



Office of Police Ombudsman
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Office of Police Ombudsman 2013 Annual Report “Change For Cause”

Introduction

The Annual Report is a compilation of the work performed by the Office of Police Ombudsman in 2013. The report contains statistical data related to the Office of Police Ombudsman and the Spokane Police Department’s Internal Affairs and Professional Standards Unit.

The following information is a chronology of events that occurred in 2013 related to the intended evolution of the Office of Police Ombudsman.

On December 17, 2012, the Spokane City Council unanimously agreed to a special election ballot initiative, Proposition 1 requesting that the voters decide whether the Spokane City Charter should be amended to include the Office of Police Ombudsman and whether the Office should have independent investigation authority and a Commission ([see attachment A](#)).

In February 2013, Spokane voters overwhelmingly approved Proposition 1 by 70%. Proposition 1 codified the Office of Police Ombudsman in the Spokane City Charter. The proposition required the creation of an independent Commission to oversee the Office of Police Ombudsman and provided the office with independent investigative authority ([see attachment B](#)).

In May 2013, Council members Salvatori and Allen authored a non-binding resolution that defined the Council’s legislative interpretation of Proposition 1. On May 20, 2013, the Spokane City Council unanimously supported and approved [non-binding resolution #2013-0033](#) ([see attachment C](#)).

In September 2013 the City Council announced their intention to proceed with the implementation of the non-binding resolution, however the Council delayed implementation on November 1, 2013 when the Office of the Mayor announced a tentative collective bargaining agreement had been reached with the Police Guild ([see attachment D](#)).

The Mayor and City Council inherited an open agreement with the Police Guild in January 2012 when they took office. Although contract negotiations began before the newly elected officials took office and before the passage of Proposition 1 occurred, the implementation of Proposition 1 and the authority of the Office of Police Ombudsman was discussed during the negotiation process.

On November 11, 2013, after serious review and consideration the City Council unanimously rejected the proposed Police Guild contract and returned the contract to the Office of the Mayor for further negotiations with the Police Guild. The contract did not meet the Council's expectations with regards to the Office of Police Ombudsman's ability to independently investigate complaints.

As a result, three public meetings were held to obtain further comment from the community. Discussions and further legislative action regarding the open Police Guild contract were tabled until February 10, 2014 in hopes that the City, Police Guild and City Council could reach an agreement on what independent investigation authority means.

Other items of interest that occurred in 2013 were:

- February 21, 2013: Interview with DOJ/COPS
- February 28, 2013: The Use of Force Commission issued their final report
- April 8, 2013: The City Council approved the creation of six new departments within the Police Department that allowed for six new civilian directors who will be exempt at will employees.
- April 22, 2013: The City Council approved 1.1 million dollars for one-time expenses to purchase body cameras, new tasers, new batons and additional training equipment.
- May 7, 2013: Spokane Officer Moses plead guilty in a local Municipal Court to a misdemeanor for giving false information to federal agents in the 2009 investigation related to the death of Otto Zehm. Officer Moses also resigned from the Police Department.
- August 5, 2013: Tim Schwering was appointed Director of the Strategic Initiatives Division consisting of five departments: Records, Property, Training, Informational Technology and Internal Affairs.
- August 19, 2013: Ombudsman was nominated by the Mayor and confirmed by City Council for a one year term to end August 22, 2014.
- November 19, 2013: Follow up interview with DOJ/COPS and their consultant
- November 20, 2013: The Police Department invited the Ombudsman to attend a Deadly Force Review Board (DFRB) to review the first officer involved shooting/death that occurred on February 5, 2013. The City and the Police Guild consented to the Ombudsman's participation.
- November 25, 2013: The City Council approved the proposed City budget that included the funding for and hiring of 26 additional police officers.

- December 31, 2013: Spokane Regional Criminal Justice Commission issued their report: "A Blueprint for Reform, Creating an Efficient and Effective Regional Criminal Justice System."

In 2013 significant progress occurred and significant change was made for cause. In 2014 I look forward to a period of organizational stabilization and the further implementation of the recommendations from the Use of Force Commission, the Spokane Regional Criminal Justice Commission and DOJ/ COPS.

The Annual Report

This report shall be produced on an annual basis. It is intended to provide the residents of Spokane and city officials with statistical analysis documenting the number of complaints made against members of the Spokane Police Department on an annual basis.

Pursuant to Spokane Municipal Code Section 04.32.110 C1, 2, the data shall include the number of complaints received by category, disposition and action taken. The report shall also include the analysis of trends, patterns and recommendations.

The report is also intended to provide the community and its elected representatives with an opportunity to understand and evaluate the performance of the Office of Police Ombudsman.

The Ombudsman is accountable to the Mayor, City Council and most importantly, the people of Spokane. The Office of Police Ombudsman has an obligation to perform in a professional, ethical and service-oriented manner.

Recognizing that no Police Department can operate effectively without the trust of the community it serves, the Spokane City Council approved an ordinance in 2008 which created the Office of Police Ombudsman. The Office was created to increase the public's trust in the Spokane Police Department. The mission of the Office of Police Ombudsman is to provide a professional presence to ensure quality Internal Affairs investigations of law enforcement misconduct complaints and to provide for visible independent oversight to reassure the public.

The Office of Police Ombudsman may recommend policies and procedures for review, audit the complaint resolution process and review and recommend changes in departmental policies to improve the quality of police investigations and practices.

Through these means, the operation and actions of the Spokane Police Department and their officers will become more transparent to the community.

The report is divided into six sections to explain the various functions of the office:

- I. Staff Profiles
- II. The Office of Police Ombudsman
- III. Ordinance Requirements
- IV. Statistical Data for 2013
- V. Recommendations
- VI. 2013 Accomplishments and Next Steps for 2014

I. Staff Profiles

TIM BURNS, POLICE OMBUDSMAN

In August 2009, Tim Burns was appointed Spokane's first Police Ombudsman. Tim is an accomplished professional who takes a realistic, no nonsense approach to problem solving and conflict resolution. Tim is a result driven professional with 38 years of experience in law enforcement, code enforcement, teaching, licensed contracting and conflict resolution. Tim has a reputation as a resourceful problem solver.

Tim is responsible for providing independent civilian oversight for the Spokane Police Department in conduct-related matters. Tim works under the direction of the Mayor and has prescribed authority through the Municipal Code. Tim frequently meets with the Spokane Police Administration, Spokane Police Department's Internal Affairs Unit, special interest organizations, concerned residents and members of the community.

Tim is a member of the National Association for Civilian Oversight of Law Enforcement (NACOLE) and the United States Ombudsman Association (USOA). In 2010, Tim was certified as a mediator through the Fulcrum Institute of Spokane.

MELISSA NYSTROM, OFFICE OF POLICE OMBUDSMAN ASSISTANT

Melissa Nystrom graduated from the University of Washington with a Bachelor of Arts in Communication and Sociology in 2005. Melissa went on to graduate from Gonzaga University School of Law with a Juris Doctorate in 2009; she is a member of the Washington State Bar Association.

After graduating, Melissa spent two years working for Spokane Neighborhood Action Partners (SNAP), a local non-profit organization, with the Long Term Care Ombudsman Program. Melissa is dedicated to serving the people of Spokane.

Melissa began working in the Office of the Police Ombudsman in February, 2012. Among other things, she acts as the main point-of-contact for citizens contacting the office. Additionally, in April 2012 Melissa was certified as a mediator through the Fulcrum Institute of Spokane.

BENJAMIN GALLION, VOLUNTEER

Benjamin Gallion has been a resident of Spokane County for 19 years. He received his Bachelor of Arts in Sociology with a minor in Psychology from Eastern Washington University in June, 2012.

Before beginning his current position at the Office of Police Ombudsman in April, 2012, Benjamin interned with the Eastern Washington University's Children's Studies Program called "the Hangout." During his junior year of college, Benjamin spent over a year studying at the University of Sydney and working in Sydney, Australia.

ALEYSHA HONABLUE, VOLUNTEER

Aleysha Honablue was born and raised in Spokane, WA. She graduated from Lewis and Clark High School and through the Running Start Program obtained her Associates Degree from Spokane Community College. Aleysha attends Eastern Washington University and is currently working on her Bachelor of Arts in Government and Sociology. After graduation, Aleysha aspires to receive a Master's in Education Policy and eventually become involved in the process of opening charter schools in Washington.

PATRICK SMITH, INTERN

Patrick is from Yakima, WA. He graduated from Eisenhower High School and received an Associate in Arts Degree from Yakima Valley Community College. Patrick transferred to Eastern Washington University where he earned his Bachelor of Arts in Criminal Justice in 2013.

ANNA VAMVAKIAS, INTERN

Anna is a native Californian but now calls Spokane her home. She graduated from the University of CA at Santa Cruz with a BA in psychology. She has worked with at risk youth and mental health departments in three counties in California and Peirce County, WA. Currently, Anna is completing a Master's Degree in Public Administration and Urban Planning with an emphasis in Tribal Planning. She will graduate from Eastern Washington University in 2014.

TIM SZAMBELAN, POLICE OMBUDSMAN ATTORNEY

Tim Szambelan grew up in Chehalis, WA, a small rural town 30 miles south of Olympia, WA. In 1986 he received a Bachelor's Degree from Seattle University in Public Administration. In 1987, Tim moved to Spokane to attend Gonzaga University's School of Law. He graduated from Gonzaga University School of Law in 1990.

Upon graduation from law school, Tim worked at the Spokane law firm of Huppig, Ewing, Anderson and Paul in their Litigation Department. In 1991, Tim accepted a position with the Spokane City Attorney's Office in the Criminal Division as a prosecutor. In 1998, Tim transferred to the Civil Division of the City Attorney's Office and currently represents the Ombudsman Office and other Departments within the City of Spokane.

Tim is licensed to practice law in Washington and Arizona.

II. The Office of Police Ombudsman

MISSION

The Office of Police Ombudsman exists to promote public confidence in the professionalism and accountability of the members of the Spokane Police Department by providing independent review of police actions, thoughtful policy recommendations and ongoing community outreach.

GUIDING PRINCIPLES

The Office of Police Ombudsman will strive to:

- Provide equal, fair and impartial access to the services of the Office of Police Ombudsman without regard to age, race, gender, creed, color, nationality, sexual orientation or socioeconomic standing.
- **Ensure that all individuals will be treated with courtesy, dignity and respect regardless of their attitude or demeanor.**
- Deliver service in a timely, thorough and objective manner.

The Ombudsman believes:

- In the empowerment of all people to solve problems and receive service.
- Individuals must be responsible and accountable for their personal and professional actions and behavior.

CODE OF ETHICS

In 2010, the Office of Police Ombudsman adopted the National Association for Civilian Oversight of Law Enforcement's (NACOLE) Code of Ethics. In 2012, NACOLE confirmed that the Office of Police Ombudsman is in compliance with the NACOLE Code of Ethics, listed below.

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 a 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.

ENABLING ORDINANCE

As the result of the passage of Proposition 1 in February 2013 the Office of Police Ombudsman has been codified in the Spokane City Charter in Article 16, Sections 129 and 130. The independent investigative authority granted by the passage of proposition 1 remains a topic of discussion between the Office of the Mayor, the Police Guild and the Spokane City Council. Pending resolution the office continues to perform the duties and responsibilities as defined by Spokane Municipal Code Section 4.32.

DUTIES AND RESPONSIBILITIES

In summation, the responsibilities and duties of the Police Ombudsman are to:

- Respond to critical incidents and act as an observer
- Actively monitor all Spokane Police Department complaints and investigations
- Receive complaints that are alleged to involve employees of the Spokane Police Department
- Interview complainants and witnesses of misconduct allegations upon receipt of a complaint
- Make recommendations to the Office of the Chief of Police to mediate complaints that involve employees of the Spokane Police Department when appropriate
- Mediate complaints when aggrieved parties agree to mediation
- Attend, observe and participate in Spokane Police Department interviews of officers, complainants and witnesses involving complaints received by the Ombudsman
- Attend, observe and participate in Spokane Police Department interviews of officers when the consequences of a misconduct investigation could result in suspension, demotion or termination of an officer
- Certify Internal Affairs investigations that are timely, thorough and objective
- Make statistical observations regarding the disciplinary results of sustained internal investigations
- Recommend policies and procedures for review or implementation
- Audit the complaint resolution process and review and recommend changes in Spokane Police Department policies to improve the quality of police investigations and practices
- Within five business days of case closure of all complaints of a serious matter and all complaints originated by the Office of Police Ombudsman, the Office of Police Ombudsman shall send a closing letter to and/or conduct a closing interview with the complainant to summarize the case findings

III. Ordinance Requirements

When reporting on statistical data, figures from the 2012 Office of Police Ombudsman Annual Report will be added in blue for comparison.

MEDIATION (SMC 04.32.030 (D))

Pursuant to Spokane Municipal Code Section 04.32.030 (D), the Office of Police Ombudsman 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.

When the Office of Police Ombudsman authority was increased, the Ombudsman was required to provide the complainant with a copy of subsection (D) and obtain a signed statement from the complainant acknowledging that he or she has read and understands that the complaint will be resolved through the mediation process and the investigation into the complaint will be terminated. Although no longer required, the Ombudsman continues this procedure as a “best practice.”

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, 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.

In 2013, two complaints were resolved through the mediation process (four in 2012).

