

ANNUAL REPORT

VIA EMAIL ONLY

DATE: January 29, 2022

TO: Olympia City Council
cc City of Olympia City Manager and Interim Chief of Police

FROM: Tara L. Parker, Police Auditor

RE: Police Auditor 2021 Annual Report

I. Executive Summary

In 2021, the Olympia City Council Police Auditor reviewed fifty-nine incidents involving the use of force by members of the Olympia Police Department (OPD), and eight incidents involving the use 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 Auditor also reviewed the investigation files of fourteen misconduct complaints against OPD employees, eleven of which were raised by community members, and three that were initiated internally by the Department. Ten of the complaints that were initiated by community members alleged service level (discourteous or unprofessional) misconduct. The one allegation of serious misconduct, (excessive use of force in a 2018 encounter), raised by a community member was resolved to the complainant's satisfaction.

One of the three serious misconduct investigations initiated by the OPD was closed because the complainant did not disclose information necessary to further the investigation. The second OPD internal investigation of serious misconduct resulted in sustained findings and the employee resigned. And the third internal investigation of serious misconduct resulted in sustained findings and corrective action was issued. All of those matters were audited and found to be thorough, objective, free of bias, and consistent with OPD policies.

Throughout the year, the Auditor consulted with the Interim Chief of Police¹, the Professional Standards Lieutenant, OPD legal counsel, and the City Manager regarding OPD policies, practices, and administrative processes. During 2021, the Auditor made recommendations regarding (1) the OPD Personnel Complaint Policies and the on-line Complaint information; (2) the Use of Force reporting policies and internal review process; and (3) the need for increased trainings regarding de-escalation with individuals in crisis, cultural awareness, and anti-biased policing. The OPD and city leadership were receptive to the recommendations

¹ Interim Chief of Police Aaron Jelcick retired in September 2021, after which Rich Allen has served as Interim Chief.

and had independently initiated several related changes. At the same time, the Washington Legislature passed several new laws that mandate reforms related to the Auditor's recommendations.

Accordingly, as of January 2022, the OPD made or is in the process of making substantial changes to its policies, practices, and trainings to comply with new state laws, to adopt the Auditor's recommendations, and to enhance its overall performance consistent with best practices and the city's Re-Imagining Public Safety goals.

The Auditor recommends that the OPD (1) finalize adoption of the draft changes to its Personnel Complaint Policy and track its efficacy; (2) continue enhancing officer training in de-escalation, particularly with individuals suffering mental health crises; (3) engage in training and community engagement regarding anti-biased policing and cultural awareness; and (4) continue investing resources to ensure its compliance with best practices for uses of force, use of force reporting , and its internal review processes.

II. Background

On November 2, 2020, the Olympia City Council selected the law firm of Ogden Murphy Wallace, P.L.L.C. to serve as its Police Auditor in 2021. The purpose of employing the Police Auditor is to increase public trust and confidence in the Police Department by providing an independent review and audit of the Police Department's uses of force and its internal investigations regarding complaints against the Olympia Police Department or its employees.

Police Auditor's Duties and Responsibilities

1. Review the Police Department investigations regarding complaints against the Department and its employees to determine whether the investigations were conducted in accordance with the processes required by Department policies, to ensure that they are thorough, objective, and fair.
2. Review all complaints about police employees that allege the use of excessive or unnecessary force, civil rights violations, or bias; and review all reported uses of force within the department as defined in Olympia Police Department General Order 1.4.
3. Provide an impartial review of the Police Department's internal investigative process and verify if the Department is compliant with established policy and procedures.
4. Prepare mid-year and annual reports for the City Council, with a copy to the City Manager and the Police Chief, which includes the type of complaints, the response, and a finding on each complaint case audited indicating whether the investigation met or failed to meet established standards. Each report shall give an analysis of key trends, patterns, and recommendations for revisions.

