



Office of Police Ombudsman Commission

***Special Meeting Notice*/Agenda**

June 12, 2018

5:30PM – 8:00PM

Council Chambers

Lower Level, City Hall

TIMES GIVEN ARE AN ESTIMATE AND ARE SUBJECT TO CHANGE

Commission Briefing Session:

5:30 - 5:45	1) Welcome to Public	Commissioner Smith
	2) Agenda Approval	Commissioner Smith
	3) Approve <u>May 15, 2018</u> meeting minutes	Commissioner Smith

Items:

5:46 - 7:15	1) Report from OPO	Ombudsman Logue
	2) Guest Speaker	Chief Craig Meidl - SPD
	3) Public Forum	Citizens Signed up to Speak

Commission Business:

7:16 – 8:00	1) OPOC Commissioner Update	Commissioner Smith
	2) NACOLE Code of Ethics	Commissioner Smith
	3) OPOC Retreat Update	Commissioner Rose
	4) Public Records Ordinance	Commissioner Smith
	5) Budget Briefing Paper	Commissioner Smith
	6) Commissioner Speak Out	Commissioners

Adjournment:

Next Ombudsman Commission meeting will be held on August 21, 2018

The password for City of Spokane Guest Wireless access has been changed:

Username: COS Guest

Password: W3PPKfVV

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Office of Police Ombudsman Commission

May 15, 2018

Meeting Minutes: 1:30

Meeting called to order at 5:32 pm

Attendance:

- OPOC present: Ladd Smith, Jenny Rose, James Wilburn, Jr., Colleen Gardner
- Legal Counsel: Dennis Hession
- Commissioners not present: Elizabeth Kelley
- OPO Staff Members present: Bart Logue, Luvimae Omana, Christina Coty

Items Session:

- Agenda approval
- The April 17, 2018 meeting minutes were unanimously approved
- OPO Report Highlights
 - 164 contacts, 0 Complaints, 4 Referrals, 22 OPO Interviews & 20 IA Interviews
 - 14 cases came to OPO for certification
 - Reserve Academy is winding down, it was an excellent experience and the OPO learned a lot
 - The contract with Police Strategies Force Analysis System is in process
 - May 30th Use of Force Policy Review Board
 - May 30th Briefing papers for 2019 budget due to Mayor's Office

Public Forum:

- Alan McDowell – He has concerns with how government employees conduct themselves. He would like to be respected at meetings by the City of Spokane and the SPD for his efforts in these situations.

Guest Speaker:

- Sgt. Nate Spiering, SPD
 - Crisis Intervention Training (CIT): Mandatory training June 2nd-8th.
 - Enhanced CIT is a total of 90 hours throughout the year.
 - This focuses on a scientific approach to communication style.
 - True Blood Grant – 18 month grant starts July 1st with a goal of obtaining 5360 contacts outside of TrueBlood
 - Four Designated Crisis Response (DCR) members were hired.

Commissioners' Business:

- OPOC P&P – Commissioner Gardner
 - During the open forum no person shall be allowed to speak for more than five minutes unless they are a guest speaker and the Chair consents.
 - Changes requested to the Policy must be submitted in writing two weeks prior to the monthly meeting.
 - Commissioner Rose noticed some changes, Christina explained that the wrong version was distributed and will send the correct version tonight.
 - Motion to pass the P&P was unanimously approved.



Office of the Police Ombudsman

808 W. Spokane Falls Blvd.
 Spokane, WA 99201
 509.625.6742 / spdombudsman.org

June 7, 2018

Public Safety & Community Health Committee Report

Reporting Period: May 1-31, 2018

Snapshot of Activities		Monthly	Year to Date
Community Outreach			
OPO	Total Community Events and Meetings	4	61
OPOC	Community Outreach / Activities	6	50
Commendations		1	2
Complaints			
	Received Complaints	2	11
	Referred Complaints	3	20
Contacts		189	634
Case Review			
	Request for Further Clarification	1	3
	Investigations Certified / Concurred	1	8
	Closed Investigations	0	1
	Declined Certifications	0	1
	Special Cases Reviewed	20	76
Interviews			
	OPO Interviews	26	68
	IA Interviews	15	61
Training		4	14
Critical Incidents		0	1 ¹
Mediations			
	Conducted	0	0
	Declined	0	1
Recommendations		0	3
Other Activities			
SPD Related	Meetings / Contacts	30	113
	Review Boards	5	21

¹ Critical incident in March was counted twice. This is now corrected.

