

CITY OF OLYMPIA, WA

POLICE AUDITOR

2022 ANNUAL REPORT

Tara L. Parker, Police Auditor, April 24, 2023

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I. Executive Summary

In 2022, the Police Auditor served the City of Olympia in multiple ways. First, between January 1 and December 31, 2022, the Auditor reviewed 68 incidents involving uses of force by members of the Olympia Police Department (OPD), and two incidents involving uses of force by the City of Olympia Jail staff. All of those matters were audited and found to be thorough, objective, free of bias, and consistent with OPD policies.

The OPD's adoption of body worn cameras, in late-2022, greatly enhanced visibility into the totality of officers' interactions, including tone of voice, body language, and officers' conversations with other officers, witnesses, victims and bystanders. As such, the Auditor could observe unprofessional, biased or discriminatory conduct.

Second, the Auditor reviewed 23 investigation files regarding allegations of misconduct by OPD employees. Community members initiated 19 of the investigations by raising complaints and four investigations were initiated by the Department. The Auditor reviewed all of those investigations and found they were thorough, objective, free of bias, and consistent with OPD policies.

Third, the Auditor reviewed documents related to seven public demonstration events related to a broad range of ideological views. The Auditor found that the Department's Crowd Management Operational Plans and After-Action Reports were consistent with the Department's First Amendment Assemblies and Crowd Management Policy and there was not any indication of bias in the Department's plans or responses.

Fourth, the Auditor reviewed OPD trainings, including De-escalation, Protecting First Amendment Rights, and Crowd Management. The Auditor found that the trainings were thorough, unbiased, and consistent with Department policies and best practices.

Fifth, the Auditor reviewed and advised the Department with respect to new policies pertaining to officer uses of force and new body-worn camera (BWC) equipment.

Throughout 2022, with respect to all of the activities above, the Auditor sought clarification and additional information from the Department when necessary. The Auditor also shared observations and suggestions for procedural improvements on multiple occasions. The Department was receptive, responsive, and fully cooperative with the Auditor at all times.

Finally, the Auditor notes that the information in this report represents a very small portion of OPD's conduct in 2022. Specifically, the OPD received 53,355 calls for service and made 3,348 arrests in 2022. Of those 3,348 arrests, only 68 or 2% involved a use of force. As such, the Auditor's examinations of use of force and misconduct investigation files does not provide broad insights into how the Department is addressing crime reports, responding to victims, and

arresting suspects in the vast majority of instances. Accordingly, in the interest of more fully understanding the Department's performance and community interactions, the Auditor recommends that the City explore ways to gather, analyze and report on data related to calls for service and arrests.

II. Police Auditor Role and Responsibilities

The City of Olympia employs a Police Auditor in order to increase public trust and confidence in the Police Department by providing an independent civilian review and audit of the Police Department's uses of force and its internal investigations regarding complaints against the Olympia Police Department and its employees.

In 2022, the City Council expanded the Police Auditor's duties and responsibilities to include examining uses of force, complaint investigations, and public demonstration responses to determine whether there was any evidence of unlawful bias or civil rights violations. The full scope of the Police Auditor's duties and responsibilities are as follows:

The Civilian Police Auditor will be responsible for the following:

1. Review of police professional standards investigations relating to complaints about the Police Department or its employees to determine if the investigations meet Department standards and are complete, thorough, objective, and fair.
2. Review of all uses of force, complaints, and internal investigations as defined in Olympia Police Department General Orders to determine if they are consistent with Police Department policies, without indication of unlawful bias, protect civil rights, and are in alignment with best practices.
3. Provide an impartial review of the Police Department's internal investigative process and verification of the Department's compliance with established policy and procedures.
4. Provide an impartial review of the Department's responses to public demonstrations and crowd management when events result in physical injury, extensive property damage, or is determined by the City Manager to be appropriate for review by the Police Auditor to determine if the response was in alignment with the Police Department's applicable General Orders and Guiding Principles for Demonstrations and Crowd Management.
5. Review and recommend revisions to Police Department policies, procedures, and training related to complaints, use of force, and the internal investigative process based on audit findings. Revisions will be in alignment with best practices regarding diversity, equity, and inclusion, while ensuring public safety and protection of First Amendment and other constitutional rights.

6. Filing a mid-year and annual written report to the City Council, with a copy to the City Manager and Police Chief. The Auditor's report shall not contain the names of employees, complainants, or witnesses; and will include:

Use of Force Files

- Summary of use of force statistics, including but not limited to:
- Types of use of force used
- Subject Demographics
- Indications of bias
- Whether the use of force led to serious injury

Misconduct Complaints and Internal Investigations

- A finding on each complaint and internal investigation audited indicating either:
- That the Department's internal investigation met the Department's standards and established investigative best practices; or
- After response to a request for further investigation, the case failed to meet the above standards, and reasons supporting such finding.
- A summary of the complaints and internal investigations audited, including:
 - Date complaint received
 - Classification
 - General Description
 - Investigative Findings
 - Corrective Actions
 - Police Auditor Findings
 - When additional complaint investigations were requested and OPD's Responses
 - Findings on each complaint case audited

