

Office of Police Accountability

2020 Annual Report



Seattle Office of
Police Accountability

Director Andrew Myerberg
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Foreword

In 2020, Office of Police Accountability (OPA) staff adapted to unique events that affected every aspect of their work: the COVID-19 pandemic, months of racial justice protests, and police accountability increasingly in the public eye. To manage these challenges while still delivering on its responsibilities, OPA staff embraced flexibility, focus, and transparency.

Flexibility

Like many workplaces around the world, OPA closed its office in March 2020 in response to the pandemic. Everything from technology to intra-office communication to onboarding new employees had to be revamped to fit within a virtual environment.

A second shift followed when widespread demonstrations occurred following the killing of George Floyd by a Minneapolis police officer. The ensuing flood of complaints tested OPA's processing abilities and resulted in an unprecedented workload surge. In an all-hands-on-deck effort, other OPA staff shifted away from their normal work duties to help support investigative needs.

Focus

As the protests continued throughout the summer, so did the complaints about police conduct. Despite receiving case timeline extensions, investigation deadlines piled up. Each individual investigation required an enormous amount of time, particularly to review body-worn video and draft findings.

The protests had political ramifications, too, as the public called for new police accountability policies. OPA reacted by researching a multitude of policy recommendations, carefully weighing potential feasibility and impact. This information was then shared with elected officials to ensure they had a deeper understanding of these issues.

Transparency

As a result of the protests, OPA's work was brought to the forefront of the public's awareness. Staff responded by creating a proactive communication strategy. The primary tenet of this approach was transparency: explain clearly what OPA was doing and why.

This led to numerous media interviews to clarify OPA's processes, reasoning, and findings for protest-related complaints. OPA increased its social media presence and developed a dashboard to provide regular updates to the community on the progress of each protest-related investigation. Finally, staff created "Investigations Explained" videos, which expounded on the evidence and described OPA's findings.

These three themes are discussed in more detail throughout the OPA 2020 Annual Report.

Facts at a Glance



Hired **2** civilian investigators



Classified **56%** of cases for investigation



Issued **15** policy recommendations



Sustained allegations in **18%** of investigations



Disciplinary appeals decreased **70%** from 2019



Received over **19,000** complaints about police action at protests

About OPA



Authority & Functions

OPA has jurisdiction over allegations of misconduct involving Seattle Police Department (SPD) employees relating to SPD policy and federal, state, and local law. OPA investigates complaints and recommends findings to the chief of police. OPA is led by a civilian director and supervisors, while its investigations are carried out by a mix of civilians and SPD sergeants. OPA's core functions include:

- Establishing and managing processes to initiate, receive, classify, and investigate individual allegations of SPD employee misconduct
- Promoting public awareness of, full access to, and trust in OPA complaint processing
- Identifying SPD system improvement needs and recommending effective solutions
- Helping reduce misconduct and enhance employee conduct

Vision, Mission, & Values

OPA's vision is to safeguard a culture of accountability within SPD.

Our mission is to ensure the actions of SPD employees comply with law and policy by conducting thorough, objective, and timely investigations, recommending improvements to policies and training, and engaging in collaborative initiatives that promote systemic advancements.

OPA's values guide employee conduct and organizational culture in the pursuit of the OPA mission. These values include:

Independence

- Make decisions based on consistent application of facts, policies, and laws
- Maintain neutrality and exercise impartial judgement
- Ensure all viewpoints are heard and respected

Transparency

- Maintain honest and open communication with all stakeholders
- Communicate process, reasoning, and conclusions
- Remain accountable to vision, mission, and values, both internally and externally

Collaboration

- Build meaningful and cooperative working relationships
- Solicit and value the community's perspective and expertise
- Work with system partners to advance accountability and improve SPD policies and training

Innovation

- Set the national standard for police oversight agencies
- Explore ways to improve processes and services
- Use data and research to drive decision making

Seattle Police Accountability System

The City of Seattle has a three-pronged police oversight system consisting of OPA, the Office of Inspector General for Public Safety (OIG), and the Community Police Commission (CPC) (see Figure 1). Together, all three entities work to generate public trust in SPD and uphold a culture of accountability and adherence to policy and constitutional law.



Figure 1: Seattle's police accountability system

OPA is administratively within SPD but physically and operationally independent. This ensures complete and immediate access to all SPD-controlled data, evidence, and personnel necessary for thorough and timely complaint handling.

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Oversight of OPA

On a quarterly basis, to ensure allegations and employees were properly designated and identified, OIG randomly samples certain complaint processing decisions, including Contact Logs, Supervisor Actions, Bias Reviews, and Unsubstantiated Misconduct Screenings.¹ OIG generally publishes the quarterly audits online.² In addition, OIG individually reviews any complaint proposed for handling as an Expedited Investigation within 30 days of OPA receiving it. In terms of investigations, OIG reviews and certifies the completed investigation reports prior to OPA issuing findings. During this review, OIG can direct OPA to conduct further investigation prior to certifying the investigation. OIG can also investigate complaints against OPA staff or where OPA identifies a conflict of interest.

¹ See section 3.29.250(A) of the 2017 Police Accountability Ordinance at seattle.gov/Documents/Departments/OPA/Legislation/2017AccountabilityOrdinance_052217.pdf. OIG individually reviewed Contact Log classifications for part of 2020 but converted to random sampling in July.

² In 2020, OIG published the first quarter audit online. A second quarter audit was completed but not published. OIG will be conducting a sampling of third and fourth quarter OPA classifications and complaint processing decisions in 2021.

Staff & Organizational Structure

In 2020, OPA's staff was organized into three teams: investigations, public affairs, and operations (see Figure 2). In accordance with the 2017 Police Accountability Ordinance, all leadership positions were held by civilian employees.³ OPA hired two civilian investigators in 2020 to join the existing nine SPD sergeants who conduct investigations. Two is the maximum number of civilian investigators allowed under the Seattle Police Officer's Guild (SPOG) collective bargaining agreement.⁴ The remaining staff members are assigned to administrative, community engagement, policy and data analysis, operational management, and leadership positions. In 2020, OPA also began a legal intern program to expose one law student per academic quarter or semester to the field of police accountability and support OPA's in-house legal team.

OPA hired two civilian investigators in 2020 to join the existing nine SPD sergeants who conduct investigations.

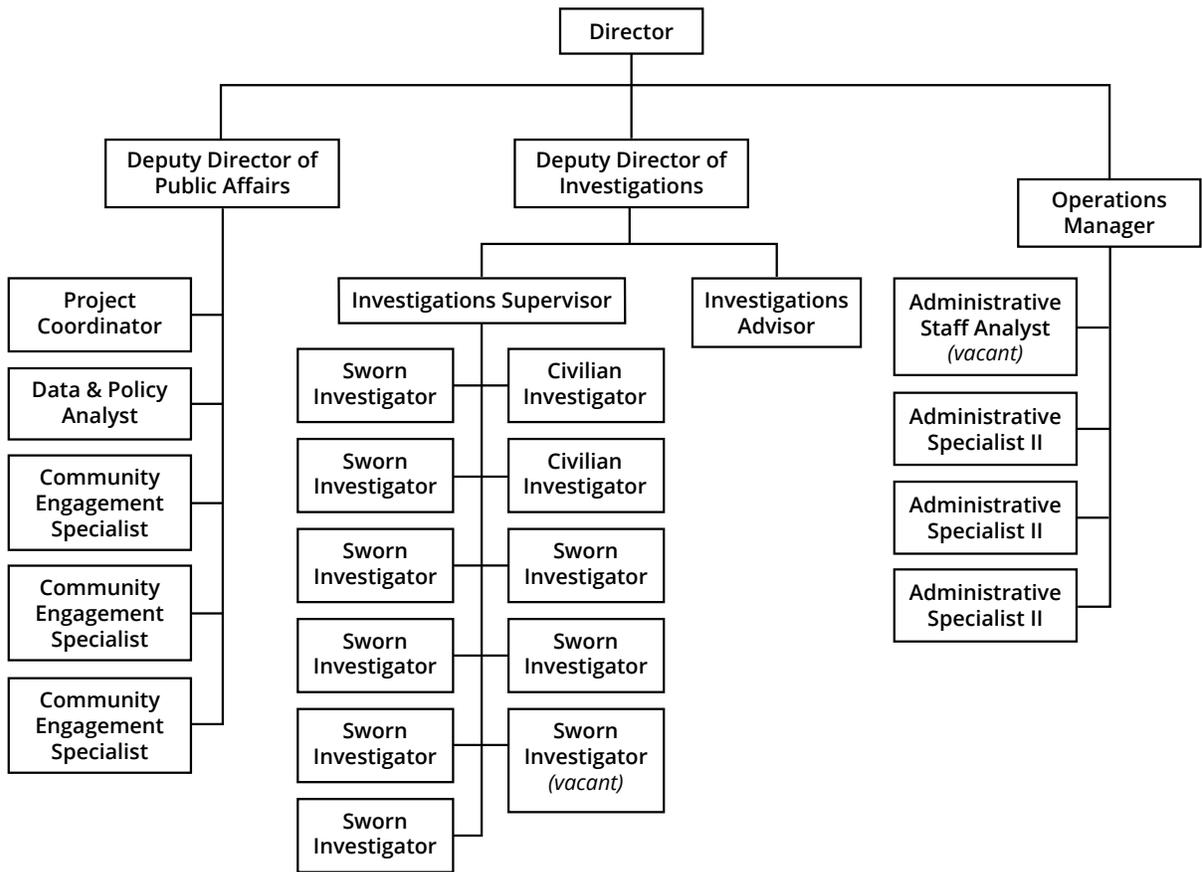


Figure 2: OPA organizational chart

³ See section 3.29.120(B) of the 2017 Police Accountability Ordinance at seattle.gov/Documents/Departments/OPA/Legislation/2017AccountabilityOrdinance_052217.pdf.