ADMINISTRATIVE INTERVIEWS (SMC 04.32.030 (F))

Pursuant to Spokane Municipal Code section 04.32.030 (F), the Internal Affairs Unit will notify the Office of Police Ombudsman of all administrative interviews on all complaints of a serious matter (complaints that could lead to suspension, demotion, or discharge) and all complaints originating in the Office of Police Ombudsman. The Police Ombudsman may attend and observe interviews and will be given the opportunity to ask questions after the completion of questioning by the Department.

In 2013, the Ombudsman independently interviewed 73 complainants and 7 witnesses (94 complainants and 11 witnesses in 2012). The Ombudsman participated with Spokane Police Department Internal Affairs’ staff in the interviewing of 176 officers, 11 complainants and 43 witnesses (149 officers, 15 complainants and 36 witnesses in 2012). The Ombudsman hosted 8 closing interviews with complainants and staff from Internal Affairs (12 in 2012).

CRITICAL INCIDENT RESPONSE (SMC 04.32.040)

Pursuant to Spokane Municipal Code Section 04.32.040, 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 a death or injury 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 the necessary protocols for summoning the Ombudsman to the incident for purposes of firsthand observation and subsequent monitoring of the investigation.

In 2009, a call out procedure was established and implemented by the Office of the Chief of Police to notify the Ombudsman in a timely manner when a critical incident occurs.

WHEN A CRITICAL INCIDENT OCCURS:

When the Critical Incident Protocol is invoked, members from the Spokane Police Department, the Spokane County Sheriff's Office and the Washington State Patrol will respond to the location of the incident. These agencies have entered into a mutual agreement to investigate each other's critical incidents. The Critical Incident Protocol can be reviewed at the Office of Police Ombudsman website (www.spdombudsman.org) in the "Documents and Reports" section.

Immediately after the incident occurs, a criminal investigation begins. Upon completion of the criminal investigation, the case is referred to the Spokane County Prosecutor's Office for review and consideration of any potential criminal violations that may have occurred. The Spokane Police Department's Internal Affairs Unit conducts an administrative investigation immediately after the criminal case is sent to the Prosecutor. Upon completion of the administrative investigation, the case is sent to an Administrative Review Panel (ARP) to review and address questions regarding policy compliance and then to a Deadly Force Review Board (DFRB) to consider issues of tactics, training, investigative follow-up, equipment and any other pertinent issue.

In 2013, the Spokane Police Department was involved in three critical incidents requiring the Ombudsman's notification and response. The incidents involved the use of deadly force by an officer (one incident in 2012).

- Tuesday, February 5, 2013: At 01:49a.m. the Ombudsman was advised by Internal Affairs Lieutenant McCabe of an officer involved shooting near the Huckleberry's Natural Market at 926 S. Monroe Street. The Lieutenant and Ombudsman responded to the location where they were briefed on the incident and toured the area. While at the location they were advised that the individual that was involved was deceased. No officers were physically injured. Review of the incident by the Prosecutor's Office determined that the

officers' actions were justified under the circumstances. Toxicology reports indicate that the suspect was under the influence of Methamphetamine and Oxycodone at the time of the incident.

- Thursday, May 16, 2013: At 3:21a.m. the Ombudsman was advised by Internal Affairs Sergeant Singley that an officer involved shooting/death had occurred at 22007 N. Charles in Nine Mile Falls, WA. Sergeant Singley transported the Ombudsman to the location for a briefing and scene familiarization. Sergeant Singley, Lieutenant Arnzen and the Ombudsman returned to the location at 1:00p.m. for a more comprehensive briefing and tour of the scene.
- Thursday, August 22, 2013: At 6:38a.m. the Ombudsman was contacted by Lieutenant Arnzen and advised that an officer-involved shooting had occurred at the Salvation Army at 204 E. Indiana. Lieutenant Arnzen transported the Ombudsman to the location for a preliminary briefing and tour of the scene. At 2:50p.m. Lieutenant Arnzen and the Ombudsman returned to the scene for a more detailed briefing and inspection of the incident scene.

Upon review of the first critical incident that occurred in 2013 where a Spokane police officer used deadly force, it is the Ombudsman's opinion that police personnel responded in a professional, necessary and appropriate manner in this incident.

RELEVANT CASE LAW REGARDING OFFICERS' ACTIONS

When evaluating the performance of an officer, the following case law must be complied with in all instances.

U.S. Supreme Court *Graham v. Connor*, 490 U.S. 386 (1989): The Fourth Amendment "reasonableness" inquiry is whether the officers' actions are "objectively reasonable" in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation. The "reasonableness" of a particular use of force must be judged from the perspective of a reasonable officer on the scene, and its calculus must embody an allowance for the fact that police officers are often forced to make split-second decisions about the amount of force necessary in a particular situation. Pp. 490 U. S. 396-397.

***Garrity v. New Jersey*, 385 U.S. 493 (1967):** The Supreme Court of the United States held that law enforcement officers and other public employees have the right to be free from compulsory self-incrimination. It gave birth to the Garrity warning, which is administered by government employees to officers accused of misconduct in internal and administrative investigations. This warning is issued in a similar manner as the Miranda warning is administered to suspects in criminal investigations.

Cleveland Board of Education v. Loudermill, 470 U.S. 532 (1985): Certain public-sector employees can have a property interest in their employment, per Constitutional Due Process. This property right entails a right to "some kind of hearing" before being terminated -- a right to oral or written notice of charges against them, an explanation of the employer's evidence, and an opportunity to present their side of the story. Thus, the pre-disciplinary hearing should be an initial check against mistaken decisions -- not a full evidentiary hearing, but essentially a determination of whether there are reasonable grounds to believe that the allegations against the employee are true and support the proposed action.

NLRB v. J. Weingarten Inc., 420 U.S. 251 (1975): In 1975, the United States Supreme Court upheld a decision by the Labor Board that employees have a right, protected by Section 7 of the National Labor Relations Act, to insist upon union representation during an investigatory interview by the employer, provided the employee "reasonably believes" the interview "might result in disciplinary action." The Supreme Court explained that this right arises from Section 7's "guarantee of the right of employees to act in concert for mutual aid and protection." The right has been applied to unionized workforces and is limited to situations in which an employee specifically requests representation. An employer is not required to advise the employee of this right in advance, and it applies only to investigatory meetings and not to meetings when, for example, the employer communicates a decision regarding a disciplinary matter.

Whether the belief that discipline might result from the interview is reasonable is based on "objective standards" and upon an evaluation of all the circumstances. If the employee does have a reasonable belief that discipline may result from the interview, the employer must grant the request, dispense with the interview, or offer the employee the option of continuing the interview unrepresented or not having an interview. If an employer refuses to allow union representation but goes ahead with the interview, or if the employer disciplines the employee for refusing to participate in the interview after denying the employee union representation, the employer has committed an unfair labor practice in violation of the National Labor Relations Act.

COMMUNITY OUTREACH (SMC 04.32.050)

Pursuant to Spokane Municipal Code Section 04.32.050, the Ombudsman shall develop and maintain a regular program of community outreach and communication for the purpose of listening to and communicating with the residents of Spokane on matters subject to the Ombudsman's jurisdiction.

OUTREACH EFFORTS

In 2009, the Office of Police Ombudsman established satellite offices at the East Central, Northeast and West Central Community Centers to provide community outreach while attempting to minimize the cost and inconvenience to members and visitors of the community.

In 2013, the Office of Police Ombudsman no longer maintained satellite hours at the Community Centers. However, the OPO did host office hours at two COPS Office locations as well as weekly satellite hours at the Volunteers of America's Crosswalk Teen Shelter.

In addition, the Office of Police Ombudsman also hosts satellite office hours on a monthly basis at the House of Charity, the Spokane Transit Authority Plaza located in downtown Spokane and at the NATIVE Project. Additionally, the Office of Police Ombudsman has an increased presence and visibility in the community by attending neighborhood fairs and community events. Please contact the Office of Police Ombudsman for specific dates and times.

If you would like the Ombudsman to participate in your event, please contact the Office of Police Ombudsman. You can also follow the Office of Police Ombudsman on Facebook at www.facebook.com/spdombudsman.

In 2013, the Ombudsman attended the following meetings and events:

- 88 Neighborhood Council meetings were attended.
- 38 Spokane City Council meetings, 4 Town Hall meetings
- 11 Spokane Community Assembly meetings and 2 joint Community Assembly/City Council meetings
- 9 NAACP monthly meetings
- 8 meetings of SPARC, Spokane Police Accountability and Reform Coalition
- 7 OutSpokane board meetings and 2 LGBT Center board meetings
- 7 Spokane Human Rights Commission meetings
- 4 Spokane Police Advisory Committee meetings
- 2 East Central "Community Café" meetings

In 2013, the Ombudsman provided presentations to:

- 23 of the 27 Neighborhood Councils
- 2 Radio Interviews with George McGrath
- Community Assembly Meeting
- Council Connection guest of Council President Stuckart
- New Tech Skill Center Criminal Justice Class
- OutSpokane's "Raid of the Rainbow Lounge" movie at the Garland Theater
- Spokane City Human Rights Commission
- Use of Force Commission

In 2013, the Office of Police Ombudsman participated in the following community events:

- Center for Justice's "Jazzed for Justice" event
- Change for the Better's Talent Show
- Chief Garry Park Neighborhood's "meet and eat with Council President Stuckart"

- Christian Service Summit at Whitworth University
- “Don’t Shoot” meeting
- East Central Community Center’s Holiday Dinner
- Eastern Washington University’s celebration of the new Race and Culture Studies major
- Garland Street Fair
- Greater Hillyard Business Association’s property crime discussion
- Hire-ability Luncheon
- Honoring Our Veterans Dinner at the Southside Senior Center
- INBA Luncheon at the Lincoln Center
- Juneteenth Celebration at Liberty Park
- League of Women Voters’ Judicial Forum
- LGBT Rainbow Awards Ceremony
- Lower South Hill Block Party and Resource Fair
- Martin Luther King Jr. Parade and Resource Fair
- NAACP Freedom Fund Banquet
- NAACP Inaugural Gala at Whitworth University
- NATIVE Project’s Healthy Heart Pow Wow
- NATIVE Project’s Summer Camp graduation
- NATIVE Project’s Yard and Bake Sale
- NATIVE Project’s Youth Leadership Camp in Liberty Lake
- Night Out Against Crime – Hogan Street
- Night Out Against Crime – Liberty Park Apartments
- Night Out Against Crime – Riverside Neighborhood
- Night Out Against Crime – West Center COPS Shop
- Northeast Community Center’s Annual Celebration
- Perry Street Fair
- PJALS panel discussion on “our culture of violence”
- PJALS Peace and Economic Justice Action Conference
- PJALS Soiree/Auction
- Police Safety meeting at the Northeast Community Center
- Pride Parade and Rainbow Festival
- Priority Spokane meeting
- Salish School Open House
- Smart Justice Presentation
- Spokane Homeless Connection Resource Fair
- Spokane Human Rights Commission’s first annual awards ceremony
- Spokane Regional Criminal Justice Meeting
- West Central Community Center’s Playhouse Project Spokane auction breakfast
- YMCA Youth and Community Leadership Forum
- YWCA Stand Against Racism

PROFESSIONAL TRAINING (SMC 04.32.070)

Pursuant to Spokane Municipal Code Section 04.32.070, the Ombudsman shall continue his/her 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 training program in police procedures and orientation to the Spokane Police Department, including at least one ride along with the police within six months of appointment
- Completion of the Spokane Police Department's Citizen Academy within one year of appointment

TRAINING RECEIVED

In 2013, Office of Police Ombudsman staff attended:

- City of Spokane Supervisor training series (OPO Assistant)
- Communications leadership training
- Gonzaga University's Pursuit of Justice Conference
- NACOLE National Conference in Salt Lake City, UT
- Skills'kin "Right Response" Training (OPO Assistant)
- Spokane Regional Health Training by United Way on the "culture of poverty"
- Spokane Police Department IAPro/Blueteam training (OPO Assistant)
- Spokane County Sheriff's Office Public Records Disclosure training (OPO Assistant)
- United States Ombudsman Association Annual Conference in Indianapolis, IN

Due to budgetary constraints, the Spokane Police Department did not offer a Citizen Academy in 2013. As a result, the Ombudsman has been invited to attend future police in-service and leadership training classes the Department intends to offer.

In 2013, the Ombudsman participated in 11 ride alongs with different Spokane police officers on different shifts. In addition, other OPO staff participated in 5 ride alongs with the Spokane Police Department in 2013.

REPORTING REQUIREMENTS (SMC 04.32.110)

Pursuant to Spokane Municipal Code Section 04.32.110 (C), the Ombudsman shall make a monthly report to the Mayor, the Chief of Police and the Public Safety Committee. In addition, the Ombudsman shall make an annual report to the City Council during a City Council meeting.

The report shall contain:

- statistical analysis documenting the number of complaints by category, disposition, and action taken
- analysis of trends and patterns
- recommendations

REPORTING

In 2013, 11 monthly reports were made to the Public Safety Committee and the Ombudsman presented highlights from the report at the Legislative Session of the City Council meeting that occurred the same day as the Public Safety Committee meeting. The reports were also provided to the Mayor, the City Administrator and the Chief of Police.

In 2013, the Public Safety Committee was comprised of City Council President Stuckart and Council Members McLaughlin (Chair), Snyder, Waldref, Allen, Fagan and Salvatori. The Public Safety Committee meets and continues to meet at the Spokane City Hall, Conference Room 5A on the third Monday of each month at 1:30 p.m. Public Safety Committee Meetings are open to the public. Public comment is not received during these meetings.

