

City of Olympia

Independent Police Auditor Annual Report

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Introduction

This is the first report prepared by OIR Group¹ in its capacity as the new independent Police Auditor for the City of Olympia. We were selected by the City Council in May of 2025, as part of a larger re-structuring of police oversight here, and began our work shortly thereafter.

The core of our scope of work as Auditor relates to the review of certain investigations completed internally by the Olympia Police Department ("OPD"). As in most jurisdictions, the initial responsibility for handling public complaints of officer misconduct and for reviewing officers' use of physical force rests with the Department itself. There are various reasons for this, including resources, jurisdictional authority, and expertise. But it is also true that the most effective police agencies are those that prioritize accountability and self-scrutiny, and have meaningful structures in place to accomplish those goals.

In short, there are arguments for continuing to entrust law enforcement agencies with these important investigative and review processes. But these exist in tension with skepticism by some about the objectivity and rigor with which an agency is willing or able to appropriately evaluate its own personnel in these contexts. Recent decades have intensified a national trend in which the public expects more of an opportunity to "weigh in" on policing, an independent check on how an agency performs this critical work, and more transparency about how investigations are conducted and resolved.

The City of Olympia has adopted a multi-faceted approach to community engagement with policing issues. Along with OPD's internal units and participation in state and regional accountability mechanisms for uses of deadly force, the City also has a seven-member "Community Policing Board" comprised of residents. Representatives from that Board are able to directly monitor key investigative and review functions (including critical incidents such as officer-involved shootings). And that Board offers its input to the Police Auditor as part of the process for finalizing the Auditor's semi-annual public reports.

¹ Primarily based on southern California, OIR Group is a private team of police practices experts that has worked in the field of independent oversight of law enforcement since 2001. We have served in a variety of auditing, monitoring, consulting, and investigative roles in jurisdictions throughout California and in several other states. Those states include Washington, where we did three separate review projects for the King County Office of Law Enforcement Oversight and also consulted with the state Attorney General's Office on developing a new statewide "best practices" use of force policy. For this project, we are joined by Seattle resident Sam Pailca, who brings extensive experience with local police oversight issues.

The central component of the Auditor's role – and the basis for the findings and recommendations discussed below – is the review of completed misconduct investigations and supervisory evaluations of force incidents. Through our agreement with the City, we receive periodic notifications from OPD when investigative files are completed and ready for distribution. We then have the opportunity to evaluate those files through an independent assessment of the Department's investigative memos and – importantly – the underlying evidence that was gathered and assessed by OPD.

For this first report, the vast majority of the cases we looked at were force incidents – a total of 50 of them. Only one misconduct investigation was completed during our initial review "window," which closed on December 31, 2025.

The material in each case was made available to us via direct access to the Department's own computer database.² We looked at scores of reports, photographs, and body-worn camera recordings in order to form our own impressions about individual case outcomes and the process as a whole. Below, we share those impressions, as well as a number of recommendations for systemic adjustments and improvements that arise from our own familiarity with best practices across multiple jurisdictions.

OPD's current system for reviewing force incidents has many strengths. Each incident goes through multiple assessments at different rank levels, and revolves around responses to a very detailed template. The circumstances of the incident are summarized, demographic data about participants is captured, and investigative steps (such as witness interviews, medical information, and photographs) are documented. A specific line item asks about "De-escalation Tactics Used" – thereby putting direct focus on the heightened expectation that force will be avoided or minimized where possible.

The initial supervisor makes a finding as to compliance with policy. Importantly, that person also makes a determination as to whether "training and proper tactics were followed" – a recognition that a force deployment could be justified but still worthy of non-disciplinary remediation. And those outcomes are then subject to a second evaluation by a different, higher-ranking OPD supervisor. Finally, all of the "packages" are reviewed by another command-level member of the Department, who serves as a centralized clearing house for the review process.

² We are grateful to City and OPD staff for their diligence in making sure that the necessary infrastructure was in place and functioning as intended.

All of this structured information gathering and evaluation reflects a commitment to thorough scrutiny on the agency's part. And we found for the most part that the resulting determinations to be reasonable and consistent with the evidence.

At the same time, we offer suggestions for slightly adjusting this approach. Our sense is that the focus as constituted is more narrow than it might be, and that a broader look at performance issues (beyond the "bottom line" question of use of force policy compliance) could be productive. We discuss below.

As for those "bottom line" questions, our cumulative impression is that OPD officers generally use force with justification, care, and restraint. With one exception (that we discuss below), the Department found that all of the force deployments had been in compliance with policy – and with one possible additional exception, concurred with those decisions based on our own review.

Most of the incidents involved responses to calls for service (as opposed to officer-initiated activity). The officers' approach to the subjects they encountered seemed very driven by the circumstances and the subjects' actions – and not by apparent bias, selective enforcement, or overreaction. A "takedown" – in which the subject were forced to the ground to overcome resistance and as a precursor to handcuffing – was by far the most commonly utilized force option. It generally resulted in minor injury only; several cases reported no apparent injury to the subject.

