



Office of Police Ombudsman Commission

***Special Meeting Notice*/Agenda**

December 11, 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 – 5:45pm	1) Welcome to public	Commissioner Smith
	2) Agenda approval	Commissioner Smith
	3) Approve September 18, 2018 and November 13, 2018 meeting minutes	Commissioner Smith

Items:

5:46 – 6:45pm	1) Public forum	Citizens signed up to speak
	2) Administrative Specialist brief	Christina Coty
	3) OPO report	Bart Logue

Commission Business:

6:46 – 8:00pm	1) OPO 18-32 / C18-055 update	Commissioners
	2) Complaint letter to the Mayor update	Commissioner Smith
	3) Sub-committee discussion / assignment	Commissioner Smith
	4) Update on ordinance change	Commissioner Smith
	5) District 1 Commissioner position	Commissioner Smith
	6) Commissioner Speak-Out	Commissioner Smith
	7) OPOC Legal Counsel Contract	Commissioners
	8) January meeting	Commissioner Smith
	9) Employee evaluation	Commissioners / Executive session

Adjournment:

Next Ombudsman Commission meeting will be held on January 15 , 2019

AMERICANS WITH DISABILITIES ACT (ADA) INFORMATION: The City of Spokane is committed to providing equal access to its facilities, programs, and services for persons with disabilities. The Council Chambers and the Council Briefing Center in the lower level of Spokane City Hall, 808 W. Spokane Falls Blvd., are both wheelchair accessible. The Council Briefing Center is equipped with an audio loop system for persons with hearing loss. The Council Chambers currently has an infrared system and headsets may be checked out by contacting the meeting organizer. Individuals requesting reasonable accommodations or further information may call, write, or email Human Resources at (509) 625-6363, 808 W. Spokane Falls Blvd, Spokane, WA, 99201; or msteinolfson@spokanecity.org. Persons who are deaf or hard of hearing may contact Human Resources through the Washington Relay Service at 7-1-1. Please contact us forty-eight (48) hours before the meeting date.



Office of Police Ombudsman Commission Minutes

November 13, 2018

Meeting Minutes: 2:45

Meeting called to order at 5:30 pm

Attendance

- OPOC Commissioners present: Ladd Smith, James Wilburn, Elizabeth Kelley
- OPOC Commissioners absent: Jenny Rose
- Legal Counsel: Dennis Hession
- OPO staff members present: Bart Logue, Luvimae Omana, Christina Coty

Items Session

- The Agenda was unanimously approved
- The October 27, 2018 special meeting minutes were unanimously approved. September 18 minutes deferred to the December meeting for approval

Public Forum

- David Brookbank –
 - Concerns regarding being trespassed by D. Harvey at the Intermodal Center

OPO Report

- OPO report highlights
 - Combination of September and October numbers – 222 contacts, 14 complaints, 11 Referrals, 33 OPO Interviews, and 36 IA Interviews
 - 52 meetings with SPD
 - Increase with cases regarding 1st amendment violation
- OPO 18-32 / C18-055 Case Discussion
 - Demeanor complaint
 - Demeanor is considered a policy violation
 - Ombudsman believed that the case was not investigated thoroughly or objectively
 - The Ombudsman stated the he only cared about the process of the investigation, and not the outcome of the investigation. Proper interviews were not conducted in this case, and as a result, gaps remained about what happened that day.
 - Following SMC 04.32, the Ombudsman appealed the case through the Police Chief.
 - SPD Representative – Assistant Chief Lundgren
 - The officer was working on the dignitary protection team and was not in uniform. The officer stated that there were 30 protestors who were “yelling and being rude”. Asst. Chief Lundgren state that If the vehicle would have been damaged and removed from service the person could have been charged with a felony.
 - While there were things that could have been done better in the interaction, Chief Meidl didn't find it as misconduct.