III. Methodology

The Police Auditor receives weekly reports from the Office of Professional Standards. Each report contains the following information:

- All new use of force checklists entered into Record Management System, which includes several data points and documents:
 - Race, sex, age of subjects
 - Name, rank, race, and sex of officers
 - Type of force used
 - De-escalation efforts
 - Injuries and medical treatments
 - Weapons used by subjects or officers
 - Influence of drugs, alcohol, or mental illness
 - Arrests or charges
 - Witness statements
 - Photos
 - Videos
 - Associated case reports
 - Other documentary evidence
- Immediate Supervisor review reports and determinations
- Management review reports and determinations
- Defensive Tactics Use of Force Team reviews and training points, when applicable
- Information regarding all internal and external complaints regarding OPD Officers
 - Complaint
 - Classification
 - Investigation details and findings
 - Learning and resolution

The Police Auditor's process includes:

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

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 General Orders 52.1 and 26.1.²

Complaints are sorted into one of two categories³:

- Serious Misconduct complaints include allegations of excessive use of force and civil rights violations. Complaints in this category are assigned to a department manager to investigate. These investigations are also reviewed by legal counsel when they are completed.
- 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 investigation reports must include the following information:

- A. The date of the incident;
- B. The name of the employee(s) involved;
- C. The date the case was assigned;
- D. The names and contact information for the complainants or affected individuals in the complaint;
- E. A written report containing:
 - 1. A summary of the allegations (a concise but complete synopsis of the allegations);
 - 2. A narrative presenting the details of the investigation (including a chronological summary of the investigation, witness interviews, etc.);
 - 3. 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);
 - 4. An investigator's log showing the dates and times of contacts and other key actions related to the investigation.
- F. Appendices containing:
 - 1. Transcripts of interviews with the complainant(s) and key witnesses;
 - 2. Letters and written statements from employees, community members, and witnesses;
 - 3. Copies of all related reports;
 - 4. Copies of all memos or formal letters related to the investigation.
- G. Photographs, video tapes, audio tapes and other relevant supporting materials shall also be submitted with the final report;
- H. The date the final report is submitted;
- I. The name and signature of the assigned investigator.

² Elements of the OPD policies regarding how misconduct complaints are categorized and handled are currently being amended. Pertinent details regarding the draft amendments are provided in Section V of this Report.

³ As detailed in Section V of this Report, draft amendments to the policy will add a new category of complaint, "Inquiries."

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."

There are five categories of possible investigation findings⁴:

- Sustained: Sufficient facts to prove the allegation did occur.
- Not Sustained: Fails to disclose sufficient facts to prove or disprove the allegation.
- Unfounded: Allegations complained of did not occur.
- Exonerated: Allegations occurred, but acts are found to be justified, lawful and proper.
- No Findings: Complainant failed to disclose information to further the investigation, or another agency was involved, and investigation was referred to that agency.

All investigations and findings are reviewed by the Professional Standards Lieutenant and the Chief of Police. 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

The Office of Professional Standards (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.

⁴ As detailed in Section V of this Report, amendments to the policy are under review that will add two new categories of possible investigation findings, "Resolved" and "Without Merit."

IV. Uses of Force in 2021

A. Use of Force Records

In 2021, OPD officers responded to 49,012 calls for service and made 2,224 arrests, thus 4.5% of all calls for services resulted in an arrest. OPD officers reported that they used force during fifty-nine (59) incidents, which was 2.6% of all arrests.

Each of the use of force incidents was subject to internal, multi-level review. In fifty-seven of the incidents, the Department determined that the officers' actions were within policy. The Auditor reviewed each of those files and determined the officer's actions were within policy.

In two incidents, the Department determined that the officers' use of force was out of policy because the officers did not have sufficient grounds to detain fleeing subjects when there was no imminent danger to the public. In both cases, the Department took corrective action in the form of documented oral warnings and mandated training regarding the policy prohibiting the use of force to detain fleeing subjects who do not pose an imminent threat to public safety. The Auditor reviewed the files and determined that the Department's internal review and corrective action responses were within policy.

Additional key data regarding the 59 use of force files is as follows:

Types of Force Used⁵

- 53 involved takedowns by means of defensive tactics such as pain compliance techniques, control holds, and physical restraint.
- 19 involved use of the Bola Wrap, a remote restraint device that does not rely on pain compliance.⁶
- 12 incidents involved the deployment of Conductive Energy Weapons (CEW or CED Taser probes).
- 1 incident involved kinetic impact rounds from a less lethal shotgun.

