

Mediation Report

C21-017 / C21-030 / OPO 21-09

OFFICE OF THE POLICE OMBUDSMAN



BART LOGUE | POLICE OMBUDSMAN, *AUTHOR*
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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 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 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. 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 in order 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 in order 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 this report allows us to provide a more thorough review of what occurred in this incident in order 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 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 must publish a report following a mediation including any agreements reached between parties¹. 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.

¹ This is the only type of report which is mandated by the Collective Bargaining Agreement. However, the information in this report is limited due to the confidentially agreements signed in the mediation. The OPO has asked the Police Guild for a Memorandum of Understanding regarding mediation reports which has yet to be finalized.

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 follows reflect 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.²

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

Summary

Procedural History

This was an internally initiated complaint with the allegation of Abuse of Authority. Policy 340.3.5(E) provides, "the wrongful or unlawful exercise of authority is considered misconduct." A subsequent third party community complaint was later received on the same incident. The Police Ombudsman recommended the case for mediation to the Chief of Police after reviewing the facts of the case. The OPO based its decision to recommend mediation on a review of BWC footage and police reports. Prior to the mediation, the community member, Police Ombudsman, and Police Chief participated in a lunch meeting in which the circumstances of this case were discussed. The involved community member and involved officer also agreed to participate in a mediation and the mediation was conducted at City Hall on June 10, 2021. An outside mediator and the Police Ombudsman were also present. Following the

² 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.

mediation, the Police Ombudsman sent correspondence to the Chief of Police saying that the officer participated in good faith and recommended the case be closed as mediated.

There were no formal agreements between the officer and the community member resulting from this mediation.

OPO Summary of Facts

On April 23, 2021, around 12:00am an officer encountered a community member crossing the street without using a crosswalk. The community member approached the officer and made comments about George Floyd's death. The officer determined the community member did not need police services, wished them a good night, and walked away to avoid an unnecessary confrontation. However, another officer arrived on scene and the community member began to engage with the second officer. The first officer reengaged when the community member appeared to be arguing with the second officer. The verbal exchange quickly escalated and the first officer arrested the community member for pedestrian interference.