



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

May 16, 2011

Public Safety Committee Report

Reporting Period: April 15, 2011 through May 12, 2011

CONTACTS

Between April 15, 2011 and May 12, 2011 the Office was contacted 35 times.

Since January 1, 2011, there have been 178 contacts received by the Office of Police Ombudsman.

COMPLAINTS

Between April 15, 2011 and May 12, 2011, 4 complaints were received.

1. Wednesday, April 20, 2011: A **Demeanor** and **Inadequate Response** complaint was received by the Ombudsman at the Office of Police Ombudsman. The Complainant alleged that an officer was rude and came to the wrong conclusion regarding a civil matter involving the disposition of property involved in a probate dispute (**OPO # 11-22**).
2. Monday, April 25, 2011: A **Demeanor** complaint was received by the Ombudsman at the Office of Police Ombudsman. The Complainant advised that they have called a specific officer several times to provide information regarding drug activity and the officer has declined to return the Complainant's calls (**OPO # 11-24**).
3. Monday, April 25, 2011: A **Demeanor** complaint was received by the Ombudsman via telephone. The Complainant resides in California and owns rental property in Spokane. The Complainant alleged that officers disturbed their tenants at 3 am by knocking on the tenants' doors while looking for a "wanted person" who had previously resided at the property one year ago (**OPO # 11-25**).
4. Thursday, April 28, 2011: A **Demeanor** complaint was received by the Ombudsman via telephone. The Complainant is disabled and unable to travel. The Complainant alleged that an officer was rude and non-communicative when directing them to move their parked vehicle from a public street involved in the Bloomsday Race. (**OPO # 11-26**).

Between April 15, 2011 and May 12, 2011 2 complaints were referred.

1. Wednesday, April 20, 2011: A complaint was received via the online form on the OPO website. After initial processing, it was determined that the complaint involved the Spokane County Sheriff's Office. The complaint was referred at the Complainant's request (**OPO # 11-23**).

2. Friday, May 6, 2011: A contact was received via the OPO email box requesting contact information for filing a complaint against the Pend Oreille County Sheriff's Department.

INVESTIGATIONS CERTIFIED

Between April 15, 2011 and May 12, 2011, 8 investigations were certified as timely, thorough and objective:

1. Thursday, April 21, 2011: An internally generated **Conduct Unbecoming of an Officer** complaint was received by the Internal Affairs Unit on February 16, 2011. The complainant alleges that an officer while off duty interfered with an officer from another agency in the performance of that officer's duty. The Ombudsman confirms that the investigation of the complaint was completed through a timely, thorough and objective process.
2. Thursday, April 21, 2011: An **Assault** complaint was received by Internal Affairs Unit on March 22, 2011. The juvenile Complainant alleged that an officer touched the Complainant inappropriately while attempting to take the Complainant into custody for a mental health evaluation. The Ombudsman confirms that the investigation of the complaint was completed through a timely, thorough and objective process.
3. Saturday, April 23, 2011: An **Excessive Force** complaint was received by the Internal Affairs Unit on April 4, 2011. The Complainant alleged that an officer punched them while handcuffed and seated in the back seat of a police car as an officer was attempting to interview the complainant. The Ombudsman confirms that the investigation of the complaint was completed through a timely, thorough and objective process.
4. Saturday, April 23, 2011: A **Demeanor** complaint was received by the Internal Affairs Unit on March 15, 2011. The Complainant alleged that officers failed to speak loud enough when giving the complainant their names after the complainant requested their names. The Ombudsman confirms that the investigation of the complaint was completed through a timely, thorough and objective process.
5. Tuesday, April 26, 2011: A **Demeanor** complaint was received by the Internal Affairs Unit on March 8, 2011. The Complainant alleged that an officer threatened that CPS would not return the complainant's children to the complainant if the complainant would not allow the officer to check the complainant's residence for a "wanted person" known to the complainant. The Ombudsman confirms that the investigation of the complaint was completed through a timely, thorough and objective process.
6. Thursday, April 28, 2011: An internally generated **Insubordination** complaint was received by the Internal Affairs Unit on February 28, 2011. The Complainant alleged that an officer failed to follow the appropriate procedure for taking vacation while on administrative leave. The Ombudsman confirms that the investigation of the complaint was completed through a timely, thorough and objective process.