Subject Demographics

- 41 incidents involved white male subjects.
- 11 incidents involved white female subjects.
- 4 incidents involved Black male subjects.
- 1 incident involved a Black female subject.

⁵ Because some incidents involved more than one type of force, the total number of the figures below add up to more than 59.

⁶ In early 2021, the OPD purchased BolaWrap Remote Restraint devices. The BolaWrap is a hand-held, pre-escalation and apprehension tool that discharges a Kevlar tether to temporarily restrain uncooperative suspects and persons in crisis from a safe distance to minimize injuries or the need for higher levels of force.

- 1 incident involved an Asian male subject.
- 1 incident involved an Indigenous Male subject.

Additional Key Data

- None of the incidents led to serious injuries.
- 48, or 81.4%, of the incidents involved subjects who appeared to be mentally ill and/or impaired by alcohol or drugs and were not compliant with de-escalation efforts.

Trends Observed:

1. There Was No Evidence of Racial Bias in the Uses of Force.

Fifty-two of the fifty-nine incidents where officers used force to subdue and arrest subjects involved white individuals. The seven incidents where officers used force in encounters with people of color were thoroughly scrutinized by the Auditor and found to have been justified and within policy. There was no evidence that the officers' interactions with subjects of color differed from their interactions with white subjects.

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

Forty-eight of the fifty-nine 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 indicate that the OPD increasingly called for Crisis Response Unit (CRU) assistance during such encounters and refrained from intervening prior to the CRU response. 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/or assistance from the CRU.

3. The Use of the BolaWrap Device Appears to Enhance the Safety of Subjects and Officers.

The Auditor specifically scrutinized the twelve incidents where officers utilized the BolaWrap device to subdue subjects who were noncompliant and posed a threat of harm to themselves and others. Because the device allows officers to launch Kevlar tethers that wrap around subjects from a distance, it appears such subjects are subdued with considerably less risk of pain or injury than may be experienced when physical force or other less lethal devices are used. The officers are also less likely to be injured by subjects in such encounters.

4. The Department's Internal, Multi-level Review of Uses of Force is Effective.

In two incidences, the Department determined that officers' uses of force were outside policy. In its multi-level review of those incidents, the Department was thorough in examining the circumstances, addressing the deficiencies identified, issuing corrective action, and mandating training to prevent future misuses of

force. Furthermore, the Auditor agreed with the Department's determinations that the other fifty-seven use of force incidents were within policy.

B. 2021 Developments re Uses of Force

Over the course of 2021, the OPD engaged in several significant developments with respect to its use of force policies, reporting and internal review practices, and trainings. These developments stemmed from the Department's initiatives, new legal requirements, recommendations from the Auditor, and feedback from community members. They are summarized below.

1. New Legislation and OPD Policy Revisions

The Washington State Legislature passed a series of police reform bills in the 2021 legislative session that changed the role of police in Washington and the way some law enforcement services are delivered. Some of the new legislation required changes to OPD policies. The majority of these bills went into effect on July 25, 2021, while others will go into effect in 2022. House Bill (HB)1054 (Police Tactics), HB 1310 (Use of Force), and Senate Bill (SB) 5476 (Amends Controlled Substance Act), went into effect on July 1, 2021. The OPD has revised its policies where necessary to conform to the new laws and trained its employees on the new policies accordingly.

HB 1310 raised the threshold regarding when police officers are permitted to use force to intervene in crisis situations such as when individuals are reported to be suffering from mental illness, substance abuse and public disturbances, but not posing a threat to public safety. There was some concern from the community that under the new law the Police Department would no longer respond to such calls.

However, the implementation of HB 1310 did not alter the OPD's policy to respond to all crisis calls. Because of funding from Olympia's Public Safety Levy, the OPD has been able to diversify its resources and responders to include members of Olympia's Crisis Response Unit (CRU) and Designated Crisis Responders, who are licensed mental health professionals. The records reflect that, following the implementation of HB 1310, officers who respond to crisis calls are regularly and increasingly calling for CRU assistance and documenting when de-escalation efforts fail, necessitating the use of force when subjects pose an imminent risk of harm to themselves or others.