Additional Information

- Summaries of data in graphic and narrative form
- Analysis of key trends and patterns
- Recommendations for revisions to policy, procedures, and training
- A list of the updated policies, procedures and trainings related to the Police Auditor Scope of Work

7. The Police Auditor will present the mid-year and annual reports at a City Council meeting.

III. Police Auditor Methodology

The Police Auditor receives weekly reports from the Office of Professional Standards (OPS). Each report contains the completed Use of Force files, which must include the following information per RCW 10.118.030(2):

- The date and time of the incident;
- The location of the incident;
- The agency or agencies employing the law enforcement officers;
- The type of force used by the law enforcement officer;
- The type of injury to the person against whom force was used, if any;
- The type of injury to the law enforcement officer, if any;
- Whether the person against whom force was used was armed or unarmed;
- Whether the person against whom force was used was believed to be armed;
- The type of weapon the person against whom force was used was armed with, if any;
- The age, gender, race, and ethnicity of the person against whom force was used, if known;
- The tribal affiliation of the person against whom force was used, if applicable and known;
- Whether the person against whom force was used exhibited any signs associated with a potential mental health condition or use of a controlled substance or alcohol based on the observation of the law enforcement officer;
- The name, age, gender, race, and ethnicity of the law enforcement officer, if known;
- The law enforcement officer's years of service;
- The reason for the initial contact between the person against whom force was used and the law enforcement officer;
- Whether any minors were present at the scene of the incident, if known;
- The entity conducting the independent investigation of the incident, if applicable;
- Whether dashboard or body worn camera footage was recorded for an incident;
- The number of officers who were present when force was used; and
- The number of suspects who were present when force was used.

The Use of Force files must also include:

- Arrests or charges
- Witness statements
- Photos
- Videos
- Associated case reports
- Other documentary evidence
- Immediate Supervisor review of reports and determinations
- Management review of reports and determinations
- Defensive Tactics Use of Force Team reviews and training points, when applicable

Additionally, the OPS weekly reports to the Auditor contains updated information regarding all internal and external complaints regarding OPD Officers, including:

- Complaint and Internal investigation documents
- Classifications
- Investigation details and findings
- Learning and resolutions

Finally, the weekly OPS reports include all Crowd Management Operational Plans and After-Action Reports regarding public demonstrations.

The Police Auditor's process includes:

- Tracking all data listed above;
- Seeking additional information when necessary;
- Consulting with the Chief of Police and the Professional Standards Lieutenant (OPS) regarding observations, policies, practices, and departmental developments;
- Examining the data for trends;
- Reviewing all files to determine
 - o Completeness
 - o Thoroughness
 - o Objectiveness
 - o Fairness
 - o Evidence of Bias
- Examining Department practices for compliance with OPD policies; and
- Noting areas that may be improved by procedural or policy changes.

IV. Policies Regarding Complaints

Complaints about members of the Olympia Police Department can be received in many ways including in-person, by telephone, by written documents, and by email. Complaints can also be filed via the complaint form on the City's website. All complaints must be thoroughly and fairly investigated in accordance with the standards set forth in OPD Policy.

Complaints are sorted into one of two categories:

- **Serious Misconduct** complaints include allegations of excessive use of force and civil rights violations. Complaints in this category are assigned to the Office of Professional Standards to investigate.
- **Service Level** complaints include allegations of rudeness, poor work performance and minor policy violations. Service Level complaints are generally assigned to first line supervisors to investigate and address.

Internal Affairs investigation reports must include the following information:

- The date of the incident;
- The name of the employee(s) involved;
- The date the case was assigned;
- The names and contact information for the complainants or affected individuals in the complaint;
- A written report containing:
 - o A concise but complete synopsis of the allegations;

- A narrative presenting the details of the investigation, including a chronological summary of the investigation, witness interviews, etc.;
- The findings of fact - including, by numerical listing, a summary of the findings of fact, including citation of any violations of policy and/or law involved;
- An investigator's log showing the dates and times of contacts and other key actions related to the investigation.
- Appendices containing:
 - Transcripts of interviews with the complainant(s) and key witnesses;
 - Letters and written statements from employees, community members, and witnesses;
 - Copies of all related reports;
 - Copies of all memos or formal letters related to the investigation.
- Photographs, video tapes, audio tapes and other relevant supporting materials shall also be submitted with the final report;
- The date the final report is submitted;
- The name and signature of the assigned investigator.

At the conclusion of an investigation, the investigator will reach a finding in accordance with the Department's policies. The standard of proof for all internal investigations is by "a preponderance of the evidence." This is a lower standard than what a criminal case requires which is "proof beyond a reasonable doubt."

In July 2022, the OPD Policy, regarding Personnel Complaints, was revised.¹ The new Personnel Complaint Policy, which pertains to allegations of misconduct, provides the following definitions and categories:

Complaint Definition – A communication, verbal or written, conveying dissatisfaction with the performance or conduct of the Department or one or more of its members. Complaints are classified in one of the below categories:

- **Inquiry** – A matter in which there is a question regarding conduct or performance. Such inquiries generally include clarification regarding policy, procedures, or the response to specific incidents handled by the Department.
- **Personnel complaints** - include any allegation of misconduct, or improper job performance against an employee of the police department that, if true, would constitute a violation of department policy or of applicable federal, state, or local law, policy, or rule, or CJTC decertification/suspension/revocation criteria found in section 1010.16 of this policy. Personnel complaints may be generated internally or by the public.
- **Informal complaint**- A matter in which there is no expectation, from the complainant, that an investigation will occur, and the supervisor is satisfied that

¹ The full policy can be found at <https://public.powerdms.com/OlympiaPD/tree/documents/1662358> .

appropriate action has been taken by a supervisor of rank greater than the accused member.