Additionally, we also saw several Taser deployments. This is considered a higher level of force, and we emerged with recommendations based on our scrutiny of the relevant cases. We also noted several instances in which the Department used the WRAP – a full body restraint device – for transport of a subject who had been resistant. As we discuss below, we recognize the potential value of this tool, but encourage OPD to revisit the nexus between policy and practice in terms of the frequency with which it is used.

In keeping with the City's established framework, we provide statistical information about the 50 incidents we reviewed, including subject demographics and a thumbnail description of the circumstances. We also discuss a number of topics for the Department's further consideration, based on our initial experience of reviewing and analyzing these cases. Our observations are in two basic categories: procedural (relating to the elements of OPD's internal review system itself) and substantive (relating more directly to officer performance and aspects of the force uses).

Statistical Overview

OPD tracks the demographic information of involved parties (including both officers and subjects) for each use of force incident. The following data is aggregated from the 50 individual cases we looked at.

Concerns arising from disproportionality, overrepresentation, and other statistical anomalies are understandable in the context of a national legacy of discriminatory treatment of minority groups. Accordingly, numbers like those we present below are an important starting point.

At the same time, a deeper insight into possible issues of bias requires assessment of additional variables, and even then definitive conclusions can be elusive. Importantly, and apart from the raw numbers, we did not see evidence of disparate treatment based on race, ethnicity, gender, sexual orientation, or other protected categories.

Subject demographics, as based on information reported within individual incident reports, were as follows³:

- 27 of subjects were White Males
- 7 of the subjects were White Females
- 8 of the subjects were Black Males
- 6 of the subjects were Asian/Pacific Islander Males
- 3 of the subjects were Hispanic Males.⁴

Other significant identifiers included the following:

- 15 of the incidents involved subjects experiencing likely or established alcohol or drug intoxication
- 14 of the incidents involved subjects experiencing likely or established mental health challenges
- 1 of the subjects was a juvenile.

As for the different force options represented in this sampling, it is worth noting that the exercise of police authority through physical means is always deserving of scrutiny and accountability. At the same time, the nature and severity of the *type* of force utilized in

³ One of the incidents involved a force deployment with two different subjects.

⁴ We discuss this categorization below. OPD does not currently have a separate identifier option for Hispanic persons, and listed these subjects as White.

a given incident can vary considerably, and has obvious implications for differing thresholds of justification and potential injury to subjects. As noted above, the "takedowns" that constituted the most frequently used force option in the audit sample are considered lower level.

The distribution of options represented was as follows⁵:

- 44 "takedowns" of the subject (and accompanying effort as needed to accomplish handcuffing).
- 9 uses of the Taser (some of which did not connect or were not effective in achieving incapacitation of the subject)
- 1 use of patrol car to effectuate a collision with the subject⁶
- 2 K9 bites.

With the exception of one possible broken nose, the various force uses did not result in significant injury to the subjects. Several, however, involved complaints of pain or minor abrasions/lacerations that were addressed as needed.

Please see Appendix A for a brief summary of the circumstances and findings in each of the 49 incidents we reviewed.

Force Investigation Protocols

Expanding toward "Holistic" Review

As noted above, we found the scaffolding of the Department's force review process to be quite sturdy, with its multiple layers of evaluation and a thorough template that guides supervisors toward effective information-gathering and analysis. At the same time, we noted that the range of documented *outcomes* was somewhat narrow.

The standard form culminates with check-boxes to designate whether the force was "within the policy guidelines" and whether "training and proper tactics were followed." These are, of course, fundamentally important categories, and the latter reference to training and tactics is arguably open-ended in a way that would give latitude for additional issue-spotting.

⁵ Some of the incidents involved the use of more than one type of force in an effort to apprehend/overcome resistance.

⁶ This use of force was found to be "out of policy" by the Department in the subsequent review process.

Ideally, an agency's review process works as a learning opportunity as well as a mechanism for accountability. While some force events unfold quickly and are relatively minor in nature, others are more complex and implicate broader issues of communication, coordination, decision-making, technique, equipment, supervision, or other factors. A close review is a chance to identify and respond to a range of noteworthy aspects of the officers' performance – not for purposes of nitpicking, but as a way of reinforcing effectiveness and making constructive adjustments for the future.

Our sense is that at least some of this thoughtful, holistic issue-spotting is indeed occurring on a case by case basis. The Department said as much when we raised the question after the first few months of our tenure, but explained that, for documentation purposes, the focus has typically been more narrow.

While this is not unusual, we encourage OPD to expand the lens of more formalized issue-spotting as a way of both promoting comprehensive attention by supervisors and ensuring that worthwhile follow-up actually occurs. And we are pleased by the receptivity the Department has shown, as evidenced in some of the more recent case reports.