7. Thursday, April 28, 2011: **An Improper Disclosure of Confidential Information** complaint was received by the Office of Police Ombudsman on March 16, 2011. The Complainant alleged that an officer provided critical information to a neighbor which assisted the neighbor in obtaining a Harassment Order. The Ombudsman confirms that the investigation of the complaint was completed through a timely, thorough and objective process. **(OPO # 11-17)**
8. Wednesday, May 11, 2011: An **Excessive Force** complaint was received by the Office of Police Ombudsman on February 14, 2011. The juvenile Complainant alleged that they were injured while being taken into custody for a mental health evaluation. The Ombudsman confirms that the investigation of the complaint was completed through a timely, thorough and objective process. **(OPO # 11-14)**

DECLINED CERTIFICATIONS

There were no declined certifications during the reporting period.

INTERVIEWS

- **Internal Affairs, Officer Interviews: 12**
- **Internal Affairs Complainant Interviews: 2**
- **Internal Affairs, Witness Interviews: 2**
- **Office of Police Ombudsman Complainant Interviews: 6**
- **Office of Police Ombudsman Witness Interviews: 2**
- **Closing (Complaint Closure) Interviews: 3**

OTHER DUTIES

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

Cases Resolved Through Mediation: No complaints were resolved through the mediation process during the reporting period.

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, May 12, 2011: North Hill Neighborhood Council Meeting, OPO Presentation (7p-930p)
- Thursday, May 12, 2011: Spokane Falls Community College, OPO Presentation (1230p-230p)
- Wednesday, May 11, 2011: Emerson Garfield Neighborhood Council Meeting, OPO Presentation (645p-930p)
- Tuesday, May 10, 2011: North Indian Trail Neighborhood Council Meeting, OPO Presentation (645p-9p)
- Tuesday, May 10, 2011: West Central Community Center Board of Directors Meeting (4p-6p)
- Monday, May 09, 2011: Spokane City Council Meeting (6p-730p)
- Saturday, April 30, 2011: The NATIVE Project Youth Leadership Camp, Medical Lake (9a-330p)
- Friday, April 29, 2011: Gonzaga Law School Diversity Committee, Stand Against Racism (12n-1p)
- Thursday, April 28, 2011: Manito Cannon Hill Neighborhood Council Meeting , OPO Presentation (7p-830p)
- Wednesday, April 27, 2011: St Matthews Institutional Church, OPO Presentation (530p-730p)
- Tuesday, April 26, 2011: Chief Garry Park Merchants Association Meeting (6p-8p)
- Tuesday, April 26, 2011: Spokane Human Rights Commission, Assistant to the Ombudsman (530p-7p)
- Monday, April 25, 2011: Spokane City Council Meeting (6p-730p)
- Saturday, April 23, 2011: West Central Community Center Neighborhood Days (9a-2p)
- Friday, April 22, 2011: The NATIVE Project (115p-345p)
- Friday, April 22, 2011: House of Charity (9a-1130a)
- Thursday, April 21, 2011: Chief Garry Park neighborhood Council Meeting, OPO Presentation (615p-9p)
- Wednesday, April 20, 2011: Hillyard Neighborhood Council Meeting, OPO Presentation (615p-930p)
- Tuesday, April 19, 2011: Logan Neighborhood Council Meeting, OPO Presentation (630p-8p)
- Tuesday, April 19, 2011: Northeast Community Center Grand Opening Celebration (530p-615p)

OTHER

- Wednesday, May 11, 2011: Professionalism training presented by Spokane County
- Tuesday, May 3, 2011: The Office of Police Ombudsman participated in the East Central Community Center's "Draw the Line Campaign" against youth alcohol consumption.
- Saturday, April 30, 2011: SPD Media Academy (9:00a-12:30p, Asst to OPO)
- Friday, April 29, 2011: Stand Against Racism presented by Gonzaga Law School Diversity Committee (12n-1p)

- Friday, April 29, 2011: SPD In Service Training (7a-1145a), Harassment, Cultural Diversity, Social Media Risks and Policy, IA Review, CPS Policy Process and Update (7a-12n)
- **Thursday, April 28, 2011: Appointed to the West Central Community Center Board of Directors**
- Monday, April 25, 2011: “Enhancing the Survival Mindset” presented by the Spokane Police Department (5:30p-9:30p, Asst to OPO)
- Sunday, April 24, 2011(Easter): SPD Ride Along, Swing Shift (10a-6p)

2011 OVERVIEW

Complaints Received: Since January 1, 2011, 25 complaints have been received by the Office of Police Ombudsman and forwarded to Internal Affairs. The complaints were for:

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

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 complaint was referred to the Pend Oreille County Sheriff’s Department

