



OFFICE OF
POLICE OMBUDSMAN
221 N. WALL SUITE 238 (OLD CITY HALL)
SPOKANE, WASHINGTON 99201
(509) 625-6742
FAX (509) 625-6748
www.SPDOmbudsman.org

June 20, 2011

Public Safety Committee Report

Reporting Period: May 13, 2011 through June 16, 2011

CONTACTS

Between May 13, 2011 and June 16, 2011 the Office was contacted 30 times.

Since January 1, 2011, there have been 208 contacts received by the Office of Police Ombudsman.

Beginning June 9, 2011 the Office of Police Ombudsman also began tracking contacts from outreach activities. Between June 9, 2011 and June 16, 2011 the Office received an additional 17 contacts from these events.

COMPLAINTS

Between May 13, 2011 and June 16, 2011 6 complaints were received.

1. Monday, May 23, 2011: A **Demeanor and Driving** complaint was received by the Office of Police Ombudsman. The Complainant alleged that an Officer stopped abruptly for no apparent reason and as the Complainant passed the Officer, the Officer rolled down their window and told the Complainant that was what they got for tailgating the Officer (**OPO # 11-27**).
2. Tuesday, May 24, 2011: An **Inadequate Response** complaint was received by the Police Ombudsman by telephone. The Complainant resides in Utah. The Complainant advised that they reported a theft to Crime Check. They indicated that the report was forwarded to investigations however no follow-up was conducted even though the suspect was known (**OPO # 11-28**).
3. Thursday, June 2, 2011: A **Demeanor** complaint was received by the Office of Police Ombudsman by telephone. The Complainant resides 115 miles out of the area. The Complainant disagreed with a citation they received. The Complainant advised that the Officer that issued the citation used profanity and was discourteous (**OPO # 11-29**).
4. Monday, June 6, 2011: An **Inadequate Response** complaint was received by the Office of Police Ombudsman. The Complainant advised that they called Crime Check to report that they had received several annoying phone calls. The Complainant advised they were told someone would contact them regarding their complaint. The Complainant has not

had any follow up contact in the past 3 weeks since contacting Crime Check (**OPO # 11-30**).

5. Wednesday, June 8, 2011: A **Racial Bias** and **Inadequate Response** complaint was received by the Office of Police Ombudsman. The Complainant advised that they received a traffic citation. The Complainant advised that the Officer refused to give the Complainant their name. The Complainant advised they called 9-1-1 and requested to speak with a Supervisor but the 9-1-1 operator refused to put the Complainant in contact with a Supervisor. The Complainant was later arrested near the Public Safety Building for harassment. The Complainant went there to wait for a Supervisor (**OPO # 11-31**).
6. Thursday, June 9, 2011: A **Demeanor** complaint was received by the Office of Police Ombudsman. The Complainant advised that they were having difficulty taking action on a nuisance property they own because of an Officer's demeanor (**OPO # 11-32**).

Between May 13, 2011 and June 16, 2011 0 complaints were referred.

INVESTIGATIONS CERTIFIED

Between May 13, 2011 and June 16, 2011 5 investigations were certified as timely, thorough and objective:

1. Saturday, May 14, 2011: An **Inadequate Response** and **Theft** complaint was received by the Office of Police Ombudsman on March 10, 2011. The Complainant alleged that officers threatened to have CPS take the Complainant's children if the Complainant refused to get a Restraining Order against the Complainant's spouse. The Complainant's spouse was arrested for possession and sales of drugs. The Complainant advised that when officers searched the Complainant's vehicle officers kept a pack of cigarettes that were inside the vehicle and that officers were trying to have the Complainant's landlord evict the Complainant from the home the Complainant rents. The Ombudsman confirms that the investigation of the complaint was completed through a timely, thorough and objective process (**OPO # 11-16**).
2. Saturday, May 21, 2011: An **Excessive Force** and **Demeanor** complaint was received by the Internal Affairs Unit on March 12, 2011. The Complaint was attending the St. Patrick's Day Parade in downtown Spokane. The Complainant alleged that after the Complainant became involved in an argument with another individual an Officer directed the Complainant to leave the area. The Complainant advised that when the Complainant questioned the Officer's decision the Officer "grabbed the Complainant's arm" and escorted the Complainant from the parade route. The Ombudsman confirms that the investigation of the complaint was completed through a timely, thorough and objective process.
3. Tuesday, May 24, 2011: On January 30, 2011 the Internal Affairs Unit initiated an internal complaint against an Officer regarding the **Officer's Response to Calls** and **Mobile Digital Device Use While Driving** after the officer was involved in a fatal collision with a pedestrian. The Ombudsman confirms that the investigation was completed in a timely, thorough and objective process.

4. Saturday, May 28, 2011: A **Conduct Unbecoming of an Officer** complaint was received by the Internal Affairs Unit on April 21, 2011. An off-duty Officer en route to work became involved in a verbal altercation with a motorist regarding the motorist's driving. The Ombudsman confirms that the investigation was completed in a timely, thorough and objective process.
5. Monday, May 30, 2011: A **Demeanor** complaint was received by the Internal Affairs Unit on December 6, 2010. As the Complainant left a convenience store the Complainant was confronted by Officers outside who had responded to a possible robbery in progress at the store. The Complainant was angry that the officers pointed guns at them, made inappropriate comments to them and did not explain their actions. The Ombudsman confirms that the investigation was completed in a timely, thorough and objective process.

DECLINED CERTIFICATIONS

There were no declined certifications during the reporting period.

INTERVIEWS

- **Internal Affairs, Officer Interviews: 9**
- **Internal Affairs Complainant Interviews: 1**
- **Internal Affairs, Witness Interviews: 4**

- **Office of Police Ombudsman Complainant Interviews: 6**
- **Office of Police Ombudsman Witness Interviews: 0**

- **Closing (Complaint Closure) Interviews: 1**

OTHER DUTIES

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

Cases Resolved Through Mediation: 2 complaints were resolved through the mediation process during the reporting period.

- Friday, May 13, 2011: A **Demeanor** complaint received by the Office of Police Ombudsman was resolved through mediation. The Complainant alleged that they left several voicemails for a Detective who failed to return the Complainant's call (**OPO # 11-24**).
- Monday, May 16, 2011: A **Demeanor** complaint received by the Office of Police Ombudsman was resolved through mediation. The Complainant advised that police personnel refused to talk with them after threatening to tow the Complainant's vehicle from the Bloomsday Race route (**OPO # 11-26**).

Recommendations: No recommendations were made during the reporting period

NEXT STEPS

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

COMMUNITY OUTREACH

- Thursday, June 16, 2011: Northwest Neighborhood Council Meeting, OPO Presentation (7p-830p, Asst to OPO)
- Wednesday, June 15, 2011: Comstock Neighborhood Council Meeting, OPO Presentation (7p-830p, Asst to OPO)
- Saturday, June 11, 2011: "Ombudsman in the Park," Riverfront Park (130p-4p, OPO Intern)
- Saturday, June 11, 2011: Logan Neighborhood, The Event, Fourth Memorial Church (9a-12:30p, OPO Intern)
- Friday, June 10, 2011: STA Terminal (10a-1p, OPO Intern)
- Thursday, June 9, 2011: Minnehaha Neighborhood Council Meeting, OPO Presentation (7p-740pm, Asst to OPO)
- Wednesday, June 8, 2011: Grandview-Thorpe Neighborhood Council Meeting, OPO Presentation (7p-830pm, Asst to OPO)
- Wednesday, June 8, 2011: West Central Neighborhood Council Meeting, OPO Presentation (7p-9p)
- Monday, June 6, 2011: Spokane City Council Meeting (6-730p)
- Saturday, June 4, 2011: "Ombudsman in the Park," Riverfront Park (1p-330p)
- Saturday, June 4, 2011: East Central Neighborhood Wellness Association's Summer Youth Camp Benefit Breakfast (8a-10a)
- Friday, June 3, 2011: Community Assembly Meeting (4p-6p)
- Thursday, June 2, 2011: Five Mile Prairie Neighborhood Council Meeting, OPO Presentation (630-9p)
- Thursday, June 2, 2011: LGBTQ Outreach Meeting (4p-530p)
- Thursday, June 2, 2011: Holmes Elementary School 6th Grade Pizza Party (130p-3p)
- Wednesday, June 1, 2011: Balboa South Indian Trail Neighborhood Council Meeting, OPO Presentation (7p-9p)
- Saturday, May 28, 2011: "Ombudsman in the Park," Riverfront Park (1p-3:30p)
- Thursday, May 26, 2011: Manito Cannon Hill Neighborhood Council Meeting (7p-8p)
- Wednesday, May 25, 2011: Riverside Neighborhood Council Meeting (5p-630p)
- Tuesday, May 24, 2011: Human Rights Commission Meeting (530p-7p)
- Monday, May 23, 2011: Spokane City Council Meeting (6p-730p)
- Friday, May 20, 2011: The NATIVE Project (1p-4p)
- Friday, May 20, 2011: Eastern Washington University Spring Fair for Education Informational Booth (9a-1p)
- Thursday, May 19, 2011: Chief Garry Park Neighborhood Council Meeting (7p-8p)
- Wednesday, May 18, 2011: Hillyard Neighborhood Council Meeting (630p-8p)
- Wednesday, May 18, 2011: Whitman Neighborhood Council Meeting (6p-630p)
- Tuesday, May 17, 2011: Lincoln Heights Neighborhood Council Meeting, OPO Presentation (7p-9p)