RECOMMENDATION ONE: OPD should consider ways to formally expand its force review template, in order to promote a greater range of issue-spotting and potential interventions with regard to officer performance.

Issues with the Subject Interviews

OPD force review protocols require supervisors to conduct interviews of individuals upon whom force is used. While the advent of body-worn camera recordings has altered the significance of this evidence as a key source of understanding about what occurred, the interviews are nonetheless important.⁷ The objective is to obtain a factual recitation of the incident from those individuals in order to help determine the propriety of the force, ensure that any injuries are identified and addressed, and create a contemporaneous record of the subject's version for future reference.

While in several cases we saw supervisors conduct interviews that accomplished these goals with neutrality, we also saw interviews that did not seem so designed. For example, one issue was the use of leading questions such as, “But you knew they were police officers, right?” or “Why didn’t you comply?” In others, the interviews devolved

⁷ It is also true that recordings can be inconclusive in the context of a physical struggle: we saw instances in which cameras were dislodged or when proximity to the subject limited the perspective.

into belittling, lecturing, correcting, or challenging statements made by those upon whom force had been used.

In one case, the supervisor “cross-examined” the subject about her decision to run and not heed instructions to stop.

In one case, after a takedown and use of the Taser to subdue the subject, the supervisor’s subsequent interview with the subject was accusatory, confrontational, and lecturing.

In one case where OPD found the force used by the officer out of policy after a review of the body-worn camera, the supervisor expressed skepticism in the initial interview about the subject’s version of events (which was eventually largely proven true) by stating: “Make sure you are telling the truth.”

In one case involving a foot pursuit and a takedown, the supervisor lectured and then argued with the subject instead of interviewing him about the actual use of force.

Supervisors should be advised that their role in interviewing subjects upon whom force was used should be that of a dispassionate, professional, and objective collector of facts and the subject’s account. Their role is not to challenge, dispute, or lecture the person. While other evidence may end up not corroborating that account, it is not the supervisors’ role to dispute the person’s version at that point in time. The fact is that, whether deserving or not, the person who has had force used on them has suffered trauma, pain, and, at times, injury. The better approach is to try to develop rapport with the person and simply obtain that person’s account of what happened. When supervisors step in to immediately challenge or dispute that account, it suggests to the subject that the question of the propriety of the force has already been decided.

RECOMMENDATION TWO: OPD should clarify the intent of the subject interview and ensure that all responsible supervisors are aware of and trained in the best approaches to achieving a detailed account of the subject’s perspective.

Inconsistent Use of "Miranda" Warnings

Participation in an interview after a use of a force is voluntary for the subjects.⁸ Because they are in custody, questioning them arguably raises the issue of whether a Miranda advisement of their rights is necessary. We have seen different approaches to this among the agencies we work with: some provide the warning as a standard practice, while others forego it based on the distinctive purpose of the questioning (and the fact that any statements are segregated from criminal proceedings).

There are advantages and disadvantages to either choice, but OPD seemed internally inconsistent about it in a way that was notable. Our sense is that "picking a lane," and standardizing supervisors' understanding of and compliance with the preferred approach, would be beneficial.

RECOMMENDATION THREE: OPD should clarify its expectations for supervisors with regard to providing a Miranda advisement, and promote consistency across the Department.

Investigative Role of Witness Supervisors

In several cases, we noted that a supervisor who witnessed the use of force or was involved in the lead up to the use of force then conducted the force investigation. In that case, the witness supervisor assumed conflicting roles of being a witness to the force incident and then leading the investigation into the force incident. Ideally, in such situations, a non-involved supervisor should be called to conduct such force investigations to protect the objectivity of the process, consistent with accepted investigative practices.⁹

RECOMMENDATION FOUR: OPD should instruct its supervisors that direct, participate in, or witness a use of force that, when feasible, an uninvolved supervisor should be called to the scene to conduct the force investigation.

⁸ We saw several instances in which subjects declined/refused to participate, which is not uncommon for them. A separate issue is incapacity due to intoxication or mental health crisis, which we discuss below.

⁹ We recognize that, considering the size of OPD, there may not be a non-involved supervisor available to conduct the force review. In that case, the supervisor should document why another supervisor was not available.

Force User Should Not Be Present During Interview of Subject or Witnesses

In several cases reviewed, the officer(s) who used force was present when the subject was interviewed about the propriety of the force. Certainly, a person in custody may be reluctant to discuss the legitimacy of the force when the person who used force upon him is present to hear. In the same way, witnesses who may have had concerns about the use of force might be reluctant to share those concerns when the officer who used force is present to hear their account. Supervisors should be advised of this concern and ensure, consistent with best investigative practices, segregation of the force user, the person upon whom force was used, and witnesses during the on-scene fact collection process.

RECOMMENDATION FIVE: OPD should advise its supervisors to ensure that when conducting interviews of subjects or civilian witnesses to the force incident, that the officer who used force is not present.

