

March 18, 2013



Office of Police Ombudsman
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February Public Safety Committee Report

Reporting Period: February 01, 2013 through February 28, 2013

2012 OVERVIEW

Complaints Received: Since January 1, 2013: 18 complaints have been received by the Office of Police Ombudsman and forwarded to Internal Affairs. The complaints were for:

- 1 Demeanor
- 1 Excessive Force
- 1 Gratuity
- 15 Inadequate Response

To view a four-year snapshot graph of OPO complaints received by month, see Attachment 1.

Complaints Referred: Since January 1, 2013, 2 complaints have been referred to the following agencies:

- 1 complaint was referred to the Spokane County Sheriff's Office
- 1 complaint was referred to the Stevens County Prosecutor's Office

CONTACTS

Between February 1, 2013 and February 28, 2013 the Office of Police Ombudsman was contacted 87 times.

Since January 1, 2013 there have been 189 contacts received by the Office of Police Ombudsman.

COMPLAINTS

To assist in identifying where complaints are occurring, the Office of Police Ombudsman has divided the City into four quadrants. The north-south borderline is Sprague Avenue and the east-west borderline is Division Street.

Complaint outcomes are updated regularly and can be viewed at the Office of Police Ombudsman website at www.spdombudsman.org under the headings "Documents and Reports" and "2013 Received Complaints."

Between February 1, 2013 and February 28, 2013, 10 complaints were received.

1. Wednesday, February 27, 2013: An **Excessive Force** complaint was received by the Office of Police Ombudsman. The complainant advised that police entered their home without permission and used excessive force to remove them from their home into an ambulance waiting outside. (N/E), (OPO #13-18)
2. Wednesday, February 20, 2013: An **Inadequate Response** complaint was received by the Office of Police Ombudsman website. The complainant called police regarding their child who was out of control and threatening suicide. The complainant was concerned that officers did not transport their child to the hospital for a mental health evaluation. (OPO # 13-17)
3. Friday, February 22, 2013: An **Inadequate Response** complaint was received by the Office of Police Ombudsman by phone. The complainant advised that they use a wheelchair for transportation. According to the complainant, they called police to report a transient who was causing an obstruction that prevented the complainant from using the sidewalk. The complainant advised that no one responded to their complaint. (S/W), (OPO # 13-16)
4. Wednesday, February 20, 2013: An **Inadequate Response** complaint was received by the Office of Police Ombudsman by phone. The complainant advised that officers were not willing to enforce a Protection Court Order. (N/E), (OPO # 13-15)
5. Monday, February 18, 2013: An **Inadequate Response** complaint was received by the Office of Police Ombudsman. The Complainant alleged that officers did not do a thorough investigation of a complaint by a neighbor that led to the arrest of the complainant's adult child. (N/E), (OPO # 13-14)
6. Monday, February 18, 2013: An **Inadequate Response** complaint was received by the Office of Police Ombudsman by phone. The Complainant advised that they called the Police Desk 3 times and their call went directly to hold. The Complainant advised that they hung up after waiting 15, 30 and 45 minutes without speaking to a live person. (OPO # 13-13)
7. Monday, February 18, 2013: An **Inadequate Response** complaint was received by the Office of Police Ombudsman. The complainant is transient and advised that while sleeping on a downtown sidewalk they were awakened by two officers. The complainant advised that they believe the officers unnecessarily used a taser to wake them up. (S/W), (OPO # 13-12)
8. Monday, February 11, 2013: An **Inadequate Response** complaint was received by the Office of Police Ombudsman by phone. The complainant advised that they called 9-1-1 to report a live band noise complaint. They advised they were told an officer would respond but no one did. The complainant has complained several times about the band and the Police Department has never responded. (S/E), (OPO # 13-11)

9. Tuesday, February 05, 2013: An **Inadequate Response** complaint was received by the Office of Police Ombudsman through a referral from the Office of the Mayor. The complainant advised that they were prevented from traveling to an appointment due to a road closure by the police as a result of an officer involved shooting/death that occurred earlier that day. The complainant was concerned that the police would not allow the dentist access to their office to make calls to that day's patients to cancel scheduled appointments. (S/W), (OPO # 13-10)
10. Friday, February 1, 2013: An **Inadequate Response** complaint was received through the Office of Police Ombudsman website. The Complainant advised that their vehicle was reported stolen. They advised that the vehicle was later found abandoned on a bridge. The complainant advised that they were not contacted prior to towing and were required to pay a towing fee that may have been avoided had they been notified earlier. (N/W), (OPO # 13-09)

Between February 1, 2013 and February 28, 2013 no complaints were referred.

