

OIG Audit of SPD Compliance with Chapter 14.12 of Seattle Municipal Code, *Collection of Information for Law Enforcement Purposes*

OFFICE OF INSPECTOR GENERAL

GENDER EQUITY, SAFE COMMUNITIES, NEW AMERICANS & EDUCATION COMMITTEE

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**Chapter 14.12
protects certain
information by
setting conditions
that must be met
before police are
allowed to collect it.**


	Private Sexual Information	Restricted Information
What is it?	Information about an individual's sexual practices or orientation	Information relating to the religious or political associations, beliefs, or opinions of individuals and/or organizations.
When can it be collected?	Must be reasonably relevant to the investigation of certain types of crimes, or to arresting a subject.	Three-pronged test, including reasonable suspicion, relevancy, and consistency with the rest of the Chapter provisions.
Is written authorization required?	No	Yes

Summary of Findings

- OIG did not detect any violations.
- Outdated language of the Chapter precludes an assessment that SPD is in full compliance.
- Other findings include training gaps and issues with records retention.

Finding 1

- The Chapter was written in 1979 and has not been updated in any substantial way.
- Many modern methods of sharing information are not addressed by the Chapter.
- Without clear direction, SPD developed inconsistent approaches to collecting information that may be protected, including:
 - Obtaining written authorization
 - Not collecting information
 - Collecting information without authorization



Because of the outdated