Commissioners' Business

- OPO 18-32 / C18-055 Case decision
 - What are the steps the OPOC need to take?
 - OPOC needs to decide who they will side with, the Ombudsman or the Chief of Police. OPOC is the ultimate authority in what happens to the case
 - Motion entertained that the OPOC would direct Internal Affairs to investigate the complaint further, and letter was sent to Chief Meidl
 - Motion Passed unanimously
- OPOC retreat debrief
 - Special meeting occurred on October 27th
 - NACOLE President, Brian Corr, facilitated retreat
 - Sub-Committees were discussed during retreat
 - Use of Force racial disparity / mental health sub-committee – Motion Passed
 - Annual report sub-committee – Motion Passed
 - OPOC correspondence sub-committee – Motion Passed
- Chilling effect in the OPO Response to SPD on Recommendation R18-05
 - Process of filing a complaint due to truthfulness warning – discussion ensued
 - Motion entertained to write a letter to City Council requesting a change to the ordinance
 - Motion passed
- OPOC response to CFJ & Mayor letters
 - The Mayor stated that the concerns raised by CFJ regarding the OPO & OPOC had not been raised properly and that the proper way is to submit a complaint against the Chief of Police
 - Motion entertained to file a complaint against the Chief of Police
 - Motion passed
- Full Time Administrative Specialist
 - Motion entertained to write letter requesting funding and support to City Council.
 - Motion passed
- OPOC 2019 Elections
 - Chair
 - Jenny Rose – nominated, motion passed
 - Vice-Chair
 - Ladd Smith – nominated, motion passed
- December Meeting date change
 - December 11th – Motion Passed
- PAR – Executive Session
 - 7:50pm – 8:16pm

Motion Passes or Fails: 7

Meeting Adjourned at: 8:18PM

Note: Minutes are summarized by staff. A video of the meeting is on file - Spokane Office of Police Ombudsman Commission

<https://my.spokanecity.org/bcc/commissions/ombudsman-commission/>



Office of Police Ombudsman Commission Minutes

September 18, 2018

Meeting Minutes: 1:31
Meeting called to order at 5:30 pm

Attendance

- OPOC Commissioners present: Ladd Smith, Jenny Rose, James Wilburn, Elizabeth Kelley
- Legal Counsel: Dennis Hession
- OPO staff members present: Bart Logue, Luvimae Omana, Christina Coty

Items Session

- The Agenda was unanimously approved
- Minutes approved unanimously, pending a minor change to page 3

Public Forum

- OPO report highlights
 - 200 contacts, 10 Complaints, 5 Referrals, 27 OPO Interviews, 17 IA Interviews & 1 Mediation
 - 15 cases came to OPO for certification
 - Increase in inadequate response complaints due to more property crime or general frustration. OPO is meeting with Dispatch / Crime Check are meeting this coming Monday to ensure all parties are on the same page.
 - Case issue with IA – This case may come to the OPOC, if the Chief doesn't push it back to IA
 - Issue with Police Strategies has been resolved – SPD will be sending unredacted reports
 - Lack of movement on IA Pro for Christina or unredacted UOF reports for Commissioner Wilburn – discussion ensued
- Analyst brief
 - OPO Recommendations –
 - R18-5 – Requiring sworn statements in complaints. The OPO recommends that the sworn statement be removed from the IA complaint forms and also not be verbally issued to complainants at the start of interviews.
 - 1st Amendment and Americans with Disabilities Act concerns with recent complaints
- Administrative Specialist brief
 - Upcoming training and travel information – USOA & NACOLE

Commissioners' Business

- OPOC legal counsel update
 - Initiative 940 – On November ballot
 - Public records request ordinance – tabled with minimal talks to proceed
 - Stance on Guild will be addressed after the OPOC retreat
- OPOC retreat – Commissioner Rose
 - October 27th from 9am – 1pm

- Currently looking for a location and retreat facilitator
 - Draft Agenda creation – in progress
- Approval of OPO Recommendation – R18-05
 - Requiring of Sworn Statements in Complaints – see Analyst brief
 - Commissioner Kelley moved, Commissioner Wilburn seconded – The recommendation was unanimously approved
- Vice-Chair election
 - Commissioner Wilburn nominated Commissioner Rose
 - Unanimous Vote
- October OPOC meeting discussion
 - Due to the training / travel and the retreat, vote to cancel October meeting
 - Unanimous Approval

Motion Passes or Fails: 5

Meeting Adjourned at: 7:01PM

Note: Minutes are summarized by staff. A video of the meeting is on file - Spokane Office of Police Ombudsman Commission

<https://my.spokanecity.org/bcc/commissions/ombudsman-commission/>



Office of the Police Ombudsman

808 W. Spokane Falls Blvd.

Spokane, WA 99201

509.625.6742 / spdombudsman.org

December 12, 2018

Public Safety & Community Health Committee Report

Reporting Period: November 1-30, 2018

Snapshot of Activities		Monthly	Year to Date
Community Outreach			
OPO	Total Community Events and Meetings	2	99
OPOC	Community Outreach / Activities	11	85
Commendations		1	3
Complaints			
	Received Complaints	3	60
	Referred Complaints	5	46
Contacts		110	1426
Case Review			
	Request for Further Investigation	4	12
	Investigations Certified / Concurred	11	57
	Declined Certifications	0	4
	Special Cases Reviewed	14	161
Interviews			
	OPO Interviews	7	170
	IA Interviews	13	135
Training		2	35
Critical Incidents		0	1
Mediations			
	Conducted	1	3
	Declined	0	1
Recommendations		0	5
Other Activities			
SPD Related	Meetings / Contacts	34	279
	Review Boards	2	35
	Closing Meeting	0	1

