

## Ordinance No. C- 35069

AN ORDINANCE relating to the Office of Police Ombudsman; amending SMC sections 4.32.010, 4.32.020, 4.32.030, 4.32.060, 4.32.070, 4.32.080, 4.32.090, 4.32.100, 4.32.110, 4.32.140, 4.32.150, and 4.32.160.

WHEREAS, the City had previously enacted chapter 4.32 of the Spokane Municipal Code establishing an independent Office of Police Ombudsman (hereinafter "OPO"), which has now been in existence for over four years; and

WHEREAS, on December 17, 2012, the Spokane City Council approved Resolution No. 2012-0105 placing Proposition No. 1 before the Spokane electorate for a vote. The Spokane's electorate voted in February 2013 to amend the City Charter to add a section creating a Police Ombudsman Commission and an Office of Police Ombudsman that has independent investigatory authority; and

WHEREAS, the City Council recently amended Chapter 4.32 SMC to incorporate provisions related to the Police Ombudsman Commission; and

WHEREAS, the City Council adopts this ordinance to codify within the Spokane Municipal Code the provisions of Sections 129 and 130 of the City Charter regarding the office of the police ombudsman and the police ombudsman commission; -- Now, Therefore,

The City of Spokane does ordain:

Section 1. That SMC section 4.32.010 is amended to read as follows:

### **4.32.010 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; (~~and~~)
  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.

Section 2. That SMC section 4.32.020 is amended to read as follows:

**4.32.020 Definitions**

- A. "Chief" means the chief of the Spokane police department.
- B. "Commission" means the office of police ombudsman commission.
- C. "Complainant" means any person who files a complaint against any commissioned member of the Spokane police department.
- D. ((C-)) "Complaint" means a complaint by any person of alleged police misconduct.
- E. "Designee" means a commissioned member of the Spokane Police Department.
- F. ((D-)) "Finding" means a conclusion reached after investigation.
- G. ((E-)) "IA" or "internal affairs" means the Spokane police department's investigative unit, whose responsibilities and procedures are described in the Spokane police department's Policy and Procedure Manual, as amended from time to time, to receive and investigate allegations of misconduct by Spokane police department employees.
- H. ((F-)) "Material to the outcome," "material statement," and "material fact" are those facts, evidence, or statements which tend to influence the trier of fact because of its logical connection with the issue. It is a fact which tends to establish any of the issues raised by the complaint or the defenses to the complaint.
- I. ((G-)) "Mediation" means a private, informal dispute resolution process in which a neutral third person, the mediator, helps disputing parties to reach an agreement. The mediator has no power to impose a decision on the parties.

- J. ~~((H.))~~ “Member” means a sworn employee of the Spokane police department about whom a complaint has been submitted to the Spokane police department or the OPO.
- K. ~~((I.))~~ “Misconduct” means conduct by a member during an encounter with a citizen, which conduct violates Spokane police department ~~((regulations or orders, or other standards of conduct required of City employees))~~ policies, procedures and/or canons of ethics.
- L. “OPO Involved Investigation” means an IA investigation where the complaint giving rise to the investigation, whether made to the police department or the OPO, is a complaint of a serious matter (complaints that could lead to suspension, demotion or discharge) involving allegations that an employee either improperly used force or improperly/inappropriately interacted with citizens.
- M. ~~((J.))~~ “Policy-related issue” means a topic pertaining to the Spokane police department’s hiring and training practices, the Spokane police department’s policies and procedures, equipment, and general supervision and management practices, but not pertaining specifically to the propriety or impropriety of a particular officer’s conduct.
- N. ~~((K.))~~ “Serious matter” means any complaint that could lead to suspension, demotion, or discharge.

Section 3. That SMC section 4.32.030 is amended to read as follows:

**4.32.030 Functions and Duties**

The functions and duties of the OPO are as follows:

- A. The OPO will actively monitor all police department OPO Involved ~~((internal))~~ ~~((i))~~ 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, ~~((T))~~the OPO will forward ~~((all))~~ the complaint~~((s))~~ and any preliminary investigation to ~~((the police department's internal affairs (IA) unit))~~ 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 ~~((independent))~~ 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 ~~((received by the Spokane police department))~~ 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 complainant, and acts and responds appropriately. Agreement with either the complainant or the mediator is not a requirement of good faith. In the event an agreement to mediate is reached and the complainant thereafter refuses to participate, the officer will be considered to have participated in good faith.