⁴ See Appendix D, part 1, page 79 of the SPOG contract at seattle.gov/Documents/Departments/OPA/Legislation/SPOG_CBA_expires_12-31-20_111418.pdf.

Training & Professional Development

Although the COVID-19 pandemic hindered many professional development opportunities, staff were able to pursue some trainings in the first few months of the year and later, virtually. One or more members of the investigations team participated in the below trainings in 2020.⁵

- Managing and Conducting Internal Affairs Investigations Seminar (FBI-LEEDA)
- P.E.A.C.E. Investigative Interviewing Course (Forensic Interview Solutions)
- Forensic Image and Video Analysis Training (Amped Five)
- Forensic Video Analysis (iNPUT ACE)
- Effective Interviewing Techniques and Conversation Management (iKAT Consulting)

COVID-19 Response

OPA closed its office to staff and the public in early March 2020 due to the outbreak of COVID-19. This meant navigating new technology and equipment needs, revamping intra-office collaboration and communication, transitioning processes and procedures to a virtual environment, onboarding new employees remotely, providing training and professional development opportunities from afar, and finding new ways to engage with the community.

OPA continued to process complaints filed via web complaint form, email, phone, and mail. SPOG declined OPA's request to allow virtual interviews of employees named in complaints and instead maintained the contractual requirement that OPA conduct in-person interviews. This, combined with the tremendous number of complaints resulting from the protests, created a significant backlog of employees who needed to be interviewed in order for investigations to proceed.⁶



^{5.} OPA's framework for investigator training focuses on internal affairs concepts, interviewing skills, and technical/video analysis.

^{6.} OPA had to request case extensions in 98 investigations in order to complete them within the 180-day timeline.



Protests in Seattle

The killing of George Floyd by a Minneapolis police officer on May 25 initiated massive protests for racial justice across the United States. Protest activity in Seattle started on May 29 and occurred daily for several months. Some of the protests, particularly early on, involved disorder and violence.

OPA was contacted approximately 19,000 times as a result of police conduct at 2020 protests. Processing that amount of complaint activity was a significant challenge for OPA. The emails, phone calls, and other feedback resulted in 143 investigations. Given the 180-day investigation deadline and subsequent extensions, these will likely be completed by the middle of 2021.

OPA was contacted approximately 19,000 times as a result of police conduct at 2020 protests.

After public reports emerged that SPD officers, in conformance with an existing law, were not recording all activity at protests, Mayor Durkan issued an order requiring officers to record body-worn video at all times during demonstrations. While this was consistent with OPA's overall recommendations, it created an unprecedented amount of video footage for OPA investigators to review.⁷

⁷ See the OPA policy recommendation on recording body-worn video at seattle.gov/Documents/Departments/OPA/ManagementAction/2020OPA-0326_2020COMP-0015_MAR_12-09-20.pdf.

At the same time, due to concern about SPD's crowd management tactics and uses of force against demonstrators, the city council passed an ordinance "banning [SPD] ownership, purchase, rent, storage, or use of crowd control weapons."⁸ The ordinance also requested that

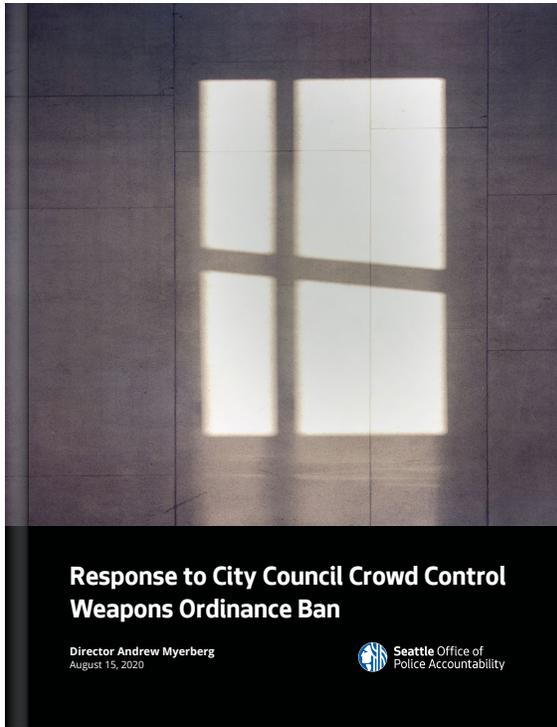


Figure 3: OPA report to city council on crowd control weapons (2020)

OPA provide a "formal recommendation to the City Council on whether the SPD should be reauthorized to use less-lethal weapons for crowd dispersal purposes." Accordingly, OPA submitted a report to city council in mid-August (see Figure 3).⁹

Despite these challenges, OPA recognized the heightened public interest in accountability and focused on making information transparent while still abiding by police union contractual provisions.

One way OPA achieved this was by creating an online dashboard showing progress toward each protest-related investigation.¹⁰ The dashboard listed all completed investigations and provided links to closed case summaries, policy recommendations, and in some cases, explanatory videos.

The videos—a second way OPA increased transparency—helped viewers see how OPA arrived at certain findings by combining on-screen text, narration, and multiple sources of video.¹¹

OPA's proactive communication strategy was the third component of the transparency approach. This effort was intended not only to increase clarity, but to decrease misinformation around the protests, SPD's response, and OPA's investigations. OPA engaged extensively with both traditional and social media, which resulted in TV interviews, online and print news articles, and radio segments.

...OPA recognized the heightened public interest in accountability and focused on making information transparent...

⁸. See Ordinance No. 126102 at library.municode.com/wa/seattle/ordinances/municipal_code?nodeId=1028209.
⁹. See OPA's report at seattle.gov/Documents/Departments/OPA/Special-Reports/OPA-Response-to-Council-CCW-Ordinance-081520.pdf.
¹⁰. See OPA's dashboard at seattle.gov/opa/case-data/demonstration-complaint-dashboard.
¹¹. See OPA's videos at youtube.com/channel/UCPviniUku-If5fXudC0zJPw.

Complaints



Data Collection

Data for this report was collected between January 26 and March 23, 2021, from OPA's records management database, IAPro. This report reflects accurate and complete data as of the date of publication. Since OPA uses dynamic, live databases, the allegation, finding, and case disposition numbers presented here are subject to future revision. Likewise, historical data may vary from figures presented in previous OPA reports due to changes in processes and reporting.

Complaints Filed

OPA's complaint submission process allows for complainant anonymity, but OPA encourages people to provide contact information so that staff can follow up to obtain critical information. There are five ways people can file a complaint with OPA: website complaint form, email, phone, mail, or in-person.¹²

OPA opened 773 cases in 2020. Of those, 537 were external and 236 were internal.¹³ External complaints are received directly from the public or via an intermediary, such as another city agency. Internal complaints are initiated by an SPD employee or forwarded from SPD on behalf of a member of the public.

Note About Complaints Received

OPA typically reports out the number of cases opened as the number of complaints received in a year. However, for the first time ever, OPA received many—in some cases, thousands of—contacts about the same incident. When OPA is contacted multiple times about the same incident, they are combined into a single OPA case and processed as one complaint. As a result, the case count OPA reports here does not represent the quantity of contacts received but rather the number of distinct incidents reported.

¹². OPA closed its office in early March 2020 due to COVID-19, which eliminated the option for people to file a complaint in person.

¹³. The database OPA uses records only one method of complaint filing per incident, even if multiple complaints are received through varying methods. As a result, OPA is unable to provide an accurate comparison of complaint filing methods for contacts received in 2020, as has been reported in previous years.

Shortly after large-scale demonstrations began in Seattle, it became evident that the number of incoming complaints was exceeding the office’s processing capacity. Recognizing this, a former OPA director and current Microsoft employee offered OPA pro bono assistance with the sorting and analysis of thousands of incoming contacts.¹⁴

The analysis, based on machine learning, determined that OPA received 13,181 contacts that specifically mentioned the name of an SPD officer who was widely but incorrectly reported to have pepper sprayed a child on May 30. The analysis also revealed that, in total, OPA was contacted approximately 17,277 times between May 29 and June 12 (see Figure 4). Using that number as a baseline, OPA estimated that it received upwards of 19,000 contacts as the protests continued throughout 2020.