1. Outreach

a) OPO

- i. Wishes and Wine for Wishing Star (11/8)
- ii. OPOC Meeting (11/13)

b) OPOC Actions – Commissioners attended the following events, some events were attended by multiple Commissioners:

- i. Diversity Training – City Hall (11/1)
- ii. Gonzaga Meeting (11/2)
- iii. Excelsior Meeting and the Bail Project (11/8)
- iv. Whitworth Presentation (11/9)
- v. OPOC Meeting (11/13)
- vi. Whitworth Presentation (11/15)
- vii. Gonzaga Meeting (11/16)
- viii. SIA Board Meeting (11/26)
- ix. Daigle Law Use of Force Summit (11/27)
- x. Diversity Training – City Hall (11/29)
- xi. Gonzaga Meeting (11/30)

2. Commendations / Complaints

a) Received

- i. **OPO 18-60 – Demeanor:** Complainant stated that officer repeatedly told her that they were going to hang up on her and said that she was wasting their time.
- ii. **OPO 18-61 – Demeanor / Inadequate Response:** Complainant stated she felt she had been dismissed by the officer who had responded to her domestic violence call. The officer asked her roommate if she was over reacting.
- iii. **OPO 18-62 – Harassment:** Complainant stated that his work vehicles are allegedly targeted consistently by an officer.
- iv. **Commendation:** Letter from Bart to Chief Meidl for Officer Lyons

b) Referred

- i. **IR 18-45** – Complaint regarding the Clean Team and their disposal of a homeless persons belongings – Kate Burk
- ii. **ER 18-46** – Complaint regarding the Clean Team and their disposal of a homeless persons belongings – Downtown Spokane Business Partners
- iii. **IR 18-46** – Complaint had concerns regarding how an assailant of his was not charged with a crime. – Spokane Valley PD
- iv. **ER 18-47** – Complainant states that an unknown SPD officer (possible SCSO Deputy) is giving out personal information about her – SCSO
- v. **IR 18-48** – Complainant states that an unknown SPD officer (possible SCSO Deputy) is giving out personal information about her - IA

3. Case Review

- a) C18-039 – Investigation Certified
- b) C18-044 / OPO 18-24 – Investigation Certified
- c) C18-048 / OPO 18-26 – Investigation Certified

- d) C18-050 / OPO 18-28 – Request further investigation / Investigation Certified
- e) C18-052 – Request further investigation
- f) C18-057 / OPO 18-34 – Investigation Certified
- g) C18-069 / OPO 18-40 – Investigation Certified
- h) C18-072 / OPO 18-44 – Requested further investigation / Certified
- i) C18-074 – Requested further investigation / Investigation Certified
- j) C18-076 / OPO 18-50 – Investigation Certified
- k) C18-095 / OPO 18-60 – Investigation Certified
- l) C18-097 / OPO 18-62 – Investigation Certified

4. Special Cases Reviewed

- i. 5 Use of Force
- ii. 3 Pursuit
- iii. 5 Collision
- iv. 1 K9 Deployment

5. Activities

- a) OPO staff members participated/engaged in the following other activities:
 - i. Mayor's Quarterly Meeting (11/1)
 - ii. PSCHS Meeting (11/5)
 - iii. SCSO Citizens Academy (11/5, 11/12, 11/19)
 - iv. Quarterly Police Advisory Committee Meeting (11/15)
 - v. Constitutional Use of Force Training (11/19)
 - vi. Leadership Spokane Gala Planning (11/1, 11/27)
- b) SPD related
 - i. 26 meetings/contacts with IA
 - ii. 10 meetings/contacts with SPD
- c) OPO met with/had contact with OPO Commissioners/Staff:
 - i. OPOC Legal Counsel Hession on 11/2
 - ii. Commissioner Kelley on 11/7
 - iii. Commissioner Kelley on 11/7
 - iv. OPOC Legal Counsel Hession on 11/7
 - v. Commissioner Smith on 11/8
 - vi. Commissioner Rose on 11/12
 - vii. OPOC Legal Counsel Hession on 11/27
 - viii. Commissioner Smith on 11/29
 - ix. Commissioner Rose on 11/29
- d) OPO met with/had contact with City Council members/staff:
 - i. Council Member Stratton 11/7
 - ii. Council Member Stratton 11/26
 - iii. Council Member Stratton 11/26
 - iv. Council Member Stratton 11/28

6. Next Steps

- a. End of year wrap up

b. Budget Follow-up for FT Administrative Specialist Position

To: Chief Craig Meidl
From: John Griffin
Date: 12-03-18
Re: Grievance Reference Complaint C18-055



Dear Chief Meidl,

The Spokane Police Guild is filing a grievance reference complaint C18-055.

