

Office of Police Accountability

2019 Annual Report



**Seattle Office of
Police Accountability**

**Director Andrew Myerberg
April 2020**

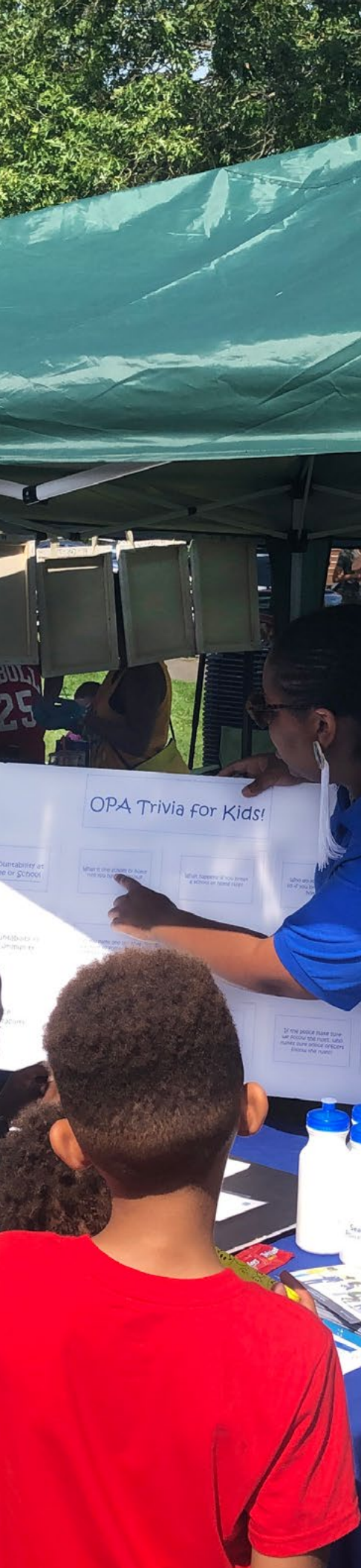


Table of Contents

Executive Summary	1
Facts at a Glance	2
About OPA	3
Core Functions	3
Vision, Mission, & Values	3
Seattle Police Accountability System	4
Oversight of OPA	4
Staff & Organizational Structure	5
Training & Professional Development	6
Complaints	7
Complaints Received	7
Method of Complaint Filing	8
Demographics of Complainants	9
Employees Receiving Complaints	9
Locations of Incidents Resulting in Complaints	11
Allegations	11
Complaint Classification	13
Number & Types of Complaints Classified	14
Investigations	15
Summary of Investigations Trends	15
Expedited Investigations	15
Timeliness of Investigations	15
Findings	16
Discipline Imposed	17
Overturned Findings	18
Summary of Disciplinary Trends	19
Appeals	20
Policy & Program Development	21
Unsubstantiated Misconduct Screening	21
Mediation	22
Rapid Adjudication	23
Management Action Recommendations	24
Reviewing SPD Policy	25
Other OPA Functions	26
Community Engagement	26
SPD Employee Engagement	28
Monitoring Serious Incidents	29
Bias Reviews	29

Executive Summary

In 2019, the Office of Police Accountability (OPA) embraced change and worked to improve the police accountability system for both community members and Seattle Police Department (SPD) employees. Here are a few highlights.

Civilianizing OPA Leadership

OPA fully civilianized its leadership and supervisors in an effort to increase the community's confidence in OPA's objectivity and to comply with legal mandates. The organization is now led by a civilian director, deputy director of investigations, and deputy director of public affairs. OPA also hired a civilian investigations supervisor to supervise its investigators.

Empowering SPD Supervisors

OPA developed a program in which SPD supervisors could review and document complaints that are clearly refuted by evidence, then screen the incidents with OPA to determine whether a formal complaint referral is required. This increased supervisors' involvement with the accountability system and improved the quality of their reviews.

Addressing Serious Misconduct

OPA focused its efforts on investigating allegations of serious misconduct. This was achieved via a system-wide agreement to shift the handling of minor policy violations back to the chain of command, as well as screening out allegations that lacked a factual basis.

Engaging with the Community

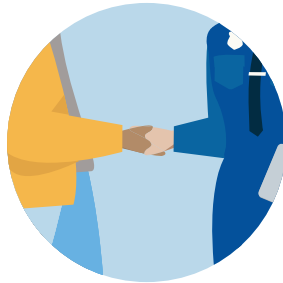
OPA increased community awareness and understanding of its services by conducting or participating in 91 educational and outreach activities. To assist with this, OPA created a suite of outreach materials in various languages that provide information and guidance on issues like how to file a complaint.



Facts at a Glance



Received **928** complaints



1 in 5 allegations was for unprofessional behavior



Investigated **36%** of all complaints



40% of sworn employees received at least one complaint



Completed **99%** of investigations on time



Resolved **13** cases through alternative dispute resolution



Issued **28** policy recommendations



Attended **91** community outreach events



Translated outreach materials into **5** languages

About OPA



OPA has authority over allegations of misconduct involving SPD employees relating to SPD policy and federal, state, and local law. OPA investigates complaints and recommends findings to the Chief of Police. OPA is led by a civilian director and supervisors, while its investigations are carried out by SPD sergeants.

Core Functions

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

Vision, Mission, & Values

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

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

Our **values** guide employee conduct and organizational culture in the pursuit of the OPA mission:

Independence

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

Transparency

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

Collaboration

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

Innovation

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

Seattle Police Accountability System

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



Figure 1: Seattle's police accountability system

OPA is administratively within SPD but physically and operationally independent.

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

Oversight of OPA

The OIG reviews OPA's proposed classification decisions for certain types of cases.¹ In addition, OPA submits all completed investigations to the OIG for review and certification before issuing findings. During this investigation review, the OIG can direct OPA to conduct further investigation prior to certifying the investigation.

In accordance with the Consent Decree's Phase II Sustainment Plan period, OPA participated in the Seattle Police Monitor's Follow-up Review of OPA in 2019.² The assessment found that various improvements had been made to OPA investigations since the last assessment in January 2016.³ Of particular note was that OPA met the 180-day investigation timeline in 95% of the cases assessed.⁴

1. OIG reviews proposed Contact Log, Expedited Investigation, and Rapid Adjudication classifications.
2. The assessment evaluated OPA investigations closed between June 1, 2018, and May 31, 2019, involving sworn personnel. The full report can be found at seattle.gov/Documents/Departments/OPA/Reports/Seattle-Police-Monitor-Follow-up-Review-01-10-2020.pdf.
3. The document can be viewed at seattle.gov/Documents/Departments/OPA/Special-Reports/SPD_Monitor_4th_Systemic_Assessment_OPA_012216.pdf.
4. The Monitor's Fourth Systemic Assessment of OPA in January 2016 found one-fourth of OPA cases to be untimely.

OPA also worked closely with consultants hired by the City to assess the state of the accountability system with a focus on officer discipline and the disciplinary appeals process.⁵ OPA provided data and explanations concerning its processes, use of force investigations, and disciplinary appeals. The consultants' resulting report found the accountability system and disciplinary appeals processes to be sound, but also recommended areas for improvement. Specifically, the consultants recommended changes to the 180-day investigation time limit for criminal cases, fixes to the arbitration process, and more transparency of disciplinary appeals.⁶

Staff & Organizational Structure

OPA reorganized its staffing structure in 2019 by establishing an investigations team and a public affairs team, both managed by a respective deputy director. In late May, OPA became fully civilian-led, in accordance with the 2017 Police Accountability Ordinance, when OPA's sworn leadership—two lieutenants and a captain—returned to other SPD assignments.⁷

*In late May,
OPA became
fully civilian-led.*

In addition to reconfiguring existing staff roles and titles, OPA created three new civilian positions in 2019, including an investigations supervisor, an investigations advisor, and an operations advisor. After the restructuring, OPA staff consisted of 9 sworn investigators—holding the rank of sergeant—and 15 civilian staff assigned to administrative, community engagement, policy and data analysis, operational management, and leadership positions.⁸