6. Training

- a. Reserve Academy (Ongoing)
- b. Citizens Academy (5/2, 5/16 & 5/23)
- c. Building Community Trust using Police Data & Dashboards Webinar(5/24)
- d. In Service Training with SPD (5/25)

7. Other Activities

- a. OPO staff members participated/engaged in the following other activities:
 - i. OPOC Flights for NACOLE Secured (5/23)
 - ii. OPOC FB & Twitter accounts active (5/24)
 - iii. Police Strategies Contract procured (5/24)
 - iv. Register for IACP (5/30)
 - v. Budget Briefing Papers for 2019 (5/30)
 - vi. Luvimae accepted for the Leadership Spokane Class 2019 (5/30)
- b. SPD related
 - i. **19** meetings/contacts with IA
 - ii. **30** meetings/contacts with SPD
 - iii. Use of Force Review Board (5/8)
 - iv. Collision and Pursuit Review Board (5/8)
 - v. Deadly Force Review Board (5/14)
 - vi. Use of Force Policy Reform Committee (5/30)
- c. Met with/had contact with OPO Commissioners/Staff:
 - i. Commissioner Wilburn on 5/1
 - ii. Commissioner Kelley on 5/8
 - iii. Commissioner Rose on 5/8
 - iv. Commissioner Smith on 5/15
 - v. Commissioner Wilburn on 5/23
- d. Met with/had contact with City Council members/staff:
 - i. Council Member Stratton 5/8

8. Next Steps

- a. Use of Force Round Table
- b. Police Ombudsman on Vacation from June 17th- July 6th.



OFFICE OF
POLICE OMBUDSMAN
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July 07, 2016

Assistant Chief Craig Meidl
1100 West Mallon Avenue
Spokane, Washington 99260

RE: Ombudsman's response to the Spokane Police Guild's Demand to Bargain

Dear Assistant Chief Meidl,

This letter is in response to an email (forwarded to me by Major Justin Lundgren on June 09, 2016) which included a letter from John Griffin, Police Guild President, to yourself, dated May 27, 2016 and received on June 8, 2016. This letter was a follow up to an original request made in person in early April 2016 for all members of the Office of Police Ombudsman (OPO) to have access to Evidence.com to review body camera footage. This request was denied in writing by Lieutenant Steve Braun, Internal Affairs, on April 13, 2016, citing Guild and Spokane Police Division (SPD) Legal Counsel's (Mary Muramatsu) concerns. I filed an appeal to Director Jim McDevitt, copying yourself the same day, April 13, 2016. On April 21, 2016, the OPO (Ombudsman Bart Logue and Assistant to the Police Ombudsman Luvimae Omana) along with our attorney (Tim Szambelan) attended a meeting with you, Major Lundgren, and Mary Muramatsu in which a "solution" was proffered. That solution was that the OPO would have similar access to Evidence.com as the Prosecutor's Office, in which a single person would maintain the access and forward the appropriate evidence to the appropriate individuals within the office. This "solution" has yet to be implemented.

The Demand to Bargain is predicated upon the Guild's insistence that the Ombudsman is properly referred to as the OPO. The Guild incorrectly infers the Ombudsman is the OPO throughout the Demand to Bargain. The first line of the opening paragraph of Article 27 of the Spokane Police Guild Collective Bargaining Agreement (CBA) unambiguously defines the intended use of "OPO" throughout the section. It clearly states the OPO is the Office of Police Ombudsman. The CBA does not provide any other definition for OPO, nor does it ever singularly refer to the OPO as the Ombudsman. The Spokane Municipal Code (SMC) §04.32 also very clearly defines OPO as Office of Police Ombudsman. Furthermore, in the opening paragraph of the CBA, it provides, "The City and the Guild agree that the OPO and the Police Ombudsman Commission as set forth in Article 27 complies with and satisfies all of the requirements of the City Charter in effect on March 1, 2013." This includes the binding concurrence that the OPO is designated as the Office of Police Ombudsman and NOT more narrowly defined as the Ombudsman, which the Demand to Bargain suggests. The Demand to Bargain stating that the historical work of one person should change a SMC definition and binding CBA definition is without merit.

The SMC and the CBA clearly provide that the OPO will have unimpeded access to all complaint and investigative files from OPO Involved Investigations for auditing and reporting purposes (see SMC

www.SPDOmbudsman.org

Email: SPDOmbudsman@spokanecity.org

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§04.32.010(M) and CBA Art. §27(m)). In order to maintain compliance with both the CBA and governing law, I believe it is not only reasonable, but it is the OPO's legal right to have members of the office requiring access to have unimpeded access to all complaint and investigative files from OPO Involved Investigations for auditing and reporting purposes, which includes body camera footage. The Ombudsman has requested this access, been denied, appealed, had a solution proffered, and yet the SPD has still not fulfilled its obligations under the governing ordinance.

The OPO will be appropriately staffed as authorized by the Mayor and the City Council to properly fulfill its duties under the SMC. The Demand to Bargain states that the CBA does not "allow" for an Investigative Assistant. Neither does it prohibit it. In fact, the CBA appropriately takes no interest whatsoever in how the OPO is staffed, other than the position of Ombudsman. Neither the SMC nor the CBA covers any other position within the OPO, even though the position of Assistant to the Police Ombudsman has existed for years. There have also been numerous Interns which have volunteered and have historically worked in the OPO. These positions predate the CBA and the Guild did not voice opposition to their duties. If the Ombudsman desired to increase the staff of the OPO, the Ombudsman would make personnel requests to the Mayor and the City Council for approval, which is the appropriate approval mechanism to ensure that the OPO is staffed appropriately to fulfill its obligations under the SMC. The Guild's prohibition of OPO staff is unreasonable, without merit, and outside the scope and purpose of the Guild.