The City is violating Art. 27 of the CBA by allowing: (a) the OPO to make a request for an IA investigation of a matter that does not meet the definition of an OPO Involved Investigation, and, (b) the Police Ombudsman Commission an opportunity to decide whether the investigation requested by the OPO will be undertaken by IA in a matter that does not meet the definition of an OPO Involved Investigation, and (c) the Police Ombudsman Commission to decide whether the investigation requested by the OPO will be undertaken by IA in a matter that does not meet the definition of an OPO Involved Investigation.

The relief being sought is for the City to: (a) require the OPO and the Police Ombudsman Commission to comply with Art. 27 of the CBA, (b) require the OPO and the Police Ombudsman Commission to respect the Chief's decision, (c) prohibit the OPO and the Police Ombudsman Commission from conducting an independent investigation, (d) make the Guild and the members of the Guild whole for all losses resulting from the violations of Art. 27 of the CBA, and (e) reimburse the Guild for its attorney fees incurred while challenging the violations of Art. 27 of the CBA.

Respectfully,

John Griffin
President Spokane Police Guild



CITY OF SPOKANE
808 W. SPOKANE FALLS BLVD.
SPOKANE, WASHINGTON 99201-3327
509.625.6250

December 4, 2018

Ladd Smith, Chair & Commissioners
Office of the Police Ombudsman Commission
808 W. Spokane Falls Blvd.
Spokane, Washington 99201

RE: Response to OPOC Complaint dated Nov. 13, 2018

Dear OPOC Chair Smith and Commissioners,

I have received your complaint dated November 13, 2018, regarding a number of issues of concern to the Office of Police Ombudsman Commission (OPOC). I take your concerns very seriously. I have asked City Attorney Mike Ormsby and Human Resources Director Chris Cavanaugh to complete a review of the facts and law surrounding these concerns so that we may provide a more accurate and thorough response to you. As part of this work, they will want to talk to you to get a better understanding of your concerns.

As you point out, these issues are tied to current collective bargaining that is under way with the Spokane Police Guild. As usual in City government, we are seeking to balance the rights, responsibilities, and needs of all appropriate stakeholders. I am hopeful that many of these items will be resolved through the contract negotiation process.

Public safety remains our citizens' top priority, and trust and confidence in our police officers is critical if we are going to successfully address the public safety needs of our citizens. As you know, I have been supportive of robust civilian oversight of police action as well as the implementation of the recommendations that resulted from the Department of Justice collaborative reform process.

In the last five years the Spokane Police Department has seen a 68% decrease in complaints against officers and a 26% decrease in uses of force, despite the addition of several categories in 2016 to department-mandated use of force reporting requirements.

I thank you for your willingness to serve our community on this very important commission, and my team will be reaching out to you.

Sincerely,

David A. Condon
Mayor

CC: Bart Logue, Police Ombudsman
Dennis Hession, OPOC Attorney
Chief Craig Meidl, Spokane Police Department
Mike Ormsby, City Attorney
Chris Cavanaugh, Human Resources Director

Public Infrastructure, Environment and Sustainability Committee
Meeting Agenda for
December 17, 2018
10:00 a.m. – COUNCIL BRIEFING CENTER

The Spokane City Council's Public Infrastructure, Environment and Sustainability Committee meeting will be held at **10:00 a.m. on December 17, 2018** in Council Briefing Center, Lower Level, City Hall, 808 West Spokane Falls Boulevard, Spokane, Washington.

The meeting will be conducted in a standing committee format. Because a quorum of the City Council may be present, the standing committee meeting will be conducted as a committee of the whole council. The Public Infrastructure, Environment and Sustainability Committee meeting is regularly held every 4th Monday of each month at 1:15 p.m. unless otherwise posted.

The meeting will be open to the public, with the possibility of moving or reconvening into executive session only with the members of the City Council and the appropriate staff. No legislative action will be taken. No public testimony will be taken and discussion will be limited to appropriate officials and staff.