The Office of Police Ombudsman Report contains information from the previous month and can also be located on the website for the Office of Police Ombudsman (www.spdombudsman.org) in the "Documents & Reports" section.

The Ombudsman is also required to complete and present an Annual Report to the Spokane City Council. The 2009 inaugural Report was completed and presented to the City Council on Monday, April 12, 2010 during the 6:00 p.m. Legislative Session. Recognizing that information needs to be timely, significant effort has been placed on completing future annual reports as soon as possible after the calendar year ends.

The 2010, the Annual Report was presented to the Spokane City Council on Monday, March 7, 2011 during the 6:00 p.m. Legislative Session. In 2011, a Mid Year Report was published in July. The 2011 Annual Report was presented to the Spokane City Council on Monday, February 20, 2012 during the 6:00 p.m. Legislative Session. In 2012, a Mid Year Report was published in July. The Annual report was presented to the Spokane City Council on Monday, February 25, 2013 during the 6:00 p.m. Legislative Session. In 2013, a Mid Year Report was published in July and the Annual Report was presented to the Spokane City Council on Monday, February 24, 2014.

IV. Statistical Data for 2013

PERSPECTIVE

In 2013, officers from the Spokane Police Department made a minimum of **135,714 contacts** with individuals in the community (104,696 in 2012). In 2013, the contacts resulted in the following enforcement action:

- 10,654 involved arrests (4,226 in 2012)*
- 3,376 of the total arrests involved subjects with outstanding warrants (2,442 in 2012)
- 10,594 citations issued (12,976 in 2012)

Of 9,621 total adult arrests, 80% involved individuals who were White, 9% were Black, 8% were Native American, 2% were Hispanic and 1% were Asian or Pacific Islander.

Of 1,033 total juvenile arrests, 72% were White, 17% were Black, 6% were Native American, 4% were Hispanic and 1% were Asian or Pacific Islander.

*In 2013 the OPO changed the way it reports on arrests. In the past, the arrests have come from how the officer codes a call (for instance, the officer codes a call with “arrest” which counts as one arrest when there may have been multiple arrests). In 2013, however, the number of arrests reflect the number of arrests Spokane Police Officers truly made during the year as reported to Washington Association of Sheriffs and Police Chiefs (WASPC). The OPO believes this is a more accurate way of reporting on this information.

COMPLAINT CLASSIFICATIONS

While the primary focus of the Ombudsman’s Office has been to ensure that complaints received are investigated in a timely, thorough and objective manner, this responsibility is one of several duties the Office of Police Ombudsman performs on a daily basis. The Office spends a significant amount of time assisting people who have questions regarding the actions of the Spokane Police Department.

For the purpose of documentation, the Office of Police Ombudsman defines civilian interactions in one of the following terms:

CONTACT - Most contacts are received through phone calls. Many of the contacts do not rise to the level of a complaint or inquiry but typically involve general information questions such as: *How do I obtain a restraining order? Is panhandling against the law? Who can I contact for assistance with an imminent eviction? How can I retrieve a driver’s license that was not returned during a traffic stop?*

CITIZEN INQUIRY – In 2010 the Spokane Police Department adopted the Lexipol Department Manual as a “best practices” document which included the adoption of the Citizen Inquiry classification. Pursuant to Spokane Police Department Policy 1020, when an uninvolved police supervisor receives a complaint and determines, after contacting a complainant, that the reporting complainant is satisfied that their complaint required nothing more than an explanation regarding the proper implementation of Police Department policy or procedure, a complaint need not be taken. A Citizen Inquiry form will be completed and forwarded to Internal Affairs. Not all complaints received by patrol supervisors are classified as Citizen Inquiries.

This policy does not directly impact the Office of Police Ombudsman. The Office of Police Ombudsman has no input in this classification and only becomes aware that a complaint has been classified as a Citizen Inquiry after the classification has occurred.

This procedure has not been problematic; however, in order to promote community awareness and organizational transparency, this procedure has been recognized in this report.

The Office has also requested that Citizen Inquiries be redacted and published as complaints in the future. The Police Department agreed with this request.

INVESTIGATIVE INQUIRY – All complaints received directly by the Office of Police Ombudsman and the Internal Affairs Unit are processed and referred to the Office of the Chief for review and classification. This classification may only be made by the Chief of Police or the Chief’s designee. An Inquiry is a matter which constitutes a question involving Spokane Police Department policies, procedures, points of law or other issues not pertaining to misconduct.

FORMAL COMPLAINT - A “formal complaint” is an allegation received from a citizen alleging conduct by a Spokane Police Department employee which, if sustained would constitute a violation of law or the policies and/or procedures of the Spokane Police Department.

NOTE: Information received by the Office of Police Ombudsman is submitted to the Spokane Police Department Internal Affairs Unit for classification. Based on a case-by-case review of the information provided, complaints will either be classified as a Formal Complaint or Investigative Inquiry pursuant to Spokane Municipal Code Section 04.32.030e. In the event that the Ombudsman disagrees with the classification, the Ombudsman can appeal the classification and the matter is subject to review by the Chief of Police and, if necessary, the Mayor.

FINDINGS

In 2013, pursuant to Spokane Municipal Code Section 04.32.030, the Office of Police Ombudsman certified **72** completed Internal Affairs Unit investigations as timely, thorough and objective (**57 in 2012**).

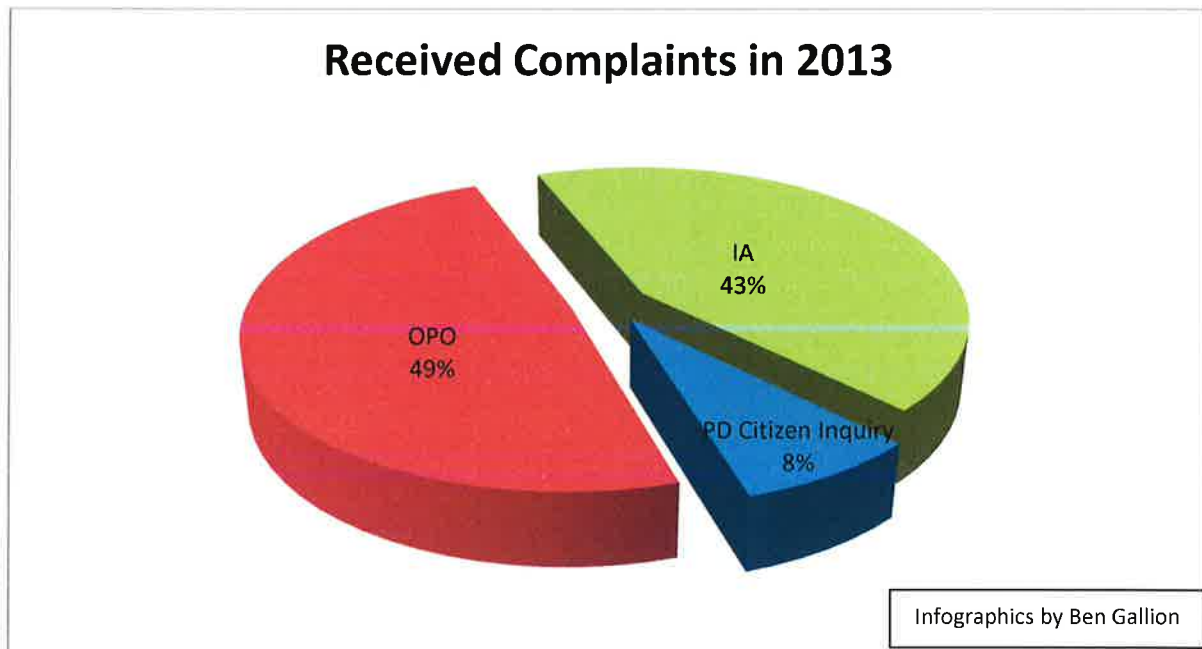
In 2013, the Office of Police Ombudsman declined to certify two investigations. In both investigations, the investigation was thorough and objective but not timely (SMC 4.32.010A1). Each investigation took over four months complete and indicated no explanation for the delay in completion.

INTERNAL AFFAIRS COMPLAINTS RECEIVED IN 2013

In 2013, the Spokane Police Department received 112 complaints directly (**109 in 2012**). 17 were classified as Citizen Inquiries, 19 were classified as Investigative Inquiries and the remaining 76 were formally investigated.

In 2013, the Office of Police Ombudsman also forwarded 107 complaints to the Internal Affairs Unit for review and consideration (**135 in 2012**). Sixty-six of the complaints were classified as Investigative Inquiries, 40 were assigned for investigation and one was referred to another agency.

In 2013, a combined total of 218 (**244 in 2012**) complaints were received between the Office of Police Ombudsman and the Spokane Police Department.



INTERNAL COMPLAINTS

In 2013, 21 of the 116 complaints assigned for investigation were internally generated, typically by police supervisors (22 of 84 in 2012) and involved 30 employees of the Spokane Police Department; 19 police officers, three sergeants, six detectives, one lieutenant and one communications supervisor.

In 2013, the 21 internally generated complaints resulted in 38 allegations. The 38 allegations were resolved through the following processes (11 complaints involving 19 allegations remained open as of January 31, 2014):

- 2 allegations were Unfounded meaning the investigation disclosed that the alleged act(s) did not occur or did not involve department personnel.
- 9 allegations were Administratively Suspended due a number of reasons such as the employee resigned or retired or the issue was handled at the shift level.
- 8 allegations were Sustained meaning the investigation disclosed sufficient evidence to establish that the act occurred and that it constituted misconduct.

Internal complaints included allegations of: Association with a Person Engaging in Violation of State Law, Conduct Unbecoming, Excessive Force, Failure to Give Warning re: a K9, Failure to Report for Duty, Failure to Supervise, False Statement to a Supervisor, Harassment, Inadequate Response, Insubordination, Limitation on Authority, Safe Handling of a Firearm, Sleeping on Duty, Unauthorized Access to Law Enforcement Database, Unintentional Discharge of a firearm, Untruthfulness and Violation of a Misdemeanor Statute.

CITIZEN COMPLAINTS (including OMBUDSMAN RECEIVED COMPLAINTS)

Ninety-five citizen complaints were assigned for investigation in 2013 (62 in 2012). Forty, approximately 42%, originated through the Office of Police Ombudsman (60% in 2012).

In 2013, the 95 investigations generated by citizens resulted in 186 allegations. The 186 allegations were resolved through the following processes (26 investigations involving 45 allegations remained open as of January 31, 2012):

- 30 allegations were Administratively Suspended due to inability to contact the complainant after multiple attempts, the employee retired, etc.
- 41 allegations were Unfounded meaning the investigation disclosed that the alleged act(s) did not occur or did not involve department personnel.
- 32 allegations were Exonerated meaning the investigation discloses that the alleged act occurred, but that the act was justified, lawful and/or proper.
- 8 allegations were Sustained meaning the investigation disclosed sufficient evidence to establish that the act occurred and that it constituted misconduct.
- 8 allegations were Changed to Inquiries after further investigation.

- 16 allegations were Not Sustained meaning the investigation disclosed that there was insufficient evidence to sustain the complaint or fully exonerate the employee.
- 3 allegations were resolved through Mediation as an alternative to the investigation, adjudication and disciplinary process.
- 3 allegations were due to a Training Failure which led to all officers being properly trained in the area.

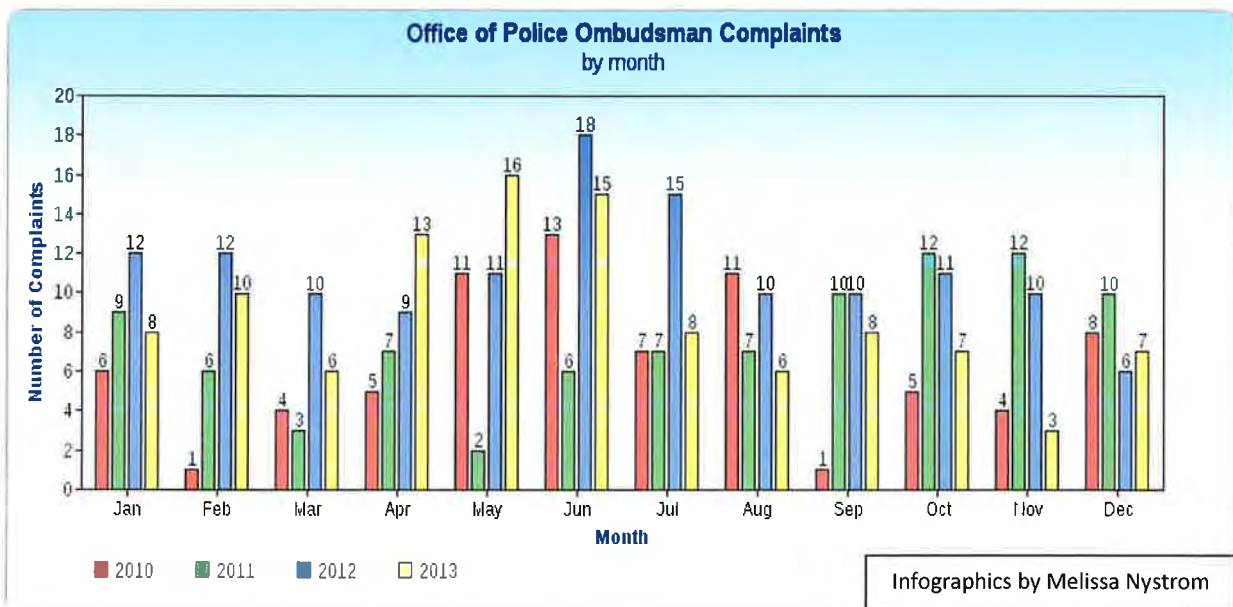
The 96 investigations involved 100 different employees of various ranks; civilian employees received 1 complaint, police officers received 65 complaints, one reserve officer received a complaint and five corporals received complaints. Detectives received eight complaints, sergeants received 13 complaints, lieutenants received five complaints and one captain received a complaint.