INVESTIGATIONS CERTIFIED

Between February 1, 2013 and February 28, 2012 2 completed investigations were certified as timely, thorough and objective:

1. Thursday, February 21, 2013: An internally generated **Inadequate Supervisory Response** complaint was initiated by a Captain on November 16, 2012 after one of the Captain's subordinates failed to meet work load expectations. The Ombudsman confirms that the complaint was investigated through a timely, thorough and objective process. (SPD IA # 12-080)
2. Monday, February 04, 2013: A **Discrimination, Demeanor and Inadequate Response** complaint was received by the Office of Police Ombudsman on October 15, 2012. The complainant alleged that they were discriminated against by the police because they are gay. The complainant advised that officers made inappropriate comments and failed to properly investigate a crime they were a victim of. The Ombudsman confirms that the complaint was investigated through a timely, thorough and objective process. (SPD IA # 13-074), (OPO # 12-114)

DECLINED CERTIFICATIONS and APPEALS

There were no declined or appealed certifications during the reporting period.

INTERVIEWS

- Internal Affairs, Officer Interviews: 2
- Internal Affairs, Complainant Interviews: 0
- Internal Affairs, Witness Interviews: 0
- Office of Police Ombudsman Complainant Interviews: 7

- Office of Police Ombudsman Witness Interviews: 0
- Closing (Complaint Closure) Interviews: 0

OTHER DUTIES

Critical Incident Response: Tuesday, February 5, 2013: At 01:49a.m., the Ombudsman was advised by Internal Affairs Lieutenant McCabe of an officer involved shooting near the Huckleberry's Natural Market at 926 S. Monroe Street. The Lieutenant and Ombudsman responded to the location where they were briefed on the incident and toured the area. While at the location they were advised that the individual that was involved was deceased. No officers were physically injured.

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

Recommendations: Monday, February 11, 2013: A request for a legal opinion was made to Assistant Attorneys Muramatsu and Szambelan regarding projection of an image onto public property, onto private property and onto private property from public property. The request was prompted by an inquiry from a member of the Occupy Spokane Movement as the result of a previous encounter with the Police Department. Once a position is received, it is the request of the Ombudsman that a policy be developed and members of the Police Department receive training through a training bulletin.

NEXT STEPS

- Publish and present the 2012 Annual Report

COMMUNITY OUTREACH

- Tuesday, February 26, 2013: Human Rights Commission meeting (OPO Assistant 530p-715p)
- Monday, February 25, 2013: Spokane City Council OPO Annual Report (6p-8p)
- Thursday, February 21, 2013: Chief Garry Park Neighborhood Council meeting (645p-830p)
- Wednesday, February 20, 2013: Hillyard Neighborhood Council meeting (630p-9p)
- Wednesday, February 20, 2013: Whitman Neighborhood Council meeting (6p-615p)
- Tuesday, February 19, 2013: East Central Neighborhood Council meeting (630p-830p)
- Friday, February 15, 2013: The NATIVE Project (2p-4p)
- Thursday, February 14, 2013: North Hill Neighborhood Council meeting (7p-8p)
- Wednesday, February 13, 2013: West Central Neighborhood Council meeting (630p-8p)
- Wednesday, February 13, 2013: SPARC meeting, Center for Justice (530p-615p)
- Monday, February 11, 2013: Spokane City Council meeting (6p-630p)

- Wednesday, February 6, 2013: West Central Community Center Playhouse Project Spokane auction breakfast (8a-9a)
- Tuesday, February 5, 2013: Rockwood Neighborhood Council meeting (7p-830p)
- Monday, February 4, 2013: Spokane City Council meeting (6p-645p)
- Friday, February 1, 2013: Community Assembly meeting (4p-6p)
- Friday, February 1, 2013: STA Main Terminal (Intern, 1p-4p)