- Monday, May 16, 2011: Spokane City Council, OPO Monthly Update (6p-7p)
- Monday, May 16, 2011: ITT Institute Guest Speaker, Criminal Justice Class on *Ethics, Employee Rights, Employee Discipline* (1030a-1230p)

OTHER

- Tuesday, June 7, 2011: Diversity Awareness Training presented by Spokane County (9a-12p)
- Saturday, June 4, 2011: SPD Ride Along, Midnight Shift (8p, Sat - 4a, Sun)
- Friday, June 3, 2011: Ombudsman was elected to the United States Ombudsman Association, Board of Directors

2011 OVERVIEW

Complaints Received: Since January 1, 2011, **31** complaints have been received by the Office of Police Ombudsman and forwarded to Internal Affairs. The complaints were for:

- 8 Demeanor
- 1 Discrimination
- 2 Excessive Force
- 5 Harassment
- 12 Inadequate Response
- 1 Perjury
- 1 Records Request/Driving
- 1 Racial Bias

Complaints Referred: Since January 1, 2011, **11** complaints have been referred to the following agencies:

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

ATTACHMENTS

Ombudsman-Received Complaint Closing Reports

- | | | |
|---------------|---------------|---------------|
| • OPO # 11-01 | • OPO # 11-08 | • OPO # 11-17 |
| • OPO # 11-04 | • OPO # 11-09 | |
| • OPO # 11-06 | • OPO # 11-13 | |

Internal Affairs-Received Complaint Closing Reports

- | | | |
|---------------------|---------------------|--------------------------------|
| • IA 10-057 | • IA 10-068 | • IA 10-080 |
| • IA 10-060 | • IA 10-069 | • IA 10-081* |
| • IA 10-061 | • IA 10-070 | • IA 11-006, Critical Incident |
| • IA 10-063* | • IA 10-073* | • IA 11-020 |

* The numbering system for Ombudsman-received complaints was initiated in January 2011. Complaints received by the Ombudsman before January 2011 are referenced by a **bolded** and asterisked Internal Affairs case number above.



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

OPO # 11-01 | 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 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 the Sergeant refused to accept or allow the responding Officer to accept the "Citizen's" arrest of a CPS employee. The Complainant felt the refusal to make an arrest was made with bias due to the Complainant's political activities and in retaliation for previously filed Internal Affairs complaints.

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 January 6. 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 Internal Affairs on January 11.

On Monday, January 17, 2011 the complaint was determined to be a policy and procedure issue and was classified as an Inquiry by Assistant Chief Nicks based upon the following facts:

- A police report was written in response to the Complainant's allegation of harassment
- No probable cause existed to charge the caseworker with a crime
- Child Protective Services (CPS) agreed to conduct an internal investigation into the Complainant's claims and notify the Complainant of the results

The incident leading to the complaint was documented by the involved officer through police report # 11-004133.

Office of Police Ombudsman Analysis/Conclusion

The Ombudsman concurs with the classification of the complaint as an Inquiry.


In response to this complaint, the Office of Police Ombudsman requested clarification of the police department's understanding of citizen arrests. In brief, an officer may detain the person for investigative purposes however any warrantless arrest must be based on the officer's

independent determination of probable cause to arrest for a crime. Pursuant to RCW 10.31.100, the officer cannot rely solely upon the citizen's claims or allegations to establish probable cause.

There are no policy, procedure or training recommendations regarding this incident.



Timothy O. Burns
Police Ombudsman



Date

- This letter constitutes the final action that will be 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 # 11-04 | IA # Inquiry 11-004

The Situation

The Complainant has a valid domestic violence No Contact Order which is intended to prohibit a former "significant other" from contacting the Complainant.

The Complaint

The Complainant contacted the Office of Police Ombudsman on January 8, 2011. The Complainant advised that they have had difficulty with local law enforcement being willing to enforce the No Contact Order. The Complainant advised that in one instance, responding officers refused to help except to refer the Complainant to the Complaint Desk at the Public Safety Building.

The Complaint Investigation

The complaint was classified by Assistant Chief Nicks as an Inquiry based on the following information:

- The Complainant resides in another city. Any contact with the Complainant at the Complainant's residence is outside the jurisdiction of the Spokane Police Department and the Office of Police Ombudsman.
- In the one instance involving the Spokane Police Department, Officers contacted the Complainant at the downtown Transit Center, completed a police report, and arrested the Complainant's former "significant other" for violating the court order.
- The Complainant disapproved of the former "significant other" being allowed to post bail. This matter involves the Courts and is beyond the jurisdiction of Spokane Police Department.

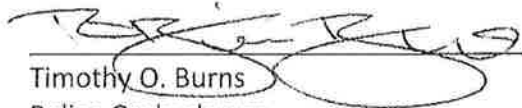
Office of Police Ombudsman Analysis/Conclusion

The Office of the Police Ombudsman agrees with Assistant Chief Nicks' classification of the complaint as an Inquiry.

Members of Spokane Police Department have not had any contact with the Complainant in the city where the Complainant resides. In the one instance identified involving members of the Spokane Police Department, Officers took a police report and arrested and booked the "significant other" into County Jail for violating the No Contact Order.

With regard to the "significant other" being released on bail, the United States Constitution Bill of Rights, 8th Amendment addresses this issue.

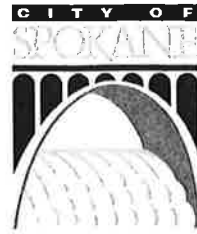
There are no policy, procedure or training recommendations associated with this complaint.



Timothy O. Burns
Police Ombudsman

MAY 30, 2011
Date

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

OPO # 11-06 | 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 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 they were forced to leave the CPS building for no reason and that the police did not have the legal authority to require them to leave the premises.

The Complaint Investigation

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 Internal Affairs on January 11, 2011.

On Monday, January 17, 2011 the complaint was classified as an Inquiry by Assistant Chief Nicks based upon the following facts:

- The Complainant and the associated police reports acknowledge that Child Protective Service staff requested that the officers trespass the Complainant and their party from the building.
- The request for trespass was made after the Complainant attempted to record a meeting without the knowledge or consent of meeting participants (see RCW 9.73.030, C) and a member of the Complainant's party became agitated and blocked staff from leaving the meeting room

The incident leading to the complaint was documented by the involved officer through police report # 11-004133. Information from this incident is also documented in Office of Police Ombudsman complaint closing reports OPO 11-01 and OPO 11-02.

Office of Police Ombudsman Analysis/Conclusion

The Ombudsman concurs with the classification of the complaint as an Inquiry.

Spokane Police Department policy allows that officers may request a person who is not in lawful possession of a premises to leave when the party in lawful possession of the premise (as exhibited by rent receipts, lease, deed verification by apartment manager, etc...) has requested

that the person leave the premises. If the suspect does not leave upon request, an arrest may be made for trespass under SMC 10.12.050.

There are no policy, procedure or training recommendations regarding this Incident.



Timothy O. Burns
Police Ombudsman

MAY 26, 2011
Date

- This letter constitutes the final action that will be 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 # 11-08 | IA # Inquiry 11-009

The Situation

In February 2010 a report of stalking and harassment was filed with Crime Check and subsequently investigated by a Sergeant from the Spokane Police Department. The reporting party had received obscene email and voicemail describing their clothing and activities on specific days.

In response to the victim's concern that they may be in physical danger, the Sergeant advised the victim to obtain a temporary protection order against the suspect. The order was served on the suspect (OPO Complainant) one week later.