OMBUDSMAN RECEIVED COMPLAINTS

During 2013, the Office of Police Ombudsman was contacted 1,252 times for various reasons (909 in 2012). Contacts increased approximately 38% from 2012.

Of the 1,252 contacts, 107 complaints were received (135 in 2012) and forwarded to the Internal Affairs Unit for classification and assignment, 66 complaints were classified as Investigative Inquiries (96 in 2012), 40 complaints were assigned for investigation (36 in 2012) and one was referred to another agency.

See below for a graph of complaints received by the Office of Police Ombudsman by month for 2010, 2011, 2012 and 2013.



There were 25 additional complaints received by the Office of Police Ombudsman involving jurisdictions outside the City of Spokane (19 in 2012). Those complaints were documented and referred to the appropriate jurisdiction with authority to investigate the complaint(s).

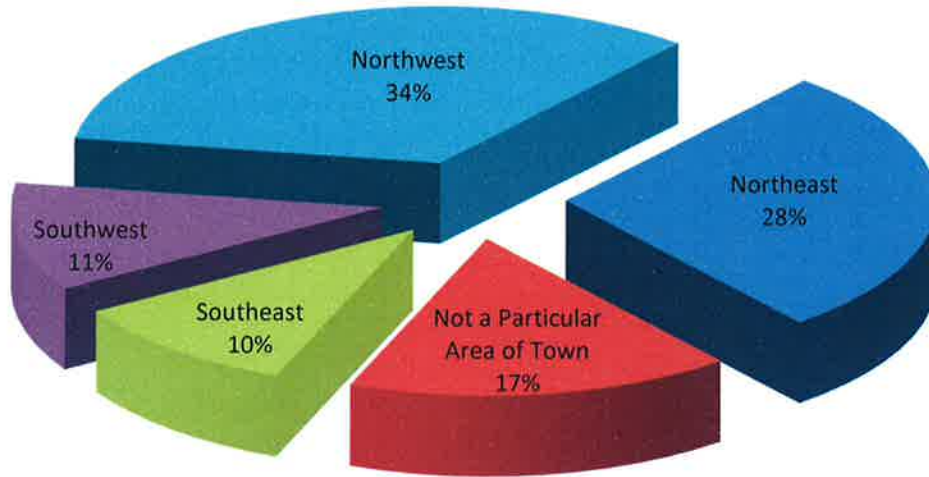
The 40 Ombudsman-received complaints assigned for investigation resulted in the following 90 misconduct allegations:

Demeanor (28)	Restricting Freedom/Cuffing (2)
Inadequate Response (15)	Bias Policing (1)
Excessive Force (12)	Conflict of Interest (1)
Improper Search (3)	DV Reporting (1)
Property Damage (3)	Failure to Report Handcuffing (1)
Refused to Provide Name (3)	Failure to Report Use of Force (1)
Failure to Get Medical Assistance (2)	Failure to Notify Supervisor of Complaint (1)
Failure to Identify (2)	Improper Driving (1)
Failure to Notify Supervisor of Injury (2)	Improper Response (1)
Failure to Take Complaint (2)	Performance (1)
Failure to Supervise (2)	Planting Evidence (1)
Required Documentation (2)	Unfairness (1)
	Unsafe Driving Practices (1)

In 2013, the Office of Police Ombudsman documented the area each OPO complaint occurred in to identify where complaints occur. The OPO divided Spokane into four quadrants; the north-south borderline is Sprague Avenue and the east-west borderline is Division Street. Of the 107 complaints received by the Office of Police Ombudsman in 2013:

- 36 complaints originated in the Northwest (50 in 2012)
- 30 complaints originated in the Northeast (32 in 2012)
- 12 complaints originated in the Southwest (13 in 2012)
- 11 complaints originated in the Southeast (15 in 2012)
- 18 complaints did not originate from a particular area of town (i.e. phone calls, etc.) (25 in 2012)

Geographic Region for Complaints Received

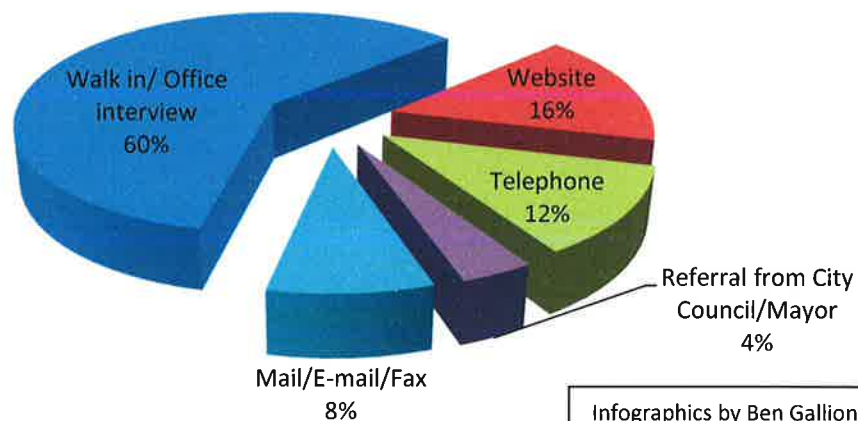


Infographics by Ben Gallion

In 2013, the Office of Police Ombudsman received complaints through the following means:

- Walk in/Office interview: 64 (55 in 2012)
- Website: 17 (28 in 2012)
- Telephone: 13 (21 in 2012)
- Referral from City Council/Mayor/Public comment: 4 (19 in 2012)
- Mail/E-mail/Fax: 9 (12 in 2012)

Complaint Source



Infographics by Ben Gallion

USE OF FORCE INCIDENTS

In 2013, there were a total of 147 use of force incidents. Of those 147, 107 involved individuals who were white (73%), 18 were black (12%), 10 were Native American (7%), eight were Hispanic (5%), three were Asian (2%) and one was Russian (less than 1%). The Office of Police Ombudsman is currently reviewing all use of force reports to evaluate the circumstances that led to the necessity for use of force. Once the work is completed the office will issue a supplemental report addressing those circumstances.

EXCESSIVE FORCE COMPLAINTS

In 2013, 13 excessive force complaints were received involving 24 different officers ([14 complaints involving 24 officers in 2012](#)). None of the excessive force complaints received in 2013 were sustained ([0 in 2012](#)). In each case, the Internal Affairs investigation determined that the accused officers performed within the scope of their legal authority and within Department policies, procedures and training. Three excessive force complaint investigations remain open as of January 31, 2013.

DISCIPLINE

In 2013, 116 Internal Affairs complaint investigations resulted in 14 members of the Spokane Police Department being disciplined for the following 16 violations ([nine members for 11 violations in 2012](#)). Thirty-one complaint investigations remain open as of January 31, 2013:

- 1 Association with Person in Violation of State Law
- 4 Inadequate Response
- 1 Conflict of Interest
- 1 Demeanor
- 1 Failure to Give K9 Warning
- 2 Failure to Report for Duty
- 2 Failure to Supervise
- 1 Limitation on Authority
- 1 Unauthorized Access to Law Enforcement Database
- 1 Unintentional Discharge of Firearm
- 1 Violation of MMD Policy

Sanctions imposed by the Chief of Police, as reported by the Internal Affairs Unit, were:

- 1 Last Change Agreement
- 2 Oral Counseling
- 2 Oral Reprimand
- 2 Suspension
- 1 Verbal Counseling
- 1 Verbal Reprimand
- 4 Written Reprimand
- 3 Written Reprimand and Training

Sanctions imposed involving vehicle collisions is provided on page 27.

OTHER STATISTICS OF INTEREST

TASER USE

In 2013, Spokane police officers used the taser 32 times in 29 incidents in the performance of their duties (38 times in 33 incidents in 2012). In each instance, the use of the taser was determined to be necessary, appropriate and used within the scope of Department policies, procedures and training.

In 2013, there were no complaints received by the Office of Police Ombudsman and the Internal Affairs Unit regarding the use of the taser.

POINTING A FIREARM AT AN INDIVIDUAL

In July, 2013 the Spokane Police Department began recording each time an officer pointed their firearm at an individual. Officers pointed their firearms at individuals a total of 34 applications in 27 incidents from July 1, 2013 to December 31, 2013.

DEADLY FORCE

In 2013, Spokane police officers were involved in **three** critical incidents requiring the use of Deadly Force. No complaints were received regarding these incidents. These incidents are discussed on pages 10 and 11.

SPECIAL WEAPONS AND TACTICS (SWAT) CALL OUTS

In 2013, there were 54 Special Weapons and Tactics (SWAT) Team call activations (50 in 2012). Of these, 29 were for high-risk warrant service, 20 were for tactical operations, three were for special events and two were for outside agency assists.

No complaints were received by the Office of Police Ombudsman or the Spokane Police Department Internal Affairs Unit related to any SWAT deployments in 2013.

SEARCH WARRANTS

The Spokane Police Department no longer tracks the number of search warrants served (225 in 2012). The Office of Police Ombudsman recognizes the difficulty in tracking this number but believes that tracking the number of warrants served is important data the public should have access to. The OPO recommends that in 2014 this data is tracked and published. In 2013, no complaints were received that involved the serving a search warrant.

DOMESTIC VIOLENCE

In 2013, Spokane police officers responded to 3,535 Domestic Violence incidents.* 2,569 were actual DV assaults and 1,010 involved protection order violations.

*In 2013, the Spokane Police Department began tracking the number of domestic violence incidents differently; tracking number of DV incidents instead of calls where DV was alleged.

The neighborhood distribution of domestic violence related calls for service is:

- NevaWood – 20% (includes the Nevada/Lidgerwood and Whitman neighborhoods)
- Central Spokane – 17% (includes the Emerson/Garfield and W. Central neighborhoods)
- Northeast – 17% (includes the Bemiss, Hillyard, Logan and Minnehaha neighborhoods)
- Chief Garry – 14% (includes the Chief Garry Park and E. Central neighborhoods)
- Northwest – 14% (includes the Balboa/S. Indian Trail, Five Mile Prairie, N. Hill, N. Indian Trail and Northwest neighborhoods)
- Southwest – 10% (includes the Browne's Addition, Cliff/Cannon, Comstock, Grandview/Thorpe, Latah Valley, Manito/Cannon Hill, Peaceful Valley and West Hills neighborhoods)
- Southeast – 5% (includes the Lincoln Heights, Rockwood and Southgate neighborhoods)
- Downtown – 4% (includes the Riverside Neighborhood)

Due to the potential for violence and the possibility of mandatory arrests, domestic violence calls typically require a minimum response of two officers.

Calls that do not rise to the level of a domestic violence call may be classified as an argument, but officers are trained not to assume domestic violence calls are simply arguments. Due to the nature of domestic violence calls and the number of officers required to respond to these calls, domestic violence calls continue to be a drain on Police Department resources.

While there is a direct cost for programs and education, there is also a significant cost to responding to these types of calls. It makes sense to be proactive through programs and education for a variety of reasons.

VEHICLE PURSUITS and ACCIDENTS

In 2013, members of Spokane Police Department patrol were involved in 59 patrol vehicle pursuits (42 in 2012).*

*In 2013 the reporting requirements for officers involved in pursuits became stricter. This accounts for the increase in pursuits in 2013.

In 2013, 53 members of the Spokane Police Department were involved in 58 collisions (60 collisions in 2012). Five officers were involved in two collisions, two officers were involved in

three collisions and one officer was involved in five collisions. Investigation of the collisions revealed that:

- 12 collisions were through Legal Intervention (16 in 2012)
- 24 collisions were Not Preventable (19 in 2012)
- 16 collisions were determined to have been Preventable (21 in 2012)
- 3 collisions involved property damage only (1 in 2012)
- 3 collisions had not yet been determined by December 31, 2013

In 2013, no officers were seriously injured in traffic collisions.

Discipline received for preventable vehicle accidents was:

- 6 employees received oral counseling
- 4 employees received a written reprimand
- 3 employees received verbal counseling
- 2 employees received an oral reprimand
- 2 employees received a written reprimand and EVOC training
- 1 employee received oral counseling and EVOC training
- 1 employee received a DOC (documentation of counseling)

MENTAL HEALTH RESPONSE

In 2013, Spokane police officers responded to 1,106 incidents involving citizens with mental illness or disability (1,446 in 2012). The results of the contacts were:

- 674 contacts required no law enforcement action (878 in 2012),
- 353 contacts resulted in an individual being transported to a medical or mental health facility (476 in 2012),
- 64 contacts resulted in an individual being arrested (83 in 2012), and
- 15 individuals contacted exhibited symptoms of "Excited Delirium" (9 in 2012).

There were no Excited Delirium related deaths during Police Department arrests in 2013.

CITIZEN RIDE ALONGS

In 2013, the Spokane Police Department hosted 453 ride alongs (284 in 2012); 179 of these were citizen riders, 205 of these were reserve officers, 50 were explorers, 15 were co-ops and four were senior volunteers.