Another way new legislation has altered the OPD's use of force procedures is reflected in the impact of SB 5259, regarding data collection, including data that was not always collected by OPD prior to June 2021. Although the law's enhanced reporting requirements have not gone into effect, the OPD now requires officers to specifically record the following in all use of force reports:

- Race and ethnicity of involved officers
- Officer's years of service
- Reasons for initial contact between subjects and officers
- Whether any minors were present at the scene
- The number of officers and suspects present when force was used

2. OPD Procedural Changes

In addition to recording the information above, the OPD has greatly enhanced the clarity and thoroughness of its use of force reporting. Over the course of the year, the officers' reports have included increasingly detailed and coherent descriptions of the relevant circumstances, which enhances accountability, transparency, and the efficiency of follow-up actions.

The Department also requested body cameras and dashboard-mounted video recording devices in order to enhance reporting, transparency, accountability, opportunities to learn, and the capacity to capture criminal acts and aid prosecutions. This request was granted by the city and the equipment is expected to be in place by summer 2022.

Additionally, the city approved funding for an additional Lieutenant to oversee the Detective Unit training and hiring, thus removing those tasks from the Office of Professional Standards (OPS) Lieutenant. The OPS Lieutenant will now be focused on internal affairs, which includes overseeing the internal review of all use of force reports and tracking related trends, needs for improvement, and trainings.

The fourth way in which the OPD has significantly enhanced its use of force practices is through requiring trainings aimed at improving de-escalation efforts generally, and particularly with individuals experiencing mental health crises. In 2021, all OPD staff completed a 2-hour Crisis Intervention Team training presented by the Criminal Justice Training Commission (CJTC). And approximately 27 staff members attended the full 40-hour CIT training. OPD staff also participated in 24 hours of a CJTC Patrol Tactics training that focused on de-escalation techniques and communications. The Department will participate in CJTC trainings involving anti-bias and the history of race and police relations as soon as the CJTC makes them available.

The OPD has also committed to train its officers in procedural justice, which teaches officers how to best demonstrate respect for community members, treat them with dignity and fairness, and allows them to tell their side of the story during encounters with police.

The final substantial procedural change in 2021 concerns how uses of force in the Jail are reported. In a mid-year audit of use of force records, it was discovered that use of force reports from the Jail were being recorded in the records management system such that they were not being reviewed in a timely manner by the OPS Lieutenant and sent to the Auditor. Upon review, the Auditor determined that the Jail use of force reports up through June 2021 were deficient in several respects.

These problems were quickly remedied by instructing Jail management to supplement the deficient reports, ensure comprehensive reporting moving forward, and to instruct Jail staff to enter use of force reports contemporaneous to the incident. The 2021 data from the Jail shows that staff used force to restrain inmates eight times, involving seven men and one woman, seven of which were white, and one who was Asian. All of the eight instances in 2021 where jail staff used force involved individuals who were

engaged in self-harm or otherwise exhibiting mental illness. Each incident was audited and found to be within policy by the Department and the Auditor.

V. Misconduct Complaints

A. 2021 Misconduct Complaint Data

In 2021, the Office of Professional Standards received and investigated fourteen completed misconduct complaints. Eleven of the complaints came from members of the community and three misconduct investigations were generated internally by OPD employees or City staff. The Auditor also reviewed the files of two internal investigations that were not completed by the date of this report.

The eleven community member-initiated complaints were audited and determined to have met Department standards.

The three completed Department-initiated complaints were also audited and determined to have met Department standards. One of the internally generated investigations resulted in sustained findings, the Department recommended termination, and the employee resigned ceasing employment with the city. The second internal investigation resulted in no finding and no further action because the Complainant failed to provide information to further the investigation. The third internally generated investigation resulted in a sustained finding and corrective action in the form of warnings and required training. The last two internal misconduct investigations resulted in sustained findings and are currently under review for further action.