Date	Email & Web Complaints	Voicemails
May 29	47	unknown
May 30	126	95
May 31	8,524	79
June 1	3,805	122
June 2	1,346	192
June 3	890	100
June 4	624	51
June 5	274	21
June 6	131	40
June 7	159	36
June 8	212	35
June 9	112	8
June 10	92	10
June 11	79	13
June 12	39	15
Total	16,460	817

Figure 4: Contacts received during the first two weeks of the protests (2020)

Complainant Demographics

In 2020, 50% of complainants were male, 47% were female, and the remaining complainants identified as transgender or non-binary.¹⁵ A higher percentage of complainants identified as white in 2020 than in previous years. Figure 5 shows the racial distribution of complainants over the last three years.¹⁶

Race	2018	2019	2020
White	52%	58%	62%
Black/African American	36%	23%	22%
Hispanic/Latino	5%	2%	4%
Asian/Pacific Islander	5%	8%	3%
2 or More		5%	6%
Other		2%	1%
Native American	2%	2%	2%

Figure 5: Racial/ethnic distribution of complainants with known races (2018-2020)

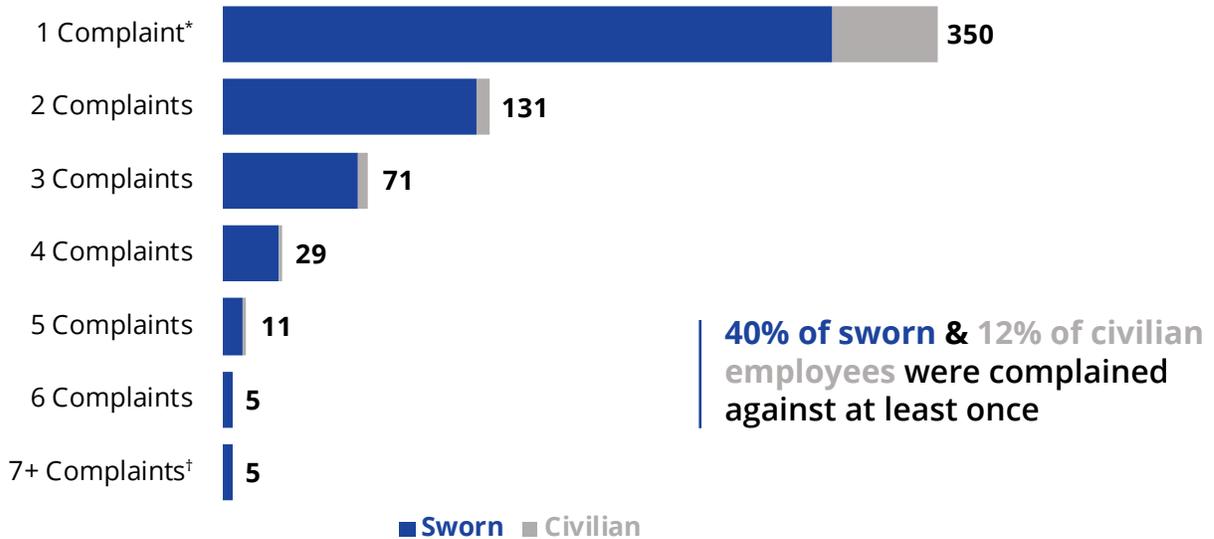
¹⁴. This process was facilitated through legal advisement from both OPA and Microsoft Compliance and Ethics personnel. In addition to both parties signing a non-disclosure agreement, secure platforms enabled the safe transfer of information.

¹⁵. At the onset of the protests in late May, OPA did not have the administrative capacity to enter each complainant’s name and pertinent details into the case management system nor provide them with standard case updates throughout the process. As a result, this data does not include many of the community members who contacted OPA in May, June and July.

¹⁶. An error in OPA’s 2019 Annual Report incorrectly listed the percent of white complainants in 2018 as 55%.

Employees Named in Complainants

Six hundred and two distinct SPD employees were complained against at least once in 2020 (see Figure 6).¹⁷ Most of them—89%—were sworn employees, however OPA also received complaints for 66 civilian personnel. Approximately 40% of all sworn employees and 12% of all civilians were identified in at least one OPA complaint in 2020.¹⁸ Their demographics were consistent with previous years: 81% were male and 19% were female. There were 252 employees complained against in multiple incidents in 2020. An additional 350 unique employees were identified in one complaint each.



* Fifty-one civilians received one complaint each, seven received two complaints, five received three complaints, two received four complaints, and one received five complaints.

† One sworn employee received seven complaints, two received nine complaints, one received 11 complaints, and one received 14 complaints.

Figure 6: Number of complaints received per employee (2020)

Race	2018	2019	2020
White	72%	71%	71%
Black/African American	7%	7%	7%
Hispanic/Latino	6%	6%	6%
Asian/Pacific Islander	6%	8%	6%
2 or More	4%	5%	5%
Other/Unknown	3%	3%	3%
Native American	1%	2%	1%

Figure 7: Racial/ethnic makeup of employees receiving complaints (2018-2020)

¹⁷ In total, OPA identified 1,072 SPD employees in all complaints received in 2020. This number includes employees who were identified in multiple incidents.

¹⁸ According to SPD Human Resources, SPD began 2020 with 1,980 employees (1,424 sworn, 556 civilian) and ended it with 1,844 employees (1,289 sworn, 555 civilian).

Also consistent with previous years, employees with under five years of experience with SPD remained the largest group to receive at least one complaint in 2020. However, complaints against employees with more years of experience increased from 2019.

Newer employees received more complaints than employees with more experience

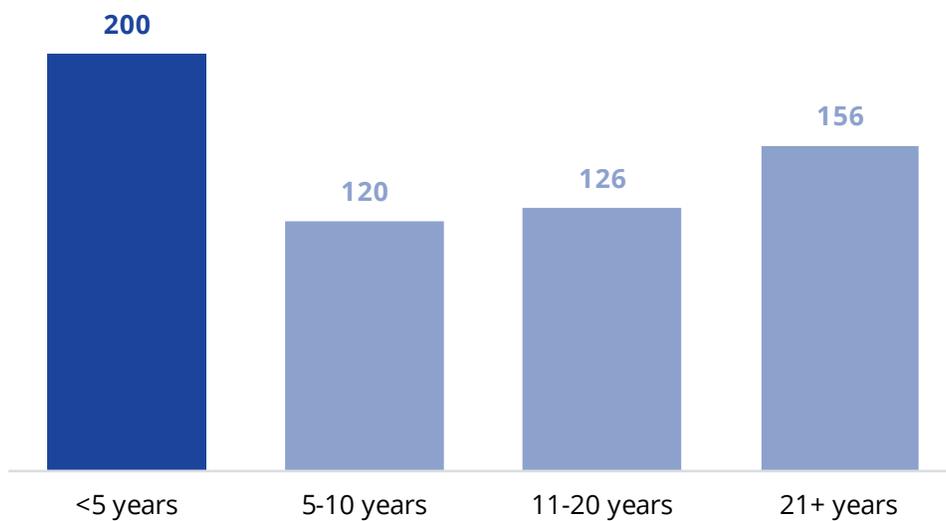


Figure 8: Service seniority of employees receiving complaints (2020)



Locations of Incidents Resulting in Complaints

One-third of incidents resulting in an OPA complaint in 2020 occurred in the East Precinct (see Figure 9).¹⁹ Demonstrations directly outside and around SPD’s East Precinct building—an area first dubbed the Capitol Hill Occupied Protest and later the Capitol Hill Autonomous Zone—gained nationwide attention over the summer.²⁰ For comparison, in 2019, 13% of complaint incidents occurred in the East Precinct.

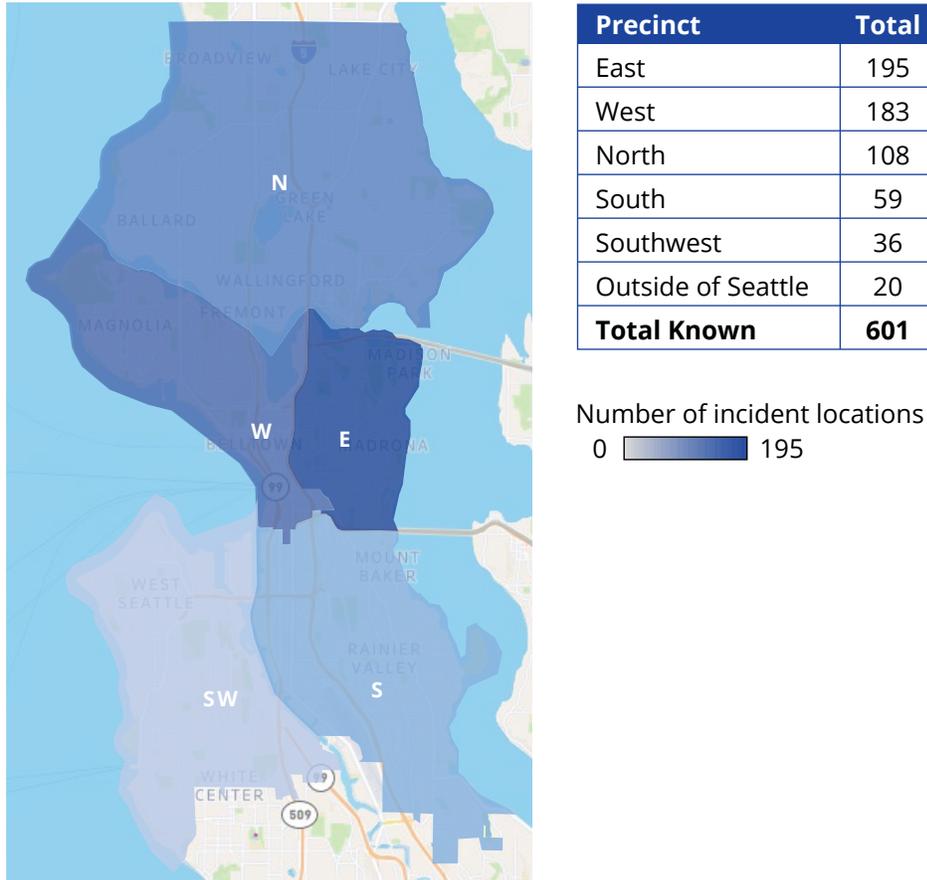


Figure 9: Incident locations by SPD precinct resulting in complaints (2020)