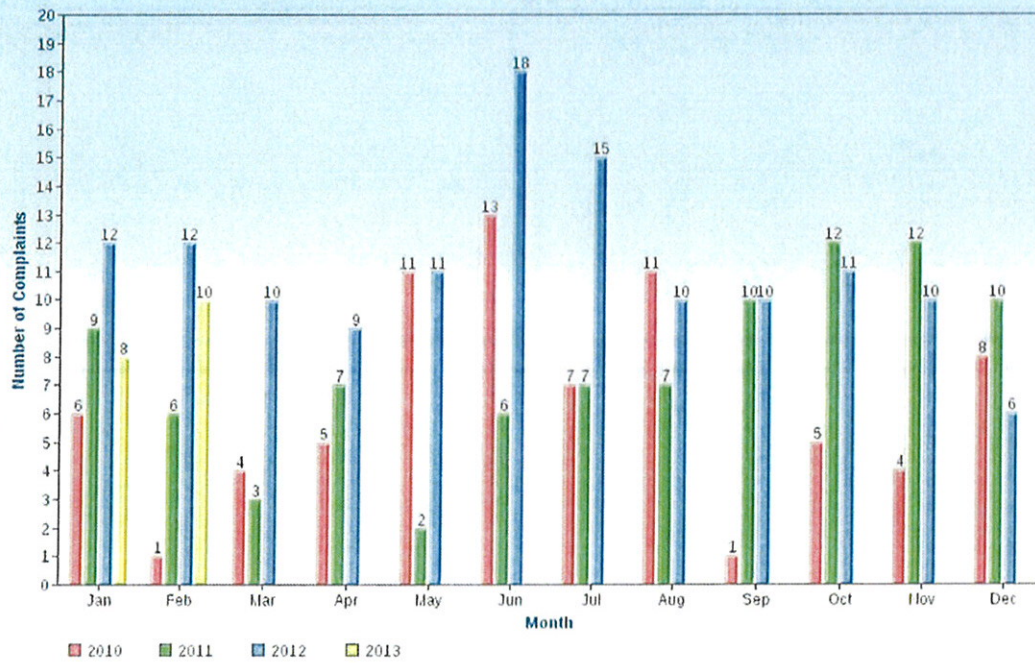
OTHER

- Saturday, February 23, 2013: SPD Ride Along (Sat 8p- Sun 4a)
- Friday, February 22, 2013: Mayor's State of the City, City Council Chambers (12n-1p)
- Thursday, February 21, 2013: SPD Awards Ceremony (6p-630p)
- Thursday, February 21, 2013: DOJ Meeting (415p-545p)
- Thursday, February 21, 2013: City of Spokane Management Strategies For Critical Incident Training (9a-1030a)
- Tuesday, February 19, 2013: New Tech Skill Center Criminal Justice Class, Guest Speaker (830a-1030a) and (1130a-130p)
- Sunday, February 17, 2013: Forward on Climate Rally, Riverfront Park (1p-2p)
- Friday, February 15, 2013; Mayor's Press Conference on Public Safety (1030a-1130a)
- Wednesday, February 13, 2013: Police Advisory Committee meeting (7a-815a)
- Tuesday, February 12, 2013: Liquor Control Board Initiative 502 Implementation Forum, Spokane Convention Center (6p-830p)
- Friday, February 8, 2013: The NATIVE Project, Healthy Heart Pow Wow, Rogers High School (530p-10p)
- Friday, February 8, 2013: Mayor's State of the City, Spokane Convention Center (730a-9a)
- Thursday, February 7, 2013: PJALS Panel discussion on "Our Culture of Violence" (6p-830p)
- Wednesday, February 6, 2013: Council Connection guest of Council President Stuckart (6p-7p)

ATTACHMENTS

- 4 year snapshot graph of OPO complaints received by month
- Student Guide
- OPO Customer Satisfaction Survey
- OPO Commission template recommendations

Office of Police Ombudsman Complaints
by month



Customer Satisfaction Survey – Office of Police Ombudsman

This is a customer satisfaction survey for the City of Spokane's Office of Police Ombudsman. Regardless of the results of your Internal Affairs complaint, please answer the following questions regarding your interactions with the Police Ombudsman and staff. Your answers will remain confidential.

Choose the "neutral" option when you neither agree nor disagree with the statement.