CRISIS INTERVENTION TRAINING

In 2013, the Spokane Police Department trained 93 officers in a 40-hour Crisis Intervention Training. As of December, 2013 the total number of Spokane Police Department officers that have now gone through Crisis Intervention Training is 160.

NO RESPONSE CALLS

The Spokane Police Department receives a number of calls from citizens which do not require a police response or where personnel were not available to respond to the call. When this occurs, a Police Department Communications Supervisor will “clear” the call from the list of waiting calls as a “non-response” call. In 2013, **10,387** calls were cleared in this manner (**8,701 in 2012**). 5,208 of those originated from calls to 9-1-1 and 2, 436 originated from calls to Crime Check.

In an ongoing effort to address these dropped calls, in 2013 the City of Spokane launched “My Spokane” where individuals can call one number (509-755-CITY) or visit one desk at City Hall to be directed to the appropriate city service. Ultimately, work continues on a 3-1-1 system where individuals will be able to dial 3-1-1 to access the My Spokane desk.

IV. 2013 Office of Police Ombudsman Recommendations, Accomplishments and the Next Steps for 2014

The following recommendations were suggested by the Ombudsman to the Mayor, the City Council President, City Council Members, the Chief and Acting Chief of Police for consideration in 2013. They are in no particular order of significance or importance. **The status of the recommendation appears directly after the recommendation in green text.**

- **Implement a School Resource Officers Program:** The Spokane Police Department had a School Resource Officer Program through 2006. The program was eliminated due to budgetary constraints. As I have previously suggested, we need to get “back to basics.” Where better to begin than with our children? Our children are our future. Opinions are formed at an early age. Although the results may not be easily measured, building strong, positive relationships with our youth during the formative years can only help. Maybe an opportunity could exist to partner with the School District to advance this idea; there could be mutual benefits to working collaboratively. Regardless of how the program restarts, the conversation needs to begin now. **Police Department currently in discussions with School District 81 concerning school security issues.**
- **Improved service delivery related to Public Records Requests:** In the past two years the Police Department’s inability to provide requested records within a reasonable period of time has been a reoccurring complaint from requestors. Though, as it has been pointed out to me, the city meets its obligation to fulfill the mandatory five day letter requirement, the estimated time for responsive records is within 90-120 days and that is simply unacceptable. It is unacceptable that citizens involved in a traffic collision in Spokane can get a copy of the Spokane police accident report more quickly from the Washington State Patrol than they can from the Spokane Police Department.

It is also unfortunate that the Records Unit is not open to the public on Wednesdays. Whether there needs to be an increase in staffing resources or an investment in technology or both, change needs to take place to improve the delivery of services **Police Department has updated automation software that will be implemented soon.**

- **Medical Examiner Inquests:** During the past year the Office of Police Ombudsman has conducted significant research that would suggest that the use of an inquest process would be helpful to the community and law enforcement in officer involved deaths that occur throughout the region. Although this is a county issue, it directly impacts the City of Spokane. **N/A.**
- **County Prosecutor's Office Investigator:** The creation of an investigative position for the most high profile and serious criminal investigations such as homicide and potential criminal cases involving law enforcement personnel such as officer involved deaths and excessive force complaints would add a layer of independence to the current process. **N/A.**
- A Spokane Police Department policy be developed and members receive training through a training bulletin regarding the rights of individuals to project an image onto public property, onto private property and onto private property from public property. **A training bulletin addressing this issue was created and delivered to SPD employees.**
- A more formal process be developed when an officer confiscated a vehicle with the intent of obtaining a search warrant to search the vehicle. Officers should refrain from driving private vehicles and appropriate paperwork should be provided to the driver of the seized vehicle. **A training bulletin addressing this issue was created and delivered to SPD employees.**
- A process be implemented through policy to address the trespassing of individuals from public or private property and from public or private events. All trespassing enforced by the Spokane Police Department should be documented through a formal reporting process. It is further recommended that City Legal review the permitting process as related to trespassing with regard to renting City owned properties to individuals for public and private special events. **Pending.**
- **Roll Call Briefing Training:** During the past 4 years the Ombudsman has been on 38 ride alongs with the Spokane Police Department. During that time the Ombudsman has noticed that the time allocated for briefings was not always well spent. There often appears to be time available at the end of the briefing period that could be used for training. An example where training could occur would be with the review of department policies. Sergeants could either provide the training or direct the officers to provide the review. **Roll call briefing training implemented by SPD.**

- **Handcuffing of Detainees:** The policy be reviewed and discussed and officers comply with the policy by documenting such occurrences in CAD. Additionally some tool such as a code should be developed to document the events and information such as the detainee's age, race, and sex to be documented for future data collection by the Police Department and or the OPO. Policy reviewed at roll call briefing training.
- **Parking Stalls be Marked:** The Ombudsman has observed officers have difficulty locating the cars they were assigned. Their time is valuable and for the majority of the year this could be remedied by painting the car number in front of the parking stalls on the pavement in the parking lot or on the cement bumper. Pending.
- **Display of a Weapon at an Individual:** In the City of Spokane's Use of Force Commission Report dated December 20, 2012 on page 20 contained in recommendation 14 located in the second sentence of the last paragraph on the page, the language states: "Additionally, the Commission recommends adding **the drawing and directing of a firearm at a subject as a triggering event for a use of force report**. Such an action is a significant use of force by an officer to gain compliance over a subject and can be expected to generate great fear on the part of the subject. Accordingly, this use of force should be reported as such with a clear articulation as to why the firearm was pointed at the citizen." It is the Ombudsman's understanding that this is not occurring in all instances such as SWAT actions.

Additionally, although there is no requirement currently to document instances when officers have their firearm at the low ready position as opposed to directly pointed at an individual, the Ombudsman recommends that this also be documented through some formal process that can be tracked and later coded for future data collection by the Police Department and or OPO. The information recorded should include the individual's age, race and sex. Pending.

NEW RECOMMENDATIONS:

- While attending the NACOLE Conference in 2013, the Ombudsman became aware that the City of Chicago, Illinois posts all of the City's litigation settlements on the City of Chicago's website.

The City of Spokane is self-insured. When settlements are reached involving City of Spokane matters, these settlements should be posted on the City of Spokane's website in a place easily located. This information should be easy to interpret and should include all departments including the Spokane Police Department.

- Spokane Police Department is a tenant in the Public Safety Building. The Department has rented the Public Safety Building at 1100 West Mallon Ave for several years. The building is centrally located in a campus environment with the Spokane County Sheriff's Office, the Spokane County Jail facility, the Courts and other services.

Parking is available but at a cost. The building is off set and not easily viewed from surrounding streets. If you did not know the Police Department was located there, you wouldn't know through current signage.

The Police Department is unwelcoming by design if not by intent. It seems unnecessary to require someone to go through a metal detector and possibly a search before reaching the complaint desk. Although this is a requirement because the courts are also located in the building, how welcoming is this process and what message does this send to our community?

Unattended police vehicles are parked in an unsecured parking lot and subject to vandalism and the Department is less likely to invest in a building they simply rent.

Research has indicated that the City currently pays \$396,981.00 in rent on an annual basis. While the cost to buy and rehabilitate a building or to construct a new facility would be costly, at some point the City would own the property and the cost in a mortgage payment could be allocated for other expenses.

- There are several specialty assignments within the Spokane Police Department that receive 3% additional compensation. Interestingly enough, one of the specialty assignments that does not receive specialty pay is the Neighborhood Conditions Officer (NCO) position. The position requires a higher level of skill and a strong ability to deal with life safety and quality of life issues. It is the Ombudsman's recommendation that Neighborhood Conditions Officers receive 3% specialty pay while in that assignment.

The "Next Steps" for 2014 for the office of Police Ombudsman, in no particular order, are:

- Implement a thoughtful and timely process regarding the legislative changes to the Office of Police Ombudsman as a result of the passage of Proposition 1.
- Implement changes to the Office of Police Ombudsman based on recommendations made by DOJ/ COPS through their Technical Assistance Letter.

CLOSING REMARKS

2013 was a year of change, but change for cause. The Police Department had many significant changes for cause. The voters of Spokane voted to codify the Office of Police Ombudsman in the City Charter for cause. The voters voted to create a Police Ombudsman Commission for cause and again the voters voted to give the Office of Police Ombudsman independent investigative authority for cause. The Office of the Mayor, the Spokane City Council and the Police Guild struggled with defining independent investigatory authority for cause.

Change is not easy, even when it is for cause.

I would like to thank the community for their ongoing support as evidenced by their response to Proposition 1. I would also like to thank the community for their pursuit of the implementation of Proposition 1 and I would like to thank the Office of the Mayor, the Spokane City Council and the Police Guild for their ongoing efforts to define the language to implement Proposition 1. In many ways Spokane is leading the way for civilian oversight on a local, regional and national level. This is hard work.

The Use of Force Commission's recommendations were ground breaking and I would like to recognize and thank the Commission for their hard work. I also want to acknowledge the Mayor and Chief's willingness to accept all of the Commission's recommendations and their willingness to move forward with the implementation of those recommendations.

In December 2013 the Spokane Regional Criminal Justice Commission issued their report; "A Blueprint for Reform." I would like to thank the Commission for their contribution to our region. Again this work is ground breaking and I look forward to the changes for cause as recognized by the Commission. These changes won't be quick or easy but they are necessary and appropriate. This is hard work. These are game changing recommendations that will change our region in a positive way for years to come.

Finally, as a member of the community I would like to thank the Office of the Mayor and the City Council for their willingness to reinvest in our Police Department through their approval of the budget allowing for the hiring of 26 additional police officers. Additionally, they approved one-time expenses to replace tasers, batons and they approved the purchase of new training equipment such as a new virtual simulator and the purchase of body cameras for our officers. It is my opinion that once the cameras are worn they will be a game changer.

The annual report is intended to provide the people of Spokane and the city officials with statistical data related to the performance of the Police Department in relation to the number

of complaints made against commissioned officers. With the presentation of the report the community now has the opportunity to evaluate the Department's performance and the performance of the Office of Police Ombudsman based on the information provided.

It is my professional opinion that members of the Spokane Police Department continue to provide a high level of service to our community. Members of the Department have earned my respect and I hope they have earned your respect as well. Because of the progress made in 2013 I have never been more hopeful for Spokane's future than I am today! The next time you see a member of the Police Department I would encourage you to thank them for their service.

In conclusion I would like to express my gratitude to my staff, Melissa Nystrom, Assistant to the Police Ombudsman, current intern Anna Vamvakias and former interns Aleysha Honablue, Benjamin Gallion and Patrick Smith for their tireless efforts in 2013.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tim Burns', with a stylized flourish at the end.

Tim Burns
Police Ombudsman
City of Spokane Washington

RESOLUTION NO. 2012 - 0105

A RESOLUTION REQUESTING THE SPOKANE COUNTY AUDITOR TO HOLD A SPECIAL ELECTION ON FEBRUARY 12, 2013 IN CONJUNCTION WITH THE SCHEDULED SPECIAL ELECTION TO SUBMIT TO THE VOTERS OF THE CITY OF SPOKANE A PROPOSITION REGARDING AN AMENDMENT TO THE SPOKANE CITY CHARTER REGARDING THE OFFICE OF POLICE OMBUDSMAN, A POLICE OMBUDSMAN COMMISSION AND THE INDEPENDENT INVESTIGATIVE AUTHORITY OF BOTH ENTITIES.

WHEREAS, pursuant to Section 125 of the City Charter, the City Council, of its own motion, may submit to popular vote for adoption or rejection at any election, proposed amendments to the City Charter; and

WHEREAS, the City Council has determined, pursuant to its authority set forth in Section 125 of the City Charter, that an amendment to the City Charter regarding the Office of Police Ombudsman, a Police Ombudsman Commission and the independent investigative authority of both entities should be submitted to the voters of the City for their adoption or rejection on the February 12, 2013 scheduled special election; and

WHEREAS, RCW 29A.04.330 requires the City to transmit to this resolution calling for a special election to the Spokane County Auditor by December 28, 2012.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Spokane, pursuant to Section 125 of the City Charter, that:

1) the Spokane County Auditor is hereby requested pursuant to RCW 29A.04.330 to call a special municipal election to be held in conjunction with the scheduled special election to be held on February 12, 2013 for the purpose of submitting to the voters of the City of Spokane for their approval or rejection the following proposition:

PROPOSITION NO. 1

CITY OF SPOKANE

**AMENDMENT TO CITY CHARTER REGARDING A
POLICE OMBUDSMAN AND COMMISSION**

This proposition will amend the Spokane City Charter by adding two new sections to provide for the establishment of an Office of Police Ombudsman, a Police Ombudsman Commission and the independent investigative authority of both entities, as set forth in Ordinance No. C – 34941.

Should this measure be enacted into law?

Yes
No

2) the City Clerk is directed to deliver a certified copy of this resolution, along with Ordinance No. C – 34941 to the Spokane County Auditor no later than December 28, 2012.

Adopted December 17, 2012

Leri J. Rydman
City Clerk

Approved as to form:

Michael A. Piccolo
Assistant City Attorney



DATE: December 20, 2012
I HEREBY CERTIFY THIS IS A TRUE AND ACCURATE COPY OF THE ORIGINAL WHICH IS ON FILE IN THE OFFICE OF THE CITY CLERK.

