

**Office of Professional Accountability**  
**Office of Professional Accountability Auditor**  
**Office of Professional Accountability Review Board**

Proposed Changes to OPA Complaint Classifications and Investigative Findings

Part of the mission of the civilian Director of the Seattle Police Department's Office of Professional Accountability (OPA), the civilian OPA Auditor, and the civilian OPA Review Board is to continually look for ways to improve the police accountability system, including opportunities to enhance the responsiveness, openness and understanding of the accountability process. The Director, Auditor and OPARB have in our past reports recommended a review of the "classifications," the categories used by the OPA upon its initial receipt of citizen complaints to determine what type of investigation or referral is appropriate, and "findings," the conclusions reached upon completion of an internal investigation. These are aspects of the complaint review process that can be confusing or unclear to the public, complainants, officers and policymakers. In the first quarter of 2011 we established a work group to propose changes as a way to improve use of resources, clarify supervisory responsibility, and enhance transparency and understanding of the complaint system.

With regard to complaint classifications, the OPA Director, Auditor, and Review Board jointly recommend reducing classifications to two main categories (other than complaints resolved at intake or general inquiries that do not relate to potential misconduct, tracked as "Contact Log" records). Complaints would either be classified for investigation or referred directly for handling at the precinct/unit level. With regard to findings, we recommend reducing the number of findings, changing some of the names, and clarifying definitions.

No changes are being suggested that impact when or how discipline is imposed, investigation timelines, or any other substantive element of the disciplinary process. The standard of proof with regard to sustaining a complaint would continue to be a preponderance of the evidence. These changes are intended to improve the way complaints are addressed and help the results of internal investigations be better understood by all who are interested. There will continue to

be civilian oversight of all complaints and investigations of police misconduct, whether handled at the precinct/unit or by OPA. The purpose of this memo is to present our proposal so that these improvements can be implemented in 2011.

### OPA Complaint Classifications

Currently, as a complaint first comes into OPA, the initial steps are: intake, classification, and investigation or supervisory referral, with each step reviewed by civilians. When a complaint is made to the OPA, an OPA Investigations Section (IS) Intake Sergeant initially gathers as much information as is readily available about the complaint and related police incident to best understand the concerns and issues being raised. An OPA Lieutenant reviews this initial information, and classifies the complaint, meaning the Lieutenant makes a recommendation as to whether the matter has already been addressed at the intake stage, should be referred to the named employee's supervisor for handling, or requires a full investigation. The OPA Director and OPA Auditor (both civilians) review the Lieutenant's recommendation and make a final decision as to complaint classification. (It is also at this stage that the Director and Auditor identify complaints appropriate to send to mediation.)

Complaints made to OPA currently are placed into one of five classification categories. Contact Logs are communications to OPA that are not complaints of misconduct, but rather involve requests for information or referral. A record is kept of all such communications and is reviewed weekly by the OPA-IS Lieutenant and monthly by the OPA Director and OPA Auditor to ensure the contact has been categorized correctly and that additional follow up is not needed.

Preliminary Investigation Report (PIR) and Supervisory Referral (SR) are classifications used for complaints that do not involve issues that would lead to discipline. They are referred to the named employee's supervisor for information or for follow up with the complainant and employee. Complaints of misconduct that could result in discipline are investigated by the named employee's line of command, and are called Line Investigations (LI), or by the OPA-IS, depending on the seriousness and complexity of the issues involved.

The categorization and definitions that have been in use for this complaint classification system are confusing to some and, thus, work against transparency in the process. For example, there is a classification called “supervisory referral” and a finding called “supervisory intervention”. An additional challenge with the current system arises if a complaint is made at a precinct or another unit of the Department rather than directly to OPA. Some of these complaints are sent to the OPA even if they could appropriately and more quickly be resolved at the precinct level. Other complaints are properly handled by precinct/unit supervisors or command staff, but no record of the incident is shared with OPA. The work group agrees that many complaints can best be addressed with supervisory action, problem-solving, timely interaction with the concerned citizen or training, while referral to OPA can use unnecessary time and resources to get to the same result. We recommend that the system encourage resolution of complaints by supervisors directly where appropriate, while maintaining centralized record keeping within OPA for all complaints.

The OPA Director, OPA Auditor, and OPA Review Board reviewed the classifications system and recommend collapsing complaints into two main categories, either “Investigation” or “Supervisor Action”. Serious misconduct allegations (e.g., unnecessary use of force, violations of law, improper language, mishandling of evidence or property, dishonesty, or other matters of officer integrity) and those made against command staff or where an officer has had prior complaints of a similar nature will continue to be investigated by OPA-IS or through a Line Investigation, and the completed investigations will continue to be reviewed for objectivity and thoroughness by the Auditor and Director. All other matters will be sent to the employee’s supervisor for Supervisor Action, with reporting back to OPA to ensure timeliness, accountability and tracking of information with regard to officers involved, types and frequency of complaints.

