



OFFICE OF
POLICE OMBUDSMAN
221 N. WALL SUITE 238 (OLD CITY HALL)
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www.SPDOmbudsman.org

April 15, 2011

Public Safety Committee Report

Reporting Period: March 18, 2011 through April 14, 2011

CONTACTS

Between March 18, 2011 and April 14, 2011 the Office was contacted **32** times.

Since January 1, 2011, there have been **143** contacts received by the Office of Police Ombudsman.

COMPLAINTS

Between March 18, 2011 and April 14, 2011, **4** complaints were received.

1. Tuesday, March 29, 2011: An **Inadequate Response** complaint was received by the Ombudsman at the Office of Police Ombudsman. The Complainant advised that police response to violations of a harassment order on several occasions were slow and when officers arrived they were dismissive of the Complainant's allegations (**OPO # 11-18**).
2. Friday, April 01, 2011: An **Inadequate Response** complaint was received by the Ombudsman at the Office of Police Ombudsman. The Complainant advised that the police department refused to recover a stolen vehicle that belongs to a car dealership the Complainant owns (**OPO # 11-19**).
3. Saturday, April 02, 2011: An **Inadequate Response** complaint was received by the Ombudsman at the Office of Police Ombudsman. The Complainant was referred to the Office by State Representative 3rd District Mr. Billig's Office. The Complainant advised that they were involved in a traffic collision and the officer failed to cite the other party for being uninsured. The Complainant also complained about the lack of timeliness to a burglary at their residence and the lack of follow-up even though the Complainant identified the suspect to police (**OPO # 11-20**).
4. Thursday, April 07, 2011: An **Inadequate Response** complaint was received by the Ombudsman at the Office of Police Ombudsman. The Complainant advised that an Officer refused to issue an incorrectly parked car a parking citation although the officer was writing other vehicles parking citations. The Complainant alleged that a different officer failed to adequately investigate a traffic collision that occurred near the Complainant's residence. The Complainant

advised that a public records request they made 5 months ago still had not been received although someone they know made a similar request and has received the records they requested (*this complaint is from a frequent complainant*) (**OPO # 11-21**).

Between March 18, 2011 and April 14, 2011 2 complaints were referred.

1. Thursday, March 31, 2011: A complaint involving the Spokane Valley Police was received through the Ombudsman website. The Complainant was contacted and their complaint was forwarded to the Spokane County Sheriff's Office per the Complainant's request.
2. Wednesday, April 6, 2011: A complaint was received involving the Spokane County Sheriff's Office and the Spokane County Jail by the Ombudsman at the Office of Police Ombudsman. The complaint was forwarded to the Spokane County Sheriff's Office at the request of the Complainant.

INVESTIGATIONS CERTIFIED

Between March 18, 2011 and April 14, 2011, 3 investigations were certified as timely, thorough and objective:

1. Thursday, March 24, 2011: An internally generated **Inadequate Response** complaint was received by the Internal Affairs Unit on January 21, 2011. The Complainant alleged that an officer failed to take a domestic violence report as mandated by law. The Ombudsman confirms that the investigation of the complaint was completed through a timely, thorough and objective process.
2. Friday, March 25, 2011: A **Demeanor** complaint was received by the Internal Affairs Unit on January 30, 2011. The Complainant alleged that when they stopped behind a parked police vehicle and approached the officer to report a possible crime the officer quickly got out of the police car and pointed their hand gun at the Complainant. The Complainant advised that the officer then used inappropriate language during their conversation before leaving. The Ombudsman confirms that the investigation of the complaint was completed through a timely, thorough and objective process.
3. Tuesday, March 29, 2011: An **Excessive Force** complaint was received by the Internal Affairs unit on January 18, 2011: The Complainant alleged that they were struck and injured with the butt of a rifle by an officer who had responded to a man with a gun call at a bar. The Ombudsman confirms that the investigation of the complaint was completed through a timely, thorough and objective process.

DECLINED CERTIFICATIONS

There were no declined certifications during the reporting period.

INTERVIEWS

- **Internal Affairs, Officer Interviews: 18**
- **Internal Affairs Complainant Interviews: 0**
- **Internal Affairs, Witness Interviews: 6**

- **Office of Police Ombudsman Complainant Interviews: 8**
- **Office of Police Ombudsman Witness Interviews: 4**

- **Closing (Complaint Closure) Interviews: 2**

OTHER DUTIES

Critical Incident Responses: No Critical Incidents were reported/ responded to during the reporting period.

Cases Resolved Through Mediation: 1 complaint was resolved through the mediation process during the reporting period.

- Wednesday, April 6, 2011: A **Harassment** complaint was resolved through the mediation process. The Complainant alleged that an Officer who responded to their residence on an assault complaint entered their residence with out permission. It was determined that the Officer was allowed entry by a roommate (**OPO #11-07**).