Leri J. Rydman
CITY CLERK
SEAL: CITY OF SPOKANE
COUNTY OF SPOKANE
STATE OF WA

Article XVI: Office of Police Ombudsman and Police Ombudsman Commission

Section 129. 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 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 agreements in existence at the time this amendment takes effect, but only until such agreement is replaced by a successor agreement.
 4. The OPO shall publish reports of its findings and recommendations regarding any complaints it investigates.
- C. The police ombudsman and any employee of the OPO must, at all times, be totally independent. Any findings, recommendations, reports, and requests made by the OPO must reflect the independent views of the OPO.

- D. The duties and functions of the OPO shall be established by ordinance consistent with the City Charter. All authority, duties and functions granted to the OPO shall be consistent with the City's managerial prerogative authority under Washington State labor law.
- E. If any portion of Section 129 is found to be pre-empted by any existing collective bargaining agreement, it shall be deemed severed from this section and unenforceable until such time as the applicable collective bargaining agreement has been replaced by a successor agreement.
- F. The City shall not enter into any collective bargaining agreement that limits the duties or powers of the OPO as set forth in Section 129 unless such limitation is required to comply with existing federal or state law.

Effective Date: February 26, 2013
ORD C34941 Section 1

Section 130. Police Ombudsman Commission

- A. The office of police ombudsman commission ("commission") is established in order to determine whether the OPO has performed his or her duties consistent with this Charter, the SMC and applicable collective bargaining agreements in existence at the time this amendment takes effect, but only until such agreement is replaced by a successor agreement. The commission may direct the OPO to complete specific functions required under the Charter, SMC or collective bargaining agreement, including performing additional investigative actions necessary for the OPO to comply with his or her duties and responsibilities.
- B. The commission shall consist of a minimum of five members, two nominated by the mayor and appointed by the city council and one member from each of the three city council districts nominated and appointed by the city council. Members shall serve for a three-year term and may be appointed for additional three-year terms. The commission shall select its own chair from its membership who shall 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
ORD C34941 Section 1

Resolution No. 2013-0033

A resolution regarding the Office of Police Ombudsman, the Police Ombudsman Commission and the implementation of amendments to the City Charter related to both the Ombudsman and the Commission.

WHEREAS, the City of Spokane has enacted chapter 4.32 of the Spokane Municipal Code establishing an independent Office of Police Ombudsman (hereinafter "OPO"); and

WHEREAS, the OPO has been in existence for over three years; and

WHEREAS, Spokane's electorate voted in February 2013 to amend the City Charter to add sections creating a Police Ombudsman Commission and an Office of Police Ombudsman that has independent investigatory authority necessary to fulfill the duties established under the City Charter. The City Charter amendment provides that the duties and functions of the Office of Police Ombudsman be established by ordinance consistent with the City Charter; and

WHEREAS, the City and the Spokane Police Guild have previously and are currently engaged in collective bargaining; and

WHEREAS, the attached proposed ordinance has been prepared with the intention of implementing the provisions of the recent City Charter amendment, including establishing the duties and functions of the OPO consistent with the City Charter amendments; and

WHEREAS, the City Council desires to adopt an ordinance implementing the provisions of the recent City Charter amendments, including establishing the duties and functions of the OPO, while encouraging the City and the Police Guild to complete their current collective bargaining efforts, which will result in a collective bargaining agreement that supports and implements the City Charter amendments.

NOW, THEREFORE, BE IT RESOLVED by the City Council for the City of Spokane that the City Council supports the collective bargaining efforts of the City and the Spokane Police Guild and encourages the parties to negotiate a collective bargaining agreement that either includes terms and conditions that substantially accomplish the objectives of the attached proposed ordinance, or that does not preclude the City from adopting such terms and conditions by ordinance.

ADOPTED by the City Council _____, 2013.

City Clerk

Approved as to form:

Assistant City Attorney

Ordinance No. C - _____

An ordinance relating to the Office of Police Ombudsman, amending SMC sections 4.32.010, 4.32.020, 4.32.040, 4.32.090, 4.32.100 and 4.32.110, repealing SMC sections 4.32.030 and 4.32.080, and adopting new sections 4.32.035, 4.32.085, 4.32.150 and 4.32.160 to chapter 4.32 of the Spokane Municipal Code.

WHEREAS, the City of Spokane has enacted chapter 4.32 of the Spokane Municipal Code establishing an independent Office of Police Ombudsman (hereinafter "OPO"); and

WHEREAS, the OPO has been in existence for three years and has made valuable contributions to police oversight, enhanced public confidence in the City's management of the police department, and provided the mayor and council with valuable analysis and recommendations for police reforms and improvements; and

WHEREAS, Spokane's elected leaders have long shared citizen concerns and aspirations that the OPO become a credible office of police oversight that is structurally independent of the Spokane Police Department; and

WHEREAS, enhancing the credibility and effectiveness of the OPO requires that it be a true ombudsman office with the authority and capacity to conduct independent investigations into citizen complaints and concerns; and

WHEREAS, 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. The Charter amendment mandates that the duties and functions of the Office of Police Ombudsman be established by ordinance. This ordinance is intended to fulfill that mandate.

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))~~ Ensure that investigations of complaints against police officers are accomplished in a timely, fair, and thorough manner;
2. Provide visible, professional, independent oversight of police officers;
3. Reassure the public that SPD Internal Affairs investigations into complaints and allegations of police misconduct are conducted in a timely, thorough, and objective manner; and,

4. Provide independent oversight and policy recommendations to improve the Spokane police department.
- B. The police ombudsman and employees of the OPO must, at all times, be ~~((totally))~~ completely independent. Any findings, recommendations, and requests made by the OPO must reflect the independent views of the OPO.
- 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.))~~ If any section, paragraph, sentence, clause or phrase of this chapter is found to be pre-empted by any existing collective bargaining agreement, it shall be deemed severed from this chapter and unenforceable until such time as the applicable collective bargaining agreement has been replaced by a successor agreement. The City shall not enter into any collective bargaining agreement that limits the duties or powers of the police ombudsman commission or the office of police ombudsman as set forth in this chapter unless such limitation is required to comply with existing federal or state law.
- D. The OPO shall not investigate complaints which pertain to internal personnel matters.

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

4.32.020 Definitions

- A. “Certify” or “certification process” refers to the determination by the OPO that an IA complaint investigation was timely thorough and objective, including whether IA properly advised the complainant of the availability of the OPO complaint process.
- B. ~~((A-))~~ “Chief” means the chief of the Spokane police department.
- C. “Community Impact Case” (CIC) means an incident and/or citizen complaint that because of public visibility, media exposure and/or allegations of serious or willful misconduct on the part of one or more Spokane police officers, warrants immediate independent investigation by the OPO. The OPO will decide if and when a CIC exists, subject to confirmation by the Police Ombudsman Commission.
- D. ~~((B-))~~ “Complainant” means any person who files a complaint against ~~((any commissioned member of the Spokane police department))~~ a police officer(s).

- E. ~~((G-))~~ “Complaint” means a complaint filed with IA or with the OPO by any person of alleged police misconduct regardless of whether the complaint has been classified as a citizen inquiry of an investigation.
- F. “Continuing pattern of unprofessional conduct” exists when there is a founded complaint of unprofessional conduct on the officer’s record, or two or more recorded allegations of unprofessional conduct against the officer within the previous five years.
- G. ~~((D-))~~ “Finding” means a conclusion reached after investigation.
- H. ~~((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.
- I. ~~((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.
- J. ~~((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.
- ~~((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))~~ Spokane police officer during an encounter with a citizen, which conduct violates Spokane police department regulations or orders, or other standards of conduct required of City employees.
- L. “Police Officer” means a commissioned member of the Spokane Police Department.
- 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 entitled “Functions and Duties” is repealed.

Section 4. That there is adopted a new section 4.32.035 to chapter 4.32 SMC to read as follows:

4.32.035 Functions and Duties

A. The two primary roles of the OPO are:

1. To actively monitor Spokane police department IA investigations of complaints and to make recommendations for improving policies and procedures based upon observations; and
2. To conduct independent investigations of complaints and issue and publish closing reports in response to complaints filed with the OPO.

B. General Provisions.

1. Receipt of complaints.
Any person may file a complaint against a police officer(s) with either IA or the OPO, or both.
2. Investigations.
 - a. If a complaint is filed solely with IA: The OPO may actively monitor the IA investigation and, consistent with the provisions of 4.32.035 (C)(2) may investigate to the extent necessary to independently certify the timeliness, objectivity and thoroughness of the IA investigation.
 - b. If a complaint is filed solely with the OPO, or with both the OPO and IA: The OPO may conduct an independent investigation at any time, regardless of IA action, as provided in this chapter.
 - c. Within the framework above, the OPO has the authority to determine what complaints to investigate, and to what extent.
3. Criminal investigations against police officers.
Other than actions necessary to receive and catalog a complaint, the OPO shall not participate in criminal investigations against police officers.

However, SPD shall promptly notify the OPO when a criminal investigation and/or prosecution against a police officer is closed. At the time of closing, the OPO may take any action on the original complaint as is authorized by this chapter.

4. Discipline against police officers.
The OPO shall not have a role in the discipline of police officers. However, IA shall keep the OPO informed of disciplinary decisions as follows: Within three business days of issuance, IA shall provide the OPO with copies of all letters, notifications, and decisions regarding discipline against officers, which stem from a complaint.
5. Records disclosure.
 - a. The OPO shall not release the names of police officers or other individuals involved in incidents or investigations, nor any other personally identifying information.
 - b. 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.
 - c. 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.
 - d. Records generated and maintained by the OPO shall be considered public records subject to any applicable exemptions in the Washington Public Records Act, RCW 42.56.
 - e. Records generated in the IA complaint investigation process shall be considered public records once the investigation is closed, subject to any applicable exemptions in the Washington Public Records Act, RCW 42.56.
6. 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.
7. The OPO may not levy any fees for the handling of complaints or any other duties identified in this chapter.

8. Complaints against the Chief of Police or the Assistant Police Chief shall be forwarded by the OPO to the Mayor to determine the subsequent investigation procedure. Any complaint against the police ombudsman may be submitted directly to the OPO commission.

C. OPO monitoring of IA complaint investigations.

1. Duties of the IA to facilitate active monitoring by the OPO. Pursuant to specific provisions in this chapter, IA shall:
 - a. Provide the OPO with copies of all complaints received by the IA within three business days of receipt;
 - b. Notify all complainants, at the time a complaint is filed, of the existence of the OPO and of the complainant's opportunity to request an independent investigation and closing report from the OPO. This includes complaints classified by the Police Department as Citizen Inquiries;
 - c. Send the OPO signed acknowledgement from the complainant of having received the notice in subsection (b), above;
 - d. Notify the OPO immediately of critical incidents;
 - e. Notify the OPO prior to all IA interviews involving complaints and allow the OPO to attend and observe such interviews and to ask questions after the completion of IA questioning;
 - f. Within two business days of closing an investigation or determining not to initiate an investigation, provide the OPO with a complete copy of the IA complaint file, including all findings; and
 - g. Provide the OPO with unimpeded access to closed IA complaint investigation files, upon request.
2. Duties and authority of the OPO in actively monitoring IA complaint investigations.
 - a. The OPO may, at the OPO's sole discretion, attend and observe all IA complaint investigation interviews, including interviews with police officers, and shall be given the opportunity to ask questions after the completion of questioning by IA.
 - b. The OPO is authorized to conduct interviews and gather such information as is necessary to certify the adequacy of IA complaint investigations, after the completion of the IA investigation.

- c. Within fifteen business days of receiving a closed IA complaint file from IA, the OPO shall certify whether the IA complaint investigation was timely, thorough and objective.
- d. As part of the IA complaint certification process, the OPO shall determine whether IA properly advised the complainant of his/her opportunity to seek an independent investigation and closing report from the OPO.
- e. If the OPO certifies the IA complaint investigation as timely, thorough and objective, the OPO shall promptly return the IA complaint file to IA for retention and send a certification notice to the SPD. In instances where the complainant filed the complaint with OPO, or filed complaints with IA and OPO jointly, the OPO will send a closing letter to and/or conduct a closing interview with the complainant to summarize the case findings (this is different than the closing report in SMC 4.32.035(D)(4)).
- f. If the OPO determines that the IA complaint investigation was not timely, thorough and/or objective, the OPO shall appeal pursuant to SMC 4.32.035(C)(4).

3. Mediation.

- a. Prior to the initiation of an IA complaint investigation, the OPO may recommend to the chief that the complaint be resolved through mediation.
- b. Mediation shall not be utilized if the complaint involves a serious matter as defined in SMC 4.32.020(L) or implicates the police officer(s) in a continuing pattern of unprofessional conduct as defined in SMC 4.32.020(E).
- c. Notwithstanding the restrictions in subsection (b) above, mediation shall be utilized according to rules and procedures promulgated by the OPO, pursuant to SMC 4.32.035(B)(6).

4. Appeals of IA complaint investigations.

- a. In the event the chief (or chief's designee) declines to initiate an IA investigation of a complaint, the OPO may appeal that decision to the OPO Commission, whose decision shall be final.
- b. In the event the OPO determines that an IA complaint investigation was not timely, thorough and/or objective pursuant to SMC

4.32.035(C)(2), the OPO may make a request with the chief that an additional IA investigation be performed. If the OPO disagrees with the chief's determination, the OPO may appeal to the OPO Commission, whose decision shall be final; the IA complaint investigation shall be completed consistent with the determination of the OPO Commission.