E. Once any complaint is received by ~~((the internal affairs unit))~~ IA, including those forwarded to IA from the OPO, it shall be submitted to the chain of command for review per existing police department policy. When either the chief or ~~((the chief's))~~ his designee determines that the allegations warrant investigation, such investigation shall be approved, and IA will initiate the investigative process. The OPO will participate in that investigation process for OPO Involved Investigations as follows:

1. ~~((F.))~~ Internal affairs will notify the OPO of all administrative interviews on all OPO Involved Investigations ~~((complaints of a serious matter (complaints that could lead to suspension, demotion, or discharge) and all complaints originating at the OPO))~~. The OPO may attend and observe interviews in person or by telephone and will be given the opportunity to ask questions during the interview and after the completion of questioning by the department. ~~((G))~~ The OPO will not participate in criminal investigations of department employees, but will be notified when the criminal investigation is concluded.

2. ~~((H.))~~ Upon completion of ~~((each administrative investigation))~~ OPO Involved Investigations, IA will forward a complete copy of the case file to the OPO for review. The OPO will review the case file and determine whether the investigation was timely, thorough and objective.

E. ~~((I.))~~ As a part of the review process, the OPO may conclude that ~~((additional))~~ further investigation is needed on issues deemed material to the outcome. The OPO will notify IA of the suggested further investigation. The OPO's suggestions and rationale for further investigation will be provided to IA in writing. The OPO and assigned investigator(s) will discuss the suggested further investigation and attempt to reach an agreement. If there is ~~((any dispute))~~ no agreement between the assigned investigator(s) and the OPO regarding the necessity, practicality, or materiality of the requested ~~((additional))~~ further investigation, the OPO will notify the chief (or designee) in writing of the OPO's suggestions and rationale for further investigation. ~~((t))~~ The chief (or designee) will determine whether ((additional)) further investigation will be undertaken by IA. The chief (or designee) will provide his or her determination to the OPO in writing.

If the OPO is not satisfied with the determination of the chief, ~~((the matter will be resolved by the mayor,))~~ the OPO's request for further investigation may be presented to the commission, whose decision will be final. The decision of the commission will be based upon the OPO's written request and the chief's (or designee's) written response. Once the matter has been referred to and resolved by the ~~((mayor))~~ commission, the IA investigation will be completed consistent with the determination by the ~~((mayor))~~ commission on the OPO's request. After providing IA a reasonable opportunity to complete the further investigation, if the commission determines and specifically describes in writing how the IA

investigation was not completed consistent with the commission's decision, the commission may again direct IA to complete the further investigation in the OPO's request, or the commission may publish a report stating what further investigation in the OPO's request the commission believes was not completed by IA. If the OPO has not yet made a certification decision, a certification decision shall be made by the OPO. In addition to its report, the commission may direct the OPO or a third-party investigator to complete the further investigation requested by the OPO; however, no such investigation may commence until the Chief has made a final, written discipline determination in the matter. If the commission contracts for a third-party investigation, it shall be conducted by someone with knowledge and experience in conducting a fair and objective law-enforcement 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 ~~((above finding))~~ certification determination is ~~((entered in the investigation))~~ 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. ~~((J. The OPO shall not have a role in any disciplinary matter.))~~ All disciplinary decisions will be made by the chief (or designee). The OPO shall not have a role in any disciplinary matter.
- I. ~~((K.))~~ 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. ~~((L.))~~ The OPO will be notified by IA within five business days of case closure of all OPO Involved Investigations ~~((complaints of a serious matter and all complaints originated by the OPO)).~~ The OPO, in addition to the department's written notice of finding letter to the complainant, may send a closing letter to the complainant ~~((to summarize the case findings)).~~ The letter may summarize the case findings.
- K. ~~((M.))~~ Any complaining party who is not satisfied with the findings of the department concerning their complaint may contact the office of police ombudsman to discuss the matter further. However, unless persuasive and probative new information is provided, the investigation will remain closed. In accordance with established arbitral case law, employees may not be disciplined twice for the same incident. In the event the investigation is re-opened and discipline imposed, the appropriate burden of establishing compliance with this section rests with the City in any subsequent challenge to the discipline.
- L. Once the OPO has made a certification decision and the chief has made a final determination on the case, the OPO may publish a closing report that summarizes the complaint, the OPO Involved Investigation, and the findings. The closing report will not disclose the names of officers or witnesses. The

OPO's closing report shall not be used in disciplinary proceedings of bargaining unit employees.