The only employee description or position in the SMC and the CBA in which there is concurrence from the city to bargain is the Ombudsman. Nowhere in the SMC or the CBA has the Guild been given the authority to direct or dictate the professional duties of the Assistant to the Police Ombudsman. The Demand to Bargain for professional duties of personnel outside of the SPD (other than the Ombudsman) is beyond the reach of the Guild and is currently hindering the professional work of the Ombudsman. The Demand to Bargain is concerned with the Assistant to the Ombudsman evolving more towards an investigative assistant vice Office Manager; however, this is also historically accurate. The Assistant to the Police Ombudsman has often been used for the purposes of a second set of eyes or a different opinion to fully inform the Ombudsman's decisions. Nowhere in the CBA are the internal processes of the OPO discussed. Rather, the CBA appropriately focuses on the interactions between the SPD and the OPO, and the correct process of appeals. It does not focus on how the Ombudsman will arrive at his/her decision. Therefore, the Demand to Bargain for the professional duties of the Assistant to the Ombudsman is unreasonable and without merit.

Human Resources (HR), per a request from the Ombudsman, is currently undertaking the process to properly categorize and compensate the position of Assistant to the Police Ombudsman. It remains unclear what category will be assigned to the Assistant to the Police Ombudsman, but indications point towards an analyst type of position. This classification will be assigned by HR, which is the appropriate office to define any changes to be made to professional duties of OPO personnel. When this classification is made, the final job description, a draft of which has been submitted to HR, will be available as well.

OPO staff or designees report to the Ombudsman. Any staffing change that may occur within the OPO is an administrative matter that falls outside the purview of both the SPD and the Guild. Any work that the OPO staff or a designee does involving investigative files will assist the Ombudsman in fulfilling the OPO's responsibilities under the ordinance. Final determinations are ultimately made solely by the Ombudsman. Every member of the OPO has signed confidentiality agreements as a condition of employment, in addition to another confidentiality agreement specific for viewing body camera footage

requested by SPD's legal counsel. Any information obtained from viewing body camera footage is subject to already agreed upon confidentiality agreements. Therefore, requesting access to body camera footage for appropriate staff only increases the Ombudsman's efficiency in turnaround within the OPO, but has no effect on the working conditions or discipline of any SPD employee.

Admittedly, body cameras were not utilized by the SPD during the last round of contract negotiations. However, both Internal Affairs (IA) and the Ombudsman have accommodated the additional workload involved with utilizing body cameras. Historically, the Ombudsman did not have the burden of watching real time video from multiple personnel in order to be thorough and arrive at a conclusion. Currently, in order to ensure a complaint was timely, thoroughly, and objectively investigated, the Ombudsman must review all available footage. This change significantly hampers the ability of the Ombudsman to respond to IA in the agreed upon and legally mandated five day window. For some complaints with multiple officers each wearing a body camera, the time required to view footage multiplies. It is unreasonable to expect one person in the OPO to potentially thoroughly review multiple cases, each involving multiple officers with body cameras with footage that is in real time, and maintain compliance with the SMC and CBA mandated five day turnaround. IA staff is unrestricted (other than the 180 day disciplinary rule) in the amount of time they have to review footage and thoroughly investigate cases. While the Guild believes the situation is an "anomaly that will correct itself," the implementation of body cameras has permanently changed the work load of the OPO as it was when the CBA was bargained.

Lastly, the Ombudsman fully intends on fulfilling the OPO's legally mandated duties. While review of the backlog and keeping up to date with current cases is a challenge, it is not up to the Guild to suggest what the workload of OPO personnel should be. The Ombudsman is not seeking an accommodation, but is merely requesting that the SPD comply with what has already been bargained and agreed upon, as reflected in both the CBA and governing law.

That being said, here are the responses to the Guild's questions in the Demand to Bargain:

1. For what purpose will the Ombudsman's Assistant be reviewing video on evidence.com?

Any work that the OPO staff or a designee does involving investigative files will assist the Ombudsman in fulfilling the OPO's responsibilities under the SMC. Such instances include:

- Assisting in determining whether preliminary investigation is required (SMC §04.32.030(B); CBA Art. §27(c))
- Reviewing IA investigations to assist and fully inform the Ombudsman's decision to certify a case as timely, thorough, and objective (SMC §04.32.030(E)(2); CBA Art. §27(f)(2))
- Fully informing the Ombudsman in determining whether a request for mediation is appropriate (SMC §04.32.030(D); CBA Art. §27(e))
- Assisting in making policy and procedure recommendations for the review and/or audit of the complaint resolution process and review and recommend changes in departmental policies to improve the quality of police investigations and practices (SMC §04.32.030(N); CBA Art. §27(n))

2. What process, specifically, will the Ombudsman's assistant follow when reviewing video in evidence.com?

A similar process as to any other user granted access to Evidence.com. Video will either be streamed or downloaded if streaming is unavailable. Links to video files will be provided upon request to other members of the OPO or the Office of Police Ombudsman Commission

(OPOC) in cases of appeal. Links will NOT be provided to personnel who are not members of the OPO or OPOC, and will never be provided to an individual who does not have a signed Confidentiality Agreement on file.

3. What specifically will the Ombudsman assistant do with any information gleaned from reviewing video in evidence.com?

Any work that the OPO staff or a designee does involving investigative files will assist the Ombudsman in fulfilling the OPO's responsibilities under the SMC. Please see instances listed in question number one.