ATTACHMENTS

Ombudsman-Received Complaint Closing Reports

- Closing Report OPO #11-18
- Closing Report OPO #11-20
- Closing Report OPO #11-21
- Closing Report OPO #11-22
- Closing Report OPO #11-25

Internal Affairs-Received Complaint Closing Reports

- Closing Report IA #11-019



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

OPO # 11-18 | IA # Inquiry 11-014

The Situation

On March 19, 2011 the Complainant filed a complaint with the Office of Police Ombudsman regarding inadequate response to a Harassment Order

The Complaint

The Complainant advised that the Complainant and a relative have a Harassment Order preventing the relative's significant other from harassing either the Complainant or the relative.

The Complainant advised that the significant other has violated the Harassment Order several times and that they had called the Police Department several times to enforce the order. The Complainant advised that the Police Department has not had a timely response and when Officers have responded they were dismissive and did not take any action.

The Complaint Investigation

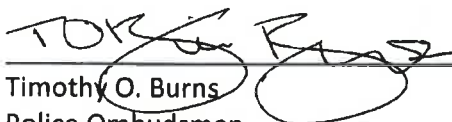
After an initial review, the complaint was classified as an Inquiry by Assistant Chief Nicks based on the following information:

- Police responded to several calls from the Complainant and the Complainant's relative.
- Officers documented each alleged violation with a police report and issued the significant other a citation, requested a summons, or physically arrested the significant other when appropriate.
- Call response time was between 7 and 29 minutes in each incident.
- There were no specific Demeanor complaints against any specific Officer.

Office of Police Ombudsman Analysis/Conclusion

The Police Ombudsman agreed with the classification as an Inquiry. Sergeant McCabe and the Ombudsman met with the Complainant to discuss the Complainant's concerns.

This complaint was an example of a breakdown in communication. The Complainant did not know what had occurred after their call for service had been responded to.


Timothy O. Burns
Police Ombudsman

MAY 10 2011
Date

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

OPO # 11-20 | IA Inquiry # 11-015

The Situation

The Complainant was involved in an injury traffic accident in March 2010.

The Complaint

The Complainant met with the Ombudsman at the Office of Police Ombudsman on April 2, 2011 to file a complaint. The Complainant alleged that the Officer who investigated the accident the Complainant was involved in failed to issue the other driver infractions for using their cell phone and for being uninsured. As a result the Complainant incurred significant costs.

In a separate incident the Complainant advised that their residence was burglarized approximately eight months earlier. The Complainant was upset with the lack of timeliness in the police response to their burglary and the lack of follow-up by the police. The suspect in the burglary was known to the Complainant and the suspect's identity was provided to police by the Complainant.

The Complaint Investigation

On April 4, 2011 the complaint was received by the Internal Affairs Unit and classified as an Inquiry based upon the following facts:

- At the time of the accident the other party provided the required documents to police indicating that they were insured. The insurance was cancelled later. At the time of the incident it was not illegal to use a cell phone while driving.
- With regards to the residential burglary the call for service was classified as a "cold call" which meant that it was a prior burglary that had already occurred. The call was held approximately 2 hours prior to being dispatched. Once dispatched, the responding Officer arrived in approximately 10 minutes.
- The value of the loss was determined to be less than \$1,000.00 and did not meet department threshold for follow-up.

Office of Police Ombudsman Analysis/Conclusion

Although the one year statute of limitations for the Office of Police Ombudsman lapsed prior to receipt of the traffic accident complaint, the complaint was still researched prior to being classified as an Inquiry by the Police Department.

With regards to the residential burglary the value of the property taken did not meet the threshold where the department would assign the case for follow-up even though a possible suspect had been identified.

The Police Department's decision to not to allocate the resources necessary for follow-up on these types of incidents clearly speaks to the declining resources available and the necessity of resource prioritization. It is regrettable but necessary in these difficult times.



Timothy O. Burns
Police Ombudsman

May 9, 2011
Date

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

OPO # 11-21 | IA Inquiry # 11-016

The Situation

On Sunday April 3, 2011 a vehicle auction was held in Spokane near the Complainant's residence.

While the Complainant was outside their residence, the Complainant observed a Police Officer writing parking infractions on the Complainant's street. The Complainant requested that the Officer issue a parking citation to a vehicle parked a short distance away. The Officer refused to write the citation.

After the Officer left the area the Complainant witnessed what they believed to be drug activity occurring near a parked vehicle on their street. Soon thereafter the Complainant witnessed and reported a non-injury traffic accident involving the same vehicle. The Complainant believed that the involved vehicle was associated with the auto auction.