Recommendations: No recommendations were made during the reporting period

NEXT STEPS

- Recruitment of a student intern.
- Completion of investigative closing reports from 2010
- Completion of the remaining inquiry and investigative closing reports from 2011

COMMUNITY OUTREACH

- Friday, April 8, 2011: NAACP Spaghetti Dinner (6p-7p)
- Friday, April 8, 2011: STA Main Terminal (10a-1230p)
- Monday, April 4, 2011: Spokane City Council Meeting (6p-7p)
- Sunday, April 3, 2011: NAACP March (3p-530p)
- Friday, April 1, 2011: Community Assembly Meeting, OPO Presentation (4-615p)
- Monday, March 28, 2011: Spokane City Council, Town Hall Meeting at East Central Community Center (6p-8p)
- Wednesday, March 23, 2011: Riverside Neighborhood Council Meeting OPO 2010 Annual Report Presentation (5p-630p)
- Tuesday, March 22, 2011: The NATIVE Project, Indian Community Gathering #3 (6p-8p)
- Tuesday, March 22, 2011: Human Rights Committee (530p-7p, Asst to OPO)
- Monday, March 21, 2011: Spokane City Council Meeting (6p-8p)
- Monday, March 21, 2011: LGBT Training Seminar (pa-12n)

- Saturday, March 19, 2011: PJALS, Peace and Economic Justice Action Conference (8a-5p)
- Friday, March 18, 2011: The NATIVE Project (1p-4p)
- Friday, March 18, 2011: The House of Charity (9a-11a)

OTHER

- Tuesday, April 12, 2011: NOVA Identity Theft Victim Assistance Training (830a-4p, Asst to OPO)
- Sunday, March 20, 2011: SPD Ride Along, Midnight Shift (8p Sat- 6a Sun).
- Sunday, March 27, 2011: SPD Ride Along, Day Shift (6a-4p)

2011 OVERVIEW

Complaints Received: Since January 1, 2011, 21 complaints have been received by the Office of Police Ombudsman and forwarded to Internal Affairs. The complaints were for:

- 1 Demeanor
- 1 Discrimination
- 2 Excessive Force
- 5 Harassment
- 10 Inadequate Response
- 1 Perjury
- 1 Records Request/Driving

Complaints Referred: Since January 1, 2011, 9 complaints have been referred to the following agencies:

- 8 complaints have been referred to the Spokane County Sheriff's Office.
- 1 complainant was referred to the Okanogan County Sheriff's Office

ATTACHMENTS

- Closing Report IA # 10-076 (Complaint Investigation)
- Closing Report IA# 11-003 (Complaint Investigation)
- Closing Report OPO #11-02 (IA Inquiry 11-003)
- Closing Report OPO #11-03 (IA Inquiry 10-081)
- Closing Report OPO #11-05/ IA# 11-004 (Complaint Investigation)



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OFFICE OF POLICE OMBUDSMAN CLOSING REPORT (SMC 04.32.030(L))

OPO # N/A | IA # 10-076

The Situation

On November 12, 2010 the Spokane Police Department Special Investigation Unit executed a search warrant at the Complainants' residence. During the inspection of the Complainants' unattached garage marijuana was found being grown.

The subsequent investigation determined that the marijuana was being grown for medicinal purposes. Once established, no further enforcement action was taken.

The Complaint

On November 18, 2010 the Complainants filed a complaint with the Office of Police Ombudsman. The Complainants' advised that:

- Officers refused to show the Complainant a copy of the search warrant after having been requested to do so.
- Officers refused to allow one of the Complainants to put on additional clothing to stay warm while required to wait outside.
- Officers were rude and derogatory in the comments made to the Complainants.
- Officers refused to allow one of the Complainants to interact with a same sex officer even though the opportunity existed.
- Officers damaged property and damaged and stole marijuana from the Complainants' garage.

The Complaint Investigation

The Complaint was received by Internal Affairs on November 23, 2010. The complaint was classified as an **Inadequate Response and Demeanor** complaint and assigned for investigation. The investigation was completed on January 12, 2011. The Administrative Review Panel was given the investigation for review on January 14, 2011 and their review was completed on February 9, 2011.

The Office of Police Ombudsman received the investigation for certification consideration on February 14, 2011 and certified the investigation on February 24, 2011.

The Office of Police Ombudsman interviewed the 2 Complainants and a Witness independent of the Internal Affairs Unit. Their statements were recorded and transcribed.