4. If the information gleaned from reviewing video in evidence.com is to be passed on to any other person(s), what format will that be done in? For example a summary or just listing the section of video that needs to be reviewed by the Ombudsman?

It is inappropriate for the Guild to attempt to control or dictate the internal processes the Ombudsman will utilize in order to arrive at decisions based upon a thorough review of evidence. Information gleaned from any review of material may be provided to the Ombudsman, other members of the OPO, or the OPOC (in cases of appeal) in any format (conversational, hand written notes, digital, or hard copy). Nothing negates the Confidentiality Agreements that have been put in place between the SPD, the OPO, and the OPOC.

5. The Guild requests acknowledgement that any review of video in evidence.com shall only be done in connection with a formal complaint and that no review of video will be done outside of that restriction.

It is not appropriate for the Guild to place further restrictions than what has already been agreed upon, legally mandated, and bargained. The OPO agrees that no review of video will occur outside of the parameters set forth in the SMC and the CBA, instances of which are outlined in question number one.

The Guild's Demand to Bargain on positions external to SPD oversteps its scope and authority. Upon receipt of this response, I request that the SPD move to eliminate any further obstacles which impede the OPO from fulfilling its obligations under the SMC. The SPD should fulfill its obligations under the SMC and the CBA and provide the OPO unimpeded access to all complaint and investigative files for OPO Involved Investigations. I further request a formal response from the SPD executive staff as to my appeal to Lieutenant Braun's written denial dated April 13, 2016.

We all strive for the best police department for the citizens of Spokane. I welcome comments on how we can better work together to achieve this goal. Formalities aside, I would be willing to sit down and work on a mutually agreeable solution to the concerns of all parties.

Sincerely,



Bart Logue
Interim Ombudsman
City of Spokane, Office of the Police Ombudsman



NACOLE CODE OF ETHICS
*as adopted by the City of Spokane
Office of Police Ombudsman*



Personal Integrity

Demonstrate the highest standards of personal integrity, commitment, truthfulness, and fortitude in order to inspire trust among your stakeholders, and to set an example for others. Avoid conflicts of interest. Conduct yourself in a fair and impartial manner and recuse yourself or personnel within your agency when significant conflict of interest arises. Do not accept gifts, gratuities or favors that could compromise your impartiality and independence.

Independent and Thorough Oversight

Conduct investigations, audits, evaluations and reviews with diligence, an open and questioning mind, integrity, objectivity and fairness, in a timely manner. Rigorously test the accuracy and reliability of information from all sources. Present the facts and findings without regard to personal beliefs or concern for personal, professional, or political consequences.

Transparency and Confidentiality

Conduct oversight activities openly and transparently providing regular reports and analysis of your activities, and explanations of your procedures and practices to as wide an audience as possible. Maintain the confidentiality of information that cannot be disclosed and protect the security of confidential records.

Respectful and Unbiased Treatment

Treat all individuals with dignity and respect, and without preference or discrimination including but not limited to the following protected classes: age, ethnicity, culture, race, disability, gender, religion, sexual orientation, socioeconomic status or political beliefs.

Outreach and Relationships with Stakeholders

Disseminate information and conduct outreach activity in the communities that you serve. Pursue open, candid, and non-defensive dialog with your stakeholders. Educate and learn from the community.

Agency Self-examination and Commitment to Policy Review

Seek continuous improvement in the effectiveness of your oversight agency, the law enforcement agency it works with, and their relations with the communities they serve. Gauge your effectiveness through evaluation and analysis of your work product. Emphasize policy review aimed at substantive organizational reforms that advance law enforcement accountability and performance.

Professional Excellence

Seek professional development to ensure competence. Acquire the necessary knowledge and understanding of the policies, procedures, and practices of the law enforcement agency you oversee. Keep informed of current legal, professional and social issues that affect the community, the law enforcement agency, and your oversight agency.

Primary Obligation to the Community

At all times, place your obligation to the community, duty to uphold the law and to the goals and objectives of your agency above your self-interest.

**Briefing Paper
City of Spokane
Office of the Police Ombudsman
Budget Allocation Request
FY 2019**

Subject Establish Appropriate Funding for Personnel and Functions within the Office of the Police Ombudsman (OPO) and Office of Police Ombudsman Commission (OPOC)

Background

Over the last two years, the OPO has been working diligently to provide the best civilian oversight possible for the citizens of Spokane. The unique independent nature of this office has unfortunately led to a lack of full understanding of the work being performed. While Mayor Condon rightly points to the numbers which show that complaints against the police department are down, those numbers are only indicative of a fraction of the work load. The OPO has continued to experience a significant increase in responsibilities and workload as a result of the evolving expectations in providing civilian oversight and a strengthened OPOC. A strong example of this is the hundreds of hours spent this quarter collaborating with SPD and working on a reform of their use of force policy.

One of the biggest drawbacks of the significant amount of out of office work that our office conducts is that the OPO remains closed as the OPO is not staffed adequately to provide customer support Mon-Fri. Last year, I recognized this deficiency and asked for authorization to establish a Clerk II position within the OPO as well as establish the OPOC Coordinator position permanently. I greatly appreciate the establishment of the Administrative Specialist position in last year's budget cycle, but the part-time nature of this position still does not allow the OPO to be open to the public during normal City Hall business hours. This request asks for a conversion of the Administrative Specialist position to a full-time position, and eliminates the request for a Clerk II position as the Administrative Specialist should be able to absorb those duties in a full time capacity.