AGENDA

- I. **Call to Order**
- II. **Approval of minutes from November 26, 2018**
- III. **Discussion Items**
 - A. Council Requests
 1. Consent Items for Discussion
 - i.
 - B. Staff Requests
 1. Apprentice Program Annual Update – Jason Sandobal (10 minutes)
 2. Upsize agreement for Amazon Project – Eldon Brown (5 minutes)
- IV. **Strategic Plan Session – Council Member Beggs and Scott Simmons**
 - Priority Strategy 1: Rapidly Accelerating Street Pavement Maintenance Projects
 - Initiative Updates
 - Priority Strategy 2: Repurposing Public Property to Stimulate Private Investment
 - Initiative Updates
 - Priority Strategy 3: Sustainable City
 - Initiative Updates
- V. **Consent Items**
 1. SMC 04.32.140 – OPO Procedure for Complaint Intake
 2. Parcel Segregation – 25th Avenue LID
 3. Amendment to 2018 Action Plan – House of Charity Emergency Services
- VI. **Executive Session**

Executive Session may be held or reconvened during any Public Infrastructure, Environment, and Sustainability Committee meeting.

VII. Adjournment

Next Public Infrastructure, Environment, and Sustainability Committee Meeting

January 28, 2019 1:15 p.m. in the Council Briefing Center

DRAFT

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Briefing Paper

Public Infrastructure, Environment and Sustainability

Division & Department:	City Council
Subject:	Ordinance amending SMC 04.32.140(B)
Date:	12/17/2018
Contact (email & phone):	Breean Beggs, bbeggs@spokanecity.org
City Council Sponsor:	Breean Beggs
Executive Sponsor:	
Committee(s) Impacted:	Public Safety
Type of Agenda item:	<input checked="" type="checkbox"/> Consent <input type="checkbox"/> Discussion <input type="checkbox"/> Strategic Initiative
Alignment:	
Strategic Initiative:	
Deadline:	Will file for a vote after committee
Outcome: (deliverables, delivery duties, milestones to meet)	The intended of this ordinance is to bring SMC into line with the OPO's current practices
<u>Background/History:</u>	
In a letter to City Council Members on 11/13/118, the OPO requested the change in SMC to note that employees of the OPO <u>may</u> , rather than <u>shall</u> , notify complainants that making false or misleading statements may subject them the criminal sanctions via SMC 10.07.020.	
<u>Executive Summary:</u>	
This ordinance serves to execute the OPO's request outlined above.	
<u>Budget Impact:</u>	
TOTAL COST:	
Approved in current year budget?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
Annual/Reoccurring expenditure?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
If new, specify funding source:	
Other budget impacts: (revenue generating, match requirements, etc.)	
<u>Operations Impact:</u>	
Consistent with current operations/policy?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
Requires change in current operations/policy?	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A
Specify changes required:	
Known challenges/barriers:	



OFFICE OF POLICE
OMBUDSMAN COMMISSION
808 W. SPOKANE FALLS BLVD.
SPOKANE, WASHINGTON 99201
509.625.6755 (VOICEMAIL ONLY)
FAX 509.625.6748

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.

WWW.SPDOPOC.ORG

EMAIL: SPDOmbudsman@spokanecity.org

WWW.FACEBOOK.COM/SPDOmbudsman • WWW.TWITTER.COM/SPD_OMBUDSMAN

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

ORDINANCE NO. C - _____

An ordinance relating to the Office of Police Ombudsman's procedures for complaint intake.

WHEREAS, the Office of Police Ombudsman (OPO) is currently required to tell complainants that making false or misleading statements may be subject to criminal sanctions in SMC 10.07.020, a practice that may lead to intimidation of some potential credible complainants and violates current national best practices; and

WHEREAS, both the OPO and the Spokane Police Department have historically provided information regarding SMC 10.07.020 to complainants on the complaint form; and

WHEREAS, trainings attended by the OPO regarding reducing police liability and managing difficult complainants have shown that best practices do not support warning complainants regarding SMC 10.07.020; and

WHEREAS, the OPO ended their practice of requiring complainants to sign written complaints in acknowledgment of SMC 10.07.020; and

WHEREAS, the OPO requested the below change to SMC to be consistent with their operating procedures in a letter to City Council Members dated November 13, 2018.

NOW, THEREFORE, the City of Spokane does ordain:

Section 1: That SMC Section 04.32.140 is amended to read as follows:

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 the purposes of SMC 10.07.020, and may notify complainants that SMC 10.07.020 makes it a gross misdemeanor to knowingly make a false or misleading material statement to a public servant. ~~((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.))~~

Passed by the City Council on _____.

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date



City of Spokane
OUTSIDE COUNSEL CONTRACT

THIS CONTRACT is between the **City of Spokane**, a Washington State municipal corporation, as ("City"), and **LAW OFFICES OF DENNIS P. HESSION**, whose address is 2818 South Scott Street, Spokane, Washington 99203, as ("Firm"). Individually hereafter referenced as a "party", and together as the "parties".