- c. If an additional IA investigation is undertaken, the procedures governing initial investigations in SMC 4.32.035(B) and (C) shall be applied.
- d. If an additional IA investigation is undertaken and the OPO subsequently determines that it was not timely, thorough and objective, the OPO may again request additional investigation according to this section. This process may be repeated until the OPO Commission makes a determination that no further investigation is needed.
- e. If, after the appeal process is exhausted, the OPO still finds that the IA complaint investigation was not timely, thorough and objective, the OPO shall notify the chief. A brief statement of the decision not to certify the IA investigation shall be published on the OPO website within forty-eight hours of the Chief being notified.

- 5. OPO oversight of police department policies and procedures.
The OPO may recommend changes in police department policies and may issue reports identifying trends in IA complaint investigations. To facilitate this role, IA shall promptly provide the OPO with unimpeded access to closed IA complaint investigation files, upon request. The OPO shall return closed IA complaint investigation files to IA within one year.

E. Independent OPO complaint investigations.

- 1. General authority.
The OPO may conduct an independent investigation of any complaint filed with the OPO, at any time, regardless of IA action on the complaint.
- 2. Receipt of complaints.
 - a. The OPO may receive complaints from IA pursuant to SMC 4.32.035(C)(1) or directly from a complainant. If a complainant files a complaint directly with the OPO, the OPO shall provide IA with a copy of the complaint within three business days.
 - b. The OPO may receive and catalogue complaints concerning events that occurred more than one year prior to the filing of a complaint,

but may not act upon them unless directed to do so by the OPO commission.

3. Investigation of complaints filed directly with OPO.
The OPO may interview the complainant and any witnesses. In addition to the access to SPD officers granted under SMC 4.32.035 (C) (1) (e) and (2) (a), the OPO may request voluntary interviews with SPD officers at any time and disclose both the request and the response to the request by the SPD and/or the officers to whom the request is made. The OPO may only participate in interviews with police officers pursuant to SMC 4.32.035(C)(1)(e) and (2)(a).
4. Closing Report.
 - a. ~~((Whenever a complaint is filed with the OPO, t))~~ The OPO shall produce a closing report on all uncertified investigations. The OPO shall post a list of all complaints filed on the OPO's website regardless of the status or outcome of the complaint.
 - b. The purpose of the closing report is to summarize the OPO's conclusions regarding the substance of the complaint and any OPO recommendations regarding revision to any applicable law enforcement policy, training protocol and/or law enforcement procedure materially associated with the basis for the complaint. Except as specifically directed in this chapter, the content and length of the closing report shall be determined solely by the OPO. The OPO may include information obtained during participation in IA complaint investigation interviews in a closing report, subject to disclosure limitations in SMC 4.32.035(B)(5).
 - c. Within thirty calendar days of the closure of the IA complaint investigation or the OPO complaint investigation, whichever is later, the OPO shall send a copy of the closing report to IA, the complainant, and publish the closing report on the OPO's website.

E. Community Impact Cases

- A. The OPO may, at any time, identify an incident as a "Community impact Case" (CIC) and request confirmation by the Commission. Members of the Commission shall be provided all materials concerning the case for confidential review. The Commission will have up to seven days to confirm the OPO's determination that the incident is a Community Impact Case.
- B. Prior to the Commission's confirmation decision, the OPO shall have authority to exercise an investigation pursuant to procedures provided in SMC 4.32.035(D). In the event the Commission elects not to verify the incident as a CIC, the OPO

investigation shall cease, unless the incident has subsequently resulted in a complaint filed with IA or OPO, at which point provisions governing complaint investigations govern.

- C. When the commission verifies an incident as a CIC, the OPO shall conduct an independent investigation pursuant to provisions in this chapter governing OPO investigations when a complaint is filed directly with the OPO.
- D. Whenever the Commission verifies an incident as a CIC, the OPO shall produce a closing report as described in SM 4.32.035(D)(4).

Section 5. That SMC section 4.32.040 is amended to read follows:

4.32.040 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))~~ results, where an officer has used an electronic control device in response to an encounter with a citizen, or where the SWAT team has been deployed, the police ombudsman shall be notified immediately and shall act as an observer to any administrative, ~~((or))~~ civil, or criminal investigation conducted by or on behalf of the department (including any investigation of Spokane police department officers by other law enforcement agencies). 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.

Section 6. That SMC section 4.32.080 entitled "Appointment" is repealed.

Section 7. That there is adopted a new section 4.32.085 to chapter 4.32 SMC to read as follows:

4.32.080 Qualifications and Appointment

- A. The qualifications for the police ombudsman position will minimally include the requirement of a bachelor's degree and five years of experience in criminal law and/or investigations. The position of police ombudsman will be a full-time appointed city employee as defined by ordinance.
- B. When the police ombudsman position becomes vacant or will become vacant in the near future, the office of police ombudsman commission ("commission") will undertake a candidate search. A screening committee will be established to screen, interview and select three candidates to be considered by the mayor.

The interviews and selection of the three candidates will occur during regularly scheduled meetings and be open to the public.

- C. The screening committee shall consist of the following five persons:
 - 1. the chairperson of the commission (who shall be the chairperson of the screening committee);
 - 2. a member of city council;
 - 3. a member selected by the mayor;
 - 4. a member selected by the Police Guild and;
 - 5. a member selected by the Lieutenants & Captains Assoc.
- D. The HR staff will assist the commission in the placement of the advertisements and work with the OPO staff as required.
- E. The mayor will select one of the three candidates and forward the nomination to the city council for confirmation.
- F. In the event the city council rejects the nominee, the mayor shall submit his/her second recommendation from the remaining two names submitted by the commission. If the city council rejects the second nominee, the process shall begin with a second candidate search by the ~~commission~~ committee.

Section 8. 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))~~ three-year terms upon recommendation of the mayor in consultation with the office of police ombudsman commission and confirmation by the city council. If the mayor does not recommend reappointment or the city council does not approve the reappointment prior to the expiration of the three-year appointment term, the appointment term shall expire at the end of the three-year term. If the police ombudsman is not re-appointed, he or she may continue serving on an interim until a new police ombudsman is confirmed by the city council, unless the police ombudsman has been removed per SMC 4.32.100.
- 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 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 of the need to appoint an interim police ombudsman.))~~ If an appointed police ombudsman is unable to perform his or her duties for a reason not subjecting him or her to removal pursuant to SMC 4.32.100, and this inability to serve is expected to last for six months, an interim police ombudsman shall be appointed by the mayor and confirmed by the city council and shall serve until such time as the police ombudsman can resume his or her duties or the police ombudsman's term expires and a new police ombudsman is appointed, whichever is sooner.

Section 9. 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))~~ the three year term except for misconduct, inefficiency, incompetence, inability or failure to perform the duties of the office or negligence in the performance of the duties. 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 the city council 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))~~ before the council. A hearing to consider the removal of the police ombudsman shall be initiated by either the majority vote of the full city council, or upon recommendation of the mayor, or a majority of the office of police ombudsman commission. Removal of the police ombudsman shall require a vote of no less than five members of the full city council.
- C. Nothing contained herein shall prevent the city council from ~~((either))~~ declining to approve an appointment or reappointment, ~~((or eliminating the office of police ombudsman by legislative action, both of which do))~~ which does not require the city council to consider removal for cause as set forth above.

Section 10. 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 purposes ~~((functions))~~, directly to the OPO Commission ~~((mayor or the mayor's designee))~~.

- 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 office of police ombudsman commission, the mayor, the police chief, and the public safety committee regarding the activities of the OPO. In addition, the police ombudsman shall make a quarterly (~~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; and
 - 3. recommendations.

Section 11. That there is adopted a new section 4.32.150 to chapter 4.32 SMC 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. Participate in the selection of the OPO, as provided in this chapter;
 - 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 to implement changes in police department policies and training;
 - 6. 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.

7. Conduct and approve evaluations of the OPO and OPO personnel;
 8. Request that the OPO examine or re-examine specific incidents or issues and confirm or reject OPO requests for additional investigation by IA;
 9. Assist OPO personnel in communicating with Spokane's diverse communities and the general public about the complaint filing and investigation process;
 10. Make readily available to the public all commission reports, recommendations, and evaluations, subject to disclosure limitations in SMC 4.32.035(B)(5); and
 11. Prepare and present an annual report to the city council.
- C. The Commission shall not have any authority to:
1. Participate in the police department's disciplinary process;
 2. Hear appeals of any complaints made to or investigated by the OPO; or
 3. Release or disclose any information also prohibited from disclosure by the OPO pursuant to SMC 4.32.035(B)(5).
- D. 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.
- E. 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.

F. 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 ~~felony~~ convictions for crimes involving dishonesty or other integrity issues within the past 10 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.
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.

G. 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.

H. 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.

I. 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.

J. 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.

K. 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 75% 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 recommendations for changes to the police department's processes and policies;
 - 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.
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.

Section 12. That there is adopted a new section 4.32.160 to chapter 4.32 of the Spokane Municipal Code to read as follows:

4.31.160 Funding

The City Council shall maintain funding necessary to appropriately staff the Office of Police Ombudsman, 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.

Section 13. Severability Clause. Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

PASSED by the City Council on _____, 2013.

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date

TENTATIVE AGREEMENT
Between
City of Spokane and Spokane Police Guild

The following memorializes a Tentative Agreement (TA) constituting a full and complete settlement of the negotiations for a successor four-year contract commencing January 1, 2012. All proposals by either the City or Guild that are not addressed in the below or attached TAs are withdrawn. The parties' negotiating teams recommend approval of the TA, which is subject to ratification by the Guild membership and the Spokane City Council. Should either party fail to approve the TA, the parties will revert to their last formal offers and recommence mediation.

2012

- 2% base wage increase, retroactive to 1/1/12

2013

- 2% base wage increase, retroactive to 1/1/13
- Article 27, Civilian Review: No later than 30 days after ratification by Guild and Council, implement attached version of revised Article 27, and attached modification to Article 24, section E-12
- Implement attached tuition reimbursement revisions, upon ratification by Guild and Council

2014

- 2% base wage increase, effective 1/1/14
- Education pay: .5% AA/AS and 1% BA/BS, effective 1/1/14
- Effective 1/1/14, medical plan options will be City Plan III, City Plan IV, Group Health I, and Group Health II. Employee contributions for City Plan III and Group Health I will increase by \$15/month to \$120/month. Employee contributions for City Plan IV and Group Health II will be \$105/month.
- Switch dental from current plan to PPO, effective 1/1/14.



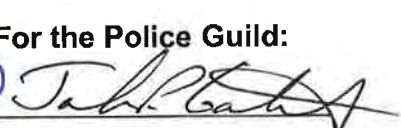
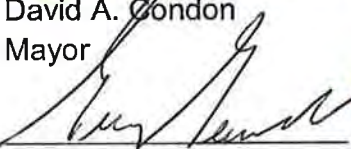
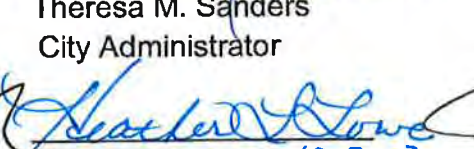
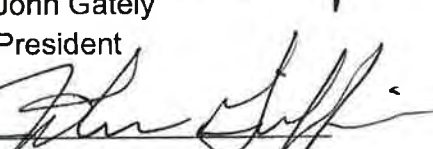
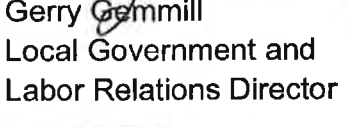
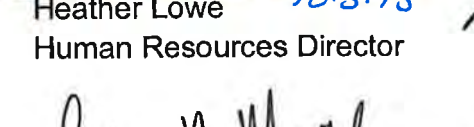


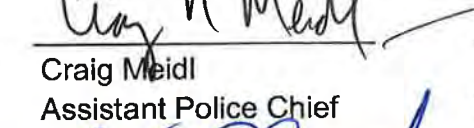
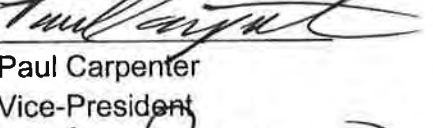
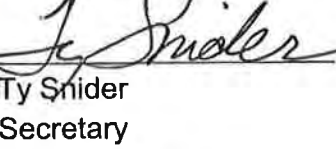
2015

- 2% base wage increase, effective 1/1/15
- Education pay: increase AA/AS by .5% and BA/BS by 1% for a total of 1% for AA/AS and 2% for BA/BS, effective 1/1/15
- Effective 1/1/15, employee contributions for City Plan III and Group Health I will increase by \$15/month to \$135/month. Employee contributions for City Plan IV and Group Health II will remain \$105/month.

CAMERAS: The City may utilize in car and/or body cameras in providing police services to the citizens of Spokane. The parties recognize that there are many working condition issues that will need to be resolved related to utilization of the cameras. Without limitation, these include the extent to which video from the cameras may be used in discipline, and potential limitations on access to and use of the video. The City and Guild agree that these issues will be resolved pursuant to bargaining, consistent with RCW 41.56. In the event the parties are unable to reach agreement, either party may require that the parties jointly request the assistance of Mediator Jamie Siegel from the PERC. The City will not utilize videos from the cameras for disciplinary purposes until bargaining has been completed.

