

# Policy and Procedures Report and Recommendations

P22-011

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OFFICE OF THE POLICE OMBUDSMAN



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## Table of Contents

Mission Statement .....	2
Staff Information.....	2
Authority and Purpose.....	4
Required Disclosures.....	4
Summary .....	5
Procedural History.....	5
OPO Summary of Facts.....	6
Disputed Facts.....	8
Policy Recommendations.....	10
Recommendations to Policy and/or Training .....	10
Summary of Recommendations .....	15

## Mission Statement

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.

## Staff Information

### **Bart Logue**, *Police Ombudsman*

Bart Logue began serving in this capacity in September 2016, after serving as the Interim Police Ombudsman. Bart also serves as a Commissioner on the Washington State Criminal Justice Training Commission. Bart is a Certified Practitioner of Oversight through the National Association for Civilian Oversight of Law Enforcement (NACOLE). Bart has a Master of Forensic Sciences from National University and a Master of National Security Affairs from the Naval Postgraduate School. Bart is a graduate of the Federal Bureau of Investigation National Academy, Session 239, and is also a certified Advanced Force Science Specialist.

### **Luvimae Omana**, *Deputy Police Ombudsman*

Luvimae Omana has dual degrees in Business Administration and Political Science from the University of California, Riverside and a Juris Doctorate from Gonzaga University School of Law. Luvimae is licensed to practice law in Washington. Luvimae is a Certified Practitioner of Oversight through NACOLE. Luvimae is also a certified Advanced Force Science Specialist.

### **Christina Coty**, *Administrative Specialist*

Christina began working at the City of Spokane in 2015 for the ITSD department in contract procurement and joined the Office of the Police Ombudsman in 2018. Christina is a Certified Practitioner of Oversight through NACOLE. Prior to her work at the City of Spokane she worked for Sony Electronics as a Regional Sales Manager managing the retail store operations in Southern California.

### **Tim Szambelan**, *OPO Attorney*

Tim works in 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.

This document was reviewed by the City Attorney's Office as to form prior to submission for review by the Spokane Police Guild pursuant to the requirements provided in Article 27 of the Agreement between the City of Spokane and the Spokane Police Guild (2017-2021).

## Authority and Purpose

The mission of the Office of the Police Ombudsman (OPO) is to promote confidence and accountability in the members of the Spokane Police Department (SPD). The OPO does so through providing independent and thorough oversight of matters that impact the community and the department. We desire to help bridge the gap between the community and the SPD by writing closing reports in cases that are of public concern to increase accountability and transparency into the matter as well as closing reports that may lead to recommendations for improving police policies or practices. By insisting on transparency, our goal is to help eliminate similar incidents in the future and ensure that the practices contained herein are limited and/or never happen again. It is also our intent to highlight effective police practices to give the community a better understanding as to why those practices were utilized, although this is limited by provisions within the 2017-2021 Collective Bargaining Agreement (CBA).

Spokane Municipal Code (SMC) §04.32.030 and the CBA provide authority for the OPO to publish closing reports on a case once it has been certified by the Police Ombudsman and the Chief of Police has made a final determination in the matter. The OPO can also publish policy and procedure reports regarding cases the OPO reviews during a review board process. The OPO's recommendations will not concern discipline in specific cases or officers and shall not be used in disciplinary proceedings of bargaining unit employees. Reports are solely meant to further discussion on aspects of incidents that may be improved upon.

Reports also provide opportunities for policy and procedure recommendations that can result in improved police performance through their eventual implementation. Writing a report allows us to provide a more thorough review of what occurred in an incident to offer recommendations for improving the quality of police investigations and practices, including the Internal Affairs (IA) investigative process, policies, and training or any other related matter.

The OPO may also recommend mediation to the Chief of Police at any time prior to certifying a case. Should all parties agree and the officer(s) participate in good faith, the OPO may publish a report following a mediation including any agreements reached between parties. Mediations are governed by the Revised Code of Washington (RCW) 7.07. The content of the mediation may not be used by the City or any other party in any criminal or disciplinary process.