OPO initiatives in 2018 led to contracting with Police Strategies to create interactive use of force dashboards using the Police Force Analysis System. We received funding for the initial contract from City Council, but we will require annual fees to update the cases in the system. City Council was fully briefed that there would be an annual update cost to the system. Further, the OPOC has a full panel of Commissioners and its attorney. The Commissioners are determining their role within the oversight framework and the impact they want to make. As such, they have consistently been utilizing legal services. Based on the current billing trend, OPOC needs additional legal funding.

Translation Services – OPO has not had sufficient funding in previous years to translate the basic informational handouts the office provides to the community during community outreach events. This includes the OPO Complaint Form, The Student’s Guide to Policing, and an ACLU handout of What to Do When You’re Stopped by the Police? For comparison, Spokane Police Department’s Accountability webpage provides IA Complaint Forms in alternative languages including French, German, Russian, Spanish, and Vietnamese. Translating the various documents is estimated at \$10,000.00. **Requested increase: \$10,000.00.**

3. Administrative Expenses

The OPO would like to establish adequate lines of funding for the following expenses: background checks conducted on interns/staff applicants, local mileage, parking/tolls, cell phones, Thompson West-Westlaw (Westlaw) legal database, and copier lease.

Currently, the OPO spends \$1281.60/year on cell phones. The budgeted amount is \$1,200.00. The OPO proposes to increase the budgeted amount by \$81.60. The OPO also subscribes to the Westlaw database at a cost of \$2050.00, but is only budgeted for \$250.00. The OPO proposes to increase the budgeted amount by \$1,800.00.

The OPO has no budgeted line items for the copier lease, background checks, local mileage, and parking/tolls. The OPO spends \$1528.56/year on the copier lease. The OPO proposes to create a line item for \$1600.00. The OPO conducts background checks of both staff and intern applicants. The OPO has 4-6 interns per year. The interns are unpaid and work for school credit. The office benefits from the free labor and only incurs the cost of background checks. In 2017, the OPO had 4 interns and each background was approximately \$60.00. The OPO proposes to create a line item for \$360.00. The OPO staff regularly travels locally for community engagement and training. In the first half of 2018, the OPO has incurred \$214.19 in local mileage, but there is no budgeted line item. The OPO proposes to create a line item for \$500.00. In 2018, the City began paying for the Ombudsman’s parking, per the OPOC’s request. The OPO spends \$2100/year on parking, but there is no budgeted line item. The OPO proposes to create a line item for \$2,100.00. **Requested total increase: \$6,441.60.**

- 4. Training** – OPO and OPOC’s current training budget is primarily allotted to allow some members of the OPO and OPOC to attend the National Association of Civilian Oversight of Law Enforcement (NACOLE) and some members of the OPO to attend the US Ombudsman Association annual conferences. The OPO considers membership in the International Association of Chiefs of Police to be essential. Each year, IACP has a conference which highlights trends and best

will continue to have to look for certified professionals willing to donate their time for difficult mediation requests and translation services for citizens won't be accomplished.

- 3) These funds are being requested to establish appropriate baselines within the OPO budget. The OPO currently has very limited flexibility with the minimal established funding levels and has simply had to say no to productions that will enhance community outreach.
- 4) The OPO and OPOC has an established training budget. The slight increase requested will allow for attendance to specialized training opportunities and allow for attendance at regional NACOLE training events in order to maintain accreditation through NACOLE. The ordinance mandates pursuit of Certification as an Oversight Practitioner through NACOLE. Best practices will be more difficult to achieve and maintain currency.
- 5) The OPOC greatly desires to significantly impact civilian oversight in Spokane. As such, the OPOC has shown interest in ongoing legal decisions and discussions affecting law enforcement. As such, the OPOC attorney has provided a wealth of information to the Commission. Not providing an increase to the OPOC legal funding could negatively impact the functionality of the OPOC and would hinder their oversight efforts.

Funding (if available)

Current funding:

1) Admin Specialist (.6)	\$ 30,909.00
2) Professional Services	\$ 0.00
3) Administrative Expenses	\$ 0.00
4) Training	\$ 25,000.00
5) OPOC Legal Services	\$ 25,000.00

Additional Reoccurring Funding Requested

1) Admin Specialist FTE	\$ 23,693.00
2) Professional Services	\$ 20,000.00
3) Administrative Expenses	\$ 6,441.60
4) Training	\$ 10,000.00
5) OPOC Legal Services	\$ 25,000.00
Total	\$ 85,134.60

Please note that the above order is in the order of precedence desired. Thank you for your consideration.



Spokane Municipal Code

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Title 04 Administrative Agencies and Procedures

Chapter 04.32 Office of Police Ombudsman (OPO)

Section 04.32.010 Office of Police Ombudsman

A. The office of police ombudsman (OPO) is established in order to:

1. help ensure that investigation of complaints against police officers are accomplished in a timely, fair, and thorough manner;
2. provide visible, professional, independent civilian oversight of police officers;
3. provide policy makers with recommendations on improvements to police policies, procedures, training and to improve the quality of police investigations; and
4. reassure the public that investigations into complaints and allegations of police misconduct are conducted in a timely, thorough, and objective manner.