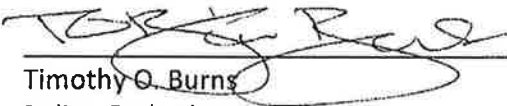
The Ombudsman attended and participated with the Internal Affairs Unit in the interviewing of 13 commissioned officers related to the complaint. Ranks included:

- 1 Command Officer
- 3 Supervisors
- 6 Detectives
- 3 Patrol Officers

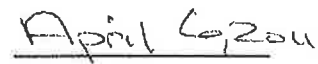
Office of Police Ombudsman Analysis/Conclusion

The Office of Police Ombudsman supports the Administrative Review Panel's recommendation that additional copies of search warrants should be in officer's possession and provided upon request to those affected by the search warrant. The current practice is to provide a copy of the search warrant to the property owner or someone present upon completion of the execution of the search warrant or leave a copy of the search warrant at the property if no one is present.

The Office of Police Ombudsman further recommends that if a same sex officer is requested and is present and available during a police encounter a reasonable effort will be made to accommodate the request once a location is secured.



Timothy O. Burns
Police Ombudsman



Date

- This letter constitutes the final action that will occur regarding the complaint received by the City of Spokane, Office of Police Ombudsman. Further, the Police Ombudsman does not have any authority for discipline or exoneration based on the investigation conducted in this matter. None of the contents contained in the final report should be viewed as to any recommendation involving possible discipline or exoneration in the matter.



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OFFICE OF POLICE OMBUDSMAN CLOSING REPORT (SMC 04.32.030(L))

OPO # N/A | IA # 11-003

The Situation

On January 1, 2011 at approximately 1:26 am (New Years Eve) Spokane Police Officers responded to a man with a gun call at a local bar. Officers had just completed handling a similar call at a different location where shots were reported to have been fired. Officers were unable to locate the suspect or any damage. In both calls the suspect had a similar description.

Upon arrival at the second call location officers located a person a few blocks from the bar who matched the description of the man with a gun in both calls.

As officers attempted to contact the suspect they were interfered with by two individuals who were ultimately arrested by officers for obstruction. The 2 individuals who were arrested did not know each other.

The Complaint

The Complainant advised that they were struck in the chest with the butt of a rifle for no reason by an officer who had responded to the man with a gun call.

The Complaint Investigation

4 officers, 3 witnesses (known by the complainant), and the Complainant were interviewed regarding the complaint. The Police Ombudsman participated in the interviewing of all involved parties.

Medical records and photographs of the injury were provided by the Complainant.

An **Excessive Force** complaint was filed by the Complainant with the Internal Affairs Unit on January 18, 2011. The investigation was completed on March 3, 2011. The investigation was received by the Administrative Review Panel on March 7, 2011. The Administrative Review Panel completed their review of the investigation on March 24, 2011. The investigation was certified by the Office of Police Ombudsman on March 29, 2011.


The investigation revealed that the officer who was forced to confront the complainant due to the complainant's interference was in possession of a patrol rifle at the time of incident. The injury reported by the Complainant was inconsistent with the type of injury

the complainant would have received had the complainant been struck with the butt of the gun the officer was carrying at the time of incident.

Office of Police Ombudsman Analysis/Conclusion

The involved officers performed within the scope of policies, procedures and training. The Complainant's consumption of alcoholic beverage impaired the complainant's decision making process.

There are no recommendations regarding this incident.



Timothy O. Burns
Police Ombudsman

April 6, 2011
Date

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OPO # 11-02 | IA # Inquiry 11-003

The Situation

On Thursday, January 5, 2011 at approximately 11:13 am the police department received separate calls from a citizen and a staff person at the Child and Protective Services (CPS) office regarding a citizen's arrest of a caseworker. At approximately 11:25 am one sergeant and three officers responded to the scene.

The Complaint

The complainant advised that while waiting for a Lieutenant that they had requested at the scene, they mistook a responding Officer for the Lieutenant. When they attempted to verify the employee's identity the Officer answer, "No, I'm just a knuckledragger."

The complainant advised that they felt physically threatened by the comment.

The Complaint Investigation


On Thursday, January 6, 2011 the Complainant filed a complaint with the Office of Police Ombudsman via telephone; the initial complaint was forwarded to and received by the Internal Affairs Unit on Thursday, January 6, 2011. On Tuesday, January 11, 2011 the Complainant met with the Ombudsman at the Office of Police Ombudsman. The Complainant's statement was recorded and forwarded to the Internal Affairs Unit on Tuesday, January 11, 2011.

On Monday, January 17, 2011 the complaint was determined to be a minor conduct issue and was classified as an "Inquiry" by Internal Affairs. The incident leading to the complaint was documented by the involved officer through police report # 11-004133. The Ombudsman concurred with the classification.

On Monday, January 31, 2011 the complainant participated in a closing interview with the Ombudsman and the Internal Affairs investigator at the Office of Police Ombudsman.

Office of Police Ombudsman Analysis/Conclusion

No recommendations regarding this complaint.