The parties agree as follows:

1. **PERFORMANCE.** The Firm shall act as OUTSIDE COUNSEL providing legal services and advice to the OFFICE OF POLICE OMBUDSMAN (OPO) COMMISSION, consistent with applicable laws and this Contract. The Firm shall comply with the attached "General Terms and Conditions for Outside Counsel". The legal services shall be performed by Dennis Hession or by an attorney associated with and supervised by Mr. Hession.
2. **CONTRACT TERM.** The Contract shall begin upon signature by both parties and run until terminated or completion of services, whichever is earlier. The City reserves the right to terminate this Contract, with or without cause, as determined in the sole discretion of the City Attorney.
3. **COMPENSATION.** The City shall pay the hourly fees and other charges as stated in the attached exhibit, up to a maximum amount of **FIFTEEN THOUSAND AND NO/100 DOLLARS (\$15,000.00)**, as full compensation for everything furnished and done under this contract.
4. **COMPLIANCE WITH LAWS.** Each party shall comply with all applicable federal, state, and local laws and regulations.
5. **ANTI-KICKBACK.** No officer or employee of the City of Spokane, having the power or duty to perform an official act or action related to this Contract shall have or acquire any interest in the contract, or have solicited, accepted or granted a present or future gift, favor, service or other thing of value from or to any person involved in this Contract.
6. **NONDISCRIMINATION.** No individual shall be excluded from participation in, denied the benefit of, subjected to discrimination under, or denied employment in the administration of or in connection with this Contract because of age, sex, race, color, religion, creed, marital status, familial status, sexual orientation including gender expression or gender identity, national origin, honorably discharged veteran or military status, the presence of any sensory, mental or physical disability, or use of a service animal by a person with disabilities. The Firm agrees to comply with, and to require that all subcontractors comply with, Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act, as applicable to the Firm.

7. INSURANCE. During the term of the Contract, the Firm shall maintain in force at its own expense, the following insurance coverages:

- A. Worker's Compensation Insurance in compliance with RCW 51.12.020, which requires subject employers to provide workers' compensation coverage for all their subject workers; and
- B. General Liability Insurance on an occurrence basis, with a combined single limit of not less than \$1,000,000 each occurrence and \$2,000,000 in the aggregate, for bodily injury and property damage. It shall include contractual liability coverage for the indemnity provided under this Contract. It shall provide that the City, its officers and employees are additional insureds, but only with respect to the Firm's services to be provided under this Contract; and
- C. Professional Liability (E&O) Insurance with a combined single limit of not less than \$500,000 each claim, incident or occurrence. This is to cover damages caused by the error, omission, or negligent acts related to the professional services to be provided under this Contract. If coverage is to be provided on a claims-made basis, the Firm shall warrant that any policy retroactive date precedes the effective date of the Contract. The coverage must remain in effect for at least two (2) years after the Contract is completed.

There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without sixty (60) days written notice from the Consultant or its insurer(s) to the City. As evidence of the insurance coverage(s) required by this Agreement, the Consultant shall furnish acceptable Certificates Of Insurance (COI) to the City at the time it returns this signed Agreement. The certificate shall specify the City of Spokane as "Additional Insured" specifically for Consultant's services under this Agreement, as well as all of the parties who are additional insureds, and include applicable policy endorsements, the sixty (60) day cancellation clause, and the deduction or retention level. The Consultant shall be financially responsible for all pertinent deductibles, self-insured retentions, and/or self-insurance.

8. INDEMNIFICATION. The Firm shall indemnify the City, its officers and employees, from and against all direct damages, liability, cost and expense proximately caused by the negligent performance of the Firm's professional obligations under this Contract, subject to such defenses as the Firm may have under applicable law to a claim for negligence in the performance of its obligations. The Firm shall have no liability hereunder for punitive, consequential, special or other indirect damages. This indemnification is solely for the benefit of the City and no third party beneficiary or other rights shall be created under this section. The Firm's liability shall be limited to the \$500,000 insurance coverage set forth in Paragraph 7 C.

9. DEBARMENT AND SUSPENSION.

The Contractor has provided its certification that it is in compliance with and shall not contract with individuals or organizations which are debarred, suspended, or otherwise excluded from or ineligible from participation in Federal Assistance Programs under Executive Order 12549 and "Debarment and Suspension", codified at 29 CFR part 98.