## Required Disclosures

Under Article 27 of the current CBA between the City of Spokane and the Spokane Police Guild, this report must provide the following disclosures:

1. Any closing report from an IA investigation shall clearly state the information expressed within the report is the perspective of the OPO, that the OPO does not speak for the City on the matter, and the report is not an official determination of what occurred;
2. The report will include the current policy practice, policy, and/or training as applicable and shall expressly state the policy recommendations that follow reflects the OPO's opinion on modifications that may assist the department in reducing the likelihood of

harm in the future; they do not reflect an opinion on individual job performance under the current policy, practice, or training;

3. A report shall not comment on discipline of an officer(s). This prohibition includes a prohibition on writing in a report whether the OPO or OPOC agrees with or differs from the Chief's findings, whether the officer acted properly, whether the officer's actions were acceptable, or whether the officer's actions were in compliance with training or policy. Additionally, no report will criticize an officer or witness or include a statement on the OPO or OPOC's opinion on the veracity or credibility of an officer or witness.
4. The OPO's closing report shall not be used by the City as a basis to open or re-open complaints against any bargaining unit employees, or to reconsider any decision(s) previously made concerning discipline.
5. The report may not be used in disciplinary proceedings or other tangible adverse employment actions against bargaining unit employees, but not limited to decisions regarding defense and indemnification of an officer; and
6. The names of officers or witnesses may not be disclosed.<sup>1</sup>

Additional information and records regarding this matter are available through the City Clerk's Office by [Public Records Requests](#).

## Summary

### Procedural History

The incident occurred on November 17, 2022. The incident was reviewed for the resulting collision. SPD Employee C, the reviewing supervisor, recommended a finding that the collision was non-preventable. SPD Employee D reviewed the case next. SPD Employee D identified that a pursuit occurred during the incident and recommended a document of counseling for SPD Employee B for failing to intervene and a document of counseling for SPD Employee A for an out of policy pursuit. SPD Employee E was the final reviewer and made the final determination on this case.<sup>2</sup>

The OPO's summary of facts are based upon a careful review of reports, BWC footage, the chain of command review, and participation in the Collision and Pursuit Review Board. This closing report provides an analysis of issues identified through the chain of command review and review board process, which allow for a policy and procedures report.

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<sup>1</sup> In addition to not mentioning officer or witness names, every effort was made to remove identifying pronouns throughout this report. The same standard was used for the complainant and involved persons.

<sup>2</sup> Per the agreement between the City and the Police Guild in the current CBA, the OPO is prohibited from mentioning whether the officer(s) acted properly, whether the officer's actions were acceptable, or whether or not the officer's actions were in compliance with training or policy. As such, the final determination by the chain of command cannot be mentioned.

## OPO Summary of Facts

### Incident

The incident occurred on November 17, 2022, at approximately 6:20pm. SPD Employees A and B were in a two-person car and were patrolling on East 4<sup>th</sup> Avenue and South Cook Street. They observed two persons slumped over in a blue Lexus sedan outside of 2514 East 4<sup>th</sup> Avenue and obtained the license plate information. SPD Employee A, the driver, drove down the street to turn the police vehicle around to face the vehicle. SPD Employee B, the passenger, illuminated their spotlight onto the Lexus. A female was standing outside the passenger side of the vehicle and fled into the residence when the light turned on, but the driver and passenger were unbothered by the spotlight. SPD Employees A and B decided to approach the vehicle to initiate a DUI/Physical Control investigation.