- M. ((N)) In addition to the investigative process, the OPO will have unimpeded access to all ((IA)) complaint and investigative files from OPO Involved Investigations for auditing and reporting purposes. The OPO shall not retain investigative files beyond one year and will return the same to Internal Affairs for safekeeping. At all times and including, without limitation, issuing written reports, the OPO will not release the name(s) of employees or other individuals involved in incidents or investigations nor any other personally identifying information. The OPO may make statistical observations regarding the disciplinary results of sustained internal investigations, but shall not take issue with discipline imposed by the chief of police in specific cases.
- N. ((O))The OPO may recommend policies and procedures 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, including the IA investigation process. The OPO may independently investigate any non-disciplinary matters necessary to enable the OPO to issue policy and procedure recommendations. The OPO may publish a policy and procedure report that identifies the OPO's recommended policy and procedure changes. The OPO's recommendations will be related to departmental procedure, policies, training, or related issues. The OPO will not make recommendations concerning discipline for specific cases or officers. If required by law, the City will engage in collective bargaining prior to adopting any such recommendations. ((Nothing in this chapter shall be construed as a waiver of the officers' collective bargaining right to require the City to engage in collective bargaining as authorized by law.))
- O. ((P)) The OPO shall not have access to legally privileged documents held by the city attorney or attorney-client communications held by the city attorney's clients. The OPO shall not disclose confidential records and shall be subject to the same penalties as the legal custodian of the records for any unlawful or unauthorized disclosure.
- P. ((Q)) The police ombudsman may propose ((adopt, promulgate, amend, and rescind)) rules and procedures required for the discharge of the police ombudsman's duties, including policies and procedures for receiving and processing complaints, monitoring investigations, and reporting findings, conclusions and recommendations to the commission. The OPO's rules and procedures must be consistent with state law and the collective bargaining agreement between the city and police guild. The OPO may not levy any fees for the handling of complaints or any other duties identified in this chapter.
- 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.

Section 4. That SMC section 4.32.060 is amended to read as follows:

**4.32.060 Qualifications**

The minimum qualifications for the position of police ombudsman are:

- A. legal, investigative, or prosecutorial experience within in the five years prior to appointment;
- B. recent or current familiarity with police procedures within in 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;
- E. demonstrated ability to work with confidential information;
- F. a record of community involvement;
- G. an ability to build working relationships with and communicate effectively with diverse groups; and
- H. established ((a)) reputation for even-handedness in dealing with both complainants and the regulated parties.
- I. become a resident of the City within six months of the beginning of the appointment term and maintain residency during the remainder of the term.

Section 5. That SMC section 4.32.070 is amended to read as follows:

**4.32.070 Training**

The police ombudsman shall continue his or her professional education throughout the period of employment as the ombudsman in subjects consistent with the responsibilities of employment. At a minimum, such training shall include:

- A. a training program in police procedures and orientation to the Spokane police department, including at least one ride-along with police within six months of appointment and at least two ride-along each year; ((and))

- B. ~~((completion of))~~ attend the police department's ((Citizens)) Reserve Academy, or other similar training program, within one year of appointment, however, such training shall not result in a police commission;
- C. attend police department in-service training regarding current training and policy and procedure updates, as well as specialized training; and
- D. pursuit of certification from the National Association of Civilian Oversight of Law Enforcement (NACOLE) during the term of his or her appointment.