Trends Observed:

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

Ten of the eleven 2021 Misconduct Complaints from the community arose from individuals who felt an officer had been discourteous or unprofessional, typically by using disrespectful or vulgar language. In those cases, the subject officer's supervisor reached out to the complainants, heard the details of their concerns, assured them that the Department does not tolerate disrespectful communications by officers, and assured them that the officer would be counseled not to engage in such misconduct. The complainants expressed appreciation for the responses and did not wish for further action. The supervisors documented the matters, handled them in a manner that was consistent with policy, and followed up with the officers regarding the Department's expectations of respectful and professional conduct.

The Department sustained one service level complaint regarding disrespectful language from a community member. It was the second such complaint against the Police Training Officer (PTO), who had received a prior community complaint and oral warning against the same misconduct. The Department sustained the allegation and issued another oral warning along with a one-year suspension of that officer's capacity as a PTO. The PTO position is a "specialty assignment" and comes with additional pay as long as the employee holds the position and is allowed to train recruit officers. The Department therefore

removed that opportunity and benefit from officer at issue, consistent with policy, affirming the seriousness with which the Department takes its expectations of respectful and professional conduct.

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

The Auditor reviewed the records of four Internal Investigations that were initiated by the Department in 2021. Those matters did not come to the Department's attention through a complaint from a community member; rather, the Department learned troubling information related to potential serious misconduct by an OPD employee and initiated an investigation by Internal Affairs. In each of those investigations (including one that is still in process, but has been reviewed by the Auditor), the Department engaged in thorough and fair, unbiased efforts to gather all appropriate information and properly address the allegations.

The 2021 Complaint records are summarized below.

Complaint Investigation Details

Record Number	Classification	General Description	Investigative Findings	Corrective Actions	Police Auditor Findings
2020-12-21	Service Level	Discourteous - Community member stated officer's comment was unprofessional and made her uncomfortable.	Supervisor recommended no additional investigation required.	Supervisor discussed event with officer, and they talked about various communication methods and strategies.	Met Department standards.
2021-01-14	Service Level	Discourteous - Community member felt an officer's statement to her after she called them to a disturbance was rude and uncalled for.	Reported that complainant satisfied with resolution, no further action required.	N/A	Met Department standards.
2021-001	Serious Allegation	Subject of arrest alleged assault by OPD personnel to third party but did not notify the Department or provide any contact information.	No Finding. Complainant failed/declined to disclose information to further the investigation.	N/A	Met Department standards.

2021-002	Serious Allegation	Thurston County Sheriff's Office charged an OPD employee with criminal conduct.	Internal Affairs Investigation completed 04/03/21. Sustained findings.	Department recommended termination. The employee resigned and no longer works for the city.	Met Department standards.
2021-01-26	Service Level	Discourteous	Reported that complainant satisfied with resolution, no further action required.	N/A	Met Department standards.
2021-02-11	Service Level	Unsatisfactory - Community member did not agree with the manner in which an incident was handled.	Reported that complainant satisfied with resolution, no further action required.	N/A	Met Department standards.
1059	Service Level	Discourteous – Dispatcher complained officer was rude.	Reported that complainant satisfied with resolution, no further action required.	Documented oral warning to employee.	Met Department standards.
1061	Serious	Use of Force Re 2018 incident that was investigated and resolved at that time.	Complainant satisfied with response. No further action required	N/A	Met Department Standards
2021-2830	Serious	Use of force – improper deployment of Conductive Energy Weapon.	Sustained	Oral and written warnings, additional training	Met Department Standards
1062	Service Level	Disagreed with arrest.	Closed because the actions complained about involved other law enforcement agencies	N/A	Met Department Standards
1063	Service Level	Concerns about legitimacy of officer visit.	Complainant satisfied with	N/A	Met Department Standards

			explanation. No further action required.		
1064	Service Level	Discourteous	Sustained	Oral warning and one-year suspension from being a training officer	Met Department Standards
1065	Service Level	Complaint about Public Records Act disclosure.	Exonerated	N/A	Met Department Standards
1066	Service Level	Complaint about evidence handling.	Exonerated	N/A	Met Department Standards
1067	Service Level	Discourteous	Review in progress		
IA 2021-006	Serious	Alleged violations of OPD conduct and ethics policies.	Internal review resulted in sustained findings. Under review for further action.		