10. BUSINESS REGISTRATION REQUIREMENT. Section 8.01.070 of the Spokane Municipal Code states that no person may engage in business with the City without first having obtained a valid annual business registration. The Firm shall be responsible for contacting the State of Washington Business License Services at <http://bls.dor.wa.gov> or 1-800-451-7985 to obtain a business registration. If the Firm does not believe it is required to obtain a business registration,

it may contact the City's Taxes and Licenses Division at (509) 625-6070 to request an exemption status determination.

11. MISCELLANEOUS PROVISIONS.

- A. ASSIGNMENTS. Neither party may assign, transfer or subcontract its interest, in whole or in part, without the other party's prior written consent. In the event of an assignment or transfer, the terms of this Contract shall continue to be in full force and effect.
- B. DISPUTES. This Contract shall be performed under the laws of the State of Washington. Any litigation to enforce this Contract or any of its provisions shall be brought in Spokane County, Washington.
- C. SEVERABILITY. In the event any provision of this Contract should become invalid, the rest of the Contract shall remain in full force and effect.
- D. AMENDMENTS. This Contract may be amended at any time by mutual written agreement.

Dated: _____

CITY OF SPOKANE

By: _____

Title: _____

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Dated: 01.31.18

LAW OFFICES OF DENNIS P. HESSION

Email address: dennisphession@gmail.com

By: [Signature]

Title: Attorney / Principal

Attachments that are part of this Contract:
Debarment Certificate
General Terms and Conditions for Outside Counsel
Fee Schedule

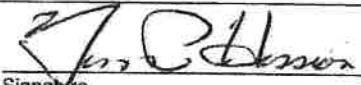
18-014

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
INELIGIBILITY AND VOLUNTARY EXCLUSION**

1. The undersigned (i.e., signatory for the Subrecipient / Contractor / Consultant) certifies, to the best of its knowledge and belief, that it and its principals:
 - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
 - b. Have not within a three-year period preceding this contract been convicted or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice;
 - c. Are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and,
 - d. Have not within a three-year period preceding this contract had one or more public transactions (federal, state, or local) terminated for cause or default.
2. The undersigned agrees by signing this contract that it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.
3. The undersigned further agrees by signing this contract that it will include the following clause, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions:

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

1. The lower tier contractor certified, by signing this contract that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
 2. Where the lower tier contractor is unable to certify to any of the statements in this contract, such contractor shall attach an explanation to this contract.
4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, person, primary covered transaction, principal, and voluntarily excluded, as used in this exhibit, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. The undersigned may contact the City for assistance in obtaining a copy of these regulations.
 5. I understand that a false statement of this certification may be grounds for termination of the contract.

Law Offices of Dennis P. Hession Name of Subrecipient / Contractor / Consultant (Type or Print)	Office of Police Ombudsman Comm. Program Title (Type or Print)
Dennis P. Hession Name of Certifying Official (Type or Print)	 Signature
Attorney / Principal Title of Certifying Official (Type or Print)	01.31.18 Date (Type or Print)

General Terms and Conditions for Outside Counsel

I. SCOPE OF REPRESENTATION

A. The Firm will be engaged on a case-by-case basis to represent the City, and if applicable, its employees and elected officials in lawsuits which are filed in Superior Court or Federal District Court. Specific assignments may include investigation of claims, all aspects of litigation, appeals, and additional legal representation or consultation tasks as assigned by the City Attorney. If a conflict of interest arises between the City and any department employee, it will be resolved in accordance with the Rules of Professional Conduct.

B. Interaction with the City.

Unless prohibited by the Rules of Professional Conduct, the Firm's interaction with the City will comply with the following guidelines:

1. The City Attorney must be given advance notice of any significant decisions in order to participate fully in the decision making process.

2. The City Attorney must be provided with advance drafts of all significant documents (policy statements, pleadings, memoranda) in sufficient time to participate fully in decisions regarding such documents.

3. The City Attorney must routinely receive copies of all other documents, including correspondence and internal legal memoranda.

4. The City Attorney must fully participate in all deliberations and decisions regarding possible settlement of a case.

5. The City Attorney must participate in the selection of all consultants or experts. No subcontracting is permitted under this Contract without the specific authorization of the City Attorney.

6. Any extensive legal research proposed by the Firm must be discussed in advance with the City Attorney.

7. The City Attorney must be advised as soon as reasonably possible of any potential conflicts in representation.

C. The City reserves the right to designate a specific attorney(s) in the Firm to work on specific matters as lead counsel or associate lead counsel for the services rendered pursuant to any referral contract. The City further reserves the right to approve any attorney offered to provide services.