Allegations

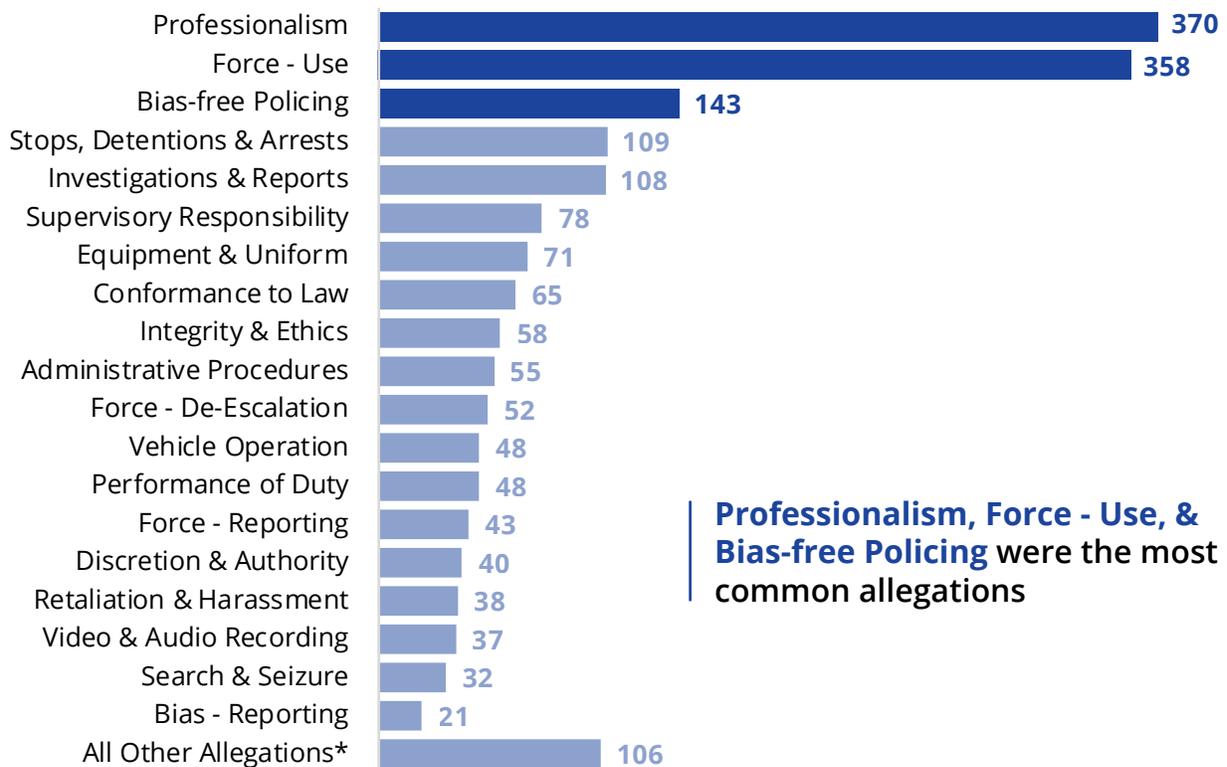
As part of its intake process, OPA reviews complaints and determines what SPD policy or policies are alleged to have been violated. Most often, these policies come from the SPD Policy Manual, but OPA may also cite a specialized unit’s training manual, other official directives that SPD employees are required to follow, or in rare cases where a violation of law is alleged, the Revised Code of Washington.²¹ A single complaint may contain multiple allegations of policy violations against one or more SPD employees.

¹⁹. OPA recorded the location in 78% of incidents in 2020.

²⁰. Most protests in 2020 occurred within SPD’s East and West Precincts.

²¹. See the SPD Policy Manual at seattle.gov/police-manual.

OPA recorded 1,880 total allegations of potential policy violations in 2020, a 58% increase over 2019. This included a 170% increase in Force – Use allegations, or over 2.5 times more than the previous year (see Figure 11).²² This is a result of force used by SPD officers while managing demonstrations of unprecedented magnitude in 2020. OPA additionally recorded a 271% increase in Supervisory Responsibility allegations from the previous year.²³ This was because many of the uses of force at protests—including the use of crowd control weapons—were authorized by SPD supervisors.



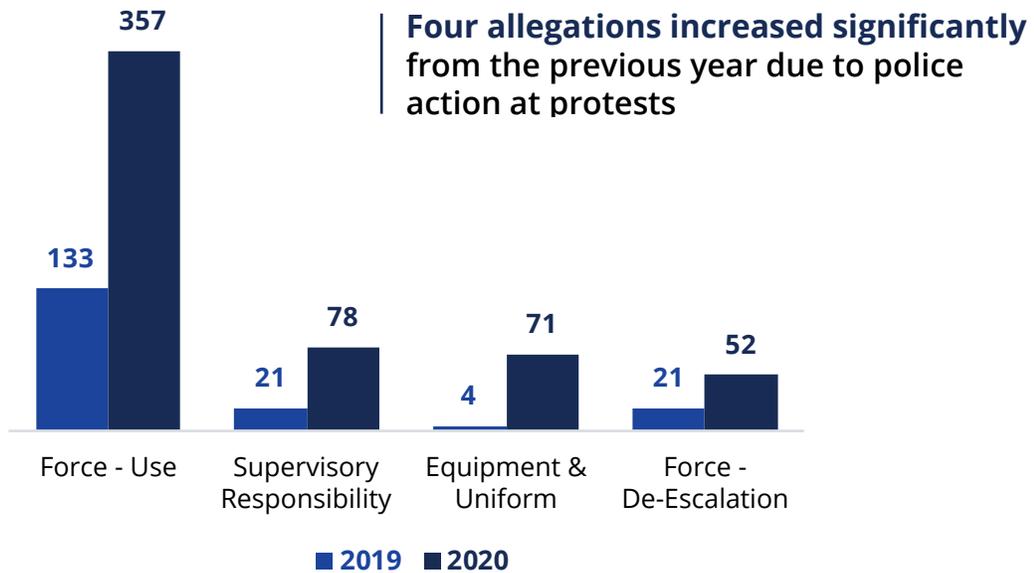
* Category includes the following allegations: 16 Self Reporting Obligations; 14 Information and Communications Systems; 11 Property and Evidence; 11 Duty to Provide Identification; 10 Force - Investigation; nine Social Media; nine Bias - Investigation; seven Crisis Intervention; six Obedience to Orders; five Tickets and Traffic Contact Reports; four Timekeeping and Payroll; two Alcohol and Substance Use; one Training, Qualification and Certification; and one Confidentiality

Figure 10: Allegations received by type (2020)

²² This comparison is based on 133 Force – Use allegations in 2019. In its 2019 Annual Report, OPA reported 136 Force – Use allegations. See the Data Collection section of this report for an explanation of this change.

²³ Supervisory Responsibility allegations increased from 21 in 2019 to 78 in 2021.

Complaints of biased policing remained among the top three most common allegations in 2020, along with Force – Use and Professionalism (see Figure 10). Notably, the number of Bias-Free Policing allegations decreased from 148 in 2019 to 143 in 2020, despite the significant increase in overall allegations recorded in 2020.

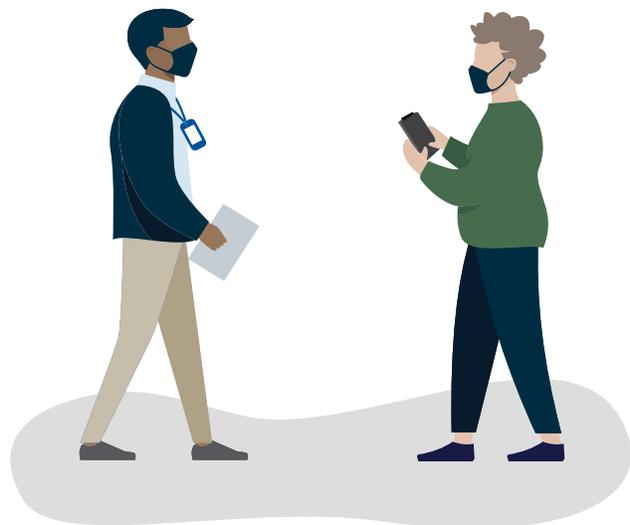


* Top four selected from categories with greater than 20 allegations recorded in 2020

Figure 11: Allegation types that increased the most (2019-2020)*

Classification

All complaints that contain a plausible allegation of misconduct against an SPD employee undergo a preliminary 30-day investigation (the intake). This entails gathering evidence, analyzing documentation and video, and interviewing the complainant, if possible. OPA leadership reviews the preliminary investigation and determines the allegations by assessing whether any laws or SPD policies would have been violated if the alleged actions are later proven to be true. OPA leadership then classifies the complaint—which indicates how it will be processed—within 30 days of the complaint being filed.



Classification Types

Contact Log: The complaint either does not involve a policy violation by an SPD employee or there is insufficient information to proceed with further inquiry. In these instances, OPA takes no action other than recording the information and sending a closing letter to the complainant, if applicable. Examples of complaints often classified as Contact Logs include slow police response times, parking ticket disputes, issues with officers from other law enforcement agencies, and crime reports.

Supervisor Action: The complaint generally involves a minor policy violation or performance issue that is best addressed through training, communication, or coaching by the employee's supervisor. In these instances, OPA sends a memo requesting that the employee's supervisor take specific, relevant action with the employee. The supervisor has 15 days to complete the action and return the case to OPA for review.

Investigation: The allegation, if true, constitutes a serious policy violation or other category of violation that OPA is required by law and policy to investigate. In these instances, OPA conducts a comprehensive investigation, including gathering additional evidence and interviewing involved parties and/or witnesses. An investigation is followed by a recommended finding and can result in formal discipline.

Expedited Investigation: (A sub-classification of Investigation) The allegation, if true, constitutes a serious policy violation or other category of violation that OPA is required by law and policy to investigate. However, OPA, with the agreement of the OIG, determines that findings can be reached based on the preliminary investigation and no further investigation needs to be conducted. In most cases, OPA will issue a finding without interviewing the involved or witness employee(s).