The Complaint

On Thursday, April 7, 2011 The Complainant contacted the Office of Police Ombudsman and made the following complaint:

- The Officer refused to honor the Complainant's request to issue a parking infraction to a vehicle parked near the Complainant's residence.
- The Complainant thought that the Officer who responded to the traffic accident did an incomplete investigation of the accident.
- Unrelated to the Situation, the Complainant complained about the delay in receiving a Public Record the Complainant had previously requested.
- Unrelated to the Situation, the Complainant complained about the lack of redaction in a police report a neighbor had received which identified the Complainant in the report.
- Unrelated to the Situation, the Complainant alleged that the Police Department was providing preferential treatment to the auto dealer having the auction because the dealer sells vehicles confiscated by the Police Department.

The Complaint Investigation

The complaint was forwarded to Lieutenant Cummings in the Internal Affairs Unit on Thursday, April 7, 2011 for review and processing. The complaint was subsequently classified as an Inquiry based on the following information:

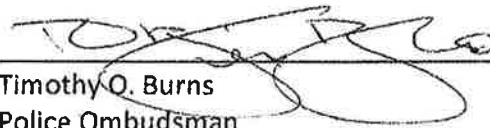
- It is an Officer's discretion regarding whether the Officer chooses to issue a citation or not to issue a citation.
- The Complainant was not involved in the traffic accident. The responding Officer documented the accident with a collision report and issued two citations related to the collision.
- The Complainant submitted a Public Records request for a police report on November 24, 2011. The request form indicates that it will take approximately 90 days to process the request. The information requested was completed March 6, 2011. It took 102 days to process the Complainant's request.
- Public records are redacted as required by law.
- Vehicles confiscated by the Spokane Police Department are not sold in Spokane and are not sold by the operator of the auction the Complainant was referring to.

Office of Police Ombudsman Analysis/Conclusion

The Ombudsman agrees with the classification as an Inquiry.

With regard to the issuance of parking infractions the Ombudsman recognizes that it is the Officer's discretion whether a infraction will be issued. Officers should make reasonable efforts to ensure that his/her discretion is not mistaken for selective enforcement in not issuing an infraction.

With regard to the delay in receipt of the police report requested by the Complainant the delay was reasonable based on the workload for the Records Division, the volume of Public Records requests received and the time of year the request was submitted (holiday season).


 Timothy Q. Burns
 Police Ombudsman

May 9, 2011
 Date

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

OPO # 11-22 | IA Inquiry # *Pending*

The Situation

In February 2011 the Complainant purchased two vehicles and some furniture from a neighbor whose father had recently died. The items were from the decedent's estate.

After purchasing the two vehicles the Complainant was contacted by Spokane Valley Police regarding the Complainant's possession of two vehicles reported to have been stolen from within the Spokane city limits. Spokane Police responded to the Spokane Valley location and contacted the Complainant.

The Complainant advised the Officers that they had purchased the two vehicles and some furniture from one of the decedent's daughters.

The two vehicles were impounded by police and the Complainant was directed to return the furniture to the executor of the estate.

The Complaint

The Complainant filed a complaint with the Office of Police Ombudsman on April 20, 2011. The Complainant advised that the responding Spokane Police Officer "copped an attitude" with the Complainant when the Officer first contacted the Complainant at the Complainant's residence.

The Complainant advised that they had legally purchased the two vehicles and furniture and were required to return the property to the estate but were not given their money back.

The Complaint Investigation

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

- The property owner died in December 2010.
- On January 1, 2011 the Spokane County Superior Court issued an order prohibiting family members of the decedent from removing or selling any property associated with the decedent's estate.
- On February 16, 2011 a family member was appointed as Executor for the decedent's estate. The Executor went to the decedent's residence and determined that the residence had been broken into and several items had been removed from the property including the items the Complainant was in possession of.
- The Complainant was directed to return the stolen property to the estate.
- The Complainant was identified and classified as a crime victim.



Timothy O. Burns
Police Ombudsman

May 11, 2011
Date

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

OPO # 11-25 | IA Inquiry # *Pending*

The Situation

On April 21, 2011 the tenants of a Spokane rental duplex were contacted by the Spokane Police Department at approximately 3:00 am. The officers asked to speak with an individual who no longer resided at the duplex. When the officers were advised by the tenants that the person no longer resided at the duplex, the officers left the premises.

The Complainant is an out-of-state resident that owns the rental property.