As SPD Employee A drove towards the vehicle, the driver in the Lexus woke up and stepped on the brake, indicated by the illuminated exterior brake lights. When SPD Employee A got within 10-15 feet of the Lexus, it pulled out towards the patrol vehicle. SPD Employee B activated the patrol vehicle emergency lights. The Lexus continued forward, turning to the right of the patrol vehicle and the middle or rear on the right side of the Lexus collided with the front push bar of the patrol vehicle. The Lexus then fled the scene, exceeding speeds of 50 miles per hour through a residential neighborhood. The Lexus was driving away so fast that it had gone nearly six blocks by the time SPD Employee A was able to turn the patrol vehicle around. SPD Employee A turned the patrol vehicle around and accelerated in the direction of the Lexus, with emergency lights still activated. SPD Employee B broadcasted the collision over the radio, stated the vehicle left, and that they were not in pursuit.<sup>3</sup> SPD Employee A observed the Lexus turn onto Green Street and lost sight of it after it turned and at some point, ceased following the vehicle.

SPD Employees A and B described the street and the conditions in their reports. They described a narrow residential street with speed limits at 25 miles per hour. It was dark out and the Lexus traveled through at least five uncontrolled intersections at a high rate of speed continuing to accelerate, making no attempt to yield.<sup>4</sup> Based on their attempt to stop the vehicle by using overhead lights and the Lexus striking the police vehicle, SPD Employees A and B determined there was probable cause to arrest the driver for Attempt to Elude, Reckless Endangerment, and Hit and Run.

SPD Employee C was working as the SPD Patrol Sergeant during this incident. They received a call from SPD Employee B who advised that SPD Employees A and B were just involved in a minor slow speed collision. In a second call, SPD Employees B and C had a more detailed conversation where SPD Employee B relayed the summary above to SPD Employee C.

### Supervisor review

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<sup>3</sup> See SPD Employee C, Collision Supervisor Review 2022-20205353 (November 17, 2022).

<sup>4</sup> See SPD Employee A, Field Case Supplement 2022-20205353 (November 17, 2022); SPD Employee B, Field Case Supplement 2022-20205353 (November 17, 2022).

When SPD Employee C later reviewed and approved the reports from the incident, they agreed with SPD Employees A and B that “although [SPD Employee A] briefly followed with emergency lights activated, no pursuit as defined by SPD Policy was initiated.”<sup>5</sup> SPD Employee C determined, “No pursuit was initiated, and the vehicle fled in a reckless manner.”<sup>6</sup>

In SPD Employee D’s review, they recommended findings that an out of policy pursuit occurred and that SPD Employee B failed to intervene in an unauthorized pursuit. SPD Employee D cited the following while making their recommended findings:<sup>7</sup>

- Probable cause for Attempting to Elude was established prior to the collision. SPD Employee A was in an authorized emergency vehicle, wearing the uniform of the day, and had used a visual signal to attempt to stop a fleeing vehicle.
- SPD Employees A and B had gathered the Lexus’ license plate information before turning the vehicle around. Even if not, the need to gather license plate information would not justify accelerating after the suspect vehicle.
- The incident happened very quickly and the ability to process what occurred while weighing the government interest with the threat to the community and lawful authority can take much longer than the time the officers were afforded.
- A decision to pursue requires two things: (1) supervisor approval and (2) probable cause that the violator committed a violent offense as defined in SPD Policy Manual 314.2.1. Neither of these were obtained nor existed.
- The act of accelerating the same direction as the fleeing vehicle for at least six blocks with emergency lights active, is driving consistent with beginning a pursuit. This subjects the residential neighborhood to excess vehicle speeds a second time and has the potential to aggravate the suspect’s reckless behavior.
- SPD Employee D questioned the prudence of needing to accelerate through a residential area.
- SPD Employee B advised radio that they were not in pursuit while SPD Employee A was travelling after the suspect vehicle.
- SPD Employee B was in a position to verbally intervene in the decision to follow the suspect vehicle in that manner. Policy 301.9 requires intervention of wrongdoing; in this case directing SPD Employee A to cease driving in that manner to prevent a policy violation from occurring. This recognition is critical in a support role.
- Pursuit termination was required in this incident – turning off emergency equipment and pulling to the side of the road to stop. It did not appear the officers had intent to pursue but instead had a reactive response to a dynamic event. However, liability could have easily fallen on both officers.
- Activating emergency equipment before contacting the suspect vehicle was an excellent attempt at de-escalation to confirm police presence.