1. In dealing with the Office of Police Ombudsman, I was treated with courtesy, dignity and respect:

Strongly Agree Agree Neutral Disagree Strongly Disagree

2. I would contact the Office of Police Ombudsman again if I needed assistance:

Strongly Agree Agree Neutral Disagree Strongly Disagree

3. I felt as though the Police Ombudsman and/or staff listened to my complaint and genuinely cared about what I had to say:

Strongly Agree Agree Neutral Disagree Strongly Disagree

4. I would rate my overall experience with the Office of Police Ombudsman and how they handled my complaint as positive:

Strongly Agree Agree Neutral Disagree Strongly Disagree

5. I feel as though the Police Ombudsman provided me with adequate information regarding the complaint process:

Strongly Agree Agree Neutral Disagree Strongly Disagree

6. I would recommend the OPO to others who find themselves in similar situations:

Strongly Agree Agree Neutral Disagree Strongly Disagree

7. Respond to this question only if you came into the Office of Police Ombudsman and participated in an interview with the Police Ombudsman – I found the CD copy of our interview helpful and listened to it:

Strongly Agree Agree Neutral Disagree Strongly Disagree

8. Respond only if you used the OPO's on-line complaint form: I found the on-line complaint form on the OPO's website easy to find and use:

Strongly Agree Agree Neutral Disagree Strongly Disagree

1. The first row of the matrix is the vector \mathbf{v}_1 .
 2. The second row of the matrix is the vector \mathbf{v}_2 .
 3. The third row of the matrix is the vector \mathbf{v}_3 .
 4. The fourth row of the matrix is the vector \mathbf{v}_4 .
 5. The fifth row of the matrix is the vector \mathbf{v}_5 .
 6. The sixth row of the matrix is the vector \mathbf{v}_6 .
 7. The seventh row of the matrix is the vector \mathbf{v}_7 .
 8. The eighth row of the matrix is the vector \mathbf{v}_8 .
 9. The ninth row of the matrix is the vector \mathbf{v}_9 .
 10. The tenth row of the matrix is the vector \mathbf{v}_{10} .

[illegible]

Thank you for completing this survey. Your responses will assist the Office of Police Ombudsman in providing the best service possible to the community. While the Office of Police Ombudsman cannot guarantee results of Internal Affairs investigations, we strive to treat all of our clients with courtesy, dignity and respect.



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Proposed Draft OPO Commission Ordinance Measures

Article I: Function

Section 1: An Office of Police Ombudsman commission (hereafter "commission") will be created, the functions of which shall be to:

- A. Determine whether the Office of Police Ombudsman (hereafter "OPO") has performed its duties consistent with Article XVI of the Spokane City Charter, Spokane Municipal Code 4.32 and applicable collective bargaining agreements.
- B. Review completed complaint investigations involving sworn police employees to provide comment, from a civilian perspective about whether the complaint was handled fairly and with due diligence.
- C. Promote a spirit of accountability and communication between the citizens and the Spokane Police Department while improving community relations and enhancing public confidence.
- D. Address any other issues of concern to the community.

Article II: Commission Members

Section 1: Number of Members and Appointment Process

- A. The commission is initially composed of five (5) members.
- B. Two (2) members nominated by the Mayor and appointed by City Council and one (1) member from each of the three (3) City Council districts nominated and appointed by City Council.
- C. The commission may, at any time, determine that more members are necessary to carry out the duties of the commission. Upon a unanimous vote of all commission members, additional members may be added to the commission two (2) members at a time. One (1) additional member nominated by the Mayor and appointed by City Council and one (1) additional member nominated by the City Council president and appointed by City Council.

Section 2: Term of Office and Vacancies

- A. Members shall serve for a three (3) year term and may be appointed for additional three (3) year terms. Except for initial members who shall be: two (2) years for three (3) initial members and three (3) years for two (2) initial members.
- B. No member shall serve more than three (3) consecutive terms. A vacancy that occurs during the term of a member shall be filled in the same manner as the original appointment, and the appointee shall serve for the remainder of the unexpired term.
- C. Each member shall continue to serve in such capacity until the member's successor has been duly appointed and is acting, provided, however, that the period shall not exceed 90 days past the expiration of the member's term.