- **Formal complaint**- A matter in which a supervisor or manager determines that further action is warranted. Such complaints may be investigated by a supervisor of rank greater than the accused member or the Professional Standards Unit, depending on the seriousness and complexity of the investigation.
- **Wrongdoing** – (as defined in RCW 10.93.190 – Officer’s Duty to Intervene) means conduct that is contrary to law or contrary to the policies of the witnessing officer’s agency, provided that the conduct is not de minimis or technical in nature.) “Wrongdoing” – even if true - may or may not be determined to be misconduct pursuant to City of Olympia policies if such “wrongdoing” involves allegations that a City of Olympia officer violated the policy of a witnessing officer’s agency.
- **Preliminary Investigation** – A cursory fact-finding activity where the Office of Professional Standards investigator or a supervisor seeks to determine if sufficient information exists before deciding whether or not an investigation is feasible or warranted.

Complaint Dispositions

Each complaint shall be classified with one of the following dispositions:

- **No Finding** – When the investigation shows one of the two following conditions to be present:
 - The complainant failed/declined to disclose information to further the investigation.
 - The allegations relate exclusively to another agency, and the complaint and/or the complainant has been referred to that agency.
- **Unfounded** - When the investigation shows that the alleged behavior did not occur or was patently false.
- **Exonerated** - When the investigation shows the alleged behavior occurred, but also shows such acts to be justified, lawful, and proper.
- **Not sustained** - When the investigation fails to disclose sufficient facts to prove or disprove that the alleged behavior occurred.
- **Sustained** - When the investigation discloses sufficient facts to prove the alleged behavior occurred.
- **Resolved** – Resolved may be used as a disposition for inquiries and informal complaints only.
- **Without Merit** – The Professional Standards Lieutenant, with approval of the Chief or Police or designee, may close an investigation if one of the following conditions are demonstrated:
 - Positive proof (photos, video, audio tape, etc.) clearly establishes that the allegation is untrue; or

- The facts indicate that the allegation is clearly inconsequential or frivolous and no tangible harm can be reasonably associated with the behavior; or
- The facts indicate that the allegation was made maliciously and with wanton disregard for the truth; or
- The complaint does not involve the Olympia Police Department or its employees.

If an investigation discloses misconduct or improper job performance that was not alleged in the original complaint, the investigator shall recommend appropriate action with regard to any additional allegations.

All investigations and findings are reviewed by the Professional Standards Lieutenant, the Chief of Police, and the Police Auditor. All Service Level complaint investigations must be completed within sixty (60) days from the date the case is received by the Department. All investigations into allegations of Serious Misconduct must be completed within ninety (90) days from the date the case is received by the Department, unless extended by the Professional Standards Lieutenant with the approval of the Chief of Police.

Any sustained complaint is referred to the employee's supervisor or manager for corrective action. The determination of corrective action is based on the severity and repetitiveness of the violation.

Corrective actions include the following:

- Counseling and coaching
- Oral warning
- Written warning
- Performance improvement plan
- Suspension without pay
- Reduction in pay or rank
- Last chance agreement
- Termination

OPS is responsible for managing the formal accountability system. OPS is managed by the Chief of Police. All records are tracked, stored, and maintained in the Department Records Management System (RMS). OPS provides all information regarding external and internal complaints about OPD employees to the Police Auditor on a weekly basis. The Police Auditor also has independent access to the RMS database.

V. Uses of Force January 1 – December 31, 2022

The OPD Use of Force Policy contains many provisions and definitions that specify when and how officers may use physical force, particular law enforcement tools that may be used to compel people to cooperate, as well as detailed requirements regarding how uses of force must

be reported. OPD policies reflect and comply with applicable Washington State law as codified in the Revised Code of Washington (RCW), as well as standards set by state and federal law.²

The Auditor is responsible for examining the records for compliance with all aspects of the Use of Force Policy. The policy provisions that are most pertinent for this purpose are as follows:

The term “force” in this context refers to physical force:

Any act reasonably likely to cause physical pain or injury or any other act exerted upon a person's body to compel, control, constrain, or restrain the person's movement. Physical force does not include pat-downs, incidental touching, verbal commands, or compliant handcuffing where there is no physical pain or injury (RCW 10.120.010).

Law enforcement officers must “use the least amount of physical force necessary to overcome resistance under the circumstances.” (RCW 10.120.020(3)(b)).

Force is only allowed when it is necessary. Necessary force is defined as follows:

Under the totality of the circumstances, a reasonably effective alternative to the use of physical force or deadly force does not appear to exist, and the type and amount of physical force or deadly force used is a reasonable and proportional response to affect the legal purpose intended or to protect against the threat posed to the officer or others (RCW 10.120.010).