Dealing with subjects who are under the influence

In several instances, subjects who were significantly under the influence of alcohol and/or illicit substances were not in a position to provide useful accounts to supervisors about the use of force. In such instances, rather than attempt to proceed with an interview, supervisors should defer such an interview for several hours in the hope that increased sobriety will enhance the coherence of the subject's account.¹⁰

RECOMMENDATION SIX: OPD should advise its supervisors that when encountering a subject who is severely under the influence, they should consider deferring the interview until there is opportunity for the influence to dissipate.

¹⁰ We noted one case where the subject initially declined to be interviewed, but OPD traveled to the jail several days later and obtained an interview from him. We recognize that this approach may pose challenges from a practicality perspective, but assume it would only be relevant in a small percentage of cases and would not prove to be unduly burdensome.

Using Olympia’s Crisis Response Unit’s Expertise to Assist in Post-Use of Force Interviews

As noted in the City of Olympia’s webpage, the Crisis Response Unit (“CRU”) is an alternative response team that offers assistance to people in the Olympia community.¹¹ CRU responds to any person within the City of Olympia who is experiencing urgent mental health distress, poverty, unhoused persons, problems related to substance use, resource needs, and more. During our site visit, we were able to meet with leadership of the CRU and were impressed with the unit’s commitment and expertise in addressing mental health needs of those in crisis.

When OPD uses force on an individual, one of the supervisor’s key responsibilities is to conduct a preliminary evaluation of the situation, interview the person upon whom force is used, and photograph any injuries suffered as a result of the use of force. In our review, we observed multiple incidents of force being used upon individuals known to have or exhibiting signs of being in a mental health crisis. When the supervisor attempted to interview those persons, they were met with emotional and/or mental instability making it difficult to obtain the individual’s perspective on the incident. More significantly, the interview itself at times resulted in an escalation of the situation.

An individual was suspected of theft from a thrift store, ran from responding officers and was taken to the ground. After being detained, the individual reported that she was unhoused and going through a mental health crisis, but the supervisor attempted to conduct what turned out to be a non-productive interview, escalating the encounter.

An individual was reported to be trespassing and using profane language against the reporting party. Police responded, ordered the man to stop and when he ignored instructions, grabbed him and took him to the ground. The supervisor attempted to interview the man but was met with an incoherent response. OPD noted in its report that man was experiencing potential mental health issues.

OPD responded to a report of a man starting a fire in an alley. The man walked away to a nearby park and into a restroom. When the man did not respond to instructions to come out, OPD went into the facility and when he continued to resist, took him to the ground. The nature of the call and the man’s responses after the use of force indicated potential mental health issues.

¹¹ See below for a further discussion of CRU’s coordination with OPD in response to calls for service.

In these three cases, there was no apparent consideration of calling CRU to the scene, despite evidence that the detained person had potential mental health issues. If CRU had been called, its expertise could have been used to assist the supervisor in obtaining an interview of the persons upon whom force was used, as well as assisting in the overall de-escalation of the encounter. Moreover, after the subjects in these incidents were detained and handcuffed, there was little risk to having unarmed CRU personnel respond and assist with the post-incident response. OPD should consider taking advantage of CRU's expertise to respond to situations in which force is used upon a person going through a mental health crisis.

RECOMMENDATION SEVEN: OPD should encourage its supervisors to assist with their post-use of force responsibilities by calling CRU in cases in which the person upon whom force is used is potentially going through a mental health crisis.

Ensuring Medical Attention Provided to Individuals Who Request It

Our review found that generally supervisors used good judgment in providing or offering medical attention to those whom force was used upon. However, in one case, the supervisor expressed initial reluctance to provide medical attention to a woman who was professed to be injured by the use of force, citing the time and resources needed to do so and suggesting that any injury might have been pre-existing. While eventually the supervisor acceded to the request by the person to see a doctor, the initial hesitation to do so was unfortunate. OPD should instruct its supervisors to provide or offer medical attention without hesitation to anyone upon whom force is used who requests to see a doctor.

RECOMMENDATION EIGHT: OPD should instruct its supervisors to provide medical attention to anyone upon whom force is used and who requests medical aid.

Field Performance Issues

Force Incident Found Out of Policy

In one case during this review cycle, OPD found actions by an officer to be out of policy. In that case, the officer, while in his patrol car, tried to detain a man on a bicycle. As a result of officer-initiated action with his car, the man crashed and was then detained. OPD sent the matter to its collision review board which found that the collision was “avoidable”. The board further noted that OPD did not instruct vehicle positioning related to bicycle pursuits.

In addition, OPD considered whether the actions of the officer constituted a use of force and determined that the officer’s actions violated the Department’s Standards of Conduct related to Unreasonable and Unwarranted Force.

OPD noted that the officer had a prior oral warning and written warning for two separate violations of policy.