Section 6. That SMC section 4.32.080 is amended to read as follows:

**4.32.080 Appointment**

- A. A selection committee of five members (committee) will be formed that will recommend three candidates for the OPO position to the ~~((mayor))~~ commission, one of which must be selected. The committee shall be composed of:
  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. ~~((a))~~ the fifth member selected by the other four members.
- B. The ~~((mayor shall))~~ commission must appoint one of the three individuals recommended by the committee to the OPO position. ~~((The individual appointed by the mayor and confirmed by the city council must be one of the individuals recommended by the committee.))~~ The five member selection committee will select the committee's chair.

Section 7. That SMC section 4.32.090 is amended to read as follows:

**4.32.090 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 ~~((recommendation of the mayor and confirmation by the city council))~~ reappointment by the commission. If ~~((the mayor does not~~

~~recommend reappointment or the city council))~~ 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.

- C. Should a vacancy in the position occur, due to expiration of term, resignation, sickness, death, retirement, conflict of interest, or any other reason, the ~~((mayor may recommend an appointment for city council confirmation of))~~ commission appoint an interim police ombudsman for a term not to exceed four months, in compliance with the appointment process stipulated in SMC 4.32.080. The selection committee referenced in SMC 4.32.080 must meet within thirty days of notification by the ~~((mayor))~~ commission of the need to appoint an interim police ombudsman.

Section 8. That SMC section 4.32.100 is amended to read as follows:

**4.32.100                    Removal**

- A. The police ombudsman may not be removed from office during his term except for misconduct, inefficiency, incompetence, inability or failure to perform the duties of the office, ~~((or))~~ negligence in the performance of the duties or failure to complete the requisite training. Compliance with the confidentiality provisions of this chapter is a condition of employment for all employees of the OPO. Inadvertent, de minimus disclosures shall not be considered a violation of this section.
- B. In such cases that warrant removal from office, removal shall be by a resolution adopted by a majority of the ((city council)) full commission subsequent to a public hearing by ~~((either the majority of the full city council upon recommendation of the mayor or by a vote of no less than five members of the full city council))~~ the commission.
- C. Nothing contained herein shall prevent the ~~((city council))~~ commission from ~~((either))~~ declining to approve an appointment or reappointment ~~((, or eliminating the office of police ombudsman by legislative action, both of which do not require the city council to consider removal for cause as set forth above))~~.

Section 9. That SMC section 4.32.110 is amended to read as follows:

**4.32.110                    Reporting Requirements**

- A. The police ombudsman reports, for administrative and executive functions, directly to the ~~((mayor or the mayor's designee))~~ commission.
- B. The police ombudsman is not an employee of the Spokane police department and shall work independently from the Spokane police department.

- C. The police ombudsman shall make monthly reports jointly to the commission, the mayor, the police chief, and the Public Safety Committee regarding the activities of the OPO. In addition, the police ombudsman shall make an annual report to the city council during a council meeting. The report shall contain:
1. statistical analysis documenting the number of complaints by category, disposition, and action taken;
  2. analysis of trends and patterns;
  3. recommendations.

Section 10. That SMC section 4.32.140 is amended to read as follows:

**4.32.140 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.

Section 11. That SMC section 4.32.150 is amended to read as follows:

**4.32.150 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. ((2.)) Approve OPO procedures and best practices;
4. ((3.)) Approve the OPO annual report;
5. ((4.)) Approve OPO recommendations ((to implement)) regarding changes in police department policies and training;
6. ((5.)) Approve OPO rules and procedures ((. The ((OPO)) commission, on its own or upon request by the OPO, may adopt, promulgate, amend, and rescind rules and procedures)) required for the discharge of OPO duties, including policies and procedures for receiving and processing complaints, monitoring investigations, and reporting findings, conclusions and recommendations. The rules and procedures approved by the commission shall be consistent with Washington state law and comply with the collective bargaining agreement between the city and the police guild.
7. ((6.)) Conduct and approve evaluations of the OPO and OPO personnel;
8. ((7.)) Request that the OPO examine or re-examine specific non-disciplinary ((incidents or)) policy or procedure issues and confirm or reject OPO requests for additional investigation by IA;
9. ((8.)) Assist OPO personnel in communicating with Spokane's diverse communities and the general public about the complaint filing and investigation process;
10. ((9.)) Make readily available to the public all commission reports, recommendations, and evaluations; and
11. ((10.)) Prepare and present an annual report to the city council.