Prior to using force, when safe and feasible, officers are required to do the following:

- Identify themselves as law enforcement officers.
- Determine whether the person has a special need, mental condition, physical limitation, developmental disability, language barrier, or other factor that may impact their ability to understand and comply with officer commands.
- Provide clear instructions and warnings.
- Warn a person that physical force will be used unless their resistance ceases.
- Give the person a reasonable opportunity to comply with any warning.

A. Use of Force Incidents in 2022

In 2022, OPD officers reported uses of force in 73 incidents. However, five of the recorded incidents did not involve officers using force as defined by OPD policy. The officers nonetheless recorded the incidents to provide supervisory review where they perceived concerns may be raised by subjects or witnesses. Although the officers' intentions were

² The full policy may be found at <https://public.powerdms.com/OlympiaPD/tree/documents/1661374>.

commendable, the Auditor recommended such incidents be recorded differently. The Department subsequently developed a different practice to ensure that officers notify their supervisors whenever circumstances indicate that a subject or witness expressed their perception of excessive force or other civil rights violation.

Accordingly, the true number of 2022 incidents involving officers using force is 68. The Olympia Jail reported uses of force in two incidents involving a single individual. Each of the use of force incidents was subject to internal, multi-level review and the Department determined that the officers' actions were within policy.

In one incident, the Department determined an officers' use of their handgun was contrary to the Department's training – though not a specific policy violation – and directed the matter to its Firearms Training Team for review and follow-up. The Firearms Training Team reviewed this incident and decided there was no specific extra training needed for the officer other than counseling about options for carrying the handgun in their utility vest.

The Auditor reviewed the files of every incident involving the use of force. Specifically, the Auditor examined every file to ensure the reports from officers and management were complete, thorough, objective, fair and without bias. The Auditor also examined whether each use of force met Department standards regarding de-escalation efforts and whether the force used was lawful. The Auditor found that all Use of Force files in 2022 demonstrated that the Department and its employees' actions were within policy.

Additional key data regarding the 68 use of force files is as follows:

Types of Force Used³

- 57 involved "Takedowns" by means of defensive tactics such as pain compliance techniques, control holds, and physical restraint.
- 5 involved use of the Bola Wrap, a remote restraint device that does not rely on pain compliance.
- 3 incidents involved the deployment of Conductive Energy Weapons (CEW or CED Taser probes).
- 1 incident involved kinetic impact rounds from a less lethal shotgun.
- 1 incident involved pepper spray.
- 1 incident involved an officer pointing their handgun.
- 1 incident involved use of a patrol vehicle.
- 1 incident involved a canine bite.

³ There are 71 Types of Force noted in this Report, rather than 68, because, in three instances more than one type of force was used. The types of force are defined and described in more detail in the OPD Policy: <https://public.powerdms.com/OlympiaPD/tree/documents/1661374>.

Subject Demographics⁴

- 41 incidents involved white male subjects.
- 15 incidents involved white female subjects.
- 4 incidents involved Black male subjects.
- 4 incidents involved Black female subjects.⁵
- 1 incident involved an Asian male subject.
- 1 incident involved an Asian female subject.
- 1 incident involved an Indigenous male subject.
- 1 incident involved a subject whose race was unknown.

Additional Key Data

- There was not a statistically significant change in the rate of officers' uses of force between 2021 and 2022.

Year	Calls for Service	Arrests	Uses of Force Incidents	Uses of Force as % of Arrests
2021	49,021	2,225	59	2.65%
2022	53,355	3,348	68	2.03%

- None of the incidents led to serious injuries.
- 49 (72%) of the incidents involved subjects who appeared to be severely mentally ill and/or impaired by alcohol or drugs and did not respond to de-escalation efforts.

B. Analyses of Key Trends and Patterns

The Vast Majority of Instances Necessitating Uses of Force Involved Individuals in Crisis

As stated above, 72% of the incidents where officers used force to subdue and arrest individuals involved subjects who were suffering from mental illness and/or severely impaired by drugs or alcohol. The records show that those individuals did not respond to officers' de-escalation efforts, nor did they comply with orders to cease conduct that posed serious dangers to themselves and others. The records of these encounters show that the OPD called for Crisis Response Unit (CRU) assistance and that the officers refrained from intervening until multiple officers and CRU professionals arrived, except when there was an active threat of injury to a subject or others.

⁴ The current OPD RMS enables officers to enter limited demographic information. The Department is currently looking into acquiring a new RMS that allows officers to collect additional information.

⁵ One Black female subject was transgender.

The Department Demonstrates Transparency and Openness to Scrutiny

As noted above, five Use of Force reports were submitted by officers who reported interactions leading to arrest that did not include physical force. The officers who reported those five incidents stated they did so as a precaution because the subjects or third parties indicated that they would bring allegations of excessive force or civil rights violations. In the first six months of 2022, the OPD documented incidents involving such “perception of force” or “looks like force” in its Record Management System (RMS) so that those incidents would be thoroughly reviewed and documented. Neither the Department nor the Auditor has identified any other law enforcement agency that does this.