As a result of the finding, the officer was issued a written warning. In addition, the officer was required to attend a prescriptive police tactics instruction and a driving training safety class.

OPD is to be commended for its willingness to find the officer’s actions out of policy based on its policy and training. Moreover, OPD’s determination to send the officer to two training classes is in the best spirit of remediation. However, we were less sanguine about the light punitive sanction provided to the officer for his use of excessive force. Under OPD policy, a written warning is not even considered formal discipline and considering the nature of the offense and the officer’s past disciplinary history, a more serious (and progressive) consequence should have been considered.

Questionable K-9 Bite

During this cycle, we reviewed a questionable use of force involving the deployment of a police K-9. The case began as a report of a robbery, the subject was observed driving a vehicle and OPD and two other law enforcement agencies became involved in the man’s apprehension. Emergency equipment was activated but the man continued to try to elude law enforcement, causing a significant collision with a non-involved motorist. Eventually, one of the non-OPD personnel disabled the man’s vehicle by using a PIT (Pursuit Intervention Technique) in which the patrol car struck the back side of the car driven by the man, causing it to spin out.

Multiple officers from different agencies then yelled various and conflicting commands to the man on how to exit the vehicle and what to do upon exiting, apparently confusing the man and making it impossible to comply with all of them, even though it appeared as if the man was intent on surrendering. Nonetheless, an OPD officer deployed his K-9 on the man who was at the time on his knees, causing the dog to lock onto the man's arm for several seconds.

In its review, OPD recognized the conflicting commands from various officers and found that it may have been beneficial to give the subject additional time to comply. While finding the deployment of the police dog in policy, the Department recommended that the incident be forwarded to the K-9 team to review training and tactics. To the credit of OPD, we have been advised that the incident is being used as part of an in service training. While we would not have likely reached the same result regarding the appropriateness of deploying the K-9 when the dog was unleashed, we appreciate the deeper review that OPD conducted into the sub-optimal tactics surrounding this multi-agency response.

RECOMMENDATION NINE: In K-9 deployments, OPD should consider whether the subject had an opportunity to comply with commands in determining the appropriateness of the use of force.

Use of the Taser

We reviewed several uses of force involving the use of the Taser. In one case, officers responded to a domestic violence call. They encountered a man in a residence who grabbed a Taser that had been placed against him by a supervisor. The supervisor then deployed the Taser twice and an officer almost immediately followed with another Taser use.

Using a Taser by placing it against a person is considered using it in "stun drive mode". Unlike using the Taser in dart mode, stun drive does not cause neuromuscular incapacitation and only causes severe pain. Current OPD policy states that:

Use of the drive-stun mode generally should be limited to supplementing the probe-mode to complete the circuit. The drive-stun mode is not a lesser form of force, and all ECW deployment requirements must still be followed.

Apparently, OPD did not consider its own limitation on "stun drive" mode in evaluating the legitimacy of this use of force. Moreover, many jurisdictions have limitations on simultaneous deployment of Tasers that are not included in OPD's current policy. For example, the Washington Attorney General's Model Use of Force policy states that:

Officers should not intentionally deploy multiple ECWs at the same person, unless the first deployed weapon clearly fails.

The restrictions on multiple simultaneous use arose from research showing that such deployments can create greater risks of serious injury or death. OPD should include this restriction to properly advise officers on the risk of simultaneous deployment.

RECOMMENDATION TEN: OPD should ensure that when Tasers are used in stun drive mode, that such use meets its policy's extremely narrow justification criteria.

RECOMMENDATION ELEVEN: OPD should modify its Taser policy to restrict simultaneous deployments.

A "Stretched" Characterization of Threat

OPD officers responded to a report of a man who had barricaded himself in a commercial building, had been harassing employees, and had activated a fire extinguisher. OPD located the subject and by using a K-9 as an assist was able to take the man down. OPD found that the level of resistance and threat justified the uses of force, IPA concurred. However, in an apparent misguided effort to ensure a finding of "justified force", the reviewing supervisor noted that the man had a pair of eyeglasses in his hand, that could have been used as a "stabbing implement". In addition to being unnecessary to justify the use of force, the suggestion that the man's glasses presented any significant threat to responding officers undermines the other factors that did warrant the use of force.

Similarly, some reports characterized an attempt to flee as "active resistance," even where the attempt consisted of taking just a few steps before stopping or even turning back. While ignoring officer command to stop and continuing to walk away can be an indicator of resistance, officers should avoid automatic conflation of the two, especially as the mere presence of a uniformed officer does not require immediate cessation of activity; citizens are often unaware that officers may lawfully order them to stop for investigation of a crime.