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April 7, 2011
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OPO # 11-03 | IA # Inquiry 10-081

The Situation

On December 18, 2010 a police vehicle collided with a citizen's vehicle that was stopped for another traffic accident at the intersection of 6th Avenue and S. Walnut Street on Spokane's South Hill.

The Complaint

The Complainant advised that, following the incident, there was a significant delay in receiving a copy of the report detailing the accident. This delay prevented the complainant from receiving reimbursement for associated medical expenses and placed an additional financial burden on the complainant.

The Complainant advised that they felt the collision could have been avoided and inquired as to whether the police vehicle had snow chains on its tires at the time of the collision.

The Complaint Investigation

On Thursday, January 6, 2011 the Complainant met with the Ombudsman at the Office of Police Ombudsman. The Complainant's statement was recorded. The complaint was forwarded to and received by the Internal Affairs Unit on Friday, January 6, 2011.

On Wednesday, January 19, 2011 the complaint was classified as an "Inquiry" by Internal Affairs. Due to the nature of the complaint, the issue was referred to the City's Risk Management department. The Ombudsman concurred with the classification.

On December 19, 2010 the Officer who accidentally collided with the Complainant called the Complainant to see how the Complaint was feeling.

Office of Police Ombudsman Analysis/Conclusion

The City of Spokane is self insured. It is important for the City have an effective and efficient procedure in place when it is necessary for an individual or entity to file a claim against the City. The Risk Management Department needs to work together with the Police Department to ensure any claim filed against the Police Department is efficiently processed.



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April 7, 2011
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OFFICE OF POLICE OMBUDSMAN CLOSING REPORT (SMC 04.32.030(L))

OPO # 11-05 | IA # 11-004

The Situation

On Thursday December 23, 2010 at approximately 2:45 pm the police department received a noise complaint regarding a street musician playing amplified music in downtown Spokane. The police department declined to respond. At approximately 4:50 pm a second complaint from a different complainant was received and an officer responded.

The Complaint

The Complainant advised that their constitutional right to expression was violated when a Spokane Police Officer directed them to stop playing an amplified musical instrument while in compliance with the Spokane Municipal Code regulating noise.

The Complainant advised that the officer refused to discuss the matter with the complainant.

The Complainant advised that the police department does not have the necessary equipment or training required to enforce the ordinance.

The Complaint Investigation

On Saturday, January 8, 2011 the Ombudsman was contacted by the Complainant at the Office of Police Ombudsman. The Complainant's statement was recorded. The complaint was forwarded and received by the Internal Affairs Unit on Tuesday, January 11, 2011.

Internal Affairs classified the complaint as an **Inadequate Response and Demeanor** complaint. The incident leading to the complaint was documented by the involved officer through police report # 10-417225.

On Wednesday, January 19, 2011 the 2 witness who complained to the police department regarding the noise violation were contacted and interviewed by Internal Affairs Sergeant McCabe.

Both witnesses saw the interaction between the officer and individual however neither were close enough to hear any conversation. Based on the witnesses' statements

Sergeant McCabe determined that it would not be necessary to interview the 2 witnesses in the presence of the Police Ombudsman. The Ombudsman concurs.

On Monday, January 31, 2011 the involved officer was interviewed by Sergeant McCabe and the Ombudsman.

On Monday, February 7, 2011 the investigation was completed. On Tuesday, February 8, 2011 the completed investigation was provided to the Administrative Review Panel for review and comment. The Administrative Review Panel completed its review of the investigation on Tuesday, March 1, 2011.

On Saturday March 12, 2011 the complaint investigation was certified by the Police Ombudsman as having been completed through a timely, thorough and objective process.

Office of Police Ombudsman Analysis/Conclusion

Enforcement of the noise ordinance as related to "street performers" has been a topic of conversation for the past 18 months. As a result the noise ordinance was recently revised to address concerns related to "street performers", however the revision did not address the broader concerns of a dated ordinance.

Recently a consulting firm with expertise in sound mitigation from Seattle Washington, The Greenbusch Group, Inc. was hired to conduct a study and provide a report to address the dated noise ordinance. Various stakeholders are participating in the process.

With regards to the officer conduct complaint considerable effort was allocated to investigate the allegation. Ultimately with regard to the officer's demeanor the complaint became a he said she said complaint.

In regards to the investigation of the complainant's conduct which led to the police being called the current process for enforcement of potential violations is flawed and ineffective.

Before an officer can be expected to enforce the noise ordinance subjectively the officer must first be adequately trained and provided with the necessary tools required for enforcement. Prior to enforcement commencing a "good faith" effort should be made to educate potential complainants and violators on the conditions of enforcement.

In this instance the officer was not provided with the necessary training or tools to effectively enforce the ordinance and although the ordinance was revised recently to address the issue of "street performers" there does not appear to have been any significant public outreach effort made on behalf of law enforcement.



Timothy O. Burns
Police Ombudsman

April 5, 2011
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