In the Auditor’s 2022 Mid-Year Report, the Auditor recommended that the Department discontinue this practice because it makes it appear that officers used force more often than they actually did. The Auditor commended the Department for reports that increase transparency and accountability through this practice, however, it was technically incorrect and created data tracking problems. The Department agreed and ceased documenting such incidents as “uses of force” and instead has reported non-use of force incidents that raise concerns to supervisors for review.

Additionally, the Department has enhanced its transparency and accountability through the adoption of body worn cameras (BWC). Officers must activate their BWCs during all law enforcement functions, unless it would jeopardize their safety. To the extent feasible, officers must inform all persons whom they encounter that an audio and video recording is being made. BWC video must be uploaded in the Department video storage system and documented in related reports. The OPS and the Auditor review all BWC video related to Use of Force reports and misconduct investigations. Both the OPS and the Auditor have found the BWC video has greatly enhanced their respective reviews of such incidents.

Finally, the Auditor has found the Department to be very responsive, cooperative, and welcoming of the Auditor’s inquiries, feedback and suggestions. Throughout the year, there have been dozens of times that the Auditor requested additional information, which the Department consistently and quickly supplied. The Auditor has also shared several observations and suggestions regarding ways the Department could enhance its performance, which were consistently welcomed and adopted. These included:

- Directing the Olympia Jail employees to submit more timely and thorough Use of Force reports ;
- Directing OPD officers to provide more thorough narratives regarding de-escalation efforts and their lawful purpose to use physical force in the required form fields (for example, stating “four officers present,” rather than “multiple officers,” or “officers were investigating assault

- report when subject attempted to flee,” rather than “assault and resisting arrest”);
- Directing officers to specifically note subjects’ mental impairment when observed;
 - Ensure the language used in OPD policies and trainings is consistent with Olympia’s Reimagining Public Safety values; and
 - Ensure Officers’ use of BWC equipment adheres to all policy requirements and maximizes transparency.

There Was No Evidence of Racial or Gender-Identity Bias in the Use of Force Files

The 11 incidents where officers used force to arrest people of color, and the one incident involving a transgender person, were thoroughly scrutinized by the Auditor and found to have been justified and within policy. There was no evidence that the officers’ interactions with those individuals differed from their interactions with white subjects. The records involving the transgender person indicated that officers consistently referred to them by their proper name and pronouns and treated them with dignity and respect throughout the incident.

Furthermore, the records involving marginalized persons were generally more detailed and more thorough than reports regarding white, cisgendered people. The records contained detailed descriptions of de-escalation efforts and often involved other law enforcement agencies and CRU personnel. Collectively, the records indicate that OPD officers are attentive to their need to demonstrate the utmost care in their interactions with marginalized people and their willingness to have such interactions scrutinized. As noted above, the addition of BWC video provides exceptional visibility into the totality of officers’ interactions, including tone of voice, body language, and officers’ conversations with other officers, witnesses, victims and bystanders. As such, the Auditor could observe unprofessional, biased or discriminatory conduct.

Nonetheless, the Auditor acknowledges serious concerns about potential racial bias in policing. Here, eight of the 68 Use of Force incidents involved Black individuals, which constitutes 11%; but the most recent available census data states only 3% of Olympians are Black.

However, this data set of eight files is not sufficient, on its own, to provide meaningful quantitative analysis. It is well established by criminologists and social scientists that population benchmarks (comparing a group’s population to its representation in law enforcement encounters) is not an effective measure of racial bias in policing. This is because there are numerous social, historical and structural dynamics that unequally contribute to rates of poverty, substance use disorders, mental illness, access to education, healthcare and housing – all of which can disproportionately affect one’s likelihood of being

involved in the criminal justice system. Therefore, a meaningful analysis of whether racial bias accounts for disparities in law enforcement interactions requires an analysis of demographics related to crime reports, police responses to the reports, police-initiated interactions, arrests, and incidents that do not result in arrests.

C. OPD Developments

Reporting

Throughout 2022, the OPD continued to enhance the clarity and thoroughness of its use of force reporting. The officers' reports have included increasingly detailed and coherent descriptions of the relevant circumstances, de-escalation efforts, and how force and defensive tactics were employed. This has enhanced the Department's accountability and transparency by providing thorough information to the Department and the Auditor, while also supporting appropriate and efficient follow-up actions.

Body Worn Cameras

Also, as noted above, in late 2022, the Department began using body worn cameras. This equipment immediately enhanced reporting, transparency, accountability, opportunities to learn, the capacity to capture criminal acts, and information relevant to prosecutions. Department supervisors and the Police Auditor are now able to see and analyze officer conduct, the conduct of others, uses of force, and surrounding circumstances in great detail. And, unlike when reviews were limited to written reports, the Auditor is now able to observe officers' interactions with each other and members of the community in order to discern broadly whether officers are performing their duties without bias and in ways that protect civil rights and meet best practices.

Training

A third way in which the OPD has significantly enhanced its practices is through providing trainings regarding First Amendment rights and effective, unbiased Crowd Management practices. Those training materials were reviewed by the Auditor and determined to be thorough, unbiased, and meet Department standards and best practices.

VI. Misconduct Complaints and Investigations

The Office of Professional Standards conducted 23 investigations into potential misconduct by OPD employees in 2022. 19 of the investigations were regarding complaints that came from members of the community and four misconduct investigations were generated internally by OPD employees or City staff.