In a hearing prior to the conclusion of the police investigation, a judge declined to grant an extended protection order due to lack of evidence in the case.

The Complaint

The Complainant advised that the citizen reporting the harassment obtained a protection order against the Complainant based on inaccurate information provided by the Spokane Police Sergeant investigating the case.

The Complainant felt that they were discriminated against by the Sergeant due to their hearing impairment and that the Sergeant was unwilling to listen to the Complainant's side of the story during their voluntary interview.

The Complainant is concerned that Spokane Police Department policy regarding accommodations for the hearing impaired is not in compliance with Americans with Disabilities Act (ADA) requirements.

The Complaint Investigation

On Thursday, January 27, 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 Monday, January 31, 2011.

On Wednesday, February 2, 2011 the complaint was classified as an Inquiry by Assistant Chief Nicks based on the following facts:

- The Complainant was unable to provide specifics on what information the Sergeant allegedly released to the citizen filing the protection order.

- The victim provided the Complainant's name as the suspect during their initial Crime Check harassment report, prior to any contact by the Sergeant.
- There is no evidence to indicate that the Complainant was targeted for any reason other than being a named suspect in a criminal case.

On Tuesday, March 29, 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

Spokane Police Department officers have the authority and responsibility to investigate and provide basic advice about various anti-harassment procedures available to all citizens.

Spokane Police Department policy 370 dictates the department's guidelines for Hearing Impaired/Disabled Communications in accordance with the Americans with Disabilities Act (ADA) and RCW 2.42.120 (4) and (5).

There are no policy, procedure, or training recommendations.



Timothy O. Burns
Police Ombudsman

May 31, 2011
Date

- This letter constitutes the final action that will be 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 # 11-09 | IA # Inquiry 11-010

The Situation

The Complainant is involved in a child custody dispute with their former spouse. The Complainant has two young children. In the petition to gain sole custody of their children, the Complainant's spouse alleged that the Complainant had sexually abused the two young children.

Since the allegation was made the Complainant has only been allowed supervised visits with the children.

The Complaint

The Complainant advised that in 2009 they consented to and passed a polygraph test regarding the allegation of sexual abuse. The Complainant advised that they were requested to take a second polygraph test in 2010. The Complainant advised that they consented to the second test however the results of the second polygraph test were inconclusive.

Because the results of the second polygraph test were inconclusive the Complainant was requested to take a third test. The Complainant feels that this is harassment since they passed the first test and because since the allegation was made all visits with the Complainant's children have been supervised visits.

The Complaint Investigation

Assistant Chief Nicks classified this complaint as an Inquiry based on the following information:

- The original sexual abuse complaint was investigated by another state agency
- Child Protective Services (CPS) filed a sexual abuse complaint against the Complainant with Spokane Police Department and requested that Spokane Police Department investigate the allegation.
- The first polygraph test was not administered by a police officer
- It was unclear whether there were one or two different allegations of child sexual abuse

Office of Police Ombudsman Analysis/Conclusion

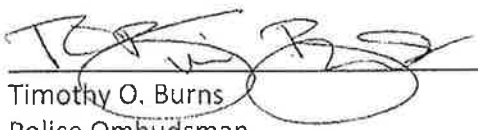
The Office of Police Ombudsman agreed with Assistant Chief Nicks' classification of this complaint as an Inquiry.

The Police Department would have been remiss in their duty had they not thoroughly investigated this matter.

During the investigation of the criminal incident that led to the Complainant filing a complaint with the Office of Police Ombudsman the Complainant was arrested for stalking the Guardian Ad Lie Dum who was appointed by the Court to represent the children in the child custody dispute.

The complaint filed with the Office of the Police Ombudsman by the Complainant appears to be a diversionary attempt to distract from the ongoing sexual abuse criminal investigation involving the Complainant and the Complainant's children.

There are no policy, procedure or training recommendations.



Timothy O. Burns
Police Ombudsman

May 20, 2011
Date

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

OPO # 11-13 | IA # Inquiry 11-012

The Situation

The Complainant was supervising a youth activity at a local gymnasium when the Complainant observed two participants become involved in a verbal altercation with each other. The Complainant intervened and directed one of the individuals to leave the facility.

In an attempt to intimidate the Complainant the individual directed to leave the facility intentionally bumped into the Complainant while leaving. The Complainant fearing the incident may escalate called the Police Department for assistance requesting that an Officer respond to the location.

The Complaint

While attending a public meeting on the evening of February 8, 2011 the Complainant contacted the Police Ombudsman advising that the Police Department did not respond. A formal complaint was processed on behalf of the Complainant on February 9, 2011.

The Complaint Investigation

Based on the following information the complaint was classified by Assistant Chief Nicks as an Inquiry:

- Records indicate that the Complainant called the Police Department on February 8, 2011 at 7:24 pm. The Complainant advised that they would be at the location for 30 minutes. At 7:34 pm an Officer was dispatched to the location and arrived at 7:46 pm. The responding Officer completed the assignment at 7:57 pm. The Officer was not able to locate the Complainant at the location.
- On February 9, 2011 at 2:19 pm the Complainant was contacted by an Officer at the Complainant's place of employment. The Officer took a police report documenting the incident.
- A follow-up phone call was made to the Complainant by Assistant Chief Nicks to discuss this mishap.


Office of Police Ombudsman Analysis/Conclusion

The Police Ombudsman agrees with Assistant Chief Nicks classification of the incident as an Inquiry based on the information provided.

It appears that both the Complainant and Officer may have been at the incident location at the same time but may have missed locating each other due to the size of the facility.

There are no policy or training recommendations regarding this incident however in reviewing the CAD information on this incident there is no indication that an attempt to call the Complainant was made when the responding Officer was unable to locate or contact the Complainant.

When an Officer responds to a call and is unable to locate a complaining party a follow-up phone call should be attempted to contact the complaining party rather than simply clearing the call without taking any further action.



Timothy O. Burns
Police Ombudsman

MAY 23, 2011
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 # 11-17 | IA # 11-021

The Situation

On March 16, 2011 the Office of Police Ombudsman received a complaint regarding the Disclosure of Confidential Information.

The Complainant was involved in a dispute with a neighbor. The Complainant requested that the District Court issue an Anti-Harassment Order against the neighbor.

The Complaint

The Complainant alleged that an Officer provided confidential and inaccurate information to the Respondent of an Anti-Harassment Order in defense of the Complainant's request to obtain the Order against their neighbor.

On March 12, 2011 the Complainant sent a letter to the Police Department directing the Officer and members of the department to cease and desist in providing confidential information about the Complainant to the Respondent or others.

The Complaint Investigation

On March 21, 2011 the Internal Affairs investigator obtained a copy of the Temporary Anti-Harassment Order the Court issued involving the Complainant and the Complainant's neighbor. An audio (CD) recording was also obtained from the March 9, 2011 Court hearing.

In the recording the Respondent advised that they spoke to the Accused Officer. In the Respondent's next comment the Respondent advised that the Complainant had filed 60 complaints against the Police Department. The Respondent did not say that the Accused Officer provided the Respondent with the information. The Respondent indicated that the Officer did advise them that if they felt threatened by the Complainant that they could also apply for an Anti-Harassment order against the Complainant.

On March 30, 2011 Assistant City Attorney Treppiedi responded to the Complainant's cease and desist request sent March 12, 2011. Mr. Treppiedi advised that the Accused Officer was not required to comply with the Complainant's request and may in fact be derelict in their duty if they did comply with the Complainant's request.

On March 31, 2011 the Accused Officer was interviewed by the Internal Affairs investigator. The Police Ombudsman participated in the interview. The interview was recorded with the Officer's consent and was later transcribed.

The Officer acknowledged telling a concerned individual that the Complainant had filed several complaints against the police, not 60. The individual asked the Officer about the Complainant after seeing the Complainant yelling at Officers.

On April 1, 2011 the Internal Affairs investigator scheduled an interview the Respondent to the Court Order. The Respondent missed the appointment.

On April 5, 2011 the investigator attempted to contact the Respondent by phone however no one answered. On April 06, 2011 the investigator left a voicemail message requesting that the Respondent contact the investigator.

On April 7, 2011 contact was made with the Respondent and a phone interview was conducted. The Police Ombudsman participated in the interview. The Respondent advised that the Officer never disclosed any personal information about the Complainant to the Respondent and that the Officer acted professionally. The interview was recorded with the Respondent's consent and was later transcribed.

On May 2, 2011 the Accused Officer received written notice from the Chief of Police advising that the complaint against the Officer was determined to be unfounded.