Alternative Dispute Resolution Types

Mediation: The complaint involves a misunderstanding or conflict between an SPD employee and a community member. Mediation is voluntary and can only occur if both parties agree to participate. It is an opportunity for the employee and community member to discuss the conflict with the guidance of a neutral, third-party mediator. If the mediator reports that the employee listened and participated respectfully, the complaint will not appear on the employee's disciplinary record.

Rapid Adjudication: The complaint often involves an allegation of misconduct that the employee recognizes was inconsistent with policy. The employee is willing to accept discipline in place of undergoing a full OPA investigation.

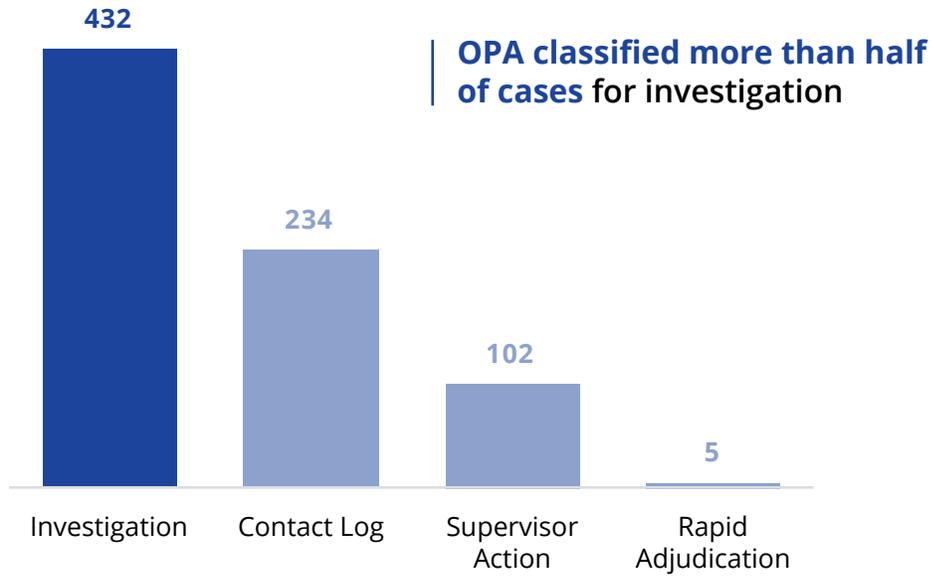
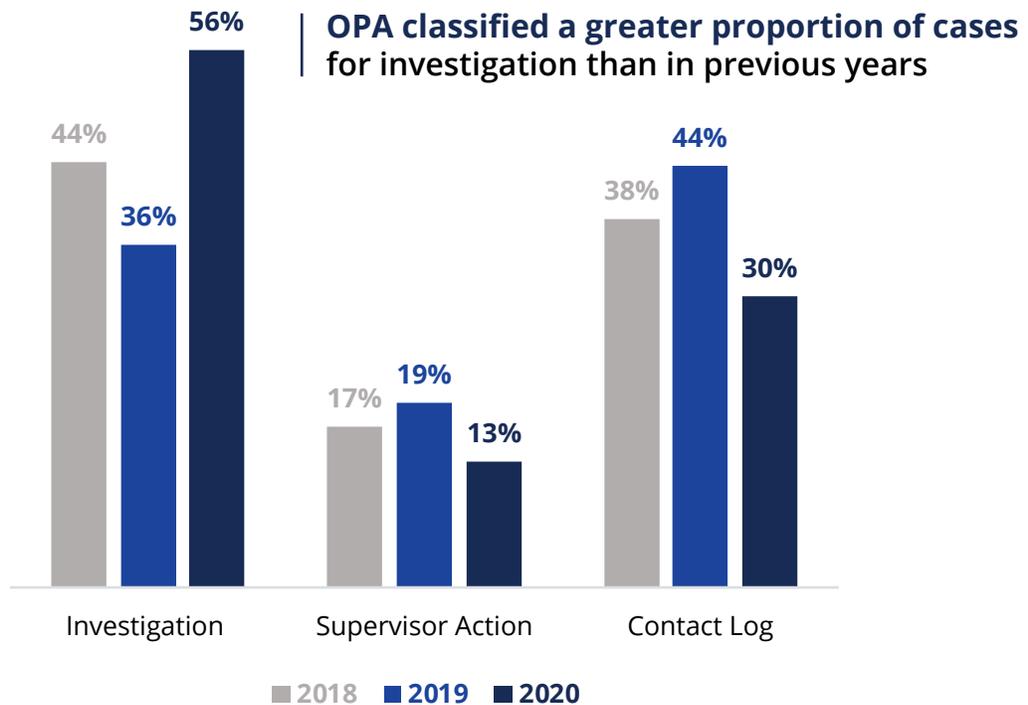


Figure 12: Complaint classification by type (2020)

OPA classified 432 cases for investigation in 2020, an increase of 31% from 2019. Contact Logs, on the other hand, decreased 43% from 2019, with 234 cases classified as Contact Log in 2020. OPA sent 102 complaints back to the chain of command as a Supervisor Action. Five SPD employees agreed to resolve their cases through Rapid Adjudication in lieu of a full OPA investigation. No complaints were resolved through mediation in 2020, in large part due to COVID-19 and the resulting office closure.



* Figure excludes Rapid Adjudication and Mediation. Totals shown per year equal 99%.

Figure 13: Classification as a percent of total complaints (2018-2020)*

Investigations

OPA classified 56% of complaints for investigation in 2020. More than one-third of all 432 investigations were initiated or forwarded from within SPD or OPA. Under the consent decree, SPD implemented stricter requirements for supervisors to review incidents and report potential policy violations to OPA. As a result, a significant portion of complaints that OPA received were forwarded or initiated from within SPD. In recent years, however, community members have been responsible for a growing number of complaints that are classified for investigation. This is in part due to the development of the Unsubstantiated Misconduct Screening program, described on [page 28](#).

Two-thirds of investigations resulted from community complaints

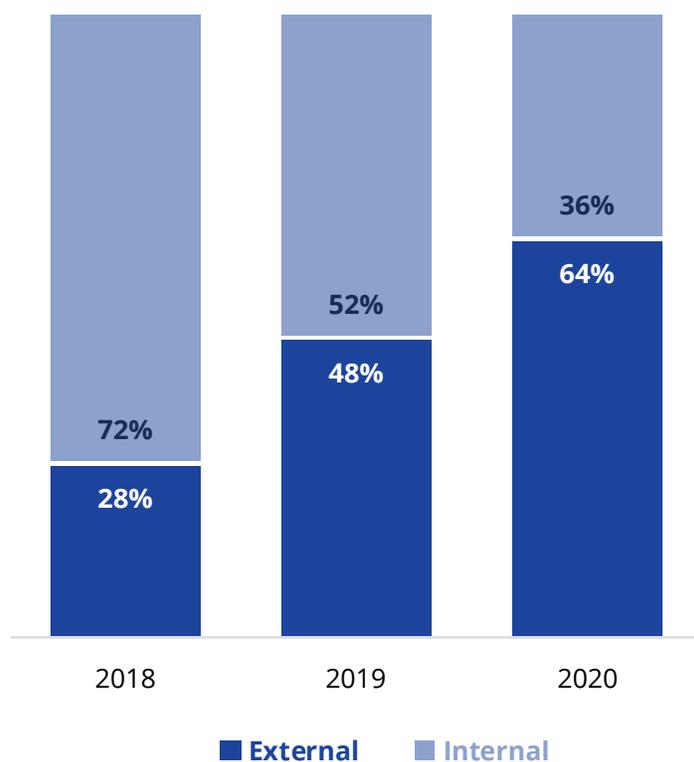


Figure 14: Source of complaints investigated (2020)

Expedited & Full Investigations

An Expedited Investigation is an investigation where the OPA director issues findings based on the preliminary investigation.²⁴ OPA expedites investigations when an objective review of the evidence, typically in-car and body-worn video, is sufficient to reach findings without further investigation or conducting interviews of involved employees. Per collective bargaining agreements covering most SPD employees, if OPA does not interview a named employee, sustained findings cannot result in discipline.²⁵

OPA often uses the term “full investigation” when referring to traditional investigation cases. This does not mean that Expedited Investigation cases do not receive thorough analysis; they do, and the OIG reviews and certifies all proposed Expedited Investigation classifications prior to OPA making a final classification decision. If the OIG raises concerns with a proposed Expedited Investigation classification, OPA will conduct a full investigation into the complaint.

The number of cases classified for full investigation in 2020 was nearly double that of 2019, the first year that OPA collected data on Expedited Investigations.

Almost twice as many cases classified for full investigation than in 2019



Figure 15: Subclassification of investigation cases (2019-2020)

²⁴. OPA first developed a protocol for Expedited Investigations in mid-2016 with the approval of the former OPA Auditor. See the former court-appointed Monitor's endorsement of OPA's use of Expedited Investigations at seattle.gov/Documents/Departments/OPA/Reports/Seattle-Police-Monitor-Follow-up-Review-01-10-2020.pdf.

²⁵. There are a few exceptions. In some cases where the employee is no longer employed by SPD and declines to participate in an OPA interview, OPA may issue a sustained finding. As with any sustained findings against former employees, no discipline can be imposed.