All of the complaint investigations were audited and determined to have met Department standards.

One of the internally generated "IA" or Internal Affairs investigations resulted in sustained findings of serious allegations and the Department recommended termination. The employee resigned and the Department reported the matter to the Criminal Justice Training Commission, in accordance with RCW 43.101.135, which mandates such reports.

A second internal investigation was filed by an officer who alleged that another officer engaged in discourteous, unprofessional conduct. The Department sustained the allegation and the subject of the complaint was given a documented oral warning.

A third IA investigation was opened by the Department due to information in a community member's complaint about receiving erroneous information from an officer. The Department found that the officer mistakenly mischaracterized the nature of a court order he was serving. The Department did not impose corrective action on the officer, but it determined that Department-wide training regarding court order service and enforcement was needed.

The fourth matter for which the Department opened two IA files – IA 22-003 and IA 22-004 – concerned an officer-involved shooting on March 31, 2022. In that incident, the subject stabbed two officers with a machete and an officer shot the subject. The subject was subsequently charged with first-degree arson, two counts of first-degree assault, two counts of second-degree assault, and unlawful imprisonment.

The March 31, 2022 incident was first investigated by the Capital Metro Investigations Team (CMIT), which was led by the Lacey Police Department. After the CMIT determined that the OPD conduct was lawful and justified, the Pierce County Prosecutor conducted a review and concurred with the CMIT. The OPD then convened a Use of Force Review Board to review the incident. The Review Board found that the officer was justified in firing his weapon. The Review Board also recommended that the Department provide additional training regarding conducting interventions in small spaces. All of the above reviews were then submitted to the Auditor for review. The Auditor found that the use of force and Department investigation met Department standards. The Auditor and the OPS Lieutenant also discussed ways in which the Department's reporting on such processes may be improved in the future.

A second officer-involved shooting occurred on August 22, 2022. The CMIIT completed its review of the incident. The incident is currently under review by the Clark County Prosecutor. When the Clark County Prosecutor's review is complete, the OPD will conduct a review of the incident. The OPD will subsequently transmit the entire file to the Auditor for review.

With respect to the 19 investigations stemming from complaints from the community, only one resulted in sustained findings of officer misconduct.

The 2022 complaint and IA investigation records are summarized below.

2022 Complaint Investigation Details

Record Number/ Date Filed	Classification	General Description	Investigative Findings	Corrective Actions	Police Auditor Findings
IA 21-006 11/15/21	Serious	Officer interfered with another law enforcement agency's dangerous dog investigation after the dog caused the death of the officer's family dog. Contrary to the directive of the investigating agency, and while in uniform, the officer approached the dangerous dog owner and demanded and took possession of the dog.	<p>Sustained three policy violations:</p> <p>320.5.9, Conduct unbecoming an officer.</p> <p>320.5.9, Interference with a law enforcement agency investigation.</p> <p>32.5.2, Misuse of OPD status for improper purpose.</p>	The officer resigned in lieu of termination. Reported to the Criminal Justice Training Commission per RCW 43.101.135.	Met Department standards.
1069 1/31/22	Service	Complainant emailed City Manager alleging wrongful vehicle stop. OPS made three failed attempts to contact Complainant and records review showed the stop was proper.	Exonerated	N/A	Met Department standards.

Record Number/ Date Filed	Classification	General Description	Investigative Findings	Corrective Actions	Police Auditor Findings
1068 1/30/22	Service	Person trespassed from business premises for refusing to wear a mask and engaging in disorderly conduct complained of excessive force and civil rights violations. Officer involved filed the complaint as a precaution. The Department investigated the incident and found no misconduct.	No further action required	N/A	Met Department standards.
1070 2/11/22	Unspecified	Municipal Court and prosecutor sent emails from Complainant to OPD. Complainant declined to file a report or follow up.	Exonerated	N/A	Met Department standards.
1071 3/14/22	Service	Anonymous complaint submitted on-line contained vague allegation of non-response by OPD, with insufficient information for follow-up.	Unfounded	N/A	Met Department standards.
1072 3/18/22	Service	Anonymous on-line complaint contained insufficient information for follow-up.	Unfounded	N/A	Met Department standards.

Record Number/ Date Filed	Classification	General Description	Investigative Findings	Corrective Actions	Police Auditor Findings
1075 5/2/22	Service	The Complainant alleged via email that the OPD failed to properly follow up after an arrest. Department records showed the OPD actions were within Department standards.	Not Sustained	N/A	Met Department standards.
1076 5/2/22	Service	The Complainant emailed allegations of multiple unwarranted vehicular stops and harassment. The Department investigated and found most of the stops occurred at transient camps in the City of Lacey. The Complainant did not provide sufficient detail to allow further investigation into stops in Olympia. The Complainant was advised how to report any future concerns and informed that the matter would be documented by the OPS. She expressed satisfaction.	Not Sustained	N/A	Met Department standards.