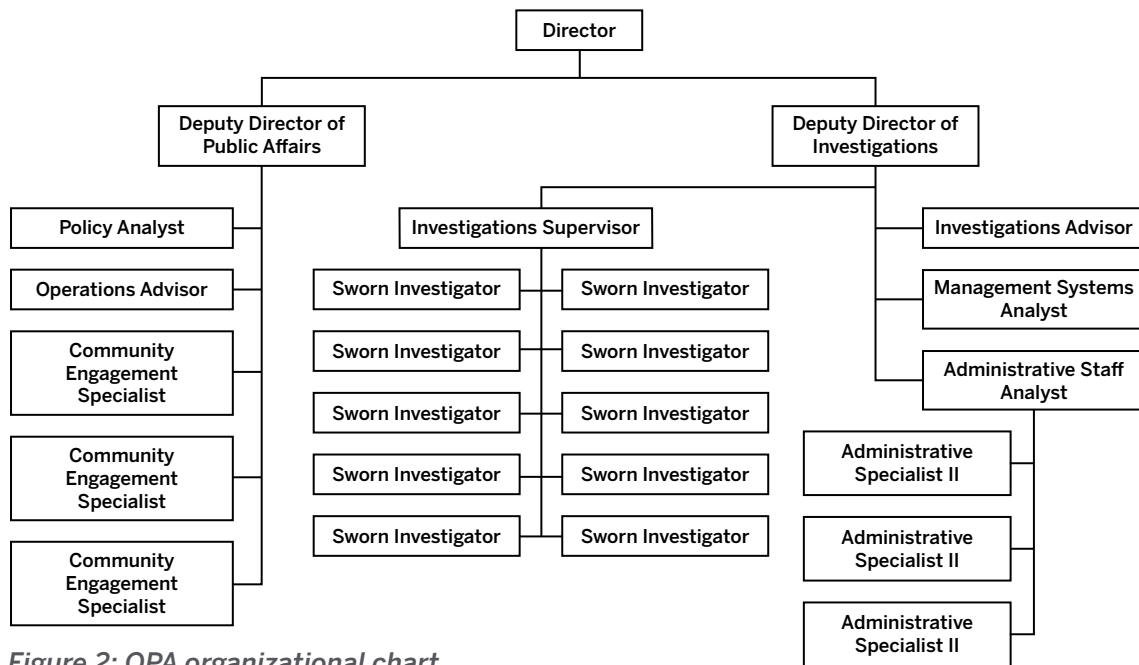


Figure 2: OPA organizational chart

5. This assessment was completed in response to an order from the United States District Court that found aspects of the City's current regime to be out of compliance with the Consent Decree due to concerns about the disciplinary appeals process and its impact on accountability.

6. The full 21CP report is available at seattle.gov/Documents/Departments/OPA/Reports/21CP-Solutions-Assessment-of-Seattle-Police-Accountability-System-December-2019.pdf.

7. See the 2017 Police Accountability Ordinance at seattle.gov/Documents/Departments/OPA/Legislation/2017AccountabilityOrdinance_052217.pdf.

8. OPA also had one sworn investigator on a temporary loan from another unit during 2019, bringing the total to 10.

Training & Professional Development

OPA is committed to educating staff on the realities of policing, providing relevant and up-to-date training, and supporting professional success. OPA encourages staff to have a growth mindset and seek out training and professional development opportunities through the City and external providers.

In 2019, OPA and other system partners collaborated with a consultant on the development and implementation of new training for investigative staff on conducting interviews. This partnership will continue in 2020 as OPA institutionalizes this instruction via adoption of a train-the-trainer model. Investigations staff also attended a variety of conferences and other trainings, including:

- Interview Techniques (Washington State Criminal Justice Training Commission, or WSCJTC)
- Investigating and Responding to Officer Involved Shootings (Washington Homicide Investigators Association, or WHIA)
- Strategies for Conducting Interviews with Officers Webinar (National Association for Civilian Oversight of Law Enforcement, or NACOLE)
- Scientific Content Analysis Advanced Workshop (Laboratory for Scientific Interrogation)
- Managing and Conducting Internal Affairs Investigations Seminar (FBI-LEEDA)
- WHIA Annual Conference
- Internal Affairs and Professional Standards (WSCJTC)
- Constitutional Use of Force (WSCJTC)
- Force Science Certification (Force Science Institute)

In addition, leadership conducted two site visits—to Los Angeles and New York City—to learn how those jurisdictions handle allegations of police misconduct. Civilian staff also participated in and attended a variety of other trainings and conferences, including:

- Presentation Skills Training (Jim Sorensen Consulting)
- Data Visualization Online Training (Data Depict Studio)
- Crisis Intervention, Defensive Tactics, Crowd Management, and Canine (SPD)
- Mediation Practicum (King County Alternative Dispute Resolution)
- NACOLE Annual Conference
- Writing Policies and Procedures (Peabody Communications)
- Managing to Change the World (Management Center)
- International Association of Chiefs of Police Annual Conference
- Writing About Your Profession (Hugo House)
- Essentials of Human Resources (Society for Human Resources Management)
- Leadership Development Program (Center for Creative Leadership)
- IAPro Users Annual Conference

In 2019, nine OPA civilian personnel attended a total of 18 ride-alongs with SPD officers to expand their knowledge of policing policies.

Complaints

Complaints Received

Every contact made with OPA is documented in an electronic tracking system and reviewed to determine next steps. Communication with OPA can be initiated by anyone, including anonymously, and is accepted by whatever means it is conveyed, including in person, by phone, in a mailed letter, via email, or through the OPA web complaint form. In 2019, OPA received 928 complaints.

The number of external complaints originating from the public was consistent with the number of external complaints OPA received in 2018. In contrast, OPA experienced a reduction in the number of internally-generated complaints in 2019. Internal complaints are those either initiated by an SPD employee or forwarded from within SPD on behalf of a member of the public.

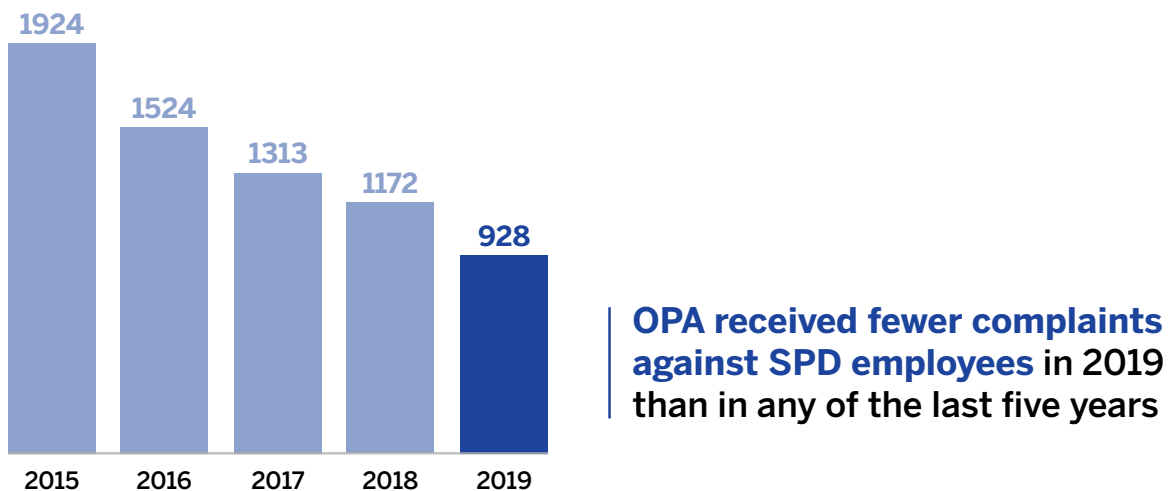
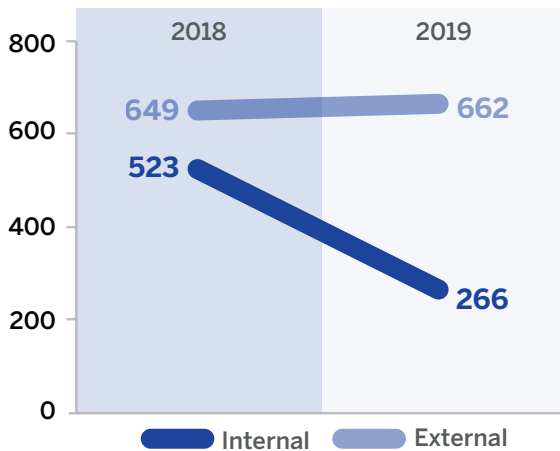


Figure 3: Number of complaints received by year (2015-2019)

Data Collection

Data for this report was collected between January 28, 2020, and March 17, 2020, from OPA's records management database, IAPro. This report reflects accurate and complete data as of April 15, 2020, the date the report was published. Since OPA uses dynamic, live databases, the recorded allegation, finding, and case disposition numbers presented here are subject to future revision. Likewise, historical data presented may vary slightly from figures presented in previous OPA reports due to changes in processes and reporting.

9. In April 2017, OPA began consolidating contacts that did not fall within its jurisdiction, including complaints unrelated to SPD employees, reports of criminal activity, and public disclosure requests. These contacts were not counted toward the total number of complaints for the years 2017-2019 while they were counted in 2015 and 2016. The number of contacts that were consolidated in 2019 was 771.



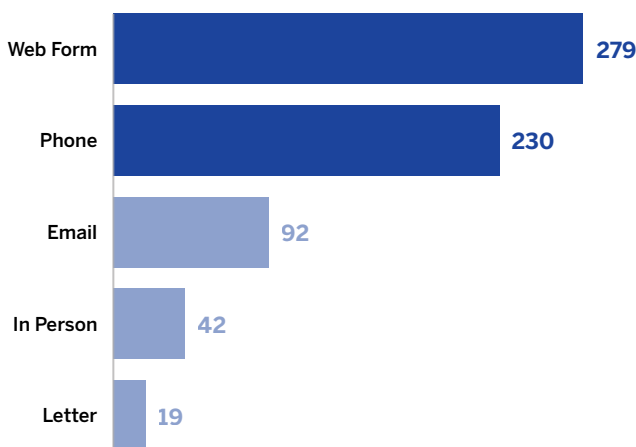
Complaints initiated or forwarded from within SPD dropped by nearly half since 2018

Figure 4: Number of internally vs. externally submitted complaints by year (2018-2019)

OPA can point to a new supervisor screening program—the Unsubstantiated Misconduct Screening—as a significant contributor to the decline in internal complaints received in 2019. Through the program, SPD supervisors critically review and document incidents involving potentially-refutable claims of police misconduct, then screen the incidents with OPA. Of the 242 complaints screened through the program in 2019, the OPA Director requested the supervisor forward the complaint to OPA for further investigation in 23 cases. For the remaining 219 cases, the OPA Director instructed the supervisor to thoroughly document their review. Prior to this program, there was no mechanism in place to process refutable claims, which meant virtually all the screened cases would have required OPA referrals and subsequent investigations. More information on this program and its impact can be found on page 21.

Method of Complaint Filing

An external complaint is a complaint received directly from the public or via an intermediary, such as another City agency. There are five ways members of the public can directly file a complaint with OPA. Figure 5 shows a breakdown of the methods by which external complaints were filed in 2019.



More than three-quarters of external complaints were filed through web form or phone

Figure 5: Method of external complaint filing by type (2019)

Demographics of Complainants

A total of 261 complainants voluntarily identified themselves in 2019.¹⁰ Of these complainants, 88% provided their gender and 73% provided their race. The gender breakdown of complainants was 54% male and 44% female, with the remaining two percent identifying as gender non-binary. The gender of complainants was more evenly distributed than in 2018, where OPA reported 62% of complainants were male and 38% were female. The racial distribution of complainants was largely consistent with previous years; however, the number of complainants identifying as Black or African American dropped 13% over 2018. Figure 6 shows the racial distribution of complainants over the last three years.

Race	2017	2018	2019
White	61%	55%	58%
Black/African American	29%	36%	23%
Asian/Pacific Islander	5%	5%	8%
2 or More			5%
Other			2%
Native American	3%	2%	2%
Hispanic/Latino	2%	5%	2%

Figure 6: Racial/ethnic distribution of complainants with known races (2017-2019)

Employees Receiving Complaints

A total of 1,088 employees were identified in OPA complaints in 2019. This number represents non-unique employees, with 256 employees receiving more than one complaint. Six-hundred and sixty unique employees received at least one complaint.¹¹ Of these, 563 (85%) were sworn employees and 97 were civilian personnel. The gender breakdown was 80% male and 20% female. Forty percent of all sworn employees and 30% of all SPD employees received at least one complaint in 2019. More than two-thirds of the 660 employees who received one or more complaints in 2019 held the rank of police officer in a non-detective assignment.¹²

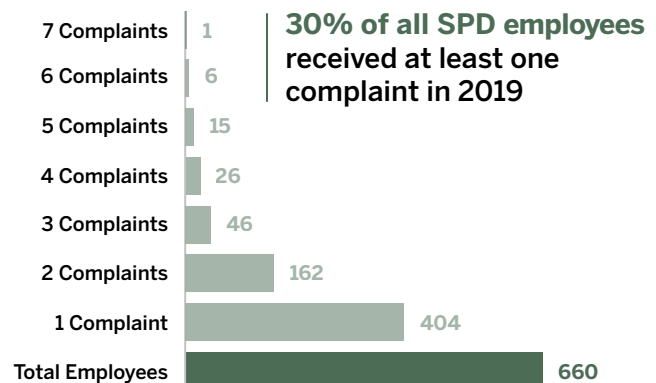


Figure 7: Number of complaints received per employee (2019)

10. OPA gathers data on the demographics of complainants from several sources. Anyone who files a complaint in person or via the web complaint form is asked if they would like to voluntarily disclose their race and gender to OPA. For complaints generated internally or referred from SPD, the supervisor who submits the complaint may enter the complainant's demographic information. Less frequently, OPA may collect complainant demographic data from police reports associated with the OPA complaint. Lastly, while conducting the preliminary investigation, OPA investigators ask complainants if they would like to disclose their race and gender. There are limitations to complainant demographic data. OPA's analysis suggests some complainants provide incorrect demographic information.

11. Unique refers to having only one occurrence.

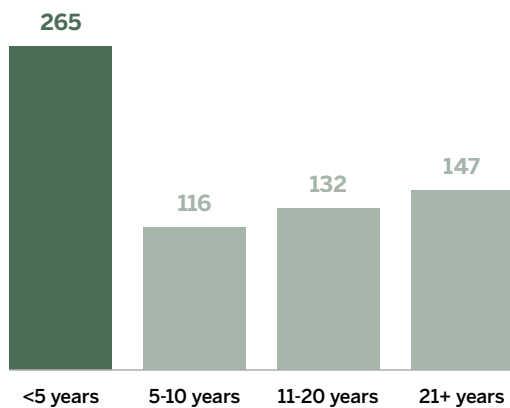
12. Four-hundred and forty-three held the rank of police officer and an additional 32 held the rank of police officer detective.

Race	Named in Complaints	Sworn	All SPD
White	71%	70%	67%
Asian/Pacific Islander	8%	7%	9%
Black/African American	7%	8%	8%
Hispanic/Latino	6%	6%	5%
Native American	2%	2%	1%
2 or More	5%	4%	5%
Unknown	3%	3%	5%

Racial/ethnic distribution of employees receiving complaints generally correlated to that of all SPD

Figure 8: Comparison of racial demographics for employees (2019)

Forty percent of employees named in 2019 complaints had been employed by SPD for less than five years. Generally, newer employees tend to receive more complaints for several reasons. For example, most new officers are assigned to patrol and regularly interact with the public, thus exposing themselves to more opportunities for complaints than officers assigned to detective or other non-patrol units. Increased hiring in recent years has also contributed to the number of newer officers working these assignments. Employees hired in 2016 made up six percent of all SPD employees yet comprised more than 12% of all employees named in OPA complaints in 2019.¹³



Newer employees received more complaints than employees with more experience

Figure 9: Service seniority of employees who received complaints (2019)

13. At the time of this report's publication, there were more complaints received involving employees hired in 2016 (135) than there were employees hired in that year (132). Sixty-six employees hired in 2016 received a combined total of 135 complaints in 2019. This trend was also discussed in OPA's 2018 Annual Report, as employees hired in 2016 received more complaints in 2018 than employees hired in any other year.

Locations of Incidents Resulting in Complaints

OPA recorded the incident location in 77% of complaints received in 2019. West Precinct—which includes the downtown core, South Lake Union, Queen Anne, and Magnolia—had the highest number of incidents that resulted in an OPA complaint in 2019. The locations of incidents are mapped by police precinct in Figure 10.

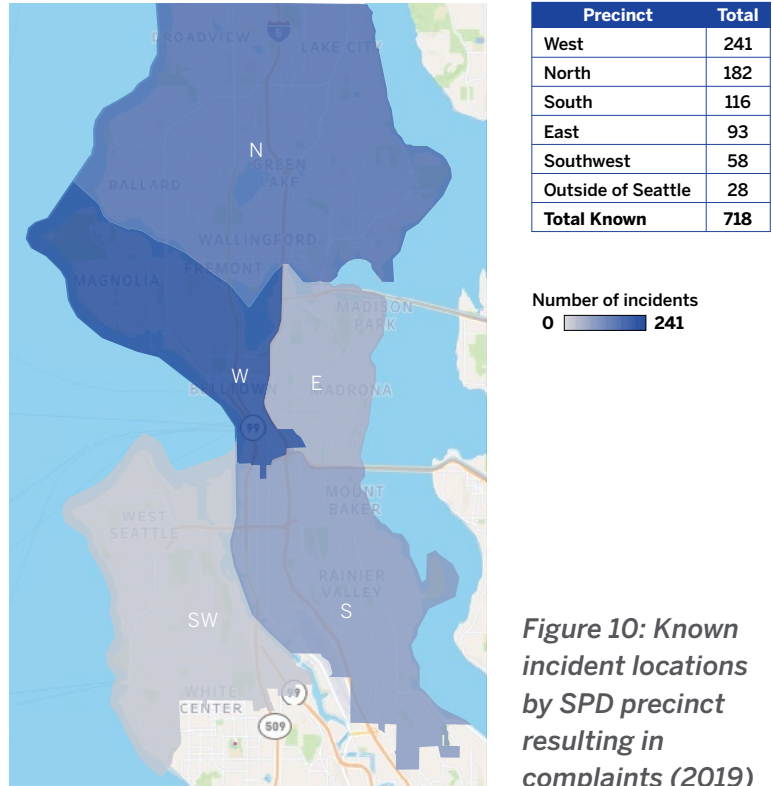


Figure 10: Known incident locations by SPD precinct resulting in complaints (2019)

Allegations

OPA reviews complaints and determines what SPD policy or policies are alleged to have been violated if the allegations are later determined to be true.¹⁴ A single complaint may contain multiple allegations of misconduct against one or more officers.

OPA recorded 1,191 total allegations against SPD employees in 2019, a 52% decrease over 2018.¹⁵ Complaints of excessive force—previously the most common allegation, making up 18% of all allegations in 2018—decreased to 11% of all allegations received in 2019. Instead, Professionalism became the most common allegation, comprising 20% of all allegations received in 2019. The year-to-year change is partially attributed to the Unsubstantiated Misconduct Screening Program (discussed on page 21). Nearly eight of every 10 incidents screened through the program in 2019 involved excessive force complaints that were conclusively disproved by body-worn and in-car video.

A single complaint may contain multiple allegations of misconduct against one or more officers.

14. The SPD policy manual can be found at seattle.gov/police-manual. All communications and OPA case reports shared with employees and complainants list the specific SPD policy directives investigated, but do not show their corresponding OPA allegation type.

15. OPA currently has 37 allegation types, of which 34 were used in 2019. OPA maintains and periodically revises these allegation categories for data tracking and reporting purposes. In 2019, OPA updated its allegation types based on an audit of existing allegation types, their usage, and their relevance in reporting on areas of community concern. New allegation types were created for: Crisis Intervention; Bias – Reporting; Bias – Investigation; and Force - De-Escalation. Allegation types were removed, either due to infrequent use or because they were vague or duplicative for: Chain of Command; Court Appearances; Off-duty Conduct; Tactics and Decision Making; Workplace Conduct; Complaints – Internal; and Complaints – Public.

Another reason for the decrease was a conscious effort by OPA to identify the overarching policy or procedure alleged to have been violated, rather than include each subsection within that policy as a separate allegation. This has resulted in fewer allegations, particularly duplicative ones, being added. According to research conducted by the Mayor’s Office, this was an area consistently identified by officers as procedurally unjust.¹⁶ Figure 11 shows the number and types of allegations received.¹⁷

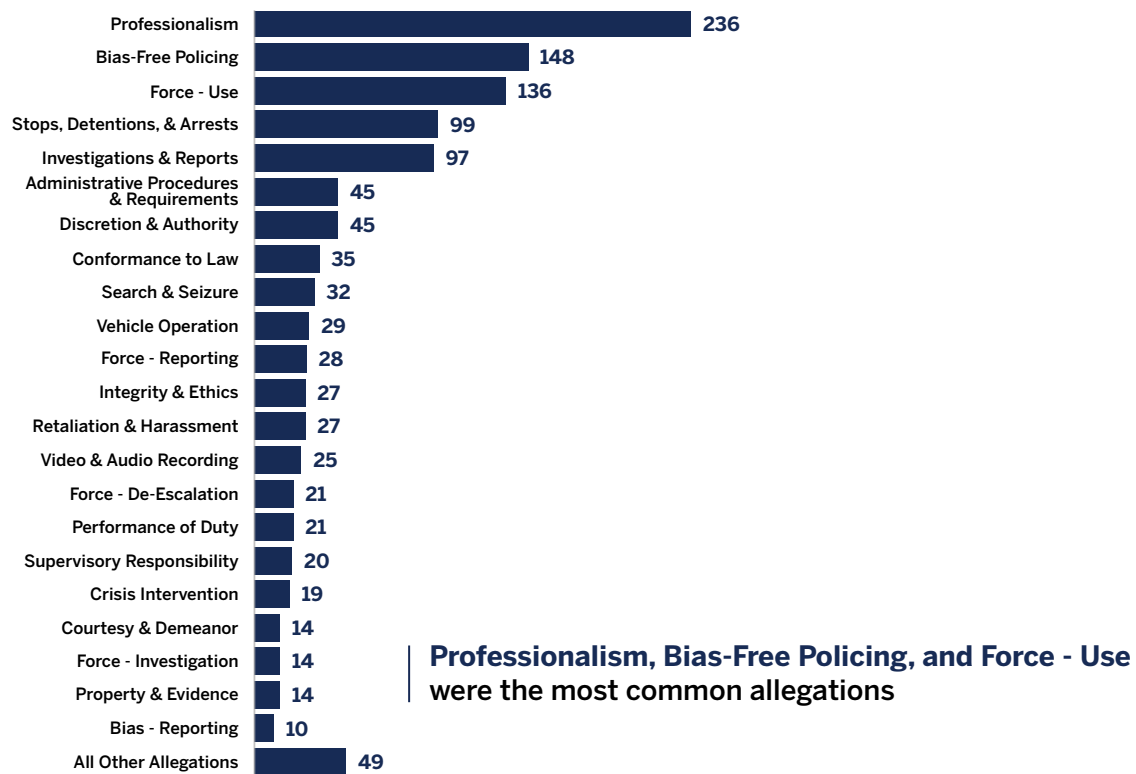


Figure 11: Allegations by type (2019)

In addition, collective bargaining agreements no longer require that each policy subsection be identified in order for the underlying behavior implicating that policy to be investigated. OPA is now only required to provide notice of the policy title and section, which also contributes to the reduction by eliminating the need to include every relevant policy subsection.

OPA received 85% fewer Video & Audio Recording allegations in 2019 compared to 2018.¹⁸ This corresponds to a change in SPD policy that no longer identifies these violations as requiring an OPA referral.¹⁹ When OPA determines there is potentially a failure to record or timely activate video, it is returned to the chain of command for handling and those allegations are not classified for investigation. The only exceptions are if the officer had been previously counseled for failing to record or if the failure to record was believed to be intentional.

16. Email attachment from Kathryn Aisenberg to Anne Bettsworth on July 28, 2019, regarding survey data from SPD employees.

17. The ‘All Other Allegations’ category in Figure 11 includes: Obedience to Orders (7); Information & Communications Systems (6); Equipment & Uniform (5); Tickets & Traffic Contact Reports (5); Alcohol & Substance Use (5); Self-reporting Obligations (4); Bias - Investigation (3); Confidentiality (3); Training, Qualification & Certification (3); Secondary Employment (3); Timekeeping & Payroll (3), and; Duty to Provide Identification (2).

18. OPA counted 164 Video & Audio Recording allegations in 2018 complaints.

19. See Court Docket 563 at seattle.gov/Documents/Departments/OPA/Legislation/Dkt-563_SPD-Policy-Revisions_052319.pdf.

Complaint Classification

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

Classification Types

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

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

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

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

Alternative Dispute Resolution Types

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

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

Number & Types of Complaints Classified

OPA classified 36% of complaints for Investigation in 2019, down from 44% in 2018. The percent of complaints sent back to SPD supervisors as Supervisor Actions increased slightly from 17% in 2018 to 19% in 2019. An additional 44% percent of complaints were closed as Contact Logs, a minor increase over the 38% of complaints that were classified as Contact Logs in 2018.²⁰

Of the 13 cases handled via one of OPA's alternative dispute resolution types, seven went through Mediation and six were resolved through Rapid Adjudication. Summaries of OPA's efforts to expand the Mediation and Rapid Adjudication programs are further discussed on pages 22 and 23.

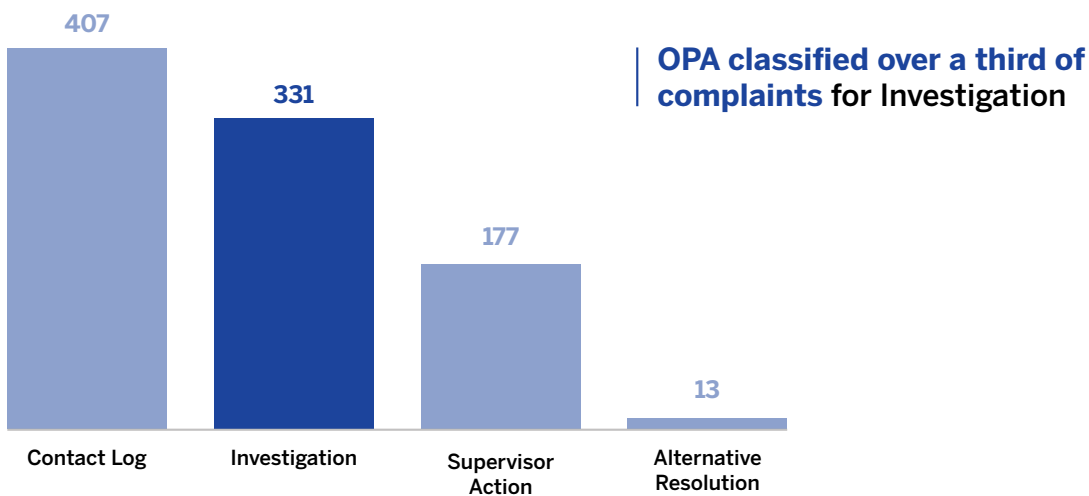


Figure 12: Complaint classification by type (2019)



20. OPA believes this is partially due to the decrease in unfounded complaints received as a result of the Unsubstantiated Misconduct Screening program.

Investigations

Summary of Investigations Trends

OPA classified 331 complaints for Investigation in 2019. Fifty-two percent of all OPA complaints classified for Investigation in 2019 were initiated or forwarded from within SPD; 48% resulted from external complaints. This is a significant change from 2018, when OPA reported that 72% of Investigations stemmed from internal complaints. OPA believes this is likely a result of the Unsubstantiated Misconduct Screening program. However, the percentage of externally-received complaints that resulted in an Investigation was only slightly higher in 2019 at 24%, versus 22% in 2018.

Expedited Investigations

Over half (56%) of complaints classified for Investigation were handled as Expedited Investigations.²¹ An Expedited Investigation is a sub-classification of an OPA Investigation where the OPA director issues findings based on the preliminary 30-day investigation. In all 185 Expedited Investigations conducted in 2019, OPA based its findings on the preliminary investigation and did not interview the named employee(s). OPA expedites investigations when an objective review of the evidence, typically in-car and body-worn video, is sufficient to reach findings without further investigation or conducting interviews.

Per collective bargaining agreements, if OPA does not interview a named employee, allegations against that individual cannot be sustained. For this reason, Expedited Investigations are often used to resolve allegations OPA is required to investigate—such as force, bias, and violations of law—while attempting to minimize impact on named employees and preserving the resources of OPA and SPD.

The OIG reviews and fully certifies all proposed Expedited Investigation classifications prior to OPA making a final classification decision. If the OIG raises concerns with a proposed Expedited Investigation classification, OPA will initiate a full investigation into the complaint.

Timeliness of Investigations

Under the Seattle Police Officers' Guild (SPOG) and Seattle Police Management Association (SPMA) collective bargaining agreements, OPA must complete an investigation within 180 days of when an SPD supervisor or OPA receives a complaint for discipline to be imposed. To ensure a timely investigation, OPA generally begins calculating the 180-day investigation period from the date of the incident, even if the complaint is received at a later date. Ninety-nine percent of investigations with a 2019 deadline were timely.²² Only three investigations that were due in 2019 did not meet the 180-day deadline. This is a significant improvement over 2018, when there were 34 untimely investigations.²³

21. OPA first developed a protocol for Expedited Investigations in mid-2016 with the approval of the former OPA Auditor. The sub-classification became particularly useful after SPD's deployment of body-worn cameras in 2017. The Seattle Police Monitoring Team endorsed OPA's use of Expedited Investigations as a tool to focus OPA resources on cases with factual discrepancies. See page 5 of the Seattle Police Monitor's Follow-up Review of OPA, published January 10, 2020: seattle.gov/Documents/Departments/OPA/Reports/Seattle-Police-Monitor-Follow-up-Review-01-10-2020.pdf

22. Of all investigations completed in 2019, 98% were timely. This is because OPA completed eight investigations in 2019 that were due in 2018.

23. This represents the number of investigations completed in 2018 that exceeded the 180-day deadline.

Findings

The OPA Director reviews every completed investigation and issues a memorandum to the chain of command recommending a finding for each allegation using a preponderance of the evidence standard.²⁴ The memorandum also provides an analysis of the facts through the application of relevant law and policy to show how the director reached his conclusions. OPA generally issues findings within six months of complaint filing.

Finding Types

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

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

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

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

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

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

In 2019, the Director issued findings for 1,322 allegations in 398 investigations. Twenty-seven percent of the 1,322 findings issued resulted in training or discipline.

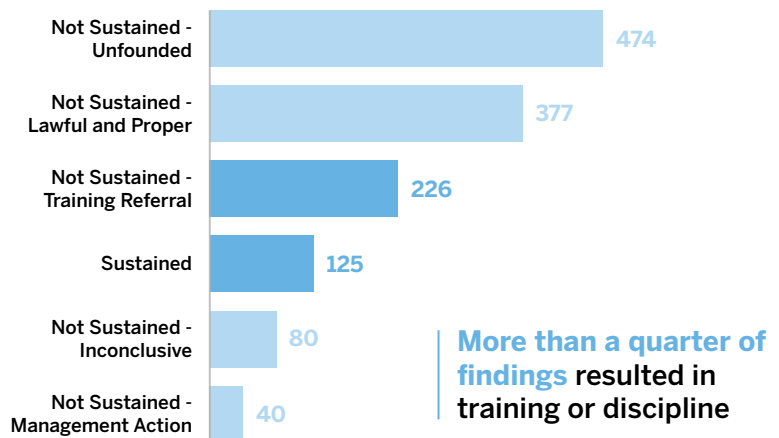
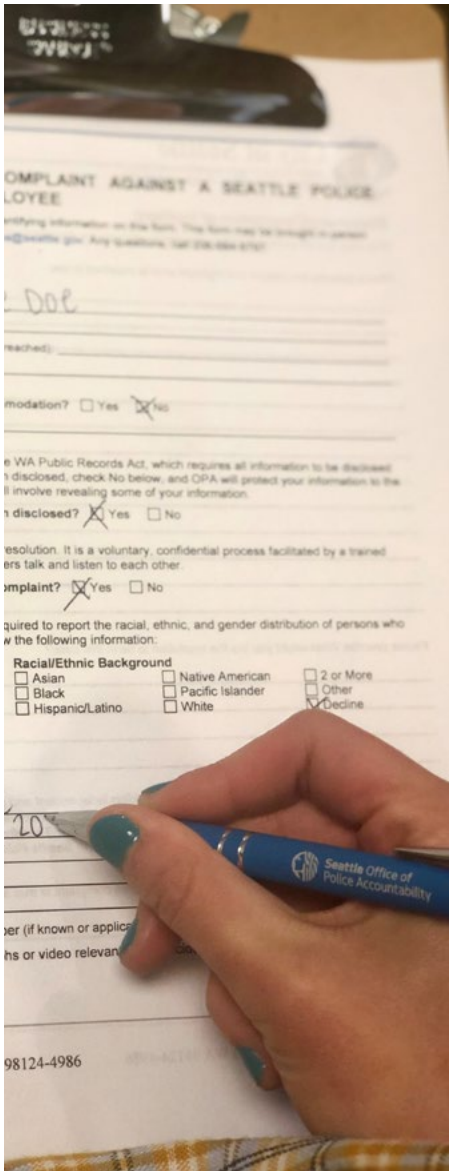


Figure 13: All findings by type (2019)

24. Black's Law Dictionary (11th ed. 2019) defines this standard as: "The greater weight of evidence, not necessarily established by the greater number of witnesses testifying to a fact but by evidence that has the most convincing force; superior evidentiary weight that, though not sufficient to free the mind wholly from all reasonable doubt, is still sufficient to incline a fair and impartial mind to one side of the issue rather than the other."

Discipline Imposed

After the OPA Director issues a recommended sustained finding, the Chief of Police decides what discipline to impose on the named employee. If the Chief decides not to follow one or more of the OPA Director's recommended findings, the Chief must provide a written explanation for the overturned finding within 30 days to the Mayor, City Council President, Chair of the Public Safety Committee, City Attorney, OPA Director, Inspector General, and CPC Executive Director.



Discipline Types

For each allegation, the Chief can impose one of five types of discipline, listed below in order of severity.²⁵

No Discipline: No formal discipline is imposed. The employee receives a closing letter.²⁶

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

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

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

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

Termination: An employee is dismissed from their employment.

25. There are also instances in which employees resign or retire in lieu of or prior to receiving discipline.

26. No closing letters were issued in 2019, and all sustained findings resulted in some type of discipline.

OPA issued sustained findings in 57 cases in 2019. This included a total of 125 sustained allegations against 56 unique employees, with eight employees receiving discipline in more than one OPA investigation. One-third of all sustained allegations in 2019 involved these eight employees.²⁷ The table below lists the disciplinary actions taken as of February 13, 2020.

Final Disciplinary Action Report Pending	9
Oral Reprimand	10
Written Reprimand¹	15
Suspension²	18
Resigned Prior to Discipline³	6
Resigned Prior to Termination⁴	3
Retired in Lieu of Termination	1
Termination	4
Total Disciplinary Actions	66

1. One employee received two written reprimands.
2. Three employees received two suspensions each in 2019. A fourth, who was suspended, was later terminated under a different OPA investigation.
3. Four employees resigned prior to discipline; one of those employees had discipline pending in three cases.
4. Two employees resigned prior to termination; one of those employees would have been terminated in two cases.

Figure 14: Discipline imposed per employee for sustained findings (2019)

Overtured Findings

The Chief of Police overturned the OPA Director's recommended findings in one case in 2019. In this case, the OPA Director recommended sustaining two allegations against a canine officer who deployed his canine while pursuing a robbery suspect. OPA found that the initial application of the canine was reasonable, but the length of the bite was unreasonable. The OPA Director explained that, once the subject was on the ground and had verbally surrendered, the officer had other options available to him until backing units arrived, and that the force used during those 30 seconds was not proportional to the threat facing the officer. The Chief of Police overturned OPA's findings, noting that the officer's chain of command confirmed his actions were consistent with Canine Unit training. The Chief agreed the officer's actions violated SPD's use of force policies but determined that he was acting on very specific training on how to release a dog from a bite. The impact of this case is further discussed in the Management Action Recommendations section on page 24.

²⁷. The eight employees received a total of 41 sustained allegations.

Summary of Disciplinary Trends

Since the current OPA Director was appointed in July 2017, OPA has sought to clarify what constitutes serious misconduct and delegate the handling of complaints involving minor misconduct to the chain of command. The Director has worked to build collaborative relationships with SPD supervisors and develop programs and practices that increase supervisor accountability.

As OPA shifted away from investigating cases involving minor policy violations, the types of discipline imposed by the Chief for sustained findings also changed. From 2018 to 2019, the number of disciplinary actions imposed on SPD employees decreased by more than half.²⁸ However, the number of suspensions as a percent of all discipline imposed increased from 17% in 2018 to 29% in 2019. Meanwhile, oral reprimands decreased from 37% to 16% of all discipline imposed in the same time period.

When comparing trends over the last five years, the percent of employees who received no discipline for a sustained finding decreased from 15% in 2015 to zero in 2019, meaning OPA and SPD are now imposing some form of discipline for 100% of sustained findings.

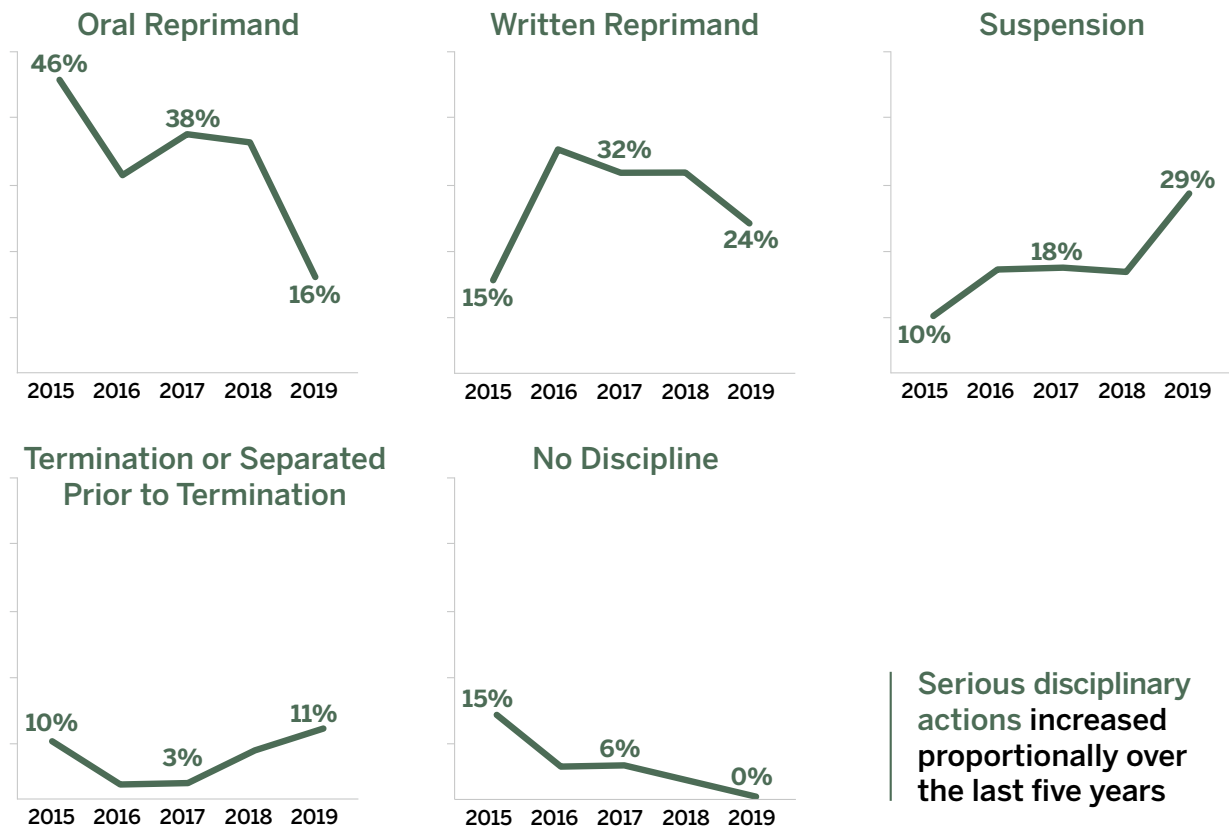


Figure 15: Discipline types as a percent of total discipline imposed by year (2015-2019)

28. There were 134 disciplinary actions taken in 2018 compared to 66 in 2019.



Appeals

Sworn employees can appeal any disciplinary decision involving suspension, demotion, or termination to either the Public Safety Civil Service Commission (PSCSC) or a neutral arbitrator, as provided in their collective bargaining agreement.²⁹

Twenty-four appeals of OPA discipline were filed in 2019. All 24 cases are pending arbitration with an arbitrator already selected. Of these cases pending arbitration, 13 are appeals of oral reprimands, four are written reprimands, one is a demotion, and six are suspensions.³⁰ There are currently 72 appeals of OPA decisions pending with the Seattle City Attorney's Office. Two appeals were closed in 2019; one was settled between the parties with the discipline reduced from a 10-day suspension to a seven-day suspension, and a second was determined to be an untimely appeal.

29. As a general matter, civil service employees may appeal discipline to the Civil Service Commission. Employees who are in unions may have different appeal rights, as noted in their collective bargaining agreements.

30. The City does not agree that oral reprimands are appealable. The data provided herein represents the number of SPOG requests to appeal oral reprimands.

Policy & Program Development

Unsubstantiated Misconduct Screening

In collaboration with SPD's Patrol Operations Bureau, OPA began a pilot program in 2018 in which allegations of misconduct that are clearly refuted by evidence can be investigated and documented by the chain of command and then screened with OPA via email. The OPA Director reviews the information and relevant video to determine if the allegation is disproved by the evidence and whether it is necessary for the supervisor to formally submit the allegation of potential misconduct to OPA.

This program was initiated to address two concerns: The first was that SPD employee morale was low, in part because OPA was conducting full investigations into demonstrably false claims, which was perceived as procedurally unjust.³¹ This has been noted as a contributing factor to the decrease in patrol officer staffing, which was already at relatively low levels given significant officer separations.³² The second was that OPA was spending significant resources investigating these demonstrably false claims, which diluted efforts to focus on viable allegations of misconduct.



The statistical results of this program, as noted on page 8, were that SPD supervisors screened 242 potentially-refutable allegations of police misconduct with the OPA Director. Of these, the Director requested a formal complaint referral in 23 cases. The rest were investigated and documented in the field by the chain of command rather than referred to OPA as complaints.

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

As of January 2020, OPA provides a list of all Unsubstantiated Misconduct Screening cases to the OIG on a monthly basis. This provides a second layer of accountability and ensures the integrity and continued success of this new process.

31. In the past, such complaints, even where clearly false, were submitted to OPA. OPA, in turn, was required by policy to investigate these complaints, regardless of merit.

32. These claims bore out in research conducted by the Mayor's Office that was initiated due to SPD employee attrition. The report can be found at seattle.gov/Documents/Departments/OPA/Special-Reports/Mayors-SPD-Recruitment-Retention-Report-Sept-2019.pdf.

Unsubstantiated Misconduct Screening Examples

Sexual Assault Screening: An officer reported to his supervisor that a subject claimed the officer touched him sexually and “peeked” at his buttocks while conducting a search during an arrest. The supervisor reviewed the officer’s body-worn video and determined that the officer’s behavior was appropriate throughout the interaction. The OPA Director reviewed the body-worn video and concurred with the supervisor’s assessment. As a result, no formal complaint alleging improper search was submitted to OPA.

Excessive Force Screening: Officers responded to a 911 call regarding an assault. The caller reported the suspect fell and was bleeding from the head. After placing the subject under arrest, officers took him to the hospital to get stitches for his injury. The subject told hospital staff that the officers “roughed [him] up” resulting in the head injury, but later admitted he did not remember how he obtained the injury. A supervisor reviewed security footage, as well as the involved officers’ body-worn video, and determined the subject already had the head injury prior to officers arriving and confirmed that the officers used no force on the subject. The OPA Director reviewed three officers’ body-worn video and agreed that it was not necessary to submit an OPA complaint.

Mediation

As indicated on page 14, mediation is an alternative dispute resolution. It is an opportunity for a complainant and an SPD employee to discuss a conflict under the guidance of a neutral, third-party mediator. In 2019, OPA staff conducted research, an in-depth assessment, and a subsequent redesign to bring the mediation program into alignment with national best practices and increase participation and effectiveness.

OPA’s research included a literature review, interviewing involved staff, reviewing past mediation cases and analyzing participant surveys. The 2017-2018 mediation program was then compared to best practices from around the country. The assessment revealed that the program needed improvement in several key areas, including clarity of case eligibility criteria, overall program administration, and outreach materials.³³

After OPA completed the assessment, staff developed a set of guidelines that incorporated best practices and standards for everyday programmatic use. These include eligibility criteria, timelines, staff requirements, and a regular program evaluation. OPA also created a new mediation program brochure and had it translated into six languages to increase public-facing accessibility.³⁴ With these developments, OPA hopes to increase mediation frequency and expand the program.

The goals of the OPA mediation program are for participants to:

- Feel empowered to own the complaint-resolution process
- Build understanding and gain new perspectives by engaging in dialogue
- Identify root causes of conflict
- Learn how to avoid similar misunderstandings in the future

33. The assessment report may be viewed at seattle.gov/Documents/Departments/OPA/Reports/Mediation-Research-Assessment-Report-March-2019.pdf.

34. An online version of the Mediation brochure may be viewed at seattle.gov/Documents/Departments/OPA/CommunityOutreachDocuments/Mediation-Flyer-2019.pdf.

Rapid Adjudication

In 2019, OPA began a Rapid Adjudication (RA) pilot program. RA is an alternative dispute resolution process that occurs when an employee recognizes their conduct was inconsistent with SPD standards and is willing to accept pre-determined discipline in lieu of an administrative investigation. RA can be requested by the employee or suggested by OPA. Discipline resulting from RA is not eligible for appeal.

RA is intended to foster a culture of accountability and responsibility among SPD employees. The program offers faster case resolution for all involved parties and decreases the number of appeals and delays. RA may be especially beneficial for OPA in that it reduces investigation caseloads, allowing OPA investigators to focus their resources on more serious cases. Oversight of RA is provided by the OIG and the Chief's Office, who review each RA case. Case selection is determined on an individual basis. RA was used to resolve seven cases in 2019. Only one case to date has been rejected from the program. For additional information on RA, including the closing memos for all RA cases, please visit the OPA website.³⁵

Rapid Adjudication Examples

Professionalism Case: An SPD officer attempted to pass a community member on a one-lane road while en route to an active scene. The driver struggled to make room for the officer to pass. The officer threatened to ticket the other driver. After receiving the complaint alleging the officer acted unprofessionally, OPA proposed RA and the employee accepted.

Missed Training Case: An SPD employee missed a mandatory training, subsequently did not attend a makeup session, and did not report to his shift on a different day or notify his supervisor. The employee initiated RA with OPA. The employee received their agreed-upon discipline and the case was closed.



35. See seattle.gov/opa/programs/rapid-adjudication.

Management Action Recommendations

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

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

OPA worked with the SPD Professional Standards Bureau in 2019 to develop new processes for managing, tracking, and communicating the status of MARs. SPD now issues a written response for each MAR. Responses and dispositions of the policy recommendations are posted to the OPA website and updated regularly.³⁶

In 2019, OPA issued 28 MARs on 20 unique topics. Three of these topics were previously addressed in MARs issued by OPA in 2018. At the time of this report's publication, SPD had addressed 20 of the 28 2019 recommendations. SPD fully implemented the recommended changes in 17 cases, partially implemented the recommendations in one, and declined action for two recommendations. Eight MARs are still active.³⁷

Management Action Recommendation Example

Canine Deployment MAR: OPA issued four MARs in 2019 related to the SPD canine use of force policy. OPA recommended that SPD update the use of force policy to clarify what types of crimes and situations are appropriate to deploy a canine; the specific documentation required for canine uses of force; requirements for supervisors screening canine bite; and to prohibit officers from using canines for pain compliance. OPA also recommended that SPD ensure the Canine Unit manual is consistent with policy and audit canine training until the unit is compliant with the revised policy. In response, SPD developed and implemented a new canine policy that adopted all OPA's recommendations.³⁸ In addition, the OIG is conducting an audit of the Canine Unit, the Canine Unit manual is being rewritten, and officers in the Canine Unit are receiving more training on canine deployment.