Investigation Process Example

Protests following the killing of George Floyd meant OPA was inundated with complaints about police behavior. Videos of alleged SPD misconduct went viral and were often followed by questions about what OPA’s investigation process entailed. The reality was that every OPA investigation required experienced investigators, thorough and objective analysis of the facts, intense review, and inter-departmental collaboration.²⁶ To illuminate the process, the steps taken by OPA throughout a real protest case—2020OPA-0323—have been summarized below.²⁷



Phase 1

Intake

The investigator conducted a preliminary investigation (obtained a statement from the complainant, identified involved employees and witnesses, collected time-sensitive materials, and reviewed available video). Specific steps:

- Entered the complaint into the case management system
- Compiled and reviewed third-party video from YouTube, Twitter, and local news and identified the exact location of the incident and the involved officers
- Notified the two involved employees, per contractual agreement, that a complaint had been filed against them
- Mailed a letter to the man who was arrested during the incident and requested contact
- Reviewed the SPD case report, body-worn video for the involved officers, and additional documentation
- Reviewed the case file and classified it for full investigation

²⁶. This work was not done in a vacuum; the investigator, OPA director, and other staff were working on multiple cases concurrently. For example, the OPA director drafted case findings for 107 additional cases in the fourth quarter of 2020.

²⁷. See the closed case summary used in this example at seattle.gov/Documents/Departments/OPA/ClosedCaseSummaries/2020OPA-0323ccs012921.pdf.

Phase

2

Full Investigation

The investigator conducted a full investigation (reviewed evidence, interviewed involved and witness employees, and drafted case report for review and certification).

Specific steps:

- Reviewed arrest, incident, and use of force reports, involved and witness officer statements, photographs, and arrest screening reports
- Analyzed 15-20 hours of incident footage
- Studied the force used by the employees, collected their training records, compared them to materials from SPD training curriculum, and contacted SPD's Training Unit regarding the training for the specific technique in question
- Made multiple attempts by phone, text, and mail to contact the man involved
- Sent two involved employees notice of scheduled OPA interviews
- Prepared questions for the interviews with the employees; interviewed the employees
- Transcribed both interviews
- Completed investigation report

Phase

3

Certification & Findings

The supervisor reviewed the investigation and forwarded it to OIG for certification; the director reviewed the case and drafted a findings report. Specific steps:

- Reviewed completed investigation
- Sent the case file to OIG for mandatory investigation review and certification
- Conducted additional investigative work at OIG's request
- Resubmitted investigation to OIG for certification
- Reviewed the completed investigation to determine findings
- Wrote in-depth case analysis and findings memo
- Sent the case findings to the two named employees' chain of command for mandatory 10-day review period

Phase

4

Case Closing

Staff closed the case administratively and published the findings. Specific steps:

- Sent case completion notices and closed the case
- Posted closed case summary to OPA website, updated case status on the Demonstration Complaint Dashboard, and tweeted about case completion



Timeliness

Under the SPOG and Seattle Police Management Association—the lieutenant and captains’ union— collective bargaining agreements, OPA must complete investigations within 180 days of when an SPD supervisor or OPA receives a complaint.²⁸ To ensure a timely investigation, OPA generally begins calculating the 180-day investigation period from the date of the incident, even if the complaint is received at a later date. For investigations bound by the 180-day timeline in 2020, OPA failed to issue timely findings in three out of 302 cases. Once findings are issued in these cases, OPA will send a letter to the mayor documenting the reasons why they were not timely.

Findings

The OPA director reviews every completed investigation and issues a memorandum to the chain of command recommending a finding for each allegation using a preponderance of the evidence standard.²⁹ The memorandum also provides an analysis of the facts through the application of relevant law and policy to show how the director reached his conclusions.

²⁸. The 180-day investigation timeline does not apply in cases involving civilians, non-represented employees, unknown employees, or former employees.

²⁹. Under the preponderance standard, the burden of proof is met if the greater weight of the evidence—more than 50%—supports the allegation.

Finding Types

If the evidence shows that a violation of SPD policy occurred, the OPA director may recommend a **sustained** finding. If the evidence shows that misconduct did not occur, the director will likely recommend a **not sustained** finding, accompanied by one of the following explanations.

Unfounded: The evidence indicates the alleged policy violation did not occur as reported or did not occur at all.

Lawful and Proper: The evidence indicates the alleged conduct did occur, but that the conduct was justified and consistent with policy.

Inconclusive: The evidence neither proves nor disproves the allegation of misconduct.

Training Referral: There was a potential, but not willful, violation of policy that does not amount to misconduct. The employee's chain of command will provide appropriate training and counseling.

Management Action: The evidence indicates the employee may have acted contrary to policy, but due to a potential deficiency in SPD policy or training, OPA issues a recommendation to SPD to clarify or revise the policy or training.

OPA issued findings for 1,042 allegations in 369 investigations in 2020.³⁰ Eighteen percent of completed investigations contained one or more sustained findings. In total, OPA issued findings for 1,042 allegations within the 369 completed investigations.

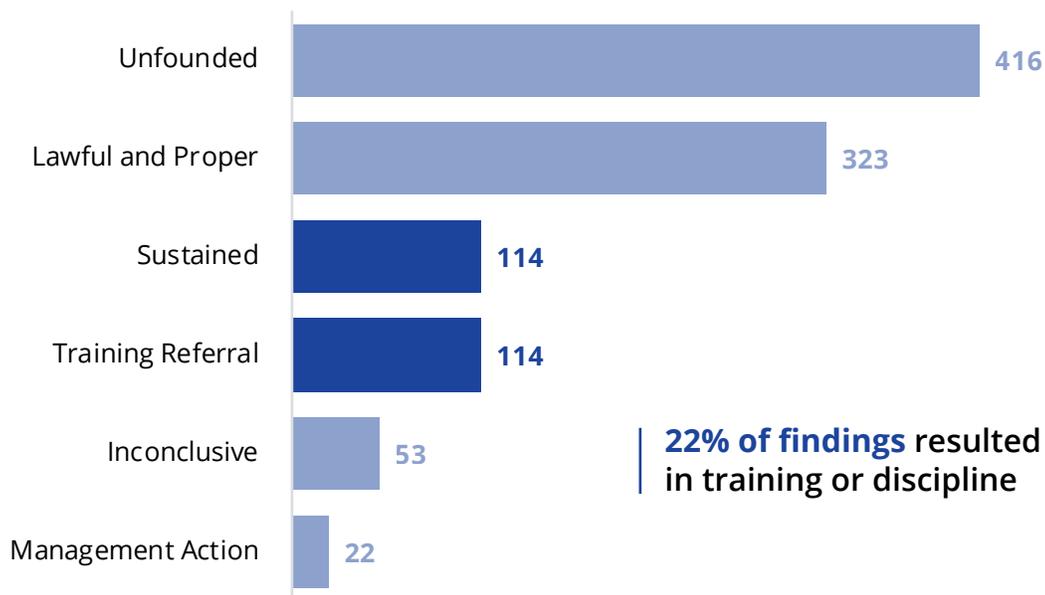


Figure 16: Findings issued by type (2020)

³⁰ This includes six Rapid Adjudications, one of which was received in 2019. Cases classified for Rapid Adjudication are bound by the 180-day investigation timeline and require OPA to issue formal findings.

Discipline Imposed

After the OPA director issues a recommended sustained finding, the chief of police decides what discipline to impose on the named employee. If the chief decides not to follow one or more of the OPA director's recommended findings, the chief must provide a written explanation for the overturned finding within 30 days to the mayor, council president, chair of the city council Public Safety & Human Services Committee, city attorney, OPA director, inspector general, and CPC executive director. No OPA sustained findings were overturned in 2020. For comparison, the chief of police overturned OPA's findings in three cases in 2018 and in one case in 2019.

Discipline Types

For each allegation, the chief can impose one of five types of discipline, listed below.³¹

No Discipline: No formal discipline is imposed. The employee receives a closing letter.

Oral Reprimand: A reprimand is provided by the chain of command to an employee to explain how their conduct violated a specific policy. As with all discipline, the goal is to correct the behavior and ensure that it does not reoccur.

Written Reprimand: Written reprimands are generally utilized when there is a higher level of misconduct or fewer mitigating factors than oral reprimands. This is the final corrective step prior to a higher level of discipline.

Suspension: The employee is required to forego work and its associated pay. Suspensions are generally imposed when the misconduct is sufficiently severe that an oral or written reprimand is too lenient to ensure the behavior will be corrected. Suspensions may be given in full day increments up to 30 days.

Termination: An employee is dismissed from their employment.

Other: Includes demotions, reassignments, or other disciplinary actions not otherwise noted.

³¹. There are also instances in which employees resign or retire in lieu of or prior to the proposed discipline.

OPA issued sustained findings in 64 cases in 2020. This included a total of 114 sustained allegations against 68 distinct employees. Four employees received sustained findings in more than one OPA investigation. Figure 17 shows the disciplinary actions imposed for sustained findings as of March 23, 2021.



- * Four civilian employees received written reprimands.
- † One employee who was suspended was later terminated under a different OPA case. A second employee received both a suspension and an oral reprimand in 2020.
- ‡ One civilian employee was terminated by their chain of command prior to disciplinary action in three OPA cases.
- § One employee was terminated prior to the completion of a second OPA case that also would have resulted in termination.

Figure 17: Discipline imposed per employee for sustained findings (2020)

Appeals

Sworn employees who are disciplined as a result of an OPA investigation have a right to appeal. The SPOG collective bargaining agreement outlines two ways for this to occur: via the Public Safety Civil Service Commission (PSCSC) or arbitration. The PSCSC is a three-member appointed body that hears appeals and issues a decision within 90 days after the hearing.³² The hearing is open to the public. Alternately, if the aggrieved officer or SPOG refers a discipline grievance to arbitration, the hearing is closed to the public and the arbitrator issues a decision within 30 days after the hearing.³³ With either method of appeal, SPD does not wait for the appeal to be concluded before disciplining an officer.

