unit needs the Chief to support our role as part of the agency.

Example: We need the entire department to cooperate with us when we have public requests for documents. The lack of cooperation is a constant concern for my staff.

We need report writers to take their duties more seriously. When we have identified there is an error on a report and we contact the author to come and correct the report, we need them to take that request seriously and follow through with the correction. We need Sergeants to read the reports and glean out obvious errors before the report is approved and sent to the Records Unit.