Use of Disfavored Term "Excited Delirium"

In one use of force review, officer reports described the man they used force upon as in a state of "excited delirium". The term "excited delirium" is not recognized as a valid medical diagnosis by major medical associations like the American Medical Association or the American Psychiatric Association. While at one time the term was regularly used by law enforcement to describe individuals who went into distress (or even died) when

resisting efforts to be taken into custody, it has subsequently been disfavored, is no longer listed in the DSM-5 (Diagnostic and Statistical Manual of Mental Disorders) and is largely considered a controversial, non-scientific, or legally charged term rather than a recognized medical condition. Instead of using a conclusory and questionable construct to describe a person's condition, officers should be instructed to focus and report on actual observations – perspiration, focus of eyes, heart or pulse rate, etc. OPD supervisors should also ensure that the term “excited delirium” not be used by officers to describe an individual's condition in their reporting.

RECOMMENDATION TWELVE: OPD should advise its officers that the term “excited delirium” has run into disfavor as a useful term and to focus on the actual observations of a person when reporting any unusual symptoms.

Avoiding Unnecessary Destruction of Personal Property

When a person is taken into custody, it is incumbent upon law enforcement to reasonably protect any property possessed by that individual. In one case, the individual's backpack straps were cut in order to facilitate the handcuffing process. Based on the body-worn camera video, it did not seem necessary to cut the backpack strap in order to successfully complete the handcuffing process. While this interaction may seem unimportant to the involved officers, such unnecessary destruction of personal property may be critical to individuals who are of limited means, as was the apparent case in this incident. Officers should be encouraged to avoid such actions, unless absolutely necessary.

RECOMMENDATION THIRTEEN: OPD officers should be encouraged to avoid the unnecessary destruction of personal property.

Addressing Use of Profanity and Derogatory Language

Olympia's current policy largely prohibits the use of profanity

320.5.9 CONDUCT Use of obscene, indecent, profane, or derogatory language while on-duty or in uniform. Profane language outside of this policy for the purpose of de-escalating a deadly force situation may be used.

Despite this prohibition, we observed a number of occasions where responding officers used profanity. These fell into two main categories: as emphasis in the direct context of the physical struggle, and extraneous remarks that seemed disrespectful, scolding, or angry.

After a takedown, as officers attempted to handcuff the subject, one officer told the man to: "Get your fucking hands behind your back, dude".

After a man was tackled by the officers, he inquired about a missing watch. One of the responding officers advised: "If you didn't fight and run from cops, you wouldn't lose your shit".

After another take down, responding officers said: "Get down on fucking ground" and "Get on your fucking stomach."

For the most part, these statements were not formally acknowledged by OPD in its review of the force incidents, despite the prohibition set out by policy.¹² The current policy recognizes that the use of profanity is not aligned with principles of progressive professional policing, suggests that the officers are out of control and frustrated, and does nothing to advance or ameliorate the situation.

In conversations with the Department, we learned that there is a practice of acknowledging as "understandable" the profanities that arise in specific contexts (including injury, surprise, de-escalation, and the purposeful effort to underscore commands). To the extent that this reality is mis-aligned with policy, it is important for the Department to revisit the relevant language in its manual, determine the exceptions that it considers acceptable, and ensure that line officers and supervisors are aware of and accountable for the agency's expectations.

Our understanding is that the policy is currently in the process of being revised. We look forward to that finished product. In the meantime, we hope the Department will reconsider its current exception for "de-escalation" efforts in the specific context of a deadly force encounter.

As noted above, there is an exception in the policy for use of profanity to de-escalate deadly force situations. Because none of the officers reported that the incidents in which profanity was used involved a deadly force situation, the policy exception is not applicable to these incident.

Moreover, with regard to the "exception" language, the use of profanity is not regarded as a de-escalation technique by police leaders, researchers, or members of the public. De-escalation techniques work by reducing the the emotion and conflict in the encounter. The use of profanity often does the opposite. OPD should refine its profanity policy that suggests otherwise.

¹² There was one exception we noted that was forwarded on to Professional Standards for further review. It resulted in a finding that policy had been violated, and the officer received an appropriate consequence.

RECOMMENDATION FOURTEEN: OPD'S policy on profanity should be modified to clarify the agency's current expectations, limit the recognized exceptions, and promote greater accountability.

In addition to the strictures relating to profanity, OPD policy also prohibits, "discourteous, disrespectful, or discriminatory treatment of any member of the public or any member of this department or the City while on-duty or in uniform." However, in our review, we also observed on several occasions OPD officers using derogatory, discourteous, and disrespectful language.

After detaining a person and endeavoring to secure him on scene officers stated "I'm wrapping you up like a burrito". An officer in another incident similarly told the subject that if he didn't stand up, he'd be "wrapped up like a burrito and it's not fun."

After a force incident, one of the officers referred to the person as "you idiot", and told another officer "we have our knuckleheads here".

In another case, the subject was called an "idiot," and in another case, a "sister abuser."

While monitoring a newly arrested subject at the hospital, the officer responded to the person's incoherent statements by saying "This is why people shouldn't drink" – a comment that a third-party challenged as being antagonistic.

In another case, an officer told the subject, "Move that arm or I'll break it."