³². See PSCSC website at seattle.gov/public-safety-civil-service-commission.

³³. See article 14.2 of the SPOG contract at seattle.gov/Documents/Departments/OPA/Legislation/SPOG_CBA_expires_12-31-20_111418.pdf.

The City Attorney's Office handles appeals and provides bi-annual status reports to OPA and OIG. In 2020, OPA began recording data on disciplinary appeals filed since 2016 into its electronic case files. To increase transparency into police discipline, OPA created a webpage in June 2020 to publicly house this data.³⁴

Officers and SPOG filed eight appeals in 2020, a 70% decrease in appeals filed from 2019.³⁵ Of these, four are appeals of terminations, one is of a suspension, one is of a written reprimand, and two are of oral reprimands.³⁶ Two employees filed appeals with PSCSC. No officers appealed discipline for sustained Force-Use allegations in 2020. For comparison, at least half of officers disciplined for improper use of force in both 2018 and 2019 appealed that discipline to an arbitrator. While the overall decrease in appeals filed in 2020 appears positive, OPA is unable to opine on the reasons for the change and whether it will persist in future years.

Arbitrator selection and scheduling is a lengthy process, as underscored by the long list of open appeals from prior years, some involving officers who no longer work for SPD. Four appeals have been closed in the last two years.³⁷ Of these four, three were either withdrawn or dismissed and never went before an arbitrator. The fourth resulted in a discipline modification, which came in the form of a settlement prior to being arbitrated. There were 86 open appeals of police discipline at the time of this report's publication.

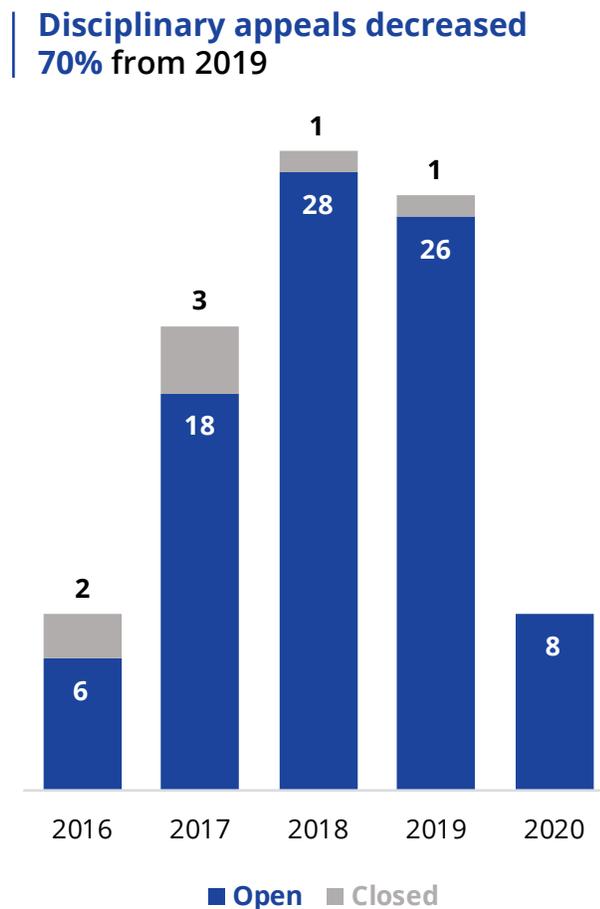


Figure 18: Status of officer appeals (2016-2020)

³⁴. See the appeals webpage at seattle.gov/opa/case-data/disciplinary-appeals.

³⁵. There were 27 appeals in 2019. OPA's 2019 Annual Report stated there were 24 appeals in 2019, which represented the number of OPA cases with an open appeal. Two employees appealed discipline in two of those cases, and a third employee's appeal to PSCSC was already dismissed at the time of the report.

³⁶. One employee appealed a termination in two related cases.

³⁷. The city and SPOG disagree on whether oral reprimands can be appealed, and this issue has not yet been resolved. For purposes of transparency, several disputed appeals for oral reprimands are reported in OPA's data.

Policy & Programs

Unsubstantiated Misconduct Screening

The Unsubstantiated Misconduct Screening (UMS) program allows for allegations of misconduct that are clearly refuted by evidence to be investigated and documented by the chain of command and then screened with OPA via email. The OPA director reviews the supervisor's analysis and relevant video to determine whether a formal complaint referral should be made to OPA.

This program began in 2018 and was intended to address two concerns: The first was that SPD employee morale was low, in part because OPA was conducting full investigations into demonstrably false claims, which was perceived as procedurally unjust.³⁸ This was previously noted as a contributing factor to the decrease in patrol officer staffing, which was already at relatively low levels given significant officer separations.³⁹ The second was that OPA was spending significant resources investigating these demonstrably false claims, which diluted efforts to focus on viable allegations of misconduct.

In 2020, SPD supervisors screened 187 potentially-refutable allegations of police misconduct with the OPA director. Of these, the director requested a formal complaint referral in 36 (19%) of the cases. The rest were investigated and documented in the field by the chain of command rather than referred to OPA as complaints. For comparison, in 2019, OPA requested a complaint referral in less than 10% of UMS. OIG conducts quarterly audits of OPA's determinations on UMS incidents.

Overall, this program has increased supervisor accountability by requiring supervisors to conduct chain of command investigations and then, once screened with OPA, to properly record their findings. This has also improved supervisor investigations, as OPA and the chain of command coach and mentor supervisors in real time. In addition, the program has helped build a collaborative rather than adversarial relationship between OPA and supervisors, which ultimately helps OPA effectuate positive change and growth.



³⁸. In the past, such complaints were submitted to OPA. In turn, OPA was required by policy to investigate them, regardless of merit.

³⁹. These claims bore out in research conducted by the mayor's office that was initiated due to SPD employee attrition. See the report at seattle.gov/Documents/Departments/OPA/Special-Reports/Mayors-SPD-Recruitment-Retention-Report-Sept-2019.pdf.



Mediation

Mediation is an alternative dispute resolution mechanism. It is an opportunity for a complainant and an SPD employee to discuss a conflict under the guidance of a neutral, third-party mediator. Due to the COVID-19 pandemic, no mediations occurred in 2020.⁴⁰

Rapid Adjudication

In 2020, OPA processed five cases via an alternative dispute resolution process called Rapid Adjudication.⁴¹ Rapid Adjudication is an option when an employee recognizes their conduct was inconsistent with SPD policy and chooses to accept pre-determined discipline in lieu of an investigation. This leads to faster case resolution and a decrease in appeals and delays. It also allows OPA to focus its resources on more serious cases. Oversight of this program is provided by the OIG.

⁴⁰. See details about OPA's mediation program at seattle.gov/opa/programs/mediation-program.

⁴¹. See the full list of cases processed via Rapid Adjudication at seattle.gov/opa/programs/rapid-adjudication.



Management Action Recommendations

During an investigation, OPA may identify issues with SPD policies or training that have implications beyond the case at hand. To address them, OPA can issue a Management Action Recommendation (MAR) in the form of a letter to the chief of police identifying specific policy or training issues to be addressed.

A MAR is a tool for correcting gaps, ambiguities, and other problems with SPD policies and training. Through MARs, OPA can be proactive in preventing misconduct before it occurs, while at the same time ensuring that any discipline imposed as a result of investigations will not be overturned based on flaws in SPD policies or training. SPD is not required to implement the suggestions that come from OPA in the form of MARs, but they do actively collaborate and attempt to find solutions.

OPA issued 15 MARs on 14 areas of SPD policy or training in 2020. At the time of this report's publication, SPD had completed nine of the 15 recommendations. OPA's MAR letters and SPD's responses are posted to the OPA website, and dispositions are updated regularly. A summary of all 2020 recommendations are shown in [Appendix A](#).⁴²

Reviewing SPD Policy

OPA worked in collaboration with SPD command staff and the Audit, Policy and Research Section (APRS) throughout the year to review and modify various SPD policies. In some instances, policies were brought to OPA for input as part of the APRS three-year review cycle. In other cases, OPA worked with SPD on the annual review of policies mandated by the Consent Decree.⁴³ Other policy change recommendations resulted from trends or patterns observed after reviewing hundreds of administrative misconduct cases. Ultimately, the purpose of providing input is to ensure there are strong, guiding policies that empower SPD employees to carry out their work efficiently and effectively while preserving police accountability.

⁴². See the statuses of all MARs at seattle.gov/opa/policy/policy-recommendations.

⁴³. Effective as of 2012, and for the duration of the Settlement Agreement or Consent Decree between the City of Seattle and the DOJ, SPD is required to submit specific policies, procedures, training curricula, and training manuals to the Monitor and Department of Justice for review and comment prior to publication and implementation. With the assistance of the Monitor, SPD must also review each specified policy, procedure, training curricula, and training manual within 180 days after it is implemented, and annually thereafter.

Legislative Affairs

The summer protests fueled a great desire for transformation in the fields of policing and police accountability. Ideas for change were numerous and originated from various people, including community groups, protest leaders, think tanks, and police officers. OPA's public affairs team gathered and evaluated 52 such recommendations. In all, OPA drafted 23 policy white papers between approximately June 1 and August 31.

The purpose of the white papers was fivefold. First, it was important for OPA to develop familiarity with policy proposals from groups and individuals outside the police accountability community. Second, OPA wanted to critically evaluate all proposals in light of its expertise as an accountability entity and forecast potential unintended consequences. Third, OPA sought to help educate accountability system stakeholders with practical knowledge of the proposals. Fourth, OPA used this process to develop its own policy platform for future reform efforts. And fifth, OPA wanted to think outside the box and consider long-term, systemic changes that could bolster community confidence.

