



OFFICE OF POLICE
OMBUDSMAN COMMISSION
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November 13, 2018

City of Spokane City Council
Spokane City Hall
808 W. Spokane Falls Blvd.
Spokane, Washington 99201

RE: Changing Spokane Municipal Code §04.32.140(B)

Dear City Council Members,

We, the Office of the Police Ombudsman Commission (OPOC), request you consider changing the Office of the Police Ombudsman's (OPO) governing ordinance so that OPO may, rather than shall, notify complainants that they can be charged with a misdemeanor when filing a citizen complaint. This would update the ordinance to be consistent with the OPO's current complaint intake process. The OPO has changed their process to make it easier for citizens to bring complaints forward by no longer providing advisements that citizens may be charged with a crime for making false statements in their complaints.

On September 18, 2018, the OPO sent policy recommendation 18-5 to Chief Meidl (see attached). In it the OPO recommended the Spokane Police Department (SPD) remove the requirement that citizens must sign complaints after acknowledging that making false or misleading statements to a public servant is guilty of a gross misdemeanor. Citizens are provided the same warning again verbally at the beginning of a citizen interview. This practice has led to arrests of complainants in the past. To minimize this type of intimidation, the Ombudsman has requested to be involved with interviews of complainants, if possible. On October 30, 2018, Chief Meidl responded to the OPO's recommendation (see attached). Chief Meidl made the point, among other things, that not only will they not remove the warning, but emphasized that the OPO must also reinstitute providing the warning based on the section of the ordinance mentioned above.

Historically, it has been the practice of both SPD and the OPO to provide the advisements to citizens on the complaint form. Spokane Municipal Code §04.32.140(B) provides, "The employees of the OPO are considered public servants for the purposes of SMC 10.07.020 [Making a False or Misleading Statement to a Public Servant (Revised Code of Washington 9A.76.175)]. Any person who knowingly makes a false or misleading material statement to the OPO is subject to criminal sanctions in SMC 10.07.020. The OPO shall notify complainants that they be charged with a criminal gross misdemeanor for making a false or misleading material statement pursuant to SMC 10.07.020" (emphasis added). It is important to note that this section makes providing false statements to a public servant a crime, but does not require that a complainant must be provided such advisement.

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However, after attending training on how to reduce police liability and how to manage difficult complainants, both course instructors believed progressive policing and best practices do not support warning citizens they may be charged with a crime for false statements. It creates a chilling effect on complainants coming forward, when we as a city should strive to cast the widest net to hear the concerns in the community. The OPO researched best practices and found that DOJ's reports on Ferguson and Chicago, the DOJ's COPS program, and the International Association of Chiefs of Police (IACP) all support the view that citizens do not need to be advised of this, nor does the advisement need to be given beforehand under the RCW. Ultimately, the police have the authority to arrest a person, regardless of whether a warning was given. As such, the OPO has stopped the practice of requiring citizens to sign their written complaints in order to acknowledge the SMC advisement. The OPO has removed the advisement completely from their complaint form.

We believe the ordinance should be consistent with the OPO's practice of not providing the advisements. This is in keeping with best practices, DOJ recommendations, and the IACP. Therefore, we recommend City Council change SMC 04.32.140(B) to make the advisements optional rather than prescriptive.

Sincerely,


Ladd Smith, Chair

ABSENT

Jenny Rose, Commissioner


James Wilburn, Jr., Commissioner



Elizabeth Kelley, Commissioner

cc: Bart Logue, Police Ombudsman