On May 4, 2011 the Chief sent a letter to the Complainant advising that the Chief had adjudged the officers actions appropriate given the facts available to the Officer at the time of incident.

Office of Police Ombudsman Analysis/Conclusion

On April 28, 2011 the Office of Police Ombudsman certified that the investigation had been conducted through a timely, thorough and objective process.

There are no policy, procedure or training recommendations regarding this matter.

Consistent with policy, a copy of this Closing Report will be mailed to the Complainant one week prior to its posting to the Office of Police Ombudsman website. Complainants are provided with an opportunity to meet with the Police Ombudsman and the Internal Affairs Investigator to discuss the results of the investigation.



Timothy O. Burns
Police Ombudsman

June 15, 2011
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 # 10-057

The Situation

After attempting to cash a check reported as stolen at a local bank, the Complainant was arrested and booked into the Spokane County Jail facility for Possession of Stolen Property and Forgery. The check had been taken in a recent local residential burglary.

The incident was documented by police report # 10-228989.

The Complaint

On July 15, 2010 a Police Department Patrol Sergeant received an Excessive Force complaint on behalf of the Complainant. The Complainant advised that as the Arresting Officer handcuffed the Complainant, the Officer pulled their arms up behind their back too high and put the handcuffs on too tightly.

The Complainant advised that the Officer then put them into the back of the police car and left them unattended for a long time with the windows up and the car not running.

The Complainant advised that the Officer continued to ask them questions after the Complainant invoked their Miranda Warning Rights.

The Complaint Investigation

On August 19, 23, and 31, 2011 three Officers involved in the incident were interviewed by an Internal Affairs investigator. The Police Ombudsman participated in the interviews. The interviews were recorded with the Officers' consent.

On August 19, 2011 the Complainant was interviewed by the Internal Affairs investigator. The Police Ombudsman participated in the interview. The interview was recorded with the Complainant's consent.

On August 24, 2011 two bank employees were interviewed by phone by the Internal Affairs investigator. The Police Ombudsman did not participate in the interviews. Their interviews were recorded with their consent. The Ombudsman reviewed transcripts of their interviews and did not have any questions to ask after having reviewed the transcripts.

The following facts were determined based upon the witness and officer interviews that were conducted:

- The bank called at 5:01 pm. The Officer arrived at the bank at 5:23 pm. The Officer then contacted, detained, handcuffed, and secured the Complainant in the back seat of the Officer's police car. The Officer then interviewed bank employees.
- Based on the information provided by the bank employees the Officer determined that probable cause existed to arrest the Complainant. At 5:46 pm the Officer returned to the police car and advised the Complainant that they were under arrest. The Officer then searched the Complainant and found a second check of questionable origin.
- The burglary victim then came to the bank unexpectedly and was interviewed by the Officer.
- The Officer then contacted a friend of the Complainant and requested that the friend respond to the bank to pick up the Complainant's dog.
- At 6:20 pm the Officer advised communications that they were en route to jail. At 6:34 pm the Officer left the jail facility.

The Complainant's wrists and shoulder were photographed at the jail facility. The pictures did not show any injuries however in the jail processing documents completed at 6:35 pm the Complainant advised that their right wrist hurt.

In the police report the Officer documented that they observed the Complainant bouncing up and down on the back of their wrist while seated in the police car. A Correctional Officer also reported observing the Complainant "messaging" with the cuffs in an attempt to remove them.

In the police report the Officer documented reading the Complainant their Miranda Rights from the department issued pre-printed card and the Complainant acknowledged understanding those rights and was willing to answer the Officer's questions. The Officer noted that the Complainant later invoked their right to remain silent at which point the Officer advised they stopped asking the Complainant questions.

Video from the bank was obtained and reviewed. The video clearly showed the Complainant being handcuffed. The video refutes the Complainant's allegation regarding their arms being raised high and injuring their shoulder. There were also two bank employees standing near the Complainant. The bank employees did not hear the complainant make any complaints regarding how the Complainant was being treated by the Officer.

Through the investigation process, the Excessive Force and Violation of Miranda Rights complaint was determined to be unfounded.

The involved Officers received notice of the findings from the Chief of Police on September 27, 2011.

Office of Police Ombudsman Analysis/Conclusion


On September 18, 2011 the investigation was certified by the Ombudsman as having been investigated through a timely, thorough and objective process.

There was no medical evidence to suggest that the Complainant was injured during their arrest or transportation to the jail facility. No records were provided to support the allegation.

At best, the complaint regarding the Officer asking the Complainant questions in violation of the Miranda Warning is a "he said/she said".

There were no policy, procedure or training recommendations regarding this incident.

Consistent with policy, a copy of this Closing Report will be mailed to the Complainant one week prior to its posting to the Office of Police Ombudsman website. Complainants are provided with an opportunity to meet with the Police Ombudsman and the Internal Affairs Investigator to discuss the results of the investigation.



Timothy O. Burns
Police Ombudsman

June 57, 2011
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 # NA | IA # 10-060

The Situation

On July 20, 2010 the Complainant parked their car in a local parking garage while visiting a local park with their children.

When the Complainant returned to the parking garage, the Complainant advised that a parking garage employee told them what their cost for parking was. The employee told them that if they bought something at one of the stores associated with the parking garage their purchase would be validated and there would not be a parking fee. Based on that information, the Complainant then went to a store associated with the parking lot and purchased \$8.00 in merchandise.

As the Complainant was leaving the parking garage they stopped at the toll booth and were advised that they owed \$8.00 for parking. The Complainant told the employee at the toll booth that they did not have any money. The employee asked for the Complainant's identification and told the Complainant they could pay the fee later. The Complainant refused and became involved in an argument with the employees regarding the money owed. The employee requested that their supervisor and security respond.

The Complainant called 9-1-1 and reported that they were involved in an argument and that the employees at the parking lot would not let the Complainant leave without paying for parking. Two officers responded to the call.

Police report number 10-237061 was completed documenting the incident.

The Complaint

The Complainant advised that when the two Officers arrived they spoke with the parking lot employees before they spoke to the Complainant. The Complainant thought that the Officers should have spoken with the Complainant first.

The Complainant advised that the Officers made the Complainant get out of their car and stand next to the parking lot employees that had been yelling at the Complainant and the Complainant did not feel comfortable standing next to the parking lot employees.

The Complainant did not feel that they were given an opportunity to tell their side of the story. Officers only listened to the parking lot employees' side of the story. Officers told the Complainant that they could be arrested.

The Complainant felt like the Officers treated the Complainant like a criminal.

The Complainant advised that they felt they would not have been treated the same way if they were white as opposed to a Native American and opposite gender.

The Complaint Investigation

On July 20, 2010 at approximately 10:00 pm, a Patrol Sergeant contacted the Complainant regarding a Demeanor and Racism complaint the Complainant wanted to file against the two Responding Officers.

On August 30, 2011 the Internal Affairs investigator requested video from the parking lot and internal reports completed by the parking lot employees detailing the incident. The investigator also left a voice mail for the Complainant requesting to schedule an interview with the Complainant.

On September 1, 2010 the reports that were requested from the parking lot were received.

On September 2, 2010 the Complainant and the Complainant's 14-year old child were interviewed by the Internal Affairs Investigator. The Ombudsman was out-of-town and did not participate in the interviews. The interviews were recorded with the Complainant's consent. The Ombudsman reviewed the transcripts and did not have any additional questions; if the Ombudsman would have had additional questions a follow-up interview would have been requested.

On September 2, 2010 video of the incident was received. The video did not reveal any inconsistencies in the participants' account of the incident. There is no audio for the incident.

On September 15, 2010 the two Accused Officers were interviewed by the Internal Affairs investigator. The Police Ombudsman participated in the interviews. The interviews were recorded with the Officers' consent. The Officers denied any wrongdoing.

On October 6, 2010 the parking lot employees were interviewed by the Internal Affairs investigator. The Ombudsman did not participate in the interviews. The Ombudsman was attending training in Ohio. The interviews were recorded with the employees' consent. The Ombudsman reviewed the transcripts and did not have any additional questions.

The employees advised that they did not hear the Officers use any racial or derogatory terms. The employees did not hear the Officers use any profanity or act racist towards the

Complainant at any time. The employees advised that they felt the Complainant used the "race card" to get out of the situation.

Transcripts from the 9-1-1 call placed on July 20, 2012 at 7:24 pm depicted the nature of the call with an additional allegation that the parking garage employee was taking pictures of the Complainant's chest as the Complainant was attempting to take pictures of the parking lot employee hanging out the window of the toll booth. The employee alleged by the Complainant to have taken pictures of the Complainant's chest denied the allegation.