**OPA drafted
23 policy white
papers between
approximately
June 1 and
August 31.**

In the fall of 2020 OPA identified seven priorities that would have the greatest impact on accountability, were responsive to community priorities, and were actionable based on OPA's expertise. These proposals, listed below, were intended for application at the state rather than local level.

1. Reforming collective bargaining
2. Improving the officer decertification process
3. Creating an independent special prosecutor to make charging decisions with respect to suspected criminal conduct by police officers
4. Creating an office to conduct independent investigations into deadly force by police
5. Reforming the "objective reasonableness" standard for police deadly force
6. Creating a statewide use of force database and mandatory reporting
7. Creating statewide de-escalation and force policies

OPA then engaged with Washington state legislators through direct meetings, providing testimony in relevant committees, and sharing one-pagers and other feedback. One OPA staff member was also appointed to the Governor's Task Force on Independent Investigations of Police Use of Force.

Other OPA Functions

Community Engagement

The COVID-19 pandemic and summer protests posed unique challenges to OPA's community engagement efforts. Regardless, OPA continued to build relationships and foster dialogue using existing outreach methods and new, virtual tools. Notable community engagement achievements from 2020 include the following:

Joint Officer-Involved Shooting Protocol

In collaboration with OIG and CPC, OPA developed a community-centered protocol to guide how the Seattle police accountability system partners could respond to families and community members who are affected by an SPD officer-involved shooting. The accountability partners sought a model that was sustainable, trauma informed, and recognized the importance of resiliency practices.⁴⁴

Know Your Rights Campaign

This project created information for community members about what constitutes a lawful interaction with a Seattle police officer. OPA's goal was to empower people with knowledge so that they could feel more comfortable filing an OPA complaint if they felt they experienced police misconduct. The Know Your Rights campaign covers four scenarios and provides examples of how those situations might unfold.⁴⁵

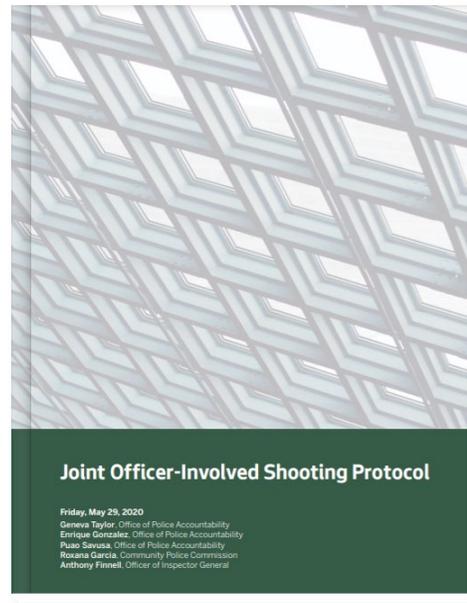


Figure 19: Joint officer-involved shooting protocol (2020)

OPA staff led 24 presentations or discussions to introduce OPA's functions and services to city boards and commissions, SPD Precinct and Demographic Advisory Councils, and community-based organizations. These efforts were a way to convey the mission and purpose of OPA and build relationships.

OPA staff attended 30 community meetings and events in 2020. This type of engagement provided an opportunity for OPA to listen to local concerns, engage with people one-on-one, and celebrate organizations' successes—all while keeping the focus on the community.

⁴⁴. See the Joint Officer-Involved Shooting Protocol at seattle.gov/Documents/Departments/OPA/Policy/Joint-OIS-Protocol-Accountability-System-Partners-May-2020.pdf.

⁴⁵. See the Know Your Rights campaign at seattle.gov/opa/programs/community-engagement/know-your-rights.

OPA staff fostered existing relationships via 46 individual meetings throughout 2020. These meetings enabled staff to hear directly from community contacts, maintain a connection, and plan for future outreach opportunities.



24 presentations about OPA



30 meetings to observe and learn



46 meetings to foster ongoing relationships

Figure 20: Community outreach and engagement by the numbers (2020)

SPD Employee Engagement

OPA staff engage often with SPD employees through dialogue and informational presentations. In 2020, the director and/or other OPA leaders presented to various SPD units and groups, including the Community Response Group, Field Training Officer School, Command Leadership Training, SPOG Board Training, and precinct roll calls. OPA also presented to each academy class of new officers to introduce the role and expectations of OPA.

OPA issued 11 Case and Policy Update newsletters in 2020. The newsletter is intended to increase communication and transparency by highlighting OPA cases and policy recommendations that may inform officers' day-to-day work. Currently, over 1,250 individuals are signed up to receive it, many of whom are SPD employees.





Monitoring Serious Incidents

The SPD Manual requires all force used by officers to be documented and investigated per specific guidelines. The highest degrees of force application require investigation by the SPD Force Investigation Team (FIT). OPA is designated as an observer to all FIT investigations of Type III uses of force, including officer-involved shootings.⁴⁶

When such incidents occur, OPA representatives respond to the scene and participate in the administrative investigation and discussion about the incident. The administrative investigation examines whether an officer's conduct followed SPD policy and training. At any point, OPA can identify concerns related to possible violations of SPD policies and initiate a complaint.

OPA responded to 25 FIT callouts in 2020. FIT callouts demand significant time and resources.⁴⁷ OPA attends each FIT callout involving SPD officers in an effort to increase procedural justice and fortify civilian oversight, accountability, and transparency in force investigations.

Bias Reviews

In 2020, OPA reviewed 141 Bias Reviews. Bias Reviews occur when a person makes an allegation of SPD employee bias but does not specifically request that the complaint be referred to OPA. They are not considered complaints but are still carefully examined.

After a bias allegation is made, an SPD supervisor conducts a preliminary investigation. The supervisor documents their investigation and forwards it to their chain of command for review. The file is then sent to OPA for final determination, which generally entails screening to determine if the allegation was handled appropriately. If OPA has concerns about bias or discovers other potential policy violations, OPA can open a new case.

⁴⁶. Type III use of force is force that causes, or is reasonably expected to cause, great bodily harm, substantial bodily harm, loss of consciousness, or death. See seattle.gov/police-manual/title-8.

⁴⁷. Callouts in 2020 generally included the director, the deputy director of investigations or a civilian supervisor, and two sworn investigators. OPA representatives stay at the site of the incident, the hospital, and/or the FIT office until the initial investigation and interviews have been completed.

Appendix A: Management Action Recommendations

Topic	OPA Recommendation	SPD Action	Status
Body Worn Video Recording	Require SPD supervisors to record arrest screenings on body-worn video, even if in an administrative capacity.	Revised 16.090-POL-1(5)(b), effective 10/1/20, to include supervisor arrest screenings and interviews of arrestees among scenarios where employees are required to record.	Fully Implemented
Employee Wellness	Evaluate less punitive methods of addressing employee addiction and mental illness to encourage officers to report such issues and seek out SPD and city resources and care.	SPD has a new Wellness Unit dedicated to meeting the needs of employee mental health and safety, including substance use; it will promote programs and services aligned with best practices.	Fully Implemented
Handling Money Evidence	Create a policy governing the collection, transportation, and counting of large quantities of seized currency. The policy should state that BWV should be used to record the counting of currency.	Revised 16.090-POL-1(5)(b), effective 10/1/20, to require officers to record handling currency up to the point it is sealed in a currency envelope or air-dry bag. Policy 7.080 also now includes this language.	Fully Implemented
Employee Timekeeping	Put in place measures to ensure employees in specialty units are working the hours they are being compensated for.		In Development

Topic	OPA Recommendation	SPD Action	Status
Special Commission Permits	Create guidelines to govern the approval, training, monitoring and recordkeeping for Special Commission employees.		Active
Sound Transit Response	Develop policy in consultation with the 911 center and King County that articulates requirements for responding to incidents on light rail trains. Revisit 2015 MOU with regional partners.	911 Communication services will become independent of SPD, and as such SPD will no longer have the authority to develop policies or MOU's as it relates to their operations.	Declined Action
Court Dispositions	Clarify in 5.001-POL-22 that SPD employees should not recommend to a judge an appropriate outcome at any stage of a trial.		In Development
Mental Health Transport	Remind patrol that ambulance transports are billed to the subject's insurance agency and, where the subjects do not have insurance, to the subjects directly.	Emailed reminder to all employees 8/4/20.	Fully Implemented
Leadership Expectations	Create new policies for supervisors with expectations, minimum qualifications, and standards that allow OPA and the chain of command to hold supervisors accountable for performance issues.	Due to limited resources, SPD is unable to move forward with intended plans on this, but is willing to participate in a taskforce.	Declined Action
Traffic Contact Reports	Consider whether to continue requiring in-person service of Traffic Contact Reports or amend the policy to allow service by mail.		In Development

Topic	OPA Recommendation	SPD Action	Status
Surveillance	Remind employees of the city's Surveillance Ordinance and what technologies are approved and banned. Require employees to complete an e-learning on the Surveillance Ordinance in 2021.		Active
Racial Equity	Expand biased policing training to amplify the experience of BIPOC communities, including officers of color; open an EEO investigation into specific concerns; consult with SPD HR, OPA, and OIG to see if an additional EEO investigation is warranted.		Active
Recording Demonstrations on Body Worn Video	Review the 2020 revised BWV policy in consultation with city stakeholders and community groups to discuss the benefit of recording at demonstrations versus a more targeted approach that ensures transparency while upholding privacy and constitutional protections.		Active
High-Risk Vehicle Stops	Create a policy covering limitations and requirements of high-risk vehicle stops; amplify training to provide examples of stops in which it may be unnecessary to draw firearms or where alternate tactics exist.		Active



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