Section 3: Qualifications

- A. Members of the commission shall be volunteers appointed by the City Council, who immediately prior to appointment shall be:
 - 1. A resident of the City of Spokane,
 - 2. Of the age of 18 years or older; and
 - 3. Able to pass a background investigation consistent with investigations conducted for other city volunteers who have similar access to police records and/or facilities.
- B. The following characteristics shall be considered by the City Council when appointing members to the commission:
 - 1. A demonstrated ability to be fair, impartial and unbiased;
 - 2. An absence of any real or perceived bias, prejudice or conflict of interest;
 - 3. A record of community involvement;
 - 4. An ability to build working relationships and communicate effectively with diverse groups; and
 - 5. A demonstrated commitment to the function of the commission as laid out in Article I above.
- C. Members of the commission shall neither be a current employee of the city nor an immediate family member of a current city employee.
- D. Commission members shall participate in an appropriate training program to be established by the commission and/or the OPO so that they shall possess the knowledge to perform their duties.

- E. Members of the commission shall agree in writing to a Statement of Principles and Code of Conduct and an appropriate confidentiality agreement to be developed by the OPO and reviewed and maintained in collaboration with the commission.
- F. It is the intent that commission members be free from personal liability for acts taken within the course and scope of carrying out their official duties and functions. The city will therefore defend and indemnify members to the maximum extent permitted under applicable law.

Section 4: Removal

- A. A member of the commission may be removed from office by the City Council prior to the normal expiration of his/her term for consistent failure to perform commission member duties, or violation of the Statement of Principles/Code of Conduct or confidentiality agreement.
- B. Membership on the commission shall terminate automatically if a member ceases to meet the qualification requirements as described in Article II, Section 3 above subsequent to his/her appointment.

Article III: Officers, Meetings and Procedures

Section 1: Officers

- A. The commission shall annually elect from among its membership a chairperson and a vice-chairperson who shall serve in that position for no more than three (3) consecutive one (1) year terms.
- B. The OPO shall be liaison to, and provide staff support for, the commission.
- C. The commission may appoint from its membership committees as necessary to perform its duties.
- D. The commission shall hold regular meetings with an opportunity for public comment at least quarterly, and the commission and its committees may hold additional meetings as necessary. No business of the commission shall be conducted at a meeting without at least a quorum of three (3) members. All actions of the commission shall be made upon a simple majority vote of the members present.

Section 2: Meetings

- A. Meetings of the commission shall be open to the public except when the commission has determined a closed executive session, in accordance with RCW 42.30.110, is necessary in order to carry out its business.

- B. To facilitate the transparency of the commission's activities, the OPO will develop and present case summaries and status reports in a manner that allows review and discussion in open session, to the maximum extent practicable.

Section 3: Procedures

- A. The commission shall prepare and present an annual report to the City Council that:
 - 1. Summarizes the commission's activities, findings and recommendations during the preceding year;
 - 2. Gives recommendations for changes to the Police Department's processes and policies;
 - 3. Assesses the performance of the OPO consistent with Section 129 of the Spokane City Charter, Spokane Municipal Code 04.32 and applicable collective bargaining agreements; and
 - 4. Evaluates the work of the OPO, including whether the OPO is functioning as intended.
- B. The commission may develop additional reports deemed necessary by it, or as requested by the City Council. All reports generated by the commission shall strive to protect the privacy of all individuals and shall not contain the names of parties to a complaint (employees, complainants and/or witnesses) not previously disclosed. The City Council shall review and take appropriate action on reports submitted by the commission.
- C. In collaboration with the OPO, the commission may conduct education and outreach activities to inform the community about the process for filing complaints and commendations about police employees. The commission and OPO shall work together to develop and disseminate information and forms regarding the police complaint handling and review system.
- D. The commission or its individual members may not:
 - 1. Investigate complaints or incidents involving police employees;
 - 2. Issue subpoenas or call witnesses;
 - 3. Review employee discipline decisions except in the context of reviewing trend reports from the OPO;
 - 4. Incur city expenses or obligate the city in any way without the prior authorization of the OPO or City Council; nor
 - 5. Discuss the status of any open investigations or release any information regarding those investigations to any outside person or group.