D. Conflicts of Interest.

The Firm or attorney who is selected to represent the City must disclose any actual or potential conflicts of interest; and will be prohibited from engaging in or carrying on, any legal work on behalf of any client that is directly adverse to the City or its interests, without the specific written consent and waiver of the Office of the City Attorney. Waivers will be evaluated on a case-by-case basis. The Firm or attorney engaged to represent the City

shall have a continuing duty to disclose such information. The Office of the City Attorney will NOT sign "blanket" waivers.

E. Confidential Information.

All confidential communications between the City, its officers, employees or agents, and the Firm, whether oral or written, and all documentation whether prepared by the Firm or the City shall be considered privileged and shall not be disclosed, except by the written consent of the City Attorney.

F. Subcontracting.

No portion of the work will be subcontracted without prior written approval of the Office of the City Attorney.

G. Advertising.

The name of the City shall not be included in any promotional or advertising materials by the Firm without the prior written approval of the City Attorney's Office.

II. BILLING PROCEDURES

A. Billing Procedures.

1. Billings by the Firm shall be submitted on a monthly basis.
2. Unless otherwise agreed upon in advance in writing, the City will be charged for services rendered on an hourly basis and billings will be reflected in increments of one-tenth of an hour.
3. Each billing statement shall be set forth for each date services were performed:
 - A brief summary of the services provided; and
 - The number of hours, or fractions of hours spent by each provider; and
 - The hourly rates of each provider.
4. Expenses and disbursements shall be shown in detail:
 - Air travel shall be approved by the City in advance and is reimbursable at coach rates; and
 - The City must NOT be charged for courier service or other expedited mail delivery, unless the urgency was caused by the City or the City requests the service; and
 - Billings for experts or consultants retained by the Firm shall be provided in a substantially similar format as outlined above.
5. Any changes in outside counsel's fee schedule shall be discussed with the City Attorney prior to implementation.
6. The Firm has been retained because of its expertise. The City shall not be billed for basic

general legal or technical research necessary to educate staff or less experienced attorneys in the Firm without advanced City approval.

7. The City shall not be billed for any time spent in preparing or reviewing the Firm's billings to the City or for internal quality control procedures.
8. Unless approved in advance, the City will NOT reimburse for time spent by more than one (1) attorney attending meetings, witness interviews, depositions, hearings and the like.

B. Payment.

The Firm shall send its applications for payment to the City Attorney's Office, Fifth Floor, City Hall, 808 West Spokane Falls Boulevard, Spokane, Washington 99201. Payment will be made within thirty (30) days after receipt of the Firm's invoice, except as provided by state law.

C. Audit.

The Firm shall keep adequate and accurate records supporting all amounts invoiced to the City, and must maintain the records for at least six (6) years following completion of any work. The Firm shall allow authorized City representatives to review and audit all records related to services provided under any contract with the City.

FEE SCHEDULE

HOURLY RATES

Dennis P. Hession	[\$200]
Legal Assistant	[\$75]

CITY SHALL PAY FOR:

- Reimbursing Costs
- Litigation Expenses
- Disbursements and Out-Of-Pocket Expenses
 - Computerized Legal Research
 - Court Reporter Appearance Fees
 - Deposition (Transcription and/or Video) Fees
 - Fees for Retrieval of Records
 - Mediation or Arbitration Fees
 - Court Costs and Filing Fees
 - Payments to Outside Investigators
 - Expert Witnesses and/or Expert Consultants
 - Court Transcripts
 - Demonstrative Aids
 - Witness Fees
 - Mileage (See General Conditions)
 - All Other Items for which the Firm may advance or incur costs for the City's benefit

COMMUNITY INPUT SIGN-UP SHEET
CITY OF SPOKANE OFFICE OF POLICE OMBUDSMAN COMMISSION MEETING
12/11/2018

Community Input shall be for a period not to exceed thirty (30) minutes unless extended by the Chair. **Each speaker will be limited to five (5) minutes.** If you wish to speak during the Community Input time period, please sign-up below

NAME	ORGANIZATION	RESIDENT of SPOKANE?	PHONE/E-MAIL (optional - for follow up, if needed)
1. Please Print		Circle one: Yes No	Phone: E-mail:
2. Please Print		Circle one: Yes No	Phone: E-mail:
3. Please Print		Circle one: Yes No	Phone: E-mail:
4. Please Print		Circle one: Yes No	Phone: E-mail:
5. Please Print		Circle one: Yes No	Phone: E-mail:
6. Please Print		Circle one: Yes No	Phone: E-mail:
7. Please Print		Circle one: Yes No	Phone: E-mail:
8. Please Print		Circle one: Yes No	Phone: E-mail:
9. Please Print		Circle one: Yes No	Phone: E-mail:
10. Please Print		Circle one: Yes No	Phone: E-mail: