



July 13, 2016

City of Spokane Ethics Commission  
Office of City Attorney  
W. 808 Spokane Falls Blvd.  
Spokane, Washington 99201

**SENT VIA EMAIL**

**RE: Ethics Complaint against Mayor David Condon**

This letter is sent on behalf of the Spokane Chapter of the National Organization of Women ("NOW") in regards to the ongoing ethics complaint against Mayor David Condon. Prior to your consideration of this matter tonight, NOW would like you to consider the following points:

First, given the very short notice of the hearing (less than 47 hours), I am unable to reschedule another matter and will be unable to attend. I would request that tonight's hearing either be rescheduled or that any decisions be postponed. I would also request that if additional information is needed from the parties that it occur at a later hearing of the Commission. I believe this request is appropriate in light of the fact that this matter was delayed nearly six months to accommodate the schedule of Mayor Condon's counsel.

Second, as the attached email from Councilmember Breean Beggs indicates, the independent investigation report will be delivered to the City this week and will be available to the public no later than July 19, 2016. NOW would request that the Commission defer any decisions until this report can be reviewed. A copy of the scope of this report is also attached.

Third, Condon's attorney raised an argument at the last hearing that the Mayor was confused by the reporters' questions at the September 22, 2015 press conference and that his inaccurate information was in fact his effort to answer a previous question. That was the first time Condon's attorney presented this argument.

A review of the audio from the press conference indicates: (1) it was two different reporters (Mitch Ryals from the Inlander and KHQ reporter Patrick Erickson) asking questions (the Mayor's transcript characterizes it as two questions from a single reporter) and (2) there is no indication

that Erickson interrupted Condon's answer, nor provides any evidence Condon had chosen to ignore Erickson's question. In fact, at least a second and a half passes from the time Condon finishes saying "no" to the time Erickson begins his question.

Accordingly, the Commission should review the audio of the proceeding. A copy of the CD was previously provided by NOW and is also available at

<http://www.inlander.com/Bloglander/archives/2016/01/29/the-question-of-mayor-david-condons-honesty-hinges-on-these-28-seconds>.

NOW believes it is critical for the Commission to review this -- frankly, the media has already picked this point and the inaccuracy of Condon's defense up and written about it (see attached article).

Fourth, the Mayor continues to assert that Cotton was assigned to the Park to "fit an existing need." The previously supplied documents, the Commission's previous findings in the complaint against Teresa Sanders, and, without doubt, the independent investigator's report will indicate that Cotton was transferred per her request to no longer work with former police Chief Straub. To find otherwise will lead to an inconsistency with the Commission's findings in the Sanders matter.

NOW appreciates your careful consideration of these points.

Sincerely,

CENTER FOR JUSTICE

A handwritten signature in black ink, appearing to be 'RE' followed by a stylized flourish.

Rick Eichstaedt  
Attorney for NOW

CC: Opposing Counsel  
Milt Rowland, Special Counsel for Ethics Commission

RE/hb  
Enclosures

## **Rick Eichstaedt**

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**From:** Beggs, Breean <begggs@spokanecity.org>  
**Sent:** Wednesday, July 13, 2016 6:50 AM  
**To:** Rick Eichstaedt  
**Subject:** Seabold Report

Rick,

You asked about the likely timing of the release of the Seabold Report. I serve on the Oversight Committee that will make that decision. At this point the Committee's understanding is that Seabold will likely provide a report to the committee by end of the day on Friday (July 15th). The Committee will likely review the report to insure completeness and then arrange with the communications professionals at the City to publish on the City's website. Until the committee reviews the report it is difficult to know the exact date of web publication but I can't imagine it would not be later than July 19th. In addition to the report, there are many electronic records and interview transcripts that will eventually be released as public records. However, they have not yet been analyzed for potential public records act exemptions, so their release will take longer.

Best,

Breean Beggs

**MEMORANDUM OF PROPOSED SCOPE**

**Date:** December 30, 2015

**To:** Brian McClatchey, Esq.  
Laura McAloon, Esq.  
Councilmember Karen Stratton  
Rick Romero, Director City Utility

**From:** Kris Cappel, Seabold Group  
Martha Norberg, Seabold Group

Based on discussions with the joint committee on Tuesday, December 29, 2015, it is our understanding that the scope of the investigation for which we have been retained will address the following issues:

1. The facts and circumstances of workplace complaints that have been asserted against Chief Straub since he was hired as Spokane's Chief of Police, including:
  - a. What information was known to Mayor Condon, City Administrator Theresa Sanders, and HR Director Heather Lowe;
  - b. When was the information known to these individuals; and
  - c. What action was taken to address the complaints?
2. The facts and circumstances surrounding Chief Straub's resignation.
3. What are the City's policies and procedures for responding to employee complaints of discrimination and harassment, and are they consistent with best practices? Seabold Group will offer recommendations as necessary.
  - a. What are the City's policies and procedures for transferring employees internally and were those policies followed in connection with Monique Cotton and Carly Cortright?
4. Were the City's policies and procedures followed in connection with complaints that were made known to the City by Ms. Cotton and Ms. Cortright?
5. What are the City's policies and procedures for responding to public record requests and were they followed in responding to media requests for documents related to Chief Straub and Ms. Cotton?

# Inside Condon's newest defense in the ethics complaint against him

Posted By [Daniel Walters](#) on Tue, Jul 5, 2016 at 3:34 PM

[click to enlarge](#)



- Daniel Walters photo
- Condon's attorney, Jim King, argues that no reasonable person could interpret Mayor David Condon's statements as false.

For a hearing involving the honesty or dishonesty of Spokane's mayor, last week's meeting of the ethics commission was anti-climactic.

Three out of the seven commission members didn't show up. Neither did the mayor.

Ultimately, the result of the hearing was inconclusive, with any major decisions deferred to a future meeting. Depending on whether it's allowed by the Open Public Meetings Act, the ethics commission members might discuss their thoughts on how to proceed in an "executive session" away from the eyes of the public.

But the most interesting part of the hearing was the debut of a never-before-seen defense for Mayor David Condon's statements at a Sept. 22 press conference. Condon argued through his attorney, Jim King, that Condon was interrupted before he could give a full answer to an *Inlander* reporter; therefore, in context, his statements were accurate.

Back then, Condon was announcing the sudden resignation of police Chief Frank Straub. The mayor claimed the reason he had asked for the chief's resignation was because of Straub's management style. But the media guessed there might be something more to it.

The ethics complaint homes in on this exchange:

***Inlander* Reporter Mitch Ryals:** Were there any sexual harassment complaints lodged against Frank?



**Mayor David Condon:** No.

**KHQ reporter Patrick Erickson:** There have been rumors of an inappropriate relationship between the chief and Ms. Dugaw. Has that been brought up at all? Was that any part of this as well?

**Condon:** The, the critical thing is the management style. Uh, the, the uh, the issue, um, with the uh... that you speak of, that there has been no official filings of anything.

This exchange became relevant the instant public documents revealed that not only had former police spokeswoman Monique Cotton told Condon and City Administrator Theresa Sanders that Straub "grabbed her ass and tried to kiss her," she also wanted a transfer out of his department because of it.

King's defense of Condon hinges on two assertions:

In regards to Ryals' question, King argued that Condon meant that there were no *official* complaints lodged against Straub. Even now, King said, Cotton has not filed a sexual harassment complaint through the city's official channels.

And in regards to Erickson's question, King argued that Condon didn't know who Dugaw even was. He didn't know Dugaw was Monique Cotton's maiden name.

The mayor even submitted a declaration to that effect: "On September 22, 2015, I had no knowledge that Monique Cotton's maiden name was Dugaw," the mayor writes. King pointed out that Rick Eichstaedt, the attorney representing the National Organization for Women on the ethics complaint, hadn't provided any evidence to the contrary.

The trouble with these arguments, however, are the specific questions Condon was asked and the specific answers Condon gave.

Eichstaedt points out that Ryals didn't specify he was only asking for formal complaints — he was asking if there had been *any* sexual harassment complaints lodged. And clearly, [there had been](#).

But Condon denied there had been any complaints with a flat "no."

Erickson's question, by contrast, was different: He wasn't asking about sexual harassment. He was asking if any issue regarding an inappropriate relationship between Cotton and the chief had been brought up at all. The city, according to the notes of SPD Lt. Joe Walker, had been made aware of rumors [regarding Cotton and the chief back in 2014](#).

Eichstaedt pointed out that it sure didn't sound like Condon was unaware of whom Erickson was referring to, considering Condon referred to "the issue ... that you speak of."

Here's where the interruption defense came in.

Initially, King floated it as a mere possibility.

"A reporter interjected with a question," King said. "And it's difficult to tell whether the mayor was done with his answer or whether the question interrupted it as a response."

King went on to argue that Condon's *second* answer is a response to the reporter's first question. He argued Condon simply ignored Erickson's question, because he didn't know who he was talking about, and kept elaborating on Ryals' question.

As his defense went on, King spoke with this theory as an objective fact.

"This question regarding 'Dugaw' comes in as an interlude or an interruption of the response [to Ryals]," King argued. "He's not responding to [Erickson]"

But it's an explanation that's hard to square with the actual audio recording of the event. The recording gives no indication that Erickson interrupted Condon's answer, nor provides any evidence Condon had chosen to ignore Erickson's question.

In fact, at least a second and half passes from the time Condon finishes saying "no" and the time Erickson begins his question. But you should judge it for yourself: We embedded the audio recording of the crucial exchange in [this blog post](#).

In the mayor's written defense, however, the interruption argument did not come up. However, he did argue that if the mayor *hadn't* said "no" to Ryals' question, and instead had said "no comment," the mayor would have actually been *less* honest and *less* transparent.

The information disseminated by Mayor Condon at the press conference was that **Monique Cotton had not filed an official complaint with the City of Spokane**. That was and remains true. NOW's fall back position, contrary to every established tenant of good government, is **to insist that obfuscation rather than transparency must become the default position for any City employee**. NOW argues that, instead of stating the truth, that Ms. Cotton had not filed any official complaint, the Mayor should simply have refuse to answer questions about Ms. Cotton. **Transparency be damned.**

- A city watchdog almost never bites; now it's facing an unprecedented number of complaints against the city's top elected official
  - by Jake Thomas
- Money from the marijuana taxes is beginning to trickle down from the state to local cities
  - by Daniel Walters
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