Because of the serious nature of the allegation the Responding Officers' statistics for infractions and misdemeanor arrests were checked for 2009 and 2010. Between January 1, 2009 and December 31, 2009 the First Officer's statistics indicated that the Officer had 130 infractions and misdemeanor arrests with persons of the following ethnic origins:

<i>White</i>	<i>113 (86.9%)</i>	<i>Unknown</i>	<i>0 (0%)</i>
<i>Black</i>	<i>8 (6.2%)</i>	<i>American or Alaska Native</i>	<i>5 (3.85%)</i>
<i>Asian</i>	<i>4 (3.1%)</i>		

Between January 1, 2010 and the time of the investigation, the First Officer issued or participated in 75 infractions and misdemeanor arrests with persons of the following ethnic origins:

<i>White</i>	<i>65 (86.7%)</i>	<i>Unknown</i>	<i>1 (1.3%)</i>
<i>Black</i>	<i>5 (5.3%)</i>	<i>American or Alaska Native</i>	<i>4 (5.3%)</i>
<i>Asian</i>	<i>0 (0%)</i>		

In 2009 the Second Officer had 88 infractions or misdemeanor arrests with persons of the following ethnic origins:

<i>White</i>	<i>82 (93.2%)</i>	<i>Unknown</i>	<i>2 (2.7%)</i>
<i>Black</i>	<i>2 (2.3%)</i>	<i>American or Alaska Native</i>	<i>2 (2.3%)</i>
<i>Asian</i>	<i>0 (0%)</i>		

For 2010 the Second Officer issued or participated in 33 infractions or misdemeanor arrests involving persons of the following ethnic origins:

<i>White</i>	<i>30 (91%)</i>	<i>Unknown</i>	<i>1 (3%)</i>
<i>Black</i>	<i>2 (6.1%)</i>	<i>American or Alaska Native</i>	<i>0 (0%)</i>
<i>Asian</i>	<i>0 (0%)</i>		

In 2009 the Spokane Police Department had 34,940 infraction or misdemeanor arrests that with persons of the following ethnic origins::

White	30,277 (86.65%)	Unknown	755 (6.82%)
Black	2,386 (6.83%)	American or Alaska Native	1,064 (3.41%)
Asian	459 (1.31%)		

On November 19, 2010 the Chief of Police issued their finding that the complaint against the two officers was unfounded.

On November 22, 2010 the Complainant was notified by the Chief of Police that she adjudged the Officers acted appropriately given the facts available to them at the time of the incident. The Complainant was also invited to contact the Internal Affairs Unit if the Complainant had any questions regarding the investigation.

Office of Police Ombudsman Analysis/Conclusion

On November 16, 2011 the complaint was certified by the Police Ombudsman as having been investigated in a timely, thorough and objective process.

There was no evidence to suggest that the Complainant's allegations of racism had any merit.

There are no policy, procedure or training recommendations regarding this incident.

Consistent with policy, a copy of this Closing Report will be mailed to the Complainant one week prior to its posting to the Office of Police Ombudsman website. Complainants are provided with an opportunity to meet with the Police Ombudsman and the Internal Affairs Investigator to discuss the results of the investigation.


Timothy O. Burns
Police Ombudsman

June 15, 2011
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 # 10-061

The Situation

On July 23, 2010 an Officer observed the Complainant yelling obscenities, signing obscene hand gestures and swinging a metal pole at passing motorists in the downtown area. The Complainant was arrested for Disorderly Conduct and issued a citation for possession of an open container of alcohol beverage.

As the Complainant was being placed in the police car the Complainant attempted to head butt one of the involved Officers.

The Complaint

The Complainant alleged that the arresting Officer lied in the police report the Officer completed detailing the Complainant's arrest.

The Complaint Investigation

On August 11, 2010 The Complainant contacted the Internal Affairs Unit to file their complaint.

On September 7, 2010 the assigned investigator attempted to contact the Complainant to schedule an interview. The Complainant did not answer the call and the investigator was unable to leave a message due to the Complainant's voicemail box being full.

The investigator also attempted contact with the Complainant at their residence but no one was home. The investigator left a business card requesting contact and a registered letter was sent to the Complainant requesting contact.

On September 9, 2010 the two involved Officers were interviewed by Internal Affairs. The Ombudsman participated in the interviews.

On September 13, 2010 the Complainant contacted the Internal Affairs Investigator and declined a follow-up interview. As a result the written complaint filed by the Complainant after the incident was used as the basis for the investigation.

The incident was documented by police report # 10-241625.


Office of Police Ombudsman Analysis/Conclusion

On October 23, 2010 the Police Ombudsman certified the investigation as being completed through a timely, thorough and objective process.

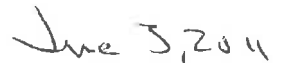
The Involved Officers exercised their discretion in not charging the Complainant with an assault. There were no witnesses to corroborate the Complainant's version of the incident. A second Officer witnessed a portion of the Complainant's disorderly conduct, substantiating the Arresting Officer's account of the incident and reinforcing the accuracy of the police report completed detailing the incident.

With conflicting accounts of the incident from the Complainant and involved Officers, at best this complaint can be viewed as a "he said/she said" situation. In situations where all things are equal, the Officer will be given the benefit of the doubt. In this case there is no doubt in the mind of the Ombudsman regarding the accuracy of the police report.

There are no policy, procedure or training recommendations regarding this incident.



Timothy O. Burns
Police Ombudsman



Date

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

OPO # N/A | IA # 10-063

The Situation

On Saturday, July 24, 2010 the Complainant visited a local park with their family. The Complainant was carrying a visible, holstered, and loaded firearm. The Complainant was playing with their child in the playground area when the Complainant was contacted by an Officer.

The incident was documented through police report # 10-242202

The Complaint

The Complainant advised that when they were initially contacted by the Officer, the Officer immediately handcuffed the Complainant and escorted them to a parked police car where the Officer searched and detained the Complainant.

The Complainant advised that they have a legal right to carry a visible, loaded, and holstered firearm in the park pursuant to the United States Constitution Bill of Rights and by the Open Carry doctrine.

The Complainant also has a valid Concealed Pistol License (CPL) which the Complainant advised they provided to the Officer.

The Complainant advised that they were eventually released but only after agreeing to conceal their weapon. The Complainant advised that throughout the remainder of their visit to the park Officers drove through the park periodically visually checking to confirm that the Complainant continued to have their weapon concealed.

The Complainant advised that they were previously charged with a similar offense however the charges were dropped by the Prosecutor's Office.

The Complaint Investigation

On September 14, 2010 the Complainant contacted the Office of Police Ombudsman and filed a complaint for a violation of their Constitutional Rights. The Complainant was interviewed by the Police Ombudsman. Internal Affairs staff did not participate in the interview. The Complainant's statement was recorded with the Complainant's consent. The complaint was forwarded to Internal Affairs for classification and investigation.

The complaint was classified by Assistant Chief Nicks as an Inquiry based on a legal opinion from the City Attorney's Office and on the following information:

- Spokane Municipal Code Section 10.10.040 (F)(1) prohibits possession of a dangerous weapon in a City park as defined by RCW Chapter 9.41.
- Pursuant to RCW 9.41.270 there are two ways carrying a firearm becomes unlawful: when a threat is made or when the carrying of the firearm warrants alarm for the safety of other persons. The intent of the person carrying the firearm is not the deciding factor. The statute only requires that the circumstances warrant alarm for the safety of others.
- The Accused Officer complied with SPD Training Bulletin # 08-007 in the handling of this incident.
- The Accused Officer contacted the Complainant as the result of a 9-1-1 call from a citizen who observed an individual with a gun on their hip in the children's playground area of the park.
- The Officer had a legal right to detain the Complainant to verify the Complainant's identity, determine the facts from the Complainant's perspective, and verify the validity of the Complainant's Concealed Pistol License.
- The Complainant was detained for 4 minutes while the Officer investigated the facts surrounding the complaint.

The Ombudsman agreed with Assistant Chief Nicks classification of this complaint as an Inquiry based on the information provided.

Office of Police Ombudsman Analysis/Conclusion

After the complaint was classified as an Inquiry and closed the Complainant was contacted and provided with an opportunity to participate in a closing interview to explain the reason for the classification and to answer any questions the Complainant may have had. The Complainant declined the interview.