The identified comments were unhelpful. Regarding the use of profanity and discourteous treatment, we are not suggesting the need to conduct a formal investigation into every such comment. Yet, as discussed above, we consider every use of force as an opportunity to review the incident holistically and address any collateral performance issues in addition to the force itself. When such unhelpful comments are identified through OPD's own force review, an intervention providing counseling to the involved officers will often be sufficient to address the sub-optimal performance. On the other hand, to ignore the activity and not respond to it is to condone it by silence.

RECOMMENDATION FIFTEEN: When a review of the force incident reveals profane or discourteous comments made by responding OPD personnel, those comments should be flagged and an appropriate intervention should be devised to correct the performance issue.

RECOMMENDATION SIXTEEN: OPD'S policy prohibiting profanity should be modified to recognize that profanity is not an accepted de-escalation tool.

It should be noted that we also reviewed a number of cases where officers showed commendable restraint, made significant efforts to de-escalate, and treated subjects with respect and compassion.

Effective Use of Body-Worn Cameras

The advent of body worn cameras have significantly changed the landscape of review and evaluation of force incidents. Whereas in the past, an agency would usually have to rely on the observations of witnesses and officers to determine the legitimacy of any use of force, body worn cameras will generally capture the force incident. While there are exceptions, for example, when body worn cameras are dislodged during a physical struggle, most force events have some sort of video/audio capture of the event.

That was our experience during our review of the OPD force incidents. The body worn camera was often dispositive regarding the appropriateness of the use of force. And by promptly activating their cameras, officers generally captured the event.

However, OPD's body worn camera policy provides an exception that allows muting of body-worn cameras.

Consistent with this policy, members may deactivate the BWC during an incident when exchanging information with other members or when engaged in an operational or tactical discussion with other members. If the BWC is deactivated during a contact to exchange information or discuss operation details with another member, the member shall state the reason the BWC is being turned off and the member should promptly reactivate the BWC before resuming duties related to the incident.

During our reviews, we saw numerous examples of officers muting their body-worn cameras for no apparent reason. As a result, explanations for the use of force and other aspects of the operation were often not recorded. And there were times in which one on scene one officer muted the body-worn camera while others allowed their cameras to run, showing inconsistency on application of this exception.

There are extremely few circumstances when a body-worn camera should be muted during an encounter with the public. OPD has allowed this exception to be used too liberally, losing the ability for supervision (and auditors) to review how scenes are managed after the fact.

The prior auditor had recommended reconsideration of the muting practice that she had similarly identified. We make the same entreaty. One approach would be to eliminate the muting exception for incidents in which officers use force.

We also noted a number of examples in which officers – and sometimes supervisors – had left their body-worn cameras back at the precinct to charge or download – and several in which the cameras were ‘accidentally in sleep mode.’ We know that perfect compliance isn’t possible, and laud the fact that the absence of footage was noted in the report, but would recommend continued training, reinforcement, and vigilance re the policy.

We also noted one incident in which an OPD officer deployed his police canine during a multi-agency operation. In that case, while the OPD officer’s body-worn camera footage was available, there was no apparent effort to learn whether other law enforcement personnel had additional camera footage of the incident. It would have been a helpful investigative step to attempt to learn this, especially since the deployment of the canine in this case was questionable.

RECOMMENDATION SEVENTEEN: OPD should change policy to prevent the muting of body-worn cameras after a use of force incident.

RECOMMENDATION EIGHTEEN: OPD should advise its supervisors of the need to seek any recorded footage of a force incident, including body worn camera footage from other on-scene agencies.

Use of WRAP Restraint System

Our review raised questions in several cases about the policy, training, and practices involved with use of the “WRAP” restraint system, in which a handcuffed individual is placed in a body wrap – and sometimes helmet – attached via multiple straps. A person in a WRAP restraint cannot walk, and must be carried.

OPD’s policy around use of the WRAP total restraint is in General Order 71 on Prisoner Transportation. Section F states: “The use of a total restraint when transporting prisoners is permissible when such restraint is deemed necessary for the safe conduct of the transport. Factors to be considered before using these restraints include:

- (1) Nature of the charges;
- (2) Escape potential
- (3) The risk of harm to self or others
- (4) Court requirements.

In multiple use of force reports involving use of the WRAP, we found no articulation of the standard and justification, though it may be inferred that officers were relying on factor (3), risk of harm to self or others.

In one case, the WRAP was applied after the subject – who had been very verbally abusive - was restrained and subdued. One of the officers made a comment to the effect that the subject had “earned” the application of the WRAP, which may have been a reference to the subject’s prior resistance, but could also be interpreted as a retaliatory application.

In another case, a WRAP was used on a mentally ill subject who was later committed involuntarily. The subject appeared fully subdued but would not pull his legs into the patrol car, triggering application of the WRAP.