36. The statuses of all MARs are at seattle.gov/opa/policy/policy-recommendations.

37. OPA issued repeat MARs on Terry Template, Taser Application, and Search Warrant Exception policies in 2019.

38. SPD's response can be viewed at seattle.gov/Documents/Departments/OPA/ManagementAction/MAR_Response_Canine_Policy_2018OPA-0783_2018OPA-1037_2019OPA-0172_08-14-19.pdf.



Reviewing SPD Policy

OPA worked in collaboration with SPD command staff and the Audit, Policy and Research Section (APRS) throughout the year to review and modify various SPD policies.³⁹ In some instances, policies were brought to OPA for input as part of the APRS three-year review cycle. In other cases, OPA worked with SPD on the annual review of policies mandated by the Consent Decree.⁴⁰ Other policy change recommendations resulted from trends or patterns observed after reviewing hundreds of administrative misconduct cases. Ultimately, the purpose of providing input is to ensure there are strong, guiding policies that empower SPD employees to efficiently and effectively carry out their work.

39. In 2019, OPA provided feedback on the following SPD policies: All sections of Title 8 – Use of Force; 5.001-3 – Standards and Duties; 5.140 – Bias-Free Policing; 6.220 – Voluntary Contacts, Terry Stops, & Detentions; 6.180 – Searches – General, and; 13.031 – Vehicle Operations – Vehicle Eluding/Pursuits.

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

Other OPA Functions

Community Engagement

This was the first full year that OPA had a team of three community engagement specialists. One of the team's initial tasks was to develop a better understanding of community perceptions and awareness of OPA. To do this, they conducted surveys and interviews, summarizing their findings in a public-facing report.⁴¹ They then used the results to develop an outreach and engagement plan to drive future outreach efforts.⁴²

OPA Outreach & Engagement Strategies

1. Raise awareness and understanding of OPA through education and outreach, focusing on communities most affected by policing.
2. Build community relationships by listening, receiving feedback, and offering support.
3. Improve communication with complainants throughout complaint processing.
4. Provide support in developing and implementing an external communications strategy.



Figure 16: Example of new outreach materials

To aid in outreach efforts, the team created a new suite of OPA informational materials, available in six different languages.⁴³ These materials were distributed at over 90 events attended by OPA staff in 2019, each of which was categorized into one of three broad types: 1) presentations and discussions about OPA, 2) community meetings and events, and 3) tables at local festivals.

41. See the full report at seattle.gov/Documents/Departments/OPA/CommunityOutreachDocuments/CE_Public_Awareness_Assessment_Report_July2019.pdf.

42. The outreach and engagement plan can be viewed at seattle.gov/Documents/Departments/OPA/CommunityOutreachDocuments/CE_2019-2020_Outreach_and_Engagement_Plan_July2019.pdf.

43. The languages are English, Spanish, Simplified Chinese, Traditional Chinese, Somali, and Vietnamese.

Presentations and Discussions About OPA

OPA staff led 47 presentations or discussions to introduce OPA's functions and services to various City boards and commissions, SPD Precinct and Demographic Advisory Councils, and community-based organizations such as El Centro de La Raza and Community Passageways. These efforts were an effective means to not only convey the mission and purpose of OPA, but also to build and strengthen relationships with the community.

Community Meetings and Events

OPA staff attended 40 community meetings and events in 2019. This type of engagement provided an opportunity for OPA to listen to local concerns, engage with people one-on-one, and celebrate organizations' successes—all while keeping the focus on the community. Examples of these types of events included the Sea Mar Museum Grand Opening, Creative Justice Youth Forum, and Choose 180 Event.

Tables at Local Festivals

OPA staff had a table at four all-day festivals in 2019, including Dragonfest, Umojafest, Indian Pow Wow Days, and Fiestas Patrias. The goal of attending these events was to familiarize as many community members as possible with OPA, as well as share its role and services.



Figure 17: Community outreach and engagement by the numbers

OPA Outreach Highlight

OPA and system partners spent a day talking to approximately 250 freshmen at Cleveland High School about Seattle's police accountability system. Students were presented with information about how OPA makes decisions using small group discussions and a case study from a popular film.

"Ninth grade staff and students of Cleveland High school are very grateful for all the time and information you shared with us! [The students] loved getting details about the work you do and found the day provided engaging and important real-world learning."

— Mr. Gandy, Teacher at Cleveland High School

SPD Employee Engagement

OPA staff engaged with SPD employees through dialogue and informational presentations in ongoing efforts to build trust and open lines of communication.

In response to a suggestion from a patrol lieutenant, the OPA Director held "Precinct Office Hours" at all five SPD precincts to introduce OPA programs and discuss policy and cases. Each visit was at least 12 hours long, which allowed the Director to speak at various roll calls and be accessible to officers from all three patrol shifts. The Director and OPA sworn staff also conducted roll call presentations at different precincts throughout the year to build rapport, understand officer perspectives, and share case studies.

OPA civilian leadership presented to various SPD units and groups, including Field Training Officer School, Command Leadership Training, SPOG Board Training, and the Canine Unit. OPA also presented to each academy class of new officers to introduce the role and expectations of OPA.

OPA issued 18 Case and Policy Update newsletters in 2019. The newsletter is intended to increase communication and transparency by highlighting OPA cases and policy recommendations that may inform officers' day-to-day work. Currently, about 450 individuals are signed up to receive it, most of whom are SPD employees.

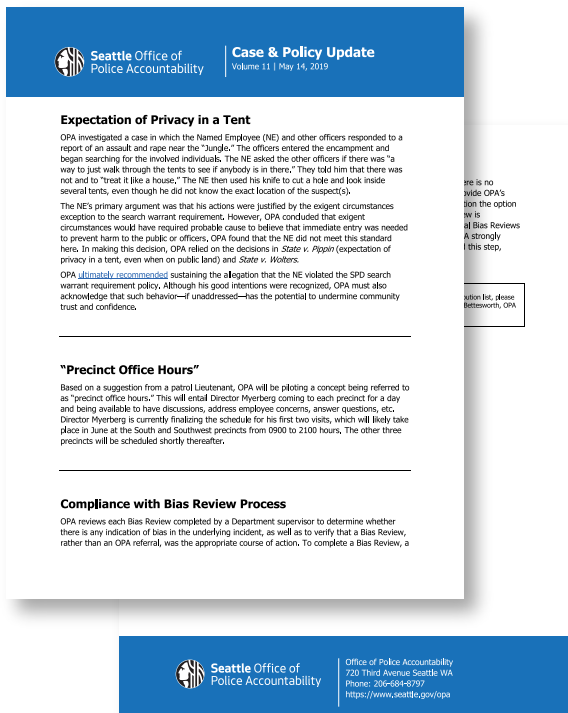


Figure 18: Sample of Case & Policy Update newsletter

Monitoring Serious Incidents

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

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

OPA responded to 23 FIT callouts in 2019. FIT callouts demand significant time and resources. OPA attends each FIT callout in an effort to increase procedural justice and fortify civilian oversight, accountability, and transparency in force investigations.



Bias Reviews

In addition to addressing formal complaints, OPA reviewed 161 “Bias Reviews” in 2019. Bias Reviews occur when a person makes an allegation of SPD employee bias but does not specifically request that the complaint be referred to OPA. They are not considered complaints but are still carefully examined.

Immediately after a bias allegation is made, an SPD supervisor conducts a preliminary investigation. If the supervisor concludes that no misconduct occurred, they document their investigation and forward it to the chain of command for review. The file is then sent to OPA for final determination, which generally entails a screening to determine if the allegation was handled appropriately. If OPA has concerns about bias or discovers other potential policy violations, OPA can open a new case.

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

45. Callouts in 2019 generally included the Director, a sworn supervisor or the Deputy Director of Investigations, and two sergeants. They are all required be on-call and report to the site of the incident, the hospital, and/or the FIT office until the initial investigation and interviews have been completed.

Learn more about OPA



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