The best resolution of this complaint would have been through the mediation process or through a closing interview with the Complainant.

Spokane Municipal Code 10.10.040 (F)(1) may cause confusion to an individual's constitutional right to possess a firearm in the public and local government's ability to regulate the right pursuant to RCW 9.41.290. Park signage needs to be corrected to reflect the actual law of possessing a firearm in a city park. Incorrect signage creates an unrealistic expectation by the park visitor that Officers' may arrest someone for simply possessing of a firearm in the park.


Timothy O. Burns
Police Ombudsman


Date



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

OPO # N/A | IA # 10-068

The Situation

On July 17, 2010 the Complainant's vehicle was reported stolen to Spokane Police Department. On July 25, 2010 the vehicle was located and impounded by a Spokane Police Officer.

The Complaint

The Complainant advised that they were not made aware that their vehicle had been located until they received a bill in the mail from the tow company on July 27, 2010. The Complainant was billed \$263.00 for towing and storage of the vehicle by the tow company.

The Complainant advised that they would have responded and picked up the vehicle if they would have been notified by someone from the Police Department at the time of recovery.

The Complaint Investigation

Two Officers were interviewed regarding this incident. Pursuant to Spokane Municipal Code Section 4.32.030 (F) the Police Ombudsman did not participate in the interview of the involved Officers. This was based on the fact that if the accused Officers had committed the alleged violation the Officers would not be subject to serious discipline such as suspension, demotion or discharge.

The Complainant was called prior to the vehicle being towed but there was no answer. A voicemail message was not left.

The complaint was reclassified from an Investigation to an Inquiry by Assistant Chief Nicks after it was determined that the Officer responsible for the notification was temporarily assigned to the communication center for light duty and was not adequately trained for the assignment.

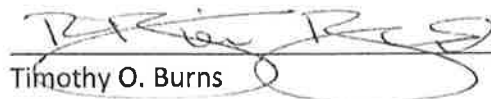
The Complainant was directed to contact Alternative Service Concepts to file a claim for reimbursement for towing expenses incurred.

Office of Police Ombudsman Analysis/Conclusion

The Ombudsman agreed with Assistant Chief Nicks' reclassification of this complaint to an Inquiry based on the information provided. On September 18, 2010 the Police Ombudsman certified the investigation as having been conducted through a timely, thorough and objective process.

Regardless of assignment, any Officer assigned to a temporary light duty assignment should be adequately trained prior to beginning that assignment.

With regard to this specific situation, policy, procedure and training should be implemented to minimize the likelihood that a vehicle is towed before all reasonable efforts are made to contact the owner of the vehicle. All efforts made to contact the vehicles' owner should be adequately documented.


Timothy O. Burns
Police Ombudsman

June 3, 2011
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 # 10-069

The Situation

While driving, the Complainant observed an unmarked police vehicle make what they believed to be an illegal U-turn. While traveling the same direction as the police vehicle the Complainant observed several other potential traffic violations. The Complainant proceeded to obtain the license plate number attached to the vehicle.

The Complaint

On September 9, 2010 the Complainant filed a complaint with the Police Department regarding the way a police vehicle had been driven. The Complainant alleged that the driver made an illegal U-turn and was speeding.

The Complaint Investigation

Based on the license plate number provide by the Complainant it was determined that the vehicle was assigned to a member of Spokane Police Department.

On September 16, 2010 the complaint was assigned to a Sergeant for investigation. On September 16 and 17, 2011 The Sergeant spoke with the Complainant to clarify some information.

On September 20, 2011 the Sergeant inspected the area where the alleged violations were reported to have occurred.

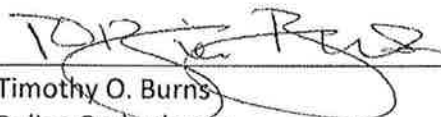
On September 22, 2010 the Sergeant interviewed the Officer who was assigned the vehicle. The Officers admitted to making an illegal U-turn but not to the speeding allegation.

Pursuant to Spokane Municipal Code Section 4.32.030 (F), the Police Ombudsman did not participate in the interview of the involved Officer or witness. This was based on the fact that if the accused Officer committed the alleged violations the Officer would not be subject to serious discipline such as suspension, demotion or discharge.

Office of Police Ombudsman Analysis/Conclusion

On October 23, 2010 the Police Ombudsman certified the investigation as being completed through a timely, thorough and objective process.

There are no policy, procedure or training recommendations regarding this incident.



Timothy O. Burns
Police Ombudsman

June 06, 2011
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 # 10-070

The Situation

While changing a flat tire the Complainant was contacted by an Officer. The Officer asked the Complainant if they had been drinking. The Complainant advised that they told the Officer they had not been drinking. The Officer then told the Complainant not to drive and the Officer then drove off. The Complainant advised that they received the flat tire after they struck the curb when they swerved to avoid colliding with another car that drove into the Complainant's lane.

After the Complainant changed the flat tire the Complainant continued driving to their destination. While en route the Complainant was stopped by the same Officer who told the Complainant not to drive.

The Complainant advised that the Officer reached into the Complainant's vehicle, turned off the car, removed the keys and said, "I told you not to drive." The Complainant advised that the Officer then opened the car door and pulled the Complainant out of the car by the arm and handcuffed them.

The Complainant advised that the Officer told them to call someone to respond and get the car and pick them up because they were not going to be allowed to drive home.

The incident was documented through police report # 10-291631 after a complaint was received regarding a possible driver under the influence.

The Complaint

The Complainant was upset that they had been unlawfully detained when they had not been drinking or violating the law and because they had been pulled out of their car for no reason and handcuffed.

The Complaint Investigation

On September 6, 2010 the Police Department received an Unlawful Detention and Excessive Force complaint. The complaint was forwarded to the Internal Affairs Unit for investigation on September 14, 2010.

The assigned Internal Affairs Investigator attempted to contact the Complainant but was advised by a parent that the Complainant had recently checked into an in-patient drug/alcohol treatment facility and would not be available for approximately one year.

The parent advised the Investigator that their child was addicted to pain medication and was probably on drugs during this incident however the parent did not believe Officers had the right to treat their child the way their child had been treated. The parent identified the facility where the Complainant was receiving treatment.

The Investigator contacted the facility and after a series of calls the Complainant was interviewed by phone. The Ombudsman participated in the interview.

On October 5, 2010 the Accused Officer was interviewed. During the interview it was determined that the Officer's first contact with the Complainant occurred at a local convenience store where video equipment is used. The Investigator requested a copy of the video of the incident from the store.

The Investigator recontacted the Complainant to obtain contact information for the friend who picked up the Complainant the morning of the incident. During their conversation the Complainant advised the Investigator that they wanted to withdraw their complaint.


The Complainant advised the Investigator that since the incident had happen the Complainant had time to clear their head and think about the incident. The Complainant told the Investigator that they could see the situation from the Officer's point of view and the Complainant concluded that the Officer was "doing his job".

The Complainant's request to withdraw their complaint was reaffirmed through a follow-up interview that was recorded with the Complainant's consent.

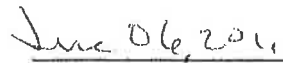
Office of Police Ombudsman Analysis/Conclusion

On October 29, 2010 the Internal Affairs investigation was certified by the Police Ombudsman as having been completed through a timely, thorough and objective process.

There are no policy, procedure or training recommendations regarding this incident.



Timothy O. Burns
Police Ombudsman



Date

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

OPO # N/A | IA # 10-073

The Situation

On July 1, 2010, two Officers were responding to a call for service in a residential neighborhood when they heard the sound of screeching tires from a vehicle and a person yelling at a child. The Officers then heard the sound of a vehicle accelerating. Officers located a car driving at an excessive speed. Officers estimated the cars speed at 45 mph; the speed limit in the area is 25 mph.

Officers lost sight of the car. The Officers were contacted by witness who provided the Officers with the address of the driver. The witness expressed concern regarding the driver's recklessness and for the safety of the child the driver was yelling at.

Officers then contacted the driver at the driver's residence. The Officers established probable cause to arrest the driver for reckless driving. While affecting the arrest, one of the Officers became involved in an altercation with the driver. The driver's resistance was overcome and the driver was handcuffed and put in the back of a police car. The driver was then issued a citation for reckless driving and released.

A police report was completed by the involved Officers. The report number is 10-212079.

The Complaint

On October 1, 2010, the driver contacted the Office of Police Ombudsman to file a complaint against the Officers for Excessive Force. The Complainant advised that prior to being issued a citation for reckless driving Officers handcuffed the Complainant, dragged the Complainant through the yard and pushed the Complainant into the side of a neighbor's house, injuring the Complainant.