C. Selection of Members.

1. Two members shall be nominated by the mayor and appointed by city council; and,
2. One member from each of the three city council districts nominated and appointed by city council.
3. The commission may, at any time, determine that more members are necessary to carry out the duties of the commission. Upon unanimous vote of all commission members and majority approval by the city council pursuant to an amendment to this section, additional members may be added to the commission two members at a time:

- a. One additional member nominated by the mayor and appointed by city council; and,
- b. One additional member nominated appointed by city council.

D. Officers.

The commission members shall annually choose their own chair and vice-chair, who will serve from January 1st through December 31st, and shall serve in that position for no more than three consecutive one-year terms. The chair (and vice-chair in the absence of the chair) will set the agenda for meetings, facilitate the meetings, speak on behalf of the commission and call any special meetings.

E. Qualifications.

- 1. Members of the commission shall be volunteers who immediately, prior to appointment, shall be:
  - a. A current resident of the city of Spokane;
  - b. Of the age of twenty-one years or older;
  - c. Able to pass an in-depth background investigation and have no convictions for crimes involving dishonesty or moral turpitude within the past (~~five~~) seven years; and
  - d. Neither a current or former employee of the City of Spokane or Spokane police department, nor an immediate family member of a current City of Spokane or Spokane police department employee.
  - e. Able to establish a reputation for even-handedness in dealing with both complainants and the regulated parties.
- 2. The following characteristics shall be considered during the appointment process:
  - a. An absence of any real or perceived bias, prejudice, or conflict of interest;
  - b. A record of community involvement;
  - c. A demonstrated ability to be fair, impartial and unbiased;
  - 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.
3. 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.

1. The commission may appoint from its membership committees as necessary to perform its duties.
2. Commission members are expected to maintain a minimum of seventy-five percent meeting attendance on an annual basis.
3. The commission shall hold regular meetings with an opportunity for public comment at least quarterly, and the commission and its committees may hold additional meetings as necessary.
4. No business of the commission shall be conducted at a meeting without at least a quorum of three members.
5. All actions of the commission shall be made upon a simple majority vote of the members present.
6. Meetings of the commission shall be open to the public except when the commission has determined a closed executive session, in accordance with RCW 42.30.110, is necessary in order to carry out its business.



7. The commission shall prepare and present an annual report to the city council that:
  - a. Summarizes the commission's activities, findings, and recommendations during the preceding year;
  - b. ~~((Gives))~~ Summarizes the OPO's recommendations for changes to the police department's ((processes and)) policies, procedures and training during the preceding year;
  - c. Evaluates the work of the OPO, including whether the OPO is ~~((functioning as intended and))~~ performing required duties.
- ~~((8. The commission may develop additional reports as deemed necessary by it, or as requested by the city council. All reports generated by the commission shall not release nor disclose any records exempt from disclosure under the Washington Public Records Act or any confidential information that city officials or employees would be legally prohibited from disclosing.~~
8. ~~((9))~~ The commission shall evaluate the performance of the OPO. In doing so, the commission:
  - a. Shall establish criteria by which to evaluate the work of the OPO;
  - b. Shall review, comment on and assist in maintaining policies, procedures and operating principles for the OPO;
  - c. Shall monitor status reports from the OPO; and
  - d. May conduct periodic evaluations of the complaint intake and handling system to identify process improvements and/or ensure complaints are being treated fairly with due diligence.
9. The commission's policies and procedure required for the discharge of its duties shall be consistent with Washington state law and the collective bargaining agreement between the city and police guild.
10. The commission shall have no involvement concerning discipline for specific cases or officers.

Section 12. That SMC section 4.32.160 is amended to read as follows:

#### **4.32.160 Funding**

The city council shall maintain funding necessary to appropriately staff the office of

police ombudsman and the commission, including adequate staff to enable to ombudsman to perform the required duties and responsibilities of the office as well as providing staff assistance to the police ombudsman commission.

PASSED by the City Council on \_\_\_\_\_.

\_\_\_\_\_  
Council President

Attest:

Approved as to form:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Assistant City Attorney

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Effective Date