All prior TAs to be implemented:

- Attached Grievance Procedure revisions dated 4/23/13
- Assistant Range Master added as a specialty assignment with 3% specialty pay if a rank below sergeant is assigned. Current sergeant FTE will not be eliminated but may be moved to meet department needs.
- Deletion of Truancy Officer and School Resource Officer from Special Assignments

For the City of Spokane:		For the Police Guild:
 David A. Condon Mayor	 Theresa M. Sanders City Administrator	 John Gately President
 Gerry Gemmill Local Government and Labor Relations Director	 Heather Lowe <i>10.3.13</i> Human Resources Director	 John Griffin Vice-President
 Frank Straub Police Chief	 Craig Meidl Assistant Police Chief	 Paul Carpenter Vice-President
 Erin Jacobson <i>10/3/13</i> Assistant City Attorney	 Tim Dunivant Budget Director	 Ty Snider Secretary
		 JD Anderson Treasurer

Final OPO Language for 2012-2015 CBA Tentative Agreement

ARTICLE 27 - CIVILIAN REVIEW

The Office of Police Ombudsman (OPO) will provide a professional presence to help ensure a quality investigation in real time, and visible, independent oversight to reassure the public. 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.

(a) The OPO will actively monitor all police department OPO involved investigations as provided for herein.

(b) An "OPO Involved Investigation" is defined as an IA investigation where the complaint giving rise to the investigation, whether made to the 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.

(c) The OPO may receive complaints from any complaining party, including, without limitation, citizens or employees of the police department. The OPO will forward all complaints 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 interviews and request that further investigation be completed, as provided herein.

(d) In addition to complaints received by the OPO, Internal Affairs 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, but will have subsequent access to closed cases.

(e) 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 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.

(f) Once any complaint is received by the Internal Affairs unit (including those forwarded to IA from the OPO), it shall be submitted to the chain of command for review per existing policy. When either the Chief or her/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 investigative process for OPO Involved Investigations as follows:

1. Internal Affairs will notify the OPO of all administrative interviews on all OPO Involved Investigations. The OPO may attend and observe interviews, in person or by telephone, and will be given the opportunity to ask questions during the interview after the completion of questioning by the Department. The OPO will not participate in criminal investigations of Department employees but will be notified when the criminal case is concluded.

2. Upon completion of 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 thorough and objective.

3. As a part of the review process, the OPO may conclude that 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 no agreement between the assigned investigator(s) and the OPO regarding the necessity, practicality or materiality of the requested further investigation, the OPO will notify the Chief (or designee) in writing of the OPO's suggestions and rationale for further investigation. The Chief (or designee) will determine whether further investigation will be undertaken by IA. The Chief (or designee) will provide his/her determination in writing.

If the OPO is not satisfied with the determination of the Chief, the OPO's request for further investigation may be presented to the Police Ombudsman Commission, whose decision will be final. The decision of the Police Ombudsman 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

Police Ombudsman Commission, the investigation will be completed consistent with the decision of the Police Ombudsman Commission on the OPO's request.

The request from the OPO for IA to do further investigation, the process of review and decision making on that request, or the requirement to do further investigation do not suspend the 180 day requirement of Article 24.

4. After completion of the further investigation, or the conclusion that no further investigation will be undertaken, the OPO will then certify whether or not, in the opinion of the OPO, the internal investigation was thorough and objective. This determination will be made within five business days. Once the above finding is entered in the investigation, 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. If there is no agreement between the Chief or designee and the OPO regarding the investigation, the Police Ombudsman Commission will decide whether the investigation requested by the OPO will be undertaken by IA, as provided in section (f). The decision of the Police Ombudsman Commission will be based upon the OPO's written request and the Chief's (or designee's) written response.

The request from the OPO for IA to do an investigation, the process of review and decision making on that request, or the requirement to do an investigation do not suspend the 180 day requirement of Article 24.

(h) All disciplinary decisions will be made by the Chief (or designee).

(i) The OPO will be provided a copy of any letter or other notification to an officer informing them 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 Finding letter to the

complainant, may send a closing letter to the complainant. The letter may summarize the case findings.

(k) 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, investigation, and findings. The closing report will not disclose the names of officers or witnesses.

(m) In addition to the investigative process, the OPO will have unimpeded access to all 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) 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. 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. Nothing herein shall be construed as a waiver of the Guilds right to require the City to engage in collective bargaining as authorized by law.

(o) A committee of five (5) members (Committee) will be formed that will recommend three (3) candidates for the OPO position to the Police Ombudsman Commission (one of which must be selected). The Committee shall be composed of one member appointed by the Spokane Police Officers Guild; one

member appointed by the Lieutenants and Captains Association; one member appointed by the President of the City Council; one member appointed by the Mayor; and a fifth member selected by the other four members.

(p) In addition to whatever job requirements may be established by the City, one of the minimum job requirements for the OPO will be to have a history that includes the establishment of a reputation for even-handedness in dealing with both complainants and the regulated parties. The City also agrees that compliance with the confidentiality provisions of this agreement will be a condition of employment for the OPO. Inadvertent, de minimus disclosures shall not be considered a violation of this section.

(q) Alleged violations of this agreement are subject to the grievance and arbitration provisions of the bargaining agreement. In the event the Guild believes a candidate recommended by the Committee for OPO does not meet the minimum job requirement established in Section (p) above, the Guild must within three (3) days of the recommendation present information to the Police Ombudsman Commission about their concern. If that person is ultimately selected by the Police Ombudsman Commission, the Guild may file a grievance within five (5) days of the appointment and an expedited arbitration process will be utilized to resolve the matter. The Arbitrator will conduct an arbitration within twenty-one (21) days, and issue a bench decision. The decision will be final and binding upon the parties. Upon the filing of a grievance, the appointment shall be held in abeyance pending completion of the arbitration.

(r) The City will require that each member of the Police Ombudsman Commission 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.

(s) In addition to whatever job requirements may be established by the City, one of the minimum job requirements for the members of the Police Ombudsman Commission will be to have a history that includes the establishment of a reputation for even-handedness in dealing with both complainants and the regulated parties.

(t) Nothing herein shall be construed as a waiver of the Guilds right to require the City to engage in collective bargaining as authorized by law.

PART OF GUILD WHAT IF 7-8-13

Excerpt from Article 24 §E

12. Administrative investigations must be completed within 180 days of the matter coming to the attention of the Department (Bureau Command Staff or above) In the event the Office of the Chief believes an extension beyond 180 days is necessary, and the City can show that it has acted with due diligence and the investigation could not be reasonably be completed due to factors beyond the control of the ~~Department~~ City (including, but not limited to, for example, extended illness or other unavailability of a critical witness (i.e. - the complainant, the officer being investigated), or necessary delays in the processing of forensic evidence by other agencies,) the Chief must contact the Guild prior to the expiration of the 180 days seeking to extend the time period. Any request for extension based on the unavailability of witnesses shall include a showing that the witness is expected to become available in a reasonable period of time. A request for extension based upon the above criteria will not be unreasonably denied. The period of investigation may also be extended by mutual agreement between the Guild President and the Chief.

The 180 day period shall be suspended when a complaint involving alleged criminal conduct is being reviewed by a prosecuting authority or is being prosecuted at the city, state or federal level, or if the alleged conduct occurred in another jurisdiction and is being criminally investigated or prosecuted in that jurisdiction. In cases of an officer involved fatal incident, the 180 day period will commence when the completed criminal file is provided to the Prosecuting Attorney, and will only be tolled in the event criminal charges are filed.

Section C – Tuition Reimbursement

The City agrees to reimburse the employee for 100 percent of the tuition fee for any approved job related course upon satisfactory completion of the said course up to the applicable tuition level established at Washington State University. In order to qualify for tuition reimbursement, the course must be approved by the Police Chief or designee and the Human Resources Department before the course is taken. The cost for books, laboratory and other related expenses shall not be paid by the City. Satisfactory completion of any course shall mean a grade of "C" or better.

New Paragraph:

For all courses that are approved for reimbursement after the date of signing this Agreement, the employee must refund the City for tuition reimbursement under the following circumstances:

1. The employee voluntarily leaves City employment within two years after receiving tuition reimbursement; and
2. The course(s) for which the City reimbursed tuition was completed during the two years prior to the effective date of the voluntary separation. The course(s) shall be considered completed on the date the employee submitted his or her grade to the City for purposes of demonstrating satisfactory completion.

~~An employee may request~~ There shall be an exception to this requirement in the event extenuating circumstances require the employee to terminate employment with the City (e.g., employee quits in order to move and take care of sick parent). ~~Such~~ The employee's requests shall be reviewed for approval by the Police Chief or designee and the Human Resources Department and such approval shall not be unreasonably denied.

Guild What If Grievance Procedure Package 4/23/2013 11:00 am

(Redlined from current contract language and City's 12/13/12 proposal)

ARTICLE 5 - GRIEVANCE PROCEDURE - PERMANENT UMPIRE

Section A - Grievance Procedure Steps

1. Any grievance or dispute which may arise between parties concerning the application, meaning, or interpretation of this Agreement, shall be settled in the manner prescribed by this grievance procedure.
2. A "Grievance" is defined as a claim or dispute by an employee, group of employees, or authorized Guild representatives concerning the interpretation or application of the provisions of this Agreement. Nothing in this procedure shall prohibit an employee from discussing a complaint directly with his supervisor or department head without representation by the Guild as provided by State Law.
3. Should a subject for claim or dispute arise, there shall be no stoppage of work by employees, but an earnest effort shall be made to settle such claims or disputes promptly and in the manner hereinafter outlined. Prior to initiating a written grievance, an employee shall attempt to resolve the matter with his/her supervisor, or in their absence, with the next person in the chain of command.

Step 1

A grievance may be presented to the Police Chief or designee, ~~with a copy to the Human Resources Department,~~ by a Guild Representative ~~Executive Board Officer or designee~~ within ~~twenty one (21)~~ twenty-eight (28) calendar days of the alleged occurrence; in writing, setting forth:

- a. The nature of the grievance;
- b. A statement of the facts upon which the grievance is based;
- c. The provisions of the Agreement allegedly violated, and;
- d. A statement of the relief desired.

Step 2

The Police Chief or designee shall attempt to settle the grievance within ~~seven~~ (7)twenty-one (21) calendar days after it has been presented.

Step 3

If the grievance is not settled by the Police Chief within the time allowed, it may be presented to the City Administrator, with a copy to the Human Resources Department, by a ~~Guild Representative-Executive Board Officer or designee~~ within seven-(7)twenty-one (21) calendar days of the Police Chief's response or the expiration of the time limit in step 2.

Step 4

The City Administrator shall have ~~fourteen-(14)~~ twenty-one (21) calendar days to review the grievance. If the City Administrator does not respond or otherwise settle the grievance within the ~~fourteen-~~ twenty-one day period, the grievance may be advanced to step 5 within twenty-one (21) days of the Step 3 response or, if not received within the allotted time period, the date the response was due.

Step 5

If the grievance is not settled at Step 4, the dispute will be referred to the negotiating committee of both parties. The two committees shall meet within ~~ten~~ (10)fourteen (14) calendar days to consider the dispute. At that meeting, all pertinent facts and information will be reviewed in an effort to resolve the matter through conciliation. If no satisfactory solution is reached in this step, the matter may be submitted to arbitration within ~~24-~~ twenty-eight (28) calendar days of the conciliation meeting.

Section B - Arbitration

The parties shall attempt to select an arbitrator by mutual agreement. If the parties have been unable to select an arbitrator ~~by mutual agreement~~ within ten (10) days, the Arbitrator shall be selected on a rotating basis from the following panel of arbitrators: Janet Gaunt, Mike Cavanaugh, Michael Beck, Alan Krebs, and Howell Lankford. The Arbitrator shall be selected from the list by both the City representative and the Guild's attorney within ten days of the matter being submitted to arbitration. Each party shall

alternatively strike or accept the top name on the list. If both parties accept the arbitrator, that person shall hear the case. Once both parties have had two strikes/acceptances, the next arbitrator on the list shall hear the case. The selected arbitrator shall move to the bottom of the list for the next arbitration hearing. The arbitrator shall conduct the arbitration within six months of the appointment unless otherwise agreed by the parties. The decision of the arbitrator shall be final and binding on the parties.

1. The Arbitrator shall make his/her own rules of procedure. The Arbitrator shall have no authority to amend, alter, or modify this Agreement or its terms and shall limit his/her decision solely to the interpretation and application of this Agreement.
2. Each grievance or dispute will be submitted separately except when the City and the Police Guild mutually agree to have more than one grievance or dispute submitted to the Arbitrator.
3. The City and the Police Guild shall bear the expense of the Arbitrator and related stenographic expenses on an equal basis.
4. Each party shall bear the costs of their own attorney(s) unless the City either fails to abide by an Arbitration award thereby requiring the Guild to seek judicial enforcement or appeals the same into the courts. In such an event, this provision shall have no force and effect retroactive to the initiation of the grievance procedure.
5. The decision of the Arbitrator shall be issued within thirty (30) days of the close of the hearing and scheduled receipt of any post-hearing briefs.

Section C - Time Limits

Time limits may be extended by mutual written agreement. Except as otherwise provided herein, if the City fails to comply with any of the above time limits, the matter will be settled in favor of the Guild's last requested remedy. If the aggrieved/Guild fails to comply with any of the above time limits, the grievance is dropped and the City's position sustained. While forfeiture under this clause will finally resolve the matter in dispute, it will not establish a precedent between the parties on issues of contractual interpretation. There shall be no interruption of work while grievances are being resolved.