The Complainant was interviewed by the Police Ombudsman. Internal Affairs staff was not present for the interview. The Complainant's statement was recorded with the Complainant's consent.

The Complaint Investigation

The complaint was forwarded to Internal Affairs for investigation.

The Complainant's spouse was interviewed by an Internal Affairs investigator by phone. The Ombudsman was out-of-town and did not participate in the interview. In accordance with an agreement between the Internal Affairs Unit and the Office of Police Ombudsman, if an

interview is conducted and the Ombudsman is unable to attend the Ombudsman will review the interview transcript. If the Ombudsman has questions that were not asked or follow-up questions to those that were asked, a follow-up interview will be conducted. The Ombudsman had no additional questions for this Witness.

The following interviews were also conducted:

- The Accused Officer was interviewed by an Internal Affairs investigator and the Ombudsman.
- An Officer that was with the Accused Officer at the time of incident was interviewed by an Internal Affairs investigator and the Ombudsman.
- The Accused Officer's supervisor was interviewed by an Internal Affairs investigator and the Ombudsman. The Sergeant was present at the time the alleged excessive force was reported to have occurred.
- The Complainant's two neighbors who heard and witnessed a portion of the incident were interviewed by the Internal Affairs investigator and the Ombudsman by phone.
- A second Officer who arrived after the confrontation was interviewed by an Internal Affairs investigator and the Ombudsman.
- Before the Officers observed the Complainant's driving they were speaking with another individual who had called the police on an unrelated matter. This person witnessed the driving of the Complainant at the same time the Officers first observed it. The witness was interviewed by telephone by an Internal Affairs investigator. The Ombudsman was not present for the interview and after reviewing the transcript the Ombudsman had no further questions for the witness.

The following facts were determined from the witness and officers interviews that were conducted:

- After Officers lost sight of the vehicle they were contacted by an unidentified witness who provided the Officers with the driver's address and expressed concern regarding the welfare of the child the driver had been yelling at.
- The Accused Officer acknowledged that during the handcuffing process they pushed the driver up against the side of the neighbor's house to overcome the driver's resistance and gain control of the driver.
- One of the Complainant's neighbors was inside their residence at the time of incident. This neighbor advised that they heard a "big bang" on the side of their house. The neighbor's spouse witnessed the Officers escorting the Complainant down the steps from the Complainant's back porch. The Witness advised that the Officers forced the Complainant up against the side of the Witnesses' house and held the Complainant there for a while. The Witness advised that they were approximately 40' away from the incident and did not hear the conversation occurring between the Complainant and the Officers.

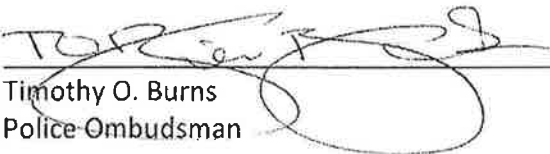
- Witnesses interviewed described the involved Officers' demeanor as calm, restrained and professional throughout the incident.
- Witnesses described the Complainant's demeanor as angry.
- The Complainant advised that they were injured as a result of actions taken when Officers arrested the Complainant.
- The Complainant advised that their shoulder was injured in the incident and since the incident they have suffered from anxiety, panic attacks and insomnia.
- Witnesses did not observe any injuries to the Complainant.
- The Complainant waited three months to report their injury.
- No medical evidence was presented by the Complainant to substantiate the Complainant's allegation.


Office of Police Ombudsman Analysis/Conclusion

The Office of Police Ombudsman certified the investigation as timely, thorough and objective on December 21, 2010.

The Complainant was referred to Risk Management to address the claim for injuries.

There are no policy, procedure or training recommendations regarding this incident.


 Timothy O. Burns
 Police Ombudsman


 Date

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

OPO # N/A | IA # 10-080

The Situation

On Thursday, December 2, 2010 Officers responded to a possible robbery in progress at a local convenience store. As the Complainant left the store the Complainant was detained. It was subsequently determined that the call was unfounded and the Complainant was released with no further action necessary or appropriate.

The Complaint

On Monday December 6, 2010 the Complainant filed a complaint with the Police Department regarding the Officers actions. The complaint was assigned to an investigator on December 7, 2010.

The Complainant advised that when they left the convenience store Officers were pointing their guns at the Complainant and directed the Complainant to "put their hands up". The Complainant advised they asked the Officers why, but the Officers refused to answer. The Complainant advised that an officer then told them to "shut up".

The Complainant advised they were then handcuffed and detained. The Complainant advised that after a period of time lapsed the Officers released the Complainant without an explanation for the detention and an Officer told them that they were lucky they had not been put on the ground in a puddle.

The Complaint Investigation

The complaint was considered for mediation. The Accused Officer agreed to mediation however the Complainant declined. As a result, the complaint proceeded through the complaint investigation process.

The three primary Officers involved in the incident were interviewed by a Patrol Lieutenant assigned to investigate the complaint. The Ombudsman participated in the interviews. The interviews revealed the following facts:

- An Officer parked near the convenience store was contacted by an unidentified individual and advised of a possible robbery occurring at the convenience store. The Officer advised police communications and several Officers responded to the store.
- As the Complainant left the store the Complainant was detained until it was determined that the robbery call was unfounded.
- The Complainant was then released with no further action necessary or appropriate.

No police report was completed regarding this incident.

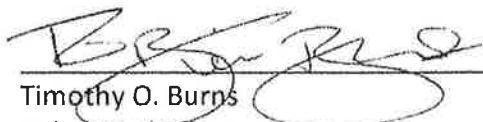
Office of Police Ombudsman Analysis/Conclusion

The Police Ombudsman certified the investigation as timely, thorough and objective on May 30, 2011.

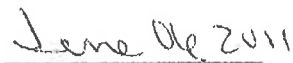
This complaint would have been most appropriately resolved through the mediation process.

The Officers and Complainants account of the incident were in conflict with each other. In essence this is a "he said/she said" allegation where there were no independent witness to corroborate either party's account of the incident.

A police report was not completed documenting this incident. The Police Ombudsman recommends that any time an Officer points their weapon at an individual an information report or memorandum be completed to provide information regarding the incident and that the Officer's immediate supervisor made aware of the encounter.



Timothy O. Burns
Police Ombudsman



Date

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

OPO # N/A | IA # 10-081

The Situation

On December 9, 2011 an Officer responded to a disturbance call involving two neighbors. During the altercation one neighbor allegedly threatened to shoot the other neighbor. The neighbors live on the same street as the Complainants. After the altercation occurred one of the neighbors involved in the altercation went to the Complainants' residence.

The Officer made contact at the Complainants' residence and requested to speak with the Complainants' guest regarding the altercation. The Complainants were not involved in the altercation and did not witness the incident.

The guest complied with the Officer's request and came out onto the front porch of the residence to have a conversation with the Officer. The Complainant also came out of the residence and became engaged in a conversation with the Officer. The Officer and the guest then moved out to the street to continue their conversation and to avoid any further confrontation or interruption by the Complainants. The Complainants video recorded the Officer and guest's interaction from a distance.

The Complaint

On December 14, 2010, the Complainants contacted the Office of Police Ombudsman to file a complaint against the Officer. The Complainants alleged that the Officer was rude, called them "nut jobs," and asked if the Complainants were paranoid.

The Complainants advised that the Officer had trespassed onto their property to contact the Complainants' guest. The Complainants advised that their property is posted with "No Trespassing" signage.

The Complainants also requested to press charges against the Officer for assault.

During the past 12 months the Complainants have had contact with the Officer in two instances. The Complainant's filed complaints against the officer in both instances.

The Complaint Investigation

The two Complainants were interviewed by the Police Ombudsman. Internal Affairs did not participate in the interview. The interview was recorded with the Complainants' consent.

The Accused Officer was interviewed by Internal Affairs in the presence of the Ombudsman. The Officer acknowledged asking the Complainant if they were paranoid because of the Complainants' behavior.

The guest of the Complainants was interviewed by phone by Internal Affairs. The Ombudsman was not present for the interview as the call was originally placed to schedule an interview. Initially the guest declined to be interviewed but then agreed during the phone call. Based on the guests initial reluctance to be interviewed the investigator proceeded with the interview. Once the interview was completed the Ombudsman was made aware of the circumstances and it was agreed that after listening to the recorded interview if the Ombudsman had any additional questions or felt some of the answers to questions required follow-up that an additional call would be made to the guest. The Ombudsman did not have any follow-up questions after listening to the recorded interview of the guest. The guest's statement contradicted the Complainants' account of the incident.