Article IV: Powers and Duties

Section 1: Powers and Duties

- A. In collaboration with the OPO, the commission shall establish policies, procedures and operating principles for the commission.
- B. The commission shall fix the time and place of its meetings and meet at least once every two months with the OPO. The commission will provide notice to the community of all meetings and maintain records of its meetings to be made available to the public.
- C. The commission may review the completed investigation and adjudication of complaints filed against commissioned police employees at the request of a complainant, upon the recommendation of the OPO, or at its own discretion upon a majority vote of its members.
 - 1. The commission shall develop criteria to decide whether to accept a complaint for review. However, the commission may not accept a completed complaint that was reviewed as a “community impact case” as described in subsection E below.
 - 2. All material concerning completed complaint investigations the commission has selected to review shall be made available to members for their confidential review.
 - 3. The commission shall, at one of its regularly scheduled meetings, report on such complaint(s), which may include comments on the handling of the complaint, the fairness and thoroughness of the investigation and the reasonableness of the adjudication.
 - 4. The comments and any related policy or procedural issues identified by the commission in the course of its complaint review shall be provided to the OPO for further consideration.
- D. The commission may review a random selection of closed cases.
- E. Before certifying a complaint, the OPO may identify a complaint as a “community impact case” and request review by the commission. Members of the commission shall be provided all materials concerning the case for their confidential review. Within 14 days of receiving the case, the commission shall meet to discuss and present its determinations on the case. Within 30 days of receiving the case, the commission shall do one or more of the following:
 - 1. Concur with the case findings determined by the Internal Affairs Unit of the Police Department.
 - 2. Develop recommendations regarding the handling of the complaint and the investigation process, and/or identify other relevant policy or procedural issues for further consideration.

3. Require the OPO to request that the Police Department continue the investigation in accordance with the procedure set forth in Spokane Municipal Code 4.32.030(I) if it finds either;
 - a. The investigation was incomplete or inadequate and the commission has reason to believe that additional investigation is likely to reveal facts that could change the case adjudication; or
 - b. The adjudication reached by the Police Department was not supported by substantial evidence.
 4. When the commission has voted to review a community impact case, the OPO shall inform the commission of the subsequent investigation conducted and the final adjudication decision.
- F. The commission shall notify complainant(s) and involved employee(s) of its decisions on whether to accept a case for review and shall inform the complainant of its conclusions on the case.
- G. The commission shall review trends and statistics of complaints against sworn police officers and civilian police employees and may develop recommendations to improve the complaint intake and handling process.
- H. The commission shall evaluate the work of the OPO. In that regard, the commission:
1. Shall establish criteria by which to evaluate the work of the OPO;
 2. Shall review, comment on and assist in maintaining policies, procedures and operating principles for the OPO and the commission;
 3. Shall monitor status reports from the OPO; and
 4. May conduct periodic evaluations of the complaint intake and handling system to identify process improvements and/or ensure complaints are being treated fairly and with due diligence.
- I. The commission may provide a forum to gather community concerns about incident-specific police actions and may receive and forward complaint information to the OPO for processing.

Section 2: Selection of the Police Ombudsman

- A. When the Police Ombudsman position becomes vacant or will become vacant in the near future, the commission will undertake a candidate search. A screening committee will be established to screen, interview, and select three candidates to be considered by the Mayor. The interviews and selection of the three candidates will occur during regularly scheduled meetings and be open to the public.

- B. The screening committee shall consist of the following five persons: the chairperson of the commission (who shall be the chairperson of the screening committee); a member of City Council (selected by the City Council President), a current or retired judge (selected by the Mayor), the Director of Human Resources, and a person with extensive knowledge of internal police investigations or the monitoring of the internal police investigations but who has never been employed by the Spokane Police Department (selected by the Mayor).
- C. The HR staff will assist the commission in the placement of the advertisements and work with the OPO staff as required.
- D. The qualifications for the Police Ombudsman position will minimally include the requirement of a Bachelors Degree and five years experience in criminal investigations. The position of Police Ombudsman will be a full-time contractual city employee.
- E. The Mayor will select one of the three candidates and forward the nomination to the City Council.
- F. In the event the City Council rejects the nominee, the Mayor shall submit his/her second recommendation from the remaining two names submitted by the commission.
- G. If the City Council rejects the second nominee, the process shall begin with a second candidate search by the commission.