B. The police ombudsman and any employee of the OPO must, at all times, be totally independent. Any findings, recommendations, and requests made by the OPO must reflect the independent views of the OPO with the support of the OPO Commission.

C. No person shall attempt to unduly influence or undermine the independence of the police ombudsman, or any employee of the OPO, in the performance of the duties and responsibilities set forth in this chapter.

Date Passed: Monday, February 10, 2014

Effective Date: Wednesday, March 26, 2014

ORD C35069 Section 1

Section 04.32.020 Definitions

- A. "Chief" means the chief of the Spokane police department.
- B. "Commission" means the office of police ombudsman commission.

- A. The OPO will actively monitor all police department OPO Involved Investigations as provided herein.
- B. The OPO may receive complaints from any complaining party, including, without limitation, citizens or employees of the police department. The OPO may conduct a preliminary investigation regarding the complaint for the purpose of determining whether to forward the complaint to IA. The preliminary investigation shall include, as appropriate, interviewing the complainant and interviewing any other person who the complainant asserts was subject to the improper use of force or improper/inappropriate interaction with an officer. If after this interview(s) the OPO is unable to determine whether the matter should be forwarded to IA, the OPO may conduct such additional interviews as are reasonably necessary to determine whether to forward the case to IA. If a complainant or witness refuses to have his or her interview recorded, he or she shall be asked to write out his or her complaint. All interviews will be conducted by the OPO. In the event the OPO is unavailable to conduct the initial interview, the complainant will be asked to prepare a written statement or taped oral narrative concerning the matter, allowing the OPO to subsequently determine whether an actual interview should be conducted. Officers will not be interviewed as part of the preliminary investigation, unless the complainant is an officer. If the complainant is an officer, the OPO may request an interview from the complainant officer as part of the preliminary investigation.

If the OPO determines that the complaint should not be forwarded to IA, the OPO may publish a closing report, which states the allegations of the complaint and the basis for the OPO's determination that the complaint did not need to be forwarded to IA. Neither this closing report nor the preliminary investigation shall be used for discipline; the closing report and any part of the preliminary investigation that is released shall not reveal the names of the officers involved. For each complaint where the OPO determines that the complaint does not need to be forwarded to IA, the OPO shall forward to IA its determination as well as the name of any complainant and/or witnesses and the details of the alleged complaint.

If the OPO determines that the complaint should be forwarded to IA, the OPO will forward the complaint and any preliminary investigation to IA within three business days for processing and, when appropriate, investigation. The OPO will not act upon complaints concerning events that occurred more than one year prior to the filing of a complaint. The OPO will not conduct separate disciplinary investigations, but may participate in all OPO Involved Investigation interviews and request that further investigation be conducted by IA as provided herein.

- C. In addition to complaints received by the OPO, IA will provide copies of all other OPO Involved Investigation complaints to the OPO within three business days. Once the case is closed, the OPO will return all case file materials to IA for retention consistent with the police department's record retention policy but will have subsequent access to closed cases.
- D. The OPO will have the opportunity to make a recommendation for mediation to the chief of police prior to investigation. In the event the department, the complainant, and the officer all agree to mediation, that process will be utilized rather than sending the matter on for investigation. Assuming the officer participates in good faith during the mediation process, the officer will not be subject to discipline, and no disciplinary finding will be entered against the officer. Good faith means that the officer listens to all information presented and considers the issues raised by the

investigation and who has no conflict of interest. The OPO or third-party investigator may request, but not require, participation by police officers in the investigation. Once the OPO or third-party investigator has completed the OPO requested investigation, the Commission may publish a report of the results of the investigation of the OPO or third-party investigation, so long as the report does not identify specific members of the department and does not in any way comment on officer discipline (or lack thereof). The further investigation and/or the commission's report may not be used by the City as a basis to open or re-open complaints against any bargaining unit employees, including those assigned to IA, or to reconsider any decision(s) previously made concerning discipline. No discipline of bargaining unit employees may result from the OPO or third-party investigation.

After completion of the further investigation by IA, or the conclusion, by IA or the commission, that no further investigation by IA will be undertaken, the OPO will then certify whether or not, in the opinion of the OPO, the internal investigation was timely, thorough and objective. This determination will be made within five business days. Once the certification determination is made, the OPO will not be involved further in the disciplinary process in that case.