The Complainant allowed the Ombudsman to view the video recording of the incident however the video did not provide any germane evidence. The audio portion of the video was inaudible.

The Officer documented the incident by police report # 10-402652.

Office of Police Ombudsman Analysis/Conclusion

The Police Ombudsman certified the Internal Affairs investigation as timely, thorough and objective on February 11, 2011.

Based on the serious nature of the disturbance call the responding Officer would have been remiss in their duty had they decided not to contacted the involved neighbor who was visiting the Complainants' residence when the Officer arrived at the location.

With regards to the Complainants' allegation that the Officer trespassed onto their property relevant case law indicates that Officers are permitted to enter onto private property to investigate a possible crime. Case law addressing this issue includes:

- *U.S. v. Reed* (8th Cir. 1984) 733 F. 2d 492, 501
 - "No Fourth Amendment search occurs when police officers who enter private property restrict their movements to those areas generally made accessible to visitors...."
- *Lorenzana v. Superior Court* (1973) 9 Cal. 3d 626, 629
 - "A sidewalk, pathway, common entrance or similar passageway offers an implied permission to the public to enter which necessarily negates any reasonable expectation of privacy in regard to observations made there."
- *U.S. v. Daoust* (1st Cir. 1990) 916 F. 2d 757
 - "A policeman may lawfully go to a person's home to interview him. In doing so, he obviously can go to the front door, and, it seems to us, if that door is inaccessible there is nothing unlawful or unreasonable about going to the back of the house to look for another door, all as a part of a legitimate attempt to interview a person."
- *In re Gregory S.* (1980) 112 Cal.App.3d 764, 776
 - "Appellant argues that privacy was invoked when he ordered the officer off the property. But the officer had a right and commensurate duty to deal with the problem at hand. He did not enter the property arbitrarily. Appellant had ignored the officer's earlier order to come to the street. If, despite the lack of indicia of privacy, the entry be deemed an intrusion, the entry and detention were authorized by the public concern to maintain peace in the neighborhood."

- *Oliver v. United States* (1984) 466 US 170, 182, fn.13 and *U.S. v. Reyes* (2nd Cir. 2002) 283 F.3d 446
 - "NO TRESPASSING signs are like blaring car alarms: they're so common, they're usually ignored. This is especially true if the sign is posted in a place where people can be expected to walk or drive. For example, it is unlikely that signs posted on a pathway leading to a home or apartment building would ever create a reasonable expectation that people would not walk to the front door."

The Complainants' request to have the Officer prosecuted for assault is without merit.

There are no policy, procedure or training recommendation regarding this incident.


 Timothy O. Burns
 Police Ombudsman

May 24, 2011
 Date

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OFFICE OF POLICE OMBUDSMAN CRITICAL INCIDENT CLOSING REPORT (SMC 04.32.030 (P)) OPO # N/A | IA # 11-006

The Situation

On Sunday, January 30, 2011 at 9:59 pm a patrol officer was responding to a trouble unknown call for service at a residence. While en route to the call the Officer hit a pedestrian in the roadway. The pedestrian later died as a result of the injuries received in the collision.

The Critical Incident Protocol was invoked. The Ombudsman was notified and responded to the scene.

The Complaint

There were no citizen complaints received regarding this incident. As a result of the collision an internal investigation was initiated by the Internal Affairs Unit to determine whether any department policies or procedures had been violated during the incident.

Spokane Police policy 316.5 states: "Officers shall exercise sound judgment and care with due regard for life and property when responding to an emergency call. Officers shall reduce speed at all street intersections to such a degree that they shall have complete control of their vehicle."

Spokane Police policy 448 states: "use of the Mobile Digital Device while driving a police vehicle is allowed. The member must remain attentive to his/her driving. While en route to an urgent call, information should be requested over the air from the Combined Communication Center."

The Complaint Investigation

After the collision occurred the involved Officer submitted to a voluntary blood test. No alcohol or drugs were detected in the test. The pedestrian's blood tests results revealed a blood alcohol level of 0.371 at 11:13 pm.

Prior to the collision the Officer does not recall seeing the pedestrian however the Officer acknowledged using the Mobile Digital Device in the police car "seconds" before impact. The Officer the electronic message was sent to did not recall receiving the message. There is no record of any message having been sent by the Officer near the time of the collision.

The investigation determined that the Officer was traveling southbound on Monroe through the intersection with Montgomery with a green traffic light at approximately 38 mph at the

time of collision. The posted speed limit is 30 mph. It was dark outside, the roadway was dry, traffic conditions were light and the temperature was in the upper teens.

The pedestrian was wearing a dark blue jacket and jeans at the time of collision. In 2006 the pedestrian was involved in two auto/pedestrian collisions. In one of the two accidents the pedestrian was cited for being in the roadway. The pedestrian was in or near the crosswalk as the pedestrian walked westbound across Monroe.

There are no known or identified witnesses to the accident.

The investigation was referred to the County Prosecutor's Office for review. The Prosecutor's Office declined to pursue any charges against the involved Officer.

The incident was document by police report # 11-31044

Office of Police Ombudsman Analysis/Conclusion

While regrettable this was in fact an accident. The inattention of the Officer and the intoxication of the pedestrian were contributing factors in the collision.

The Police Ombudsman certified the investigation as timely thorough and objective on May 24, 2011.

There are no policy, procedure or training recommendations regarding this incident.


Timothy O. Burns
Police Ombudsman

May 31, 2011
Date

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

OPO # N/A | IA # 11-020

The Situation

On Saturday, March 12, 2011 the annual St. Patrick's Day Parade occurred in downtown Spokane. During the parade the Complainant became involved in a verbal altercation with another person who was attending the parade. The argument was over the Complainant blocking the view of the other attendee. The argument became heated and law enforcement was summoned to intervene.

The Complaint

The Complainant filed a complaint with a Police Sergeant by phone on March 12, 2011. The Complainant told the Sergeant that the Complainant and the Complainant's child were being harassed by a man who was also attending the parade. The Complainant advised that they contacted a "Junior Police Officer" for help. The "Junior Police Officer" then left to get a Police Officer.

The Complainant advised that as the Officer walked up on them the Officer overheard the argument and directed the Complainant to leave the area. The Complainant advised that when they questioned the Officer's decision, the Officer grabbed the Complainant and started pulling the Complainant.

The Complainant advised that the Officer told them that they were "trespassed and if they refused to leave they would be arrested.

The Complainant informed the Sergeant that they had done nothing wrong and that the Officer did not have a right to grab onto them.

The Complaint Investigation

The complaint was assigned to the Internal Affairs Unit for investigation on March 22, 2011.

A follow up interview was scheduled with the Complainant for March 24, 2011, however the appointment was rescheduled to March 28, 2011 at the Complainant's request due to a dental emergency. The Complainant failed to appear for the meeting. The Complainant was subsequently interviewed by phone at a later date.

Fifteen individuals who witnessed or were involved in a portion of the incident were interviewed including:

- The Complainant
- The Accused Officer
- Two Police Explorers
- Two Police Officers
- A Detective
- A Sergeant
- Two Lieutenants
- The individual involved in the argument with the Complainant
- Four civilian witnesses

The Police Ombudsman participated in the interviewing of all identified witnesses to the incident as required by ordinance. The two "Junior Police Officers" were determined to be Police Explorer Scouts.

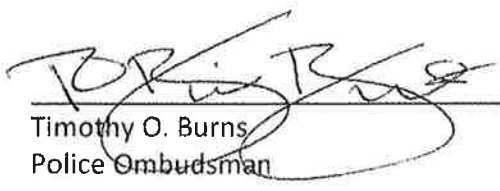
With regard to the Excessive Force allegation, while it is apparent that the Complainant disagreed with the tactics used by the Accused Officer to escort the Complainant from the parade route, the Complainant did not identify any physical injury they received in the confrontation and no evidence was presented or identified throughout the investigation that would suggest that Excessive Force was used by the Accused Officer.

None of the witnesses interviewed corroborated the Complainants account of the incident.

Office of Police Ombudsman Analysis/Conclusion

There are no policy, procedure or training recommendations regarding this incident.

A legal question regarding the "Trespassing" of an individual from the parade route has been raised by the Ombudsman and has been referred to the Ombudsman's Attorney for review and comment.


 Timothy O. Burns
 Police Ombudsman

May 23, 2011
 Date

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