Record Number/ Date Filed	Classification	General Description	Investigative Findings	Corrective Actions	Police Auditor Findings
1077 5/4/22	Service	Complainant emailed the OPD and City Council members alleging the OPD failed to perform requested welfare check on her sister. Records showed that an officer attempted to contact the person of concern, but was unsuccessful. The officer was then diverted to an emergency, where he was injured and sent to the ER. A second officer read the first officer's notes and believed the welfare check was completed.	Unfounded	The officer performed within policy regarding the welfare check; however, he was counseled regarding making clearer notes in call records.	Met Department standards.
1078 5/23/22	Service	On-line complainant alleged an OPD officer was rude. The Department emailed and called Complainant twice for more information, but was unable to make contact.	Not Sustained	N/A	Met Department standards.
1079 5/20/22	Service	On-line complainant alleged an OPD officer was rude. The Department emailed and called Complainant twice for more information but was unable to make contact.	Not Sustained	N/A	Met Department standards.

Record Number/ Date Filed	Classification	General Description	Investigative Findings	Corrective Actions	Police Auditor Findings
1069 1/31/22	Service	Complainant emailed City Manager alleging wrongful vehicle stop. OPS made three failed attempts to contact Complainant and records review showed the stop was proper.	Exonerated	N/A	Met Department standards.
1080 7/18/22	Service	Complainant alleged OPD officer posted offensive content on social media. Investigation showed the posts were not connected to any OPD employee.	Without Merit	N/A	Met Department standards.
1081 7/15/22	Service	Anonymous complainant alleged inadequate investigation without any additional information. OPS efforts to contact the complainant were unsuccessful.	Without Merit	N/A	Met Department standards.
1082 7/25/22	Service	Drexel House employee complained about pattern of delayed response to 911 calls and one specific call. OPS Lt called Complainant and explained circumstances related to the specific incident was due to staffing during a separate urgent matter. Re broader concerns, the Department agreed to meet with DH staff and work on building better relationships between the two agencies, and Complainant felt that was a good plan.	Resolved	N/A	Met Department standards.

Record Number/ Date Filed	Classification	General Description	Investigative Findings	Corrective Actions	Police Auditor Findings
1083 7/26/22	Serious	Complainant charged with Assault 4, harassment and disorderly conduct filed a civil lawsuit against the Olympia PD, alleging several civil rights violations.	Without Merit	N/A	Met Department standards.
1084 8/19/22	Service	Complainant alleged officers and other officials were unprofessional when they enforced an order of protection.	Without Merit	N/A	Met Department standards.
1086 9/15/22	Serious	Complainant alleged misconduct occurred 12 years prior. Investigation found no substantiating information.	Not Sustained	N/A	Met Department standards.
1087 9/28/22	Service	Unhoused complainant alleged officers harassed her. Patrol Manager investigated and found allegations unsubstantiated.	Without Merit	N/A	Met Department standards.
IA 22-002 10/4/22	Service	Following resolution of community member's complaint, OPS opened investigation and found "Unsatisfactory Performance" when officer erroneously characterized court order being served.	Sustained	Officer received documented oral warning. Department training re court order service and enforcement.	Met Department standards.

Record Number/ Date Filed	Classification	General Description	Investigative Findings	Corrective Actions	Police Auditor Findings
IA 22-003 IA 22-004 10/27/22	Investigation re 3/31/22 officer-involved shooting	Capital Metro Investigations Team, Pierce County Prosecutor's Office, and OPD investigations concluded use of force was warranted when subject stabbed two officers with machete and did not respond to de-escalation efforts.	Exonerated	OPD Internal Review Board recommended additional training re officer entries into small spaces.	Met Department standards.
1091 11/10/22	Service	Complainant alleged discourteous conduct. Supervisor reviewed BWC footage, saw no misconduct, and spoke with complainant who stated he was satisfied.	Without Merit	N/A	Met Department standards.
1092 11/12/22	Service	Complainant alleged officer drove poorly. Investigation showed officer involved was not OPD.	Without Merit	N/A	Met Department standards.
IA 22-005 11/16/22	Service	Officer alleged another officer was rude and disrespectful to him by words and conduct.	Sustained finding of discourteous conduct.	Documented oral warning.	Met Department standards.

A. Trends Observed re Misconduct Investigations

The Department is Responsive, Thorough and Fair in Addressing Community Complaints.

As stated above, the Department consistently performed thorough and fair investigations into complaints from the community. In six of the 19 complaints from the community, the complainants did not include specific information necessary for the Office of Professional Standards to conduct a thorough investigation. In those instances, the complainants were either anonymous or they did not respond to the Department's efforts to contact them. However, in the thirteen instances where complainants provided the Department with

sufficient information to follow up, OPS thoroughly investigated the matters and communicated with the complainants about their concerns and the records. Where applicable, OPS further advised the complainants about how to effectively address future concerns and assured them that the matter would be recorded in the OPD database.

The Department is Proactive, Thorough and Fair in Initiating and Investigating Internal Misconduct Concerns.

The IA investigation records demonstrate three occasions in 2022 where OPS independently determined that there was information of concern about an officer's conduct that warranted an internal investigation. In each of those instances, OPS thoroughly investigated the OPD employee's conduct and concluded that policy violations had occurred. Two matters involved service-level violations and one involved serious policy violations. Each matter was well-documented and addressed in a manner that was proportionate and appropriate to the circumstances.