Cases sent for Supervisor Action or handled directly at the precinct or unit will be the responsibility of the named employee’s command staff and supervisor. These will include complaints that appear to involve miscommunication or misperception between an officer and citizen, or incidents of low level misconduct. The supervisor can more quickly respond to such complaints, which is an advantage for the citizen, the officer involved, and the Department. The

citizen will appreciate that any concerns raised are quickly resolved by a police supervisor from the neighborhood, there is an opportunity to build more of a connection between the complainant and the neighborhood police, the officer will benefit when performance issues are identified early and addressed immediately, and it will strengthen the traditional role and leadership of the line supervisor. Further, where appropriate, the supervisor can use the incident to guide roll-call training on the issues raised by the complaint. Handling these complaints at the precinct also will allow precinct command to keep closer tabs on their local neighborhood concerns.

A checklist provided by OPA will help the supervisor understand OPA's expectations and allow for a report back to OPA once the Supervisor Action is completed. The OPA Director and Auditor will review each report. The same checklist will track complaints received and handled in the field or at a precinct and then forwarded to OPA, so that OPA has a centralized data base for all citizen complaints. This will allow OPA to track all allegations against any single employee and to identify and assess recurring complaints, needed changes in policy, procedure or training or other systemic best practices. Protocols addressing deadlines, documentation, communication with the complainant and continued civilian oversight of all complaints and dispositions will need to be developed.

Cases appropriate for Supervisor Action may also be amenable to mediation, so the system will need to include the mediation option. An electronic reporting system will facilitate communication and simplify the record keeping and reporting process.

As SPD works to enhance the role of first-line supervisors, the approach suggested above will empower supervisors to identify and correct performance issues as they arise, as opposed to relying on OPA to monitor all conduct issues. This system will also allow OPA to devote its skills and resources to investigating the most serious of misconduct complaints while still maximizing civilian oversight over the entire complaint system.

Additionally, we recommend that the term "Contact Log" be more clearly explained as a method for tracking all the inquiries to OPA that are *not* complaints of misconduct, but instead are other

sorts of requests for information and assistance. The reason for this clarification is that when OPA issues its statistical summaries, including these as a category of complaints leaves the impression that there are many more complaints than there actually are, and that only a very small percentage result in investigation, discipline, supervisory interaction or systemic improvements.

### OPA Investigative Findings

The names of, and definitions given to, various findings date back to the days in Seattle and most U.S. cities when internal investigations were solely a police function; thus a broader understanding of, and trust in, the accountability process were not considerations. The names and definitions currently used by OPA include terminology commonly used across the country, with universal meaning within police departments; however, confusion associated with the number of OPA findings, their names and their definitions can make the results of disciplinary investigations less than transparent to others. The work group considered whether the OPA findings could be clarified to enhance transparency. We reviewed the terminology and definitions of findings used by eight other agencies, as well as findings recommended by the U.S. Department of Justice, and took into account Seattle's experience since the creation of the civilian oversight system in 1992.

The misconduct investigation systems for SPD and most other police departments traditionally have had four potential findings (Sustained, Not Sustained, Exonerated, and Unfounded). A number of years ago, Seattle added the "Supervisory Intervention" finding to recognize that some misconduct investigations identify training needs for the involved employee, even if discipline is not appropriate. We recommend that finding be retained, but changed to "Training Referral" to make it easier to understand. Also to help with public understanding, we recommend that "Exonerated" be changed to "Lawful & Proper" and "Not Sustained" be changed to "Inconclusive".

Seattle's current system also has three additional findings: "Administratively Unfounded," "Administratively Exonerated" and "Administratively Inactivated." The first two allow OPA to

terminate an investigation without conducting all of the interviews or gathering all of the evidence that might normally be gathered, because the initial investigative information obtained is sufficient to determine that the complaint is without merit or is mistaken. These two findings add to the complexity and lack of transparency of the overall system without adding significant information or serving a clear purpose.

We recommend that the “Administratively Exonerated” and “Administratively Unfounded” terms be eliminated and that cases simply be “Exonerated” or “Unfounded,” as appropriate. Thus, the Exonerated or Unfounded finding could be used even where a determination is made on initial evidence gathered that a full investigation is unnecessary. (The requirement that the OPA Director and Auditor review the evidence and proposed finding prior to closure will continue.)