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<sup>5</sup> *Id.*

<sup>6</sup> *See supra* note 3 at 2.

<sup>7</sup> *See* SPD Employee D, IA Additional 2022-20205353 (November 17, 2022).

## Disputed Facts

### *Whether SPD Employees A and B engaged in a vehicular pursuit*

**SPD Policy 314.1.1(E)<sup>8</sup> defines a vehicular pursuit as an attempt by a uniformed peace officer in a vehicle equipped with emergency lights and a siren to stop a moving vehicle where the operator of the moving vehicle appears to be aware that the officer is signaling the operator to stop the vehicle and the operator of the moving vehicle appears to be willfully resisting or ignoring the officer's attempt to stop the vehicle by increasing vehicle speed, making evasive maneuvers, or operating the vehicle in a reckless manner that endangers the safety of the community or the officer. A vehicle pursuit is not a vehicle follow. (RCW46.61.022).**

**SPD Policy 314.1.1(A) defines attempting to elude as when any driver of a motor vehicle who willfully fails or refuses to immediately bring his or her vehicle to a stop and who drives his or her vehicle in a reckless manner while attempting to elude a pursuing police vehicle, after being given a visual or audible signal to bring the vehicle to a stop (RCW 46.61.024).**

**SPD Policy 314.1.1(C) defines terminate to 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 suspect vehicle.**

**SPD Policy 314.2.1 provides when to initiate a pursuit. Officers may only initiate pursuits for the following reasons and only after receiving authorization from a supervisor: homicide, drive by shooting, assault 1<sup>st</sup> and 2<sup>nd</sup> degree, assault of a child 2<sup>nd</sup> degree, extortion 1<sup>st</sup> degree, burglary 1<sup>st</sup> degree, arson 1<sup>st</sup> and 2<sup>nd</sup> degree, rape 1<sup>st</sup> and 2<sup>nd</sup> degree, kidnapping 1<sup>st</sup> and 2<sup>nd</sup> degree, or warrant (non-DOC) for the above crimes.**

**SPD Policy 314.2.1 also provides factors officers should consider individually and collectively in whether to initiate or continue a pursuit. The applicable factors in this case include:**

- **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.**
- **Vehicle speeds**
- **Apparent nature of the fleeing suspect(s) (e.g., whether the suspect(s) represent a serious threat to public safety).**
- **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.**

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<sup>8</sup> Current policies must be listed under the CBA to make a policy recommendation. Unless otherwise noted, policies listed do not necessarily reflect the policy in place at the time.

In 2021, the Washington State legislature made changes to when vehicular pursuits are permissible as part of the package of police reform legislation passed through HB 1054. However, in 2023, SB 5352 modified HB 1054. SB 5323 changed the standard for when law enforcement can pursue from “probable cause” to “reasonable suspicion” for certain crimes such as a violent offense, a sex offense, domestic violence-related offenses, driving under the influence of alcohol or trying to escape arrest. It limited vehicular pursuits to situations where the subject of the vehicular pursuit poses a serious risk of harm to others.<sup>9</sup> Other changes in the bill included requiring law enforcement to develop a plan to end the pursuit as soon as practicable. Pursuing officers must complete an emergency vehicle operator’s course and be certified in at least one pursuit intervention option, such as spike strips. The training would have to include performing a risk assessment analysis. The bill also changed when pursuits are authorized from when a person poses an “imminent threat” to when a person poses a “serious risk of harm to others.”