1. Additional Developments re Complaints

First, as the chart above shows, there was some inconsistency regarding how the investigative findings classifications changed over the course of 2021. Up until July 2021, the Department entered “no further action required” in circumstances where service level complaints were resolved to the complainant’s satisfaction with minimal investigation. That terminology was technically accurate, but it did not conform to the classifications provided in the OPD’s General Orders.

Accordingly, in response to the Auditor’s recommendation, the Department began classifying such findings as “Exonerated,” which has been the best available fit for such instances. Moreover, the Department initiated amending its complaint policy to provide two new classifications: “Resolved” and “Without Merit.” These two new categories will more accurately represent the findings in circumstances where service level complaints are quickly resolved to the complainant’s satisfaction after the Department addressed their concerns and in cases where the allegations do not sufficiently or specifically allege a policy violation by an OPD employee. The new Draft Personnel Complaint Policy amendments are under review and expected to be approved and published shortly after the date of this Report. The following language is expected to be adopted:

Resolved – Resolved may be used as a disposition for inquiries and informal complaints only and should be accompanied by notes of what occurred in addressing the matter.

Without Merit – The Professional Standards Manager, with approval of the Chief or Police or designee, may close an investigation if one of the following conditions are demonstrated:

1. Positive proof (photos, video, audio tape, etc.) clearly establishes that the allegation is untrue; or
2. The facts indicate that the allegation is clearly inconsequential or frivolous and no tangible harm can be reasonably associated with the behavior; or
3. The facts indicate that the allegation was made maliciously and with wanton disregard for the truth; or
4. The complaint does not involve the Olympia Police Department or its employees.

The new Draft Personnel Complaint Policy also includes a new category of complaint, “inquiries,” as referred to above regarding when a complaint may conclude with the finding “Resolved.” An “Inquiry” will be defined as “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 by the Department.” These anticipated amendments will increase the Department’s ability to review and record complaints and the investigative findings in a way that is thorough, complete, fair, unbiased, and transparent.

The new Draft Personnel Complaint Policy also clarifies who will be tasked with conducting investigations of command-level employees. Specifically, the General Orders have not specified who would investigate complaints against the Chief of Police, the Deputy Chief of Police, or the Manager of the Office of Professional Standards. The Auditor recommended that the policy be amended to specify that any misconduct allegations against those individuals who generally have authority over OPD employee misconduct investigations would be conducted by a neutral authority. Accordingly, the Draft Personnel Complaint Policy is expected to be amended to include the following:

If a complaint is regarding the Manager of the Office of Professional Standards, the Deputy Chief will investigate the matter. If the complaint is regarding the Deputy Chief or the Chief of Police, the City Manager will be informed and determine the appropriate investigator.

A third anticipated policy amendment was mandated by new legislation, now RCW 43.101.135, which requires the Department to notify the Washington Criminal Justice Training Commission (CJTC) about officer misconduct findings under the following circumstances:

Upon termination of a peace officer for any reason, including termination, resignation, or retirement the Department shall, within 15 days of the termination, notify the CJTC on a personnel action report form provided by the commission. The Department shall, upon request of the CJTC, provide such additional documentation or information as the commission deems necessary to determine whether the termination provides grounds for revocation of the peace officer’s certification (RCW 43.101.135).

If the employer accepts an officer's resignation or retirement in lieu of termination, the employing agency shall report the reasons and rationale

in the information provided to the commission, including the findings from any internal or external investigations into alleged misconduct.

In addition to those circumstances listed above, the employing agency shall:

A. Notify the commission within 15 days of learning of the occurrence of any death or serious injury caused by the use of force by an officer or any time an officer has been charged with a crime. Employing agencies must have a policy requiring officers to report any pending criminal charges and any conviction, plea, or other case disposition immediately to their agency (See Policy 320); and

B. Notify the commission within 15 days of an initial disciplinary decision by an employing agency for alleged behavior or conduct by an officer that is noncriminal and may result in revocation of certification pursuant to RCW 43.101.105.