Similarly, in another case a “man in crisis” at a shelter was placed in the WRAP restraint for transport to hospital for evaluation, then again when transported from the hospital to the jail.

We also reviewed a case in which the WRAP was used on a 15-year old boy. The boy had been verbally abusive but appeared fully restrained and subdued before the WRAP was applied.

Finally, in one report reviewed that did include reference to why the WRAP was utilized by a responding supervisor, we had questions about the justification. Just one of the incident reports by the officers on the scene mentioned application of the WRAP, and that report suggested it was applied because the subject had spit “in the officers’ general direction.” However, in review of BWC footage, the subject could be seen lying on his side, handcuffed, and facing a wall; no officers were in range. There is no indication that the use of the WRAP had been discussed among the officers, suggesting a reflexive rather than incident-specific use.

RECOMMENDATION NINETEEN: OPD should consider whether more guidance and training should be provided regarding when the use of the WRAP restraint system should be used and how the decision to use should be documented in the use of force report.

Takedowns

Many incidents of the force we reviewed involved “takedowns,” which mean exactly what the name implies: taking a subject to the ground to gain control and handcuff.

In a number of cases, the resistance leading to the takedown was quite minor or to otherwise not heed orders of officers.

While we are not second-guessing the officers in the field, nor the scrutiny applied to the application of force by subsequent reviewers, we do see benefit to further examination and review of takedowns by the defensive tactics instructors at OPD.

We also observed that in virtually all cases in which a takedown was used, the incident reports note that the subject was referred to the prosecutor for consideration of obstruction charges. We saw this in several cases where the justification for an obstruction charge was notably weak, where the subject was mentally ill (in fact in one case, crying for officers to shoot him), and in another, in a mental crisis at a shelter.

One study that OPD could do is review the aftermath of the force incidents and determine to what degree the “obstruction” charges are actually filed by the County Prosecutor. If there is a significant disconnect between those referrals and cases actually filed, it would suggest recalibration of whether such charges are included too liberally and routinely.

RECOMMENDATION TWENTY: OPD should refer a sample of its takedowns to its defensive tactics instructors to determine whether the use of that force option is in sync with the agency’s overall approach to detaining resistive subjects.

RECOMMENDATION TWENTY-ONE: OPD should review the “filing rate” of obstruction charges by the County Prosecutor to ascertain whether the charge is too routinely included by arresting officers.

Use of Crisis Response Unit (CRU)

The Crisis Response Unit Program is described in OPD Policy 343. The statement of Purpose and Scope set forth in 343.1 includes: CRU members have experience and training interacting with, de-escalating, stabilizing, and transporting individuals in crisis, those who may be under the influence of intoxicating substances, and who might be experiencing mental health challenges.

The Policy states at 343.2 that: “It is the OPD’s policy that CRU members, when available, will respond to calls involving a person in crisis and will attempt to provide crisis services.”

We reviewed a number of reports where such circumstances were plainly present yet there was no indication of a call out or even consideration of a call out, despite obvious indications that the subject was experiencing a mental health crisis, was unhoused, or was a juvenile.

We reviewed cases with no reference to CRU despite calls where a subject was described as “mentally ill, with PTSD, and transient;” “mentally ill and unhoused;” subject described by family as “bi-polar and not taking medication,” and further noting that this information wasn’t shared with responding officers; in a response to a call describing a “man in crisis who asked a citizen to call 911 for him;” a “man in crisis at a shelter,” and when a 15-year old detained for fighting (and resisting/obstructing)

reported that his stepfather had tried to run him over the previous day (the child was returned to his home without apparent follow-up of the reported abuse, even though officers who called the boy's mother reported that they could hear a man yelling in the background).

We know that there may be limitations on CRU availability, and that certain calls require a speedy response such that waiting for CRU support isn't a viable option. Most importantly, we also note the limitation in 343.2 that states: "CRU members are not expected to respond to violent or dangerous situations prior to the scene being stabilized by officers."

As we move forward with our auditing responsibilities, we intend to take a deeper dive into whether CRU is being used to its maximum potential for these calls. To that end, we may request a sample of what events CRU is called to as part of that assessment as we develop our future work plans.

Policy re Reporting Race of Subjects

We noted several cases where a subject of what appeared to be obvious Latin or Hispanic descent, i.e., primarily Spanish speaking or with clearly Latin names, were marked on the incident report as "White." We recognize that being Hispanic or Latino is a cultural, not racial, category, and many such individuals (and many official data tracking mechanisms) consider "White" to be the most accurate available descriptor. However, because of concerns that Hispanics are overrepresented in their contacts with police, many agencies request officers to describe such individuals as "Latino or Hispanic" as opposed to "white" in an effort to ensure that potentially meaningful distinctions are captured and considered.

RECOMMENDATION TWENTY-TWO: When reviewing use of force reports, supervisors should assess whether the recorded demographic information matches up with the observations made in the field, and/or should seek mechanisms for describing subjects with relevant specificity.