Since the passage of SB 5323, the OPO has been present during discussions among supervisors on whether SPD should change their Vehicular Pursuit Policy based on the legislative changes. Some changes are required, such as the threshold of “probable cause” to “reasonable suspicion.” However, supervisors within the department felt it was prudent to public safety to maintain high standards in when officers can engage in pursuits. They cited mixed messaging in training if the department changed course with new legislative changes and they expressed a desire to keep pursuits and ultimately collisions low. Due to supervisor feedback, SPD opted to maintain similar standards to the previous policy. In SPD’s Vehicular Pursuit Policy, when officers engage in a pursuit, they are now required to notify supervisors upon initiating a pursuit instead of ask permission.<sup>10</sup>

When this incident occurred in November 2022, HB 1054 was the applicable legislation in RCW 10.116.060. HB 1054 and the SPD Policy version updated on October 14, 2022, will be used in the analysis of vehicular pursuits in this incident.

Under HB 1054, law enforcement is not allowed to engage in a vehicular pursuit unless there is probable cause to believe a person in the vehicle has committed or is committing a violent offense or sex offense or is under reasonable suspicion of driving under the influence. The applicable version of the SPD Vehicular Pursuit policy required officers receive supervisor approval prior to engaging in a pursuit and have probable cause to arrest specifically listed violent crimes.

Here, two reviewing supervisors came to different recommended findings on whether a pursuit occurred. In making SPD Employee C’s determination, they cited the fact that SPD Employee B said they were not in pursuit and although SPD Employee A briefly followed with emergency lights activated, there was no pursuit under the SPD Policy. SPD Employee D cited the definition of “vehicle pursuit” in their analysis. They noted the use of an emergency vehicle, wearing the uniform of the day, and a visual signal to attempt to stop a fleeing vehicle, the

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<sup>9</sup> Vehicular Pursuits – Various Provisions, Engrossed SB 5352, 68<sup>th</sup> Leg. (2023).

<http://lawfilesexext.leg.wa.gov/biennium/2023-24/Pdf/Bills/Session%20Laws/Senate/5352.SL.pdf>.

<sup>10</sup> See SPD Policy Manual 314.2.1, When to Initiate a Pursuit (version updated May 30, 2023).

suspect vehicle driving away, and then attempting to follow the vehicle by accelerating in the same direction as the suspect constitutes a pursuit.

## Policy Recommendations

### Recommendations to Policy and/or Training

#### Duty to intervene

SPD Policy 301.9 provides guidelines to officers, regardless of rank, who witness violation of the law and/or department policies. Officers are required to intervene according to the following:

- 1. Any on-duty Spokane Police Officer who witnesses another peace officer engaging or attempting to engage in the use of excessive force against another person shall intervene when in a position to do so to end the use of excessive force or attempted use of excessive force, or to prevent the further use of excessive force. A peace officer shall also render aid at the earliest safe opportunity in accordance with RCW 36.28A.445, to any person injured as a result of the use of force.**
- 2. Any on-duty Spokane Police Officer who witnesses any wrongdoing committed by another peace officer, or has a good faith reasonable belief that another peace officer committed wrongdoing, shall report such wrongdoing to the witnessing officer's supervisor or, in the absence of their supervisor, any other available supervisor, and that notification shall follow through the chain of command to the Office of the Chief of Police.**
- 3. Officers shall not be disciplined or retaliated in any way for intervening in good faith or for reporting wrongdoing in good faith as required by this section.**
- 4. The Spokane Police Department, in compliance with state law, shall send notice to the criminal justice training commission of any disciplinary decision resulting from an officer's failure to intervene or failure to report as required by this section to determine whether the officer's conduct may be grounds for suspension or revocation of certification under RCW 43.101.105. This notification shall occur within 15 days of any disciplinary decision.**

The OPO recommended in R21-01 that SPD implement a duty to intervene policy. Duty to intervene is also a recent addition following police reform legislation from the Legislature. While SPD's previous policy mentions duty to intervene, the legislative reform made the requirements in reporting much more robust. The OPO has observed SPD incorporating intervention where officers participate in scenarios that may warrant intervention at their training at the Police Academy. It is encouraging that a supervisor in SPD identified an instance where the duty to intervene arose and how it is important to do so to prevent policy violations and especially when an officer is in the support function.