The Complaint

The Complainant felt it was inappropriate for the officers to disturb their tenants at 3:00 am.

The Complaint Investigation

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

- On April 21, 2011 officers responded to a confirmed death in a parked car in the parking lot of a local hospital.
- The vehicle registration for the car the decedent was found in listed the Complainant's rental property address as the address of the decedent.
- Officers responded to the rental property address to welfare check the residents and perform a death notification.
- After contacting the residents at the rental property it was determined that the vehicle registration address was incorrect and the decedent no longer resided at the location.
- Officers then left without further incident.

Office of Police Ombudsman Analysis/Conclusion

The Police Ombudsman agreed with the classification of this complaint as an Inquiry based on the investigation results.

If the officers could have discussed the reason for their contact in all probability a complaint would not have been received from the Complainant or the Complainant's tenants however because of the reason for the contact, as previously stated, officers could not reveal the nature of the 3:00 am contact.

There are no policy, procedure or training recommendations.

- Vehicle Theft, Theft and Forgery charges were filed against the family member that sold the items to the Complainant.
- Soon after the charges were filed against the family member, the family member died unexpectedly effectively terminating the criminal prosecution.
- The complaint was referred to City Legal for a legal opinion. On April 26, 2011 City Legal issued a written opinion stating that the matter was civil in nature.

Office of Police Ombudsman Analysis/Conclusion

The Police Ombudsman agrees with Assistant Chief Nick's classification of the complaint as an Inquiry based on the information provided.

The Office of Police Ombudsman suggested to the Complainant at the time of the complaint that the Complainant file a Public Records request for the estate's information and file a claim against the estate for restitution.

There are no policy, procedure or training recommendations.


 Timothy O. Burns
 Police Ombudsman

May 11, 2011
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OFFICE OF POLICE OMBUDSMAN CLOSING REPORT (SMC 04.32.030(L))

OPO # N/A | IA # 11-019

The Situation

On March 7, 2011 an Officer was requested to contact a local school's Mental Health Therapist regarding a student making threats to harm themselves. The therapist requested that the Officer make contact at the student's residence to check the welfare of the student.

The Officer subsequently contacted the student's parents at their residence. The Officer was advised that their child had several mental issues they are dealing with and that their child had not taken their prescribed medications for several weeks. The parents advised that they had received a text message from their child stating that their child "did not want to live any longer." The parents requested that the Officer transport their child to the hospital for a mental health evaluation. The Officer agreed based on the information provided.

When the Officer contacted the child, the child was uncooperative with the Officer. After the Officer told the child that they intended to transport the child to a hospital for a mental health evaluation the child attempted unsuccessfully to barricade themselves in their bedroom. After some minor resistance, the child was transported to a local hospital for a mental health evaluation.

The Complaint

When the Officer and Complainant arrived at the hospital the Complainant requested to speak with the Officer's supervisor. The Complainant alleged that the handcuffs had been applied to tightly by the Officer and as the Officer was taking the Complainant into custody the Officer inappropriately touched the Complainant's breast. The Complainant is female and the Officer is male.

The Complaint Investigation

The Officer's supervisor responded to the hospital, contacted the Complainant and documented the complaint. The supervisor proceeded to interview the Complainant, the Complainant's parents, and the Officer regarding the allegation. The supervisor established the following information:

- There were no visible injuries to the Complainant's wrist from the application of the handcuffs.
- The Complainant thought that the Officer had given the Complainant permission to speak with the Complainant's mother in the mother's bedroom prior to being transported to the hospital.

- The Complainant advised that after they resisted by pulling away from the Officer they "blacked out" and did not remember the ride to the hospital.
- The Complainant's father witnessed the Complainant's arrest and observed the Complainant fighting with the Officer. The Complainant's father advised that the Officer did not do anything inappropriate.
- The Supervisor interviewed the Complainant's mother by phone. The Complainant's mother advised that the Complainant did not comply with the Officer's orders.
- The Complainant's mother advised that the Officer did not grab the Complainant's breast. The mother advised that the Officer grabbed the back of the Complainant's coat and arm.
- The Complainant's mother advised that in the past the Complainant had made similar false allegations against police in Oregon, her husband, herself and others.

Office of Police Ombudsman Analysis/Conclusion

The Ombudsman certified the Internal Affairs investigation as timely, thorough and objective on April 21, 2011.

There are no policy, procedure or training recommendations.


 Timothy O. Burns
 Police Ombudsman

May 10, 2011
 Date

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