VII. Crowd Management

OPD Policy 430, "First Amendment Assemblies and Crowd Management," governs the Department's role and responsibilities when community members gather to publicly express their views.⁶ As the policy states:

The Olympia Police Department recognizes that the City of Olympia has a tradition of free speech and assembly. It is the responsibility and priority of the Olympia Police Department not to unduly impede the exercise of First Amendment rights and to provide for the safe and lawful expression of speech while also working to maintain public safety, peace, and order. Individuals or groups present on the public way, such as public facilities, streets, or walkways, generally have the right to assemble, rally, demonstrate, protest, or otherwise express their views and opinions through varying forms of communication, including the distribution of printed matter. The content of the speech does not generally provide the basis for imposing limitations on First Amendment rights. Officers will treat demonstrators with equity and dignity regardless of the content of free speech. Officers shall not take action or fail to take action based on the opinions being expressed.

The Police Auditor's role includes examining the Department's responses to public demonstrations "when events result in physical injury, extensive property damage, or is

⁶ The full policy is available at <https://public.powerdms.com/OlympiaPD/tree/documents/1661510>.

determined by the City Manager to be appropriate for review by the Police Auditor.” There were no such events in 2022.

Nonetheless, in the interest of transparency, the Department initiated a practice of sending the Auditor all of the 2022 planning and operations documents related to public assemblies. In three instances, the Department responded to public demonstrations for which the participants obtained permits. In four instances, the Department learned of demonstration plans from social media and posters in the community. None of the 2022 public assembly events resulted in physical injuries or extensive property damage.

The Auditor reviewed the Department’s operational plans, responses, and post-event reports regarding all seven instances. The organizers and participants in those events held a broad range of, sometimes opposing, ideological views. There was not, however, any indication of differing plans or responses by the OPD. The Department’s responses were all consistent with OPD policy, followed best practices, and were free of bias.

VIII. Recommendation

Explore and Identify Ways to Broadly Assess OPD Performance

The Auditor recognizes and appreciates that the City of Olympia and its Police Department have been deeply engaged in multiple efforts to enhance public safety, increase transparency and accountability, and ensure that Olympia fulfills its commitment to be equitable, unbiased, anti-racist, and welcoming to all. The role of the Police Auditor contributes to these goals in significant ways by examining and reporting on a small portion of the Police Department’s activities: uses of force, misconduct investigations, and public demonstration management. Nonetheless, the data examined by the Auditor raises important questions related to the City’s public safety goals that can only be answered by looking at more data.

Specifically, in 2022, OPD officers used force in response to only .1% of the 53,355 calls for service and in 2% of the 3,348 arrests. Although it is very important to closely examine use of force and misconduct investigation files, the Auditor’s review of those files cannot inform the community how the Department is addressing crime reports, responding to victims, and arresting suspects in the vast majority of instances.

Of particular concern is whether the disproportionate number of use of force incidents involving Black people and individuals in crisis reflects bias, lack of training, or other inadequacies in the Department. Alternatively, this data may be attributable to other societal, economic, and structural dynamics, or some combination of multiple factors.

Furthermore, because the Auditor did not review encounters that did not involve uses of force, it is not known how many encounters with individuals in crisis were successfully concluded

through de-escalation efforts and assistance from the CRU. In other words, we cannot discern from use of force records alone whether the Department's training on crisis response and de-escalation, and its coordination with the CRU, has lessened officer's uses of force in encounters with individuals in crisis.

Accordingly, in the interest of more fully understanding the Department's performance and community interactions, the Auditor recommends that the City explore ways to gather, analyze and report on data related to calls for service and arrests. Some questions that may be answered through such a broad examination may include:

- Where are the calls for service originating? Are there patterns that help explain disproportionate police encounters among some groups of people?
- How did the OPD resolve the 50,000 calls for service that did not lead to an arrest? Are there demographic discrepancies related to when law enforcement exercises discretion about who to arrest?
- Of the 98% of arrests that were made without any use of force, what was the role of de-escalation methods? And what were the subjects' demographics?
- Given that 72% of the use of force incidents involved individuals in crisis, what role may CRU resources, officer training, and other community factors have in lessening the number of such interventions?

Looking at the full picture of how and when the OPD interacts with the public, with inquiries like those above in mind, would likely assist the City and the Department in its efforts to ensure that the Department meets the needs of the Olympia community in a manner that has the full community's trust and confidence.

IX. Conclusion

As demonstrated above, the records reviewed by the Auditor demonstrate that the Department's performance has met Department standards and best practices in several respects. First, the OPD has engaged in compliant and transparent, unbiased uses of force and complaint investigations throughout 2022. Second, the Department has demonstrated that it has prepared for and attended to public demonstrations in thorough and unbiased ways that are consistent with the Department's First Amendment Assemblies and Crowd Management Policy. And third, the OPD has engaged in thorough trainings regarding First Amendment rights and effective, unbiased Crowd Management practices.

In closing, it is an honor and a privilege to serve as the City of Olympia's Police Auditor. It is always a pleasure to work with the City Council, the City Manager, the Olympia Police Department, and the many Olympia community members who are working to make Olympia a safe, inclusive, and wonderful place to live, work and visit.