### Consistent supervision standards

Here, SPD Employee C determined there was no pursuit while another reviewer, SPD Employee D, in the chain of command determined there was a pursuit. As discussed earlier, SPD Employee C cited Officer statements in making their determination. By contrast, SPD Employee D cited several aspects of the Vehicular Pursuit Policy such as when a pursuit could be made, the definitions of eluding and requirements under the termination of a pursuit. They also used the factors to consider in engaging in a pursuit as part of their analysis, such as the vehicle speeds through a residential neighborhood, weighing public safety against the need to capture the suspect, subjecting the neighborhood to excess speeds twice, and the prudence in pursuing at all.

A thorough review evaluates evidence against department policy. A review is strengthened when the specific policy is mentioned, and a direct analysis of the facts are made against the applicable policy. The OPO recommended in R23-02 in the closing report for C21-052/C21-051/C22-016, the ARP should always include in their memo the applicable policies and document their analysis of an officer's tactical conduct prior to providing findings. The ARP should base their analysis on what the officer knew at the time. When there are simultaneous or consecutive uses of force, the ARP should closely evaluate and document the necessity of each additional use of force. The recommendation was specific to the ARP but should apply to all reviews.

Further, when there are differing opinions in the chain of command review, there should be follow up with the reviewer to inform them of the department's expectations for reviews they conduct moving forward. This will improve the consistency in how policies are evaluated across the department. In this case, there was no clear investigation into the matter. But in C22-051, a separate IA investigation was initiated regarding the allegation of failure to supervise.

Cases of failing to supervise should go to IA for investigation. The OPO reported on C21-052/C21-051/C22-016, a case that involved a failure to properly supervise issue. The review process identified several issues including a supervisor's responsibility to generate a use of force report and making false or misleading statements denying learning of the use of force. An SPD Employee was newly promoted into a supervisor role, and they admitted to struggling with their new role. SPD acted swiftly to initiate internal complaints, C21-051 and C22-016, to investigate concerns of the supervisor's conduct that were identified while reviewing C21-052.

Here, there is no evidence in the IA file that any action has been taken to review the supervisor's actions or any effort on SPD's part to mentor or train. While allegations of potential policy violations arose, no internal complaint was initiated.

**RECOMMENDATION R23-03:** *I RECOMMEND ANY NEW ALLEGATIONS OF MISCONDUCT FOUND DURING A CHAIN OF COMMAND REVIEW BE FORWARDED TO IA FOR INVESTIGATION. THIS WILL ENSURE DUE PROCESS FOR EMPLOYEES AND MAINTAIN A CONSISTENT STANDARD WITHIN THE DEPARTMENT.*

## Administrative review

**SPD Policy 340.4 Investigation of Disciplinary Allegations.** Regardless of the source of an allegation of misconduct, all such matters will be investigated in accordance with Personnel Complaint Procedure Policy Manual § 1020 and RCW 41.12.090.

**SPD Policy 402.5 Supervisor Responsibility.** Supervisors shall monitor those individuals under their command for any behavior that may conflict with the purpose of this policy and shall handle any alleged or observed violation of this policy in accordance with the Personnel Complaints Policy.

**SPD Policy 1020.1.1 Personnel Complaints Defined.** 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.

**SPD Policy 1020.1.1(e) Administratively Suspended Investigation.** An investigation which, after appropriate follow-up and review by the Internal Affairs Lieutenant, is not sent for review by an employee's Chain of Command or an Administrative Review Panel for one or more of the following reasons: a minor allegation sent to the employee's supervisor for informal follow-up (i.e. driving, demeanor, response time, etc.).

This case involved an administrative review classification of the failure to intervene allegation. This is the first time the OPO has encountered this type of classification. However, while SPD conducts several types of administrative reviews, i.e. Deadly Force Review Board, Use of Force Review Board, Collision and Pursuit Review Board, Administrative Review Board, etc., an administrative review classification is not clearly defined.