To better enable the commission to act swiftly and comprehensively when misconduct has occurred that may undermine public trust and confidence in law enforcement or the correctional system, if the totality of the circumstances support a conclusion that the officer resigned or retired in anticipation of discipline, whether or not the misconduct was discovered at the time, and when such discipline, if carried forward, would more likely than not have led to discharge, or if the officer was laid off when disciplinary investigation or action was imminent or pending which could have resulted in the officer's suspension or discharge, the employing agency shall conduct and complete the investigation and provide all relevant information to the commission as if the officer were still employed by the agency.

The final key development regarding OPD misconduct complaint system pertains to the on-line complaint form on the City of Olympia website. The current on-line complaint form and information is not adequately accessible and helpful to individuals who may wish to register their concerns about the performance of OPD employees. Accordingly, the city has redesigned the on-line complaint form and drafted explanatory information regarding how individuals may file complaints, how complaints will be investigated, and made it far easier for community members to locate, understand, and use the on-line complaint process. This re-design meets best practices and aligns with Olympia's Re-Imagining Public Safety goals. It is expected to be made public shortly after the date of this Report, when the OPD finalizes its related policy changes, such that the website information reflects the new policies.

VI. Recommendations

As demonstrated above, the OPD adopted or otherwise substantially followed the recommendations from the Auditor throughout 2021. As such, the recommendations at this time are generally aimed at continuing the work that is underway and continually assessing the efficacy of the Department.

First, the Auditor recommends that the OPD finalize adoption of the draft changes to its Personnel Complaint Policy and train its employees on the new policies as soon as possible. Moving forward, along with the publication of the new on-line complaint form and information, it will be important for the OPD to monitor any changes with respect to the complaints it receives from the community and seek feedback regarding its efforts to be more accessible and transparent.

Second, the OPD should continue enhancing officer training in de-escalation, particularly with individuals suffering mental health crises. As the data above shows, the vast majority of use of force incidents occurred with subjects in crisis who were not compliant with de-escalation efforts and who posed a danger to themselves and others. Moving forward, the Department should examine whether incidents of using force to detain individuals in crisis decrease, either due to enhanced training, the increased coordination with the Crisis Response Unit, or both. Feedback on these issues should be obtained by officers and members of the CRU.

Third, the Department should continue seeking and engage in training regarding anti-biased policing and cultural awareness. Those trainings, and others, should align with the City of Olympia's Diversity Equity and Inclusion values and the City's Reimagining Public Safety goals.

Although the Department's uses of force overwhelmingly involved white individuals, the community has expressed broad concern that the Department's overall policing has contained elements of bias against people of color. In order to earn greater trust and confidence among people from underrepresented communities, the Department should continue its efforts to engage in conversations around bias and welcome community input regarding how it can be more respectful, responsive, diverse, and transparent.

And fourth, the Department should continue investing resources to ensure its compliance with best practices for uses of force, and its internal use of force reporting and review processes. Moving forward, the Department should continue to ensure that officers and jail employees understand and comply with new policies and the enhanced reporting requirements. The Department should also develop processes to ensure that its internal reviews are tracked to ensure that it provides ongoing trainings related to identified areas in need of improvement.

VII. Conclusion

As this Report shows, in 2021, the OPD engaged in substantial efforts to improve its policies, procedures and performance related to uses of force and employee conduct. The Department has been very welcoming of the Auditor's work, both in terms of cooperating with requests for information and adopting the Auditor's recommendations. The City Manager, and IT have also been extremely cooperative and helpful in enabling the Police Auditor to access all of the information necessary to perform this role. This work has resulted in substantial policy changes, generated improved protocols, and facilitated conversations that have enhanced the transparency and accountability of the Police Department. Moreover, the ongoing audits of every complaint and use of force report has provided the necessary information to ensure that the Department complies with its policies, continually learns from its experiences, and makes improvements as needed to maintain public trust and confidence.