- G. The OPO will be notified if the Chief or designee determines that any complaint that meets the definition of an OPO Involved Investigation will not be investigated by IA. If the OPO believes that an investigation should be completed, the OPO shall notify the Chief or designee in writing. The OPO and Chief or designee will discuss the OPO's request for investigation and attempt to reach an agreement. The Chief will provide a written response to the OPO's request within fourteen days. If there is no agreement between the Chief or designee and the OPO regarding the investigation, the commission will decide whether the investigation requested by the OPO will be undertaken by IA, as provided in section (E). The decision of the commission will be based upon the OPO's written request and the Chief's (or designee's) written response. After providing IA a reasonable opportunity to undertake the investigation, if the commission determines and specifically describes in writing how IA failed to undertake an investigation consistent with the commission's decision, the commission may again direct IA to undertake an investigation, or the commission may direct the OPO to conduct an independent investigation into the complaint that meets the definition of an OPO Involved Investigation that the Chief determined would not be investigated by IA. The OPO may request, but not require, participation by police officers in the investigation. The OPO may publish a report of the results of the investigation, so long as the report does not identify specific members of the department and does not in any way comment on officer discipline (or lack thereof). Any released investigation will not identify specific members of the department. The OPO's investigation and/or report may not be used by the City as a basis to open complaints against any bargaining unit employee(s), including those assigned to IA, or to reconsider any decision(s) previously made concerning discipline. No discipline of bargaining unit employees may result from the OPO investigation.
- H. All disciplinary decisions will be made by the chief (or designee). The OPO shall not have a role in any disciplinary matter.
- I. The OPO will be provided a copy of any letter or other notification to an officer informing the officer of actual discipline imposed as a result of an internal affairs investigation, or any notice of finding in the event that the complaint is not sustained.
- J. The OPO will be notified by IA within five business days of case closure of all OPO Involved Investigations. The OPO, in addition to the department's written notice of

Q. Complaints regarding the chief of police shall be directed to the mayor and investigated by the city's human resources department. Complaints against the ombudsman shall be directed to and investigated by the commission, with the assistance of the City's human resources department.

Date Passed: Monday, February 10, 2014

Effective Date: Wednesday, March 26, 2014

ORD C35069 Section 3

Section 04.32.040 Critical Incidents

In the event an employee of the police department is involved as a principal, victim, witness, or custodial officer, where death or serious bodily injury results, or where deadly force was used regardless of whether any injury or death resulted, the police ombudsman shall be notified immediately and shall act as an observer to any administrative or civil investigation conducted by or on behalf of the department. The police ombudsman and the chief shall develop necessary protocols for summoning the ombudsman to the incident for purposes of first-hand observation and subsequent monitoring of the investigation.

Date Passed: Monday, October 6, 2008

Effective Date: Sunday, November 9, 2008

ORD C34302 Section 1

Section 04.32.050 Community Outreach

The OPO shall develop and maintain a regular program of community outreach and communication for the purpose of listening to and communicating with the citizens of Spokane on matters subject to the OPO's jurisdiction.

Date Passed: Monday, October 6, 2008

Effective Date: Sunday, November 9, 2008

ORD C34302 Section 1

Section 04.32.060 Qualifications

The minimum qualifications for the position of police ombudsman are:

- A. legal, investigative, or prosecutorial experience within the five years prior to appointment;
- B. recent or current familiarity with police procedures within the five years prior to appointment;
- C. demonstrated ability to review investigations to ensure they are thorough and unbiased;
- D. successful completion of a criminal background investigation consistent with the requirements to become employed as a Spokane police officer;

1. one member appointed by the Spokane Police Officers Guild,
2. one member appointed by the Lieutenants and Captains Association,
3. one member appointed by the city council,
4. one member appointed by the mayor, and
5. the fifth member selected by the other four members.

B. The five member selection committee will select the committee's chair.

C. The commission shall, within forty-five (45) days of its receipt of notice of a vacancy in the police ombudsman position, appoint an interim police ombudsman for a term not to exceed twelve (12) months. Should a permanent ombudsman not be selected and hired within the term of the interim police ombudsman, the commission may, with the prior approval of the city council, extend the interim police ombudsman's term for six (6) months. If the commission fails to appoint an interim ombudsman, the city council shall appoint an interim ombudsman, to serve until the permanent police ombudsman is hired.

D. In order to remain prepared for future vacancies, the commission should maintain a list of applicants for the positions of interim and permanent police ombudsman from which future interview pools can be drawn.

E. Any period of service as interim police ombudsman, by itself, shall not disqualify the person holding that office from being considered for the permanent police ombudsman position.

F. The selection committee shall, according to its own process and organizing principles, forward a list of no more than three (3) qualified candidates for the position of permanent police ombudsman to the commission no later than one hundred twenty (120) days from the committee's formation. For purposes of this section, the "committee's formation" occurs when the final member of the committee is seated.

G. No later than sixty (60) days after receiving the selection committee's list of qualified candidates for the position of permanent police ombudsman, the commission shall select one of the individuals on the list for appointment as permanent police ombudsman.

Date Passed: Monday, November 30, 2015

Effective Date: Wednesday, January 13, 2016

ORD C35274 Section 1

Section 04.32.090 Term

- A. The appointment of the police ombudsman shall be for an initial three-year term.
- B. A current police ombudsman may be reappointed for additional terms not to exceed three years upon reappointment by the commission. If commission does not approve the reappointment prior to the expiration of the appointment term, the appointment term shall expire at the end of the term.

Nothing in this chapter shall prevent the mayor and/or the police chief from maintaining a separate police advisory board, or other similar committee, to assist the police department and the City administration in reviewing and developing police policies and procedures.

Date Passed: Monday, October 6, 2008

Effective Date: Sunday, November 9, 2008

ORD C34302 Section 1

Section 04.32.130 Annual Review of Office of Police Ombudsman

Subsequent to the annual report to the city council from the police ombudsman, the City shall review the OPO program to determine if amendments to this chapter or changes to the program are required.