A duty to intervene applies when an officer witnesses a violation of law or SPD policy and any allegation of misconduct against a department employee shall be investigated under the personnel complaints policy, which are investigated by Internal Affairs. When supervisors identify potential misconduct, they are also required to send the complaint for investigation to IA under the personnel complaints policy.

Here, a supervisor identified a failure to intervene issue. However, the complaint was not sent to IA for investigation. Instead, it was classified as an "Administrative Review." SPD policy is silent on this classification and the procedures on handling these types of cases. It appears that Administrative Reviews occur when a supervisor in the chain of command identifies an issue, they determine the officer(s) is responsible, and that determination is confirmed as the case proceeds up the chain. Records indicate SPD has been using this classification since 2020. Since 2020, there have been 12 Administrative Review cases.<sup>11</sup>

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<sup>11</sup> Some cases have multiple allegations.

The allegations include:

- 8 – Improper supervision
- 3 – BWC violation
- 4 – Discourteous disrespectful treatment
- 1 – Duty to intervene

Every allegation received some type of sanction including:

- 13 – Document of counseling
- 2 – Letter of reprimand
- 1 – Verbal counseling

This new classification is concerning in several ways. First, the OPO does not have oversight of these types of cases. The public expects the OPO provides oversight of all police complaint related matters. We are only able to influence the investigation process of personnel complaints. Anything outside of that, a deadly use of force, a use of force, collision, and a pursuit, the OPO only reviews the matter after the fact.

Second, complaints classified as “Administrative Review” are allegations of misconduct that are not being sent to IA for investigation as required by SPD Policy 1020.1.1. A proper IA investigation would allow an officer due process to learn about the allegations against them and the ability provide a statement through their IA interview. An Administrative Review only appears to notify officers at the end when findings and sanctions are made.

Lastly, complaints classified as “Administrative Review” are allegations of misconduct that are not properly being reported in complaint data. Furthermore, the sanctions issued to employees are not clearly attributed to allegations of misconduct. Almost all cases involving Administrative Reviews have resulted in sanctions against an employee.

***RECOMMENDATION R23-04:*** I RECOMMEND ANY ALLEGATIONS OF MISCONDUCT CURRENTLY BEING LABELED AS “ADMINISTRATIVE REVIEW” BE PROPERLY CLASSIFIED AS A PERSONNEL COMPLAINT AND FORWARDED TO IA FOR INVESTIGATION.

Administrative reviews are mentioned in the SPD Policy Manual but are generally reviews of existing investigations or reviews of serious incidents by the chain of command. The current use of the Administrative Reviews process to make new allegations and sanctions without investigation or due process is not defined in policy as part of Policy 1020. In discussions with supervisors inside of the department, their interpretation is that Administrative Reviews are only used for minor allegations. SPD Policy does not delineate improper supervision, discourteous treatment, and duty to intervene as minor allegations, nor should they. SPD Policy 1020, minor allegations are described under Administratively Suspended subsection E as driving, demeanor, response time, etc. In these cases, the IA Lieutenant is given the authority

to refer these cases back to the employee's supervisor for informal follow-up. Regardless of the minor nature of the allegation, everything is documented and maintained in an investigative file. None of this is occurring with Administrative Reviews.

**RECOMMENDATION R23-05:** *I RECOMMEND THAT ADMINISTRATIVE REVIEWS BE CLEARLY ADDRESSED IN POLICY, WHEN THEY APPLY, AND WHAT THE PROCEDURES ARE FOR THEM.*

## Summary of Recommendations

**Recommendation R23-03:** I recommend any new allegations of misconduct found during a chain of command review be forwarded to IA for investigation. This will ensure due process for employees and maintain a consistent standard within the department.

**Recommendation R23-04:** I recommend any allegations of misconduct currently being labeled as “Administrative Review” be properly classified as a personnel complaint and forwarded to IA for investigation.

**Recommendation R23-05:** I recommend that Administrative Reviews be clearly addressed in policy, when they apply, and what the procedures are for them.