“Administratively Inactivated” means that the investigation is discontinued, often because an employee, complainant, or other important witness is unavailable or cannot be located and their testimony is necessary to make a determination on the complaint. The inactivated cases are monitored and may be reactivated at a later time or closed if it becomes apparent that leaving the case open longer will not resolve the issue. “Administratively Inactivated” is not a final finding, so we recommend it be removed from the list of findings, but continue to be used as a case status for tracking purposes.

The following charts summarize current and proposed complaint classifications and investigative findings.

## OPA COMPLAINT CLASSIFICATIONS

<b>Current Classification</b>	<b>Current Definition</b>	<b>Proposed Classification</b>	<b>Proposed Definition</b>
OPA Investigation Section (IS)	Complaints are more complex and involve more serious allegations, including use of force allegations, and are investigated by OPA-IS.	Investigation – OPA	Complaints are more complex, and/or involve more serious allegations, and/or involve an employee with prior complaints of the same type of allegation. They are assigned to OPA personnel for investigation. The completed investigations are reviewed by the OPA Director and the OPA Auditor.
Line Investigation (LI)	Complaints involve more minor misconduct and are investigated by the officer's chain of command.	Investigation – Line	Complaints are less complex and/or involve less serious allegations. They are assigned for investigation to the employee's chain of command/supervisor. The completed investigations are reviewed by the OPA Director and the OPA Auditor.
Supervisory Referral (SR)	Complaints are those that, even if events occurred as described, signify minor misconduct and/or a training gap. The complaint is referred to the employee's supervisor for review, counseling, and training as necessary.	Supervisor Action	Complaints involve issues that would not warrant investigation or disciplinary action. The complaints are referred to the employee's supervisor for information or any appropriate follow up such as problem-solving, mediation, coaching or other communication to the employee and to the complainant to improve performance and/or to be responsive to the complainant. The precinct command staff reports actions taken back to OPA.
Preliminary Investigation Report (PIR)	Complaints involve conduct that would not constitute misconduct and are referred to the employee's supervisor for follow up.	Supervisor Action	See above.
Contact Log	Classification is used for communications to OPA that do not involve misconduct, but rather are requests for information, referrals, etc.	Discontinue as a classification. Use for tracking and statistics.	A tracking status that is used for all remaining communications to OPA such as requests for information or referrals to other agencies. All communications are documented and are reviewed by the OPA Director and OPA Auditor monthly to ensure no further action is needed.

## OPA FINDINGS

<b>Current Finding</b>	<b>Current Definition</b>	<b>Proposed Finding</b>	<b>Proposed Definition</b>
Sustained	The allegation of misconduct is supported by a preponderance of the evidence.	Sustained	The investigation found that there is sufficient evidence to determine that misconduct warranting discipline occurred.
Not Sustained	The allegation of misconduct was neither proved nor disproved by a preponderance of the evidence.	Inconclusive	The investigation found that there is not sufficient evidence to determine whether or not misconduct occurred.
Supervisory Intervention	While there may have been a violation of policy, it was not a willful violation, and/or the violation did not amount to misconduct. The employee's chain of command is to provide appropriate training, counseling and/or to review for deficient policies or inadequate training.	Training Referral	The investigation found that the employee's actions were either inconsistent with law, policy or training in a minor way or were not best practices. Even if technically misconduct, feedback, training or counseling, rather than discipline, is recommended to improve performance.
Exonerated	A preponderance of evidence indicates the conduct alleged did occur, but that the conduct was justified, lawful and proper.	Lawful & Proper	The investigation found that the incident occurred, but the employee's conduct was consistent with law, policy and/or training.
Unfounded	A preponderance of evidence indicates the alleged act did not occur as reported or classified, or is false.	Unfounded	The investigation found that there is no evidence that the incident occurred.
Administratively Unfounded	Is a discretionary finding which may be made prior to the completion that the complaint was determined to be significantly flawed procedurally or legally; or without merit, i.e., complaint is false or subject recants allegations, preliminary investigation reveals mistaken/wrongful employee identification, etc, or the employee's actions were found to be justified, lawful and proper and according to training.	Discontinue – these will simply be 'Unfounded'.	
Administratively Exonerated	Same	Discontinue – these will simply be 'Lawful & Proper'.	
Administratively Inactivated	The investigation cannot proceed forward, usually due to insufficient information or the pendency of other investigations. It is monitored and at a later point it is either closed or completed, and a finding entered.	Discontinue – use for record-keeping.	