Date Passed: Monday, October 6, 2008

Effective Date: Sunday, November 9, 2008

ORD C34302 Section 1

Section 04.32.140 False Reporting

- A. The OPO shall have the discretion to decline further action on a complaint filed with the OPO if it is found that there is a reasonable belief that the alleged acts of misconduct in the complaint are false and that the person(s) filing the complaint knew them to be false at the time the complaint was filed.
- B. The employees of the OPO are considered public servants for purposes of SMC 10.07.020. 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 can be charged with a criminal gross misdemeanor for making a false or misleading material statement pursuant to SMC 10.07.020.

Date Passed: Monday, February 10, 2014

Effective Date: Wednesday, March 26, 2014

Ordinance C35069 Section 10

Section 04.32.150 Office of Police Ombudsman Commission

- A. That an office of police ombudsman commission ("commission") be created consisting initially of five members.
- B. General Duties.

In addition to other duties enumerated in this chapter, the commission shall:

1. Appoint, reappoint and potentially remove the police ombudsman pursuant to SMC 4.32.080 through 4.32.110;
2. Approve annual and long term goals of the OPO;
3. Approve OPO procedures and best practices;
4. Approve the OPO annual report;
5. Approve OPO recommendations regarding changes in police department policies and training;

- d. An ability to build working relationships and communicate effectively with diverse groups;
 - e. Education, professional and/or personal experience including but not limited to judicial, legal, investigative, mental health and law enforcement experiences with the exception that a commission member shall not have been a law enforcement officer for two years prior to his or her appointment;
 - f. Contribute to the diversity of the commission so that the makeup of the commission reflects the diversity of the people most likely to have contact with members of the police department, including geographic, racial and disability diversity.
3. All commission members shall be required to sign a confidentiality statement confirming as a condition of service that they will not release the name(s) of employees or other individuals involved in incidents or investigations, nor any other personally identifying information. Inadvertent, de minimus disclosures shall not be considered a violation of this section.
 4. All commission members shall complete a ride-along with the police within six months of appointment. The police department shall make additional training available to commission members, including annual ride-alongs, the Reserve Academy, or other similar training programs, and department in-service training. Such training shall not result in a police commission.

F. Terms of Office.

1. Each commission member shall serve a three-year term and is eligible for re-appointment, except that no member shall be re-appointed after serving three consecutive full three-year terms.
2. The initial commission members will have staggered terms, with three members serving three years and two members serving two years.
3. A vacancy that occurs during the term of a member shall be filled in the same manner as the original appointment, and the appointee shall serve for the remainder of the expired term.
4. Each member shall continue to serve in such capacity until the member's successor has been duly appointed and is acting, provided, however, that the period shall not exceed ninety days past the expiration of the member's term.

G. Expectations.

1. Commission members shall participate in an appropriate training program to be established by the commission, the chief of police and/or the OPO so that they shall possess the knowledge to perform their duties.
2. Members of the commission shall agree in writing that they are subject to the City of Spokane code of ethics contained in chapter 1.04 SMC and an appropriate confidentiality agreement to be developed by the OPO and reviewed and maintained in collaboration with the commission.

H. Liability.

It is the intent of the City that the commission members be free from personal liability for acts taken within the course and scope of carrying out their official duties and functions. The city will therefore defend and indemnify members to the maximum extent permitted under the city's insurance program and indemnification policy.

I. Removal.

A member of the commission may be removed from office by the city council prior to the normal expiration of his/her term for consistent failure to perform commission member duties, for having a real or perceived bias, prejudice or conflict of interest, or for violating the statement of principles, code of conduct, or confidentiality agreement.

J. Meetings and Procedures.



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XVI

- Section 129: Office of Police Ombudsman
- Section 130: Police Ombudsman Commission



Printable Charter

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Section 129: Office of Police Ombudsman

A. A. The office of police ombudsman (OPO) is established in order to:

1. help ensure that investigation of complaints against police officers are accomplished in a timely, fair, and thorough manner;
2. provide visible, professional, independent civilian oversight of police officers;
3. provide policy makers with recommendations on improvements to police policy, training and recruitment; and
4. reassure the public that investigations into complaints and allegations of police misconduct are conducted in a timely, thorough, and objective manner.

B. The OPO shall have the following responsibilities, as well as other duties and functions established by ordinance:

1. The OPO shall actively monitor all police department internal investigations.
2. The OPO shall act as an observer to any administrative or civil investigation conducted by or on behalf of the police department when an employee of the police department is involved as a principal, victim, witness, or custodial officer, where death or serious bodily injury results, or where deadly force was used regardless of whether any injury or death resulted.
3. The OPO shall independently investigate any matter necessary to fulfill its duties under subsection (A) of Section 129, within the limits of the Revised Code of Washington, Washington State case law, Public Employment Relations Commission decisions, the Spokane Municipal Code, and any collective bargaining



be responsible for the administrative functions of the commission. The duties and functions of the commission, procedures for increasing the size of the commission by adding additional commissioners and the minimum qualifications for commissioners shall be established by ordinance consistent with the City Charter. All authority, duties and functions granted to the commission shall be consistent with the City's managerial prerogative authority under Washington State labor law.

Effective Date: February 26, 2013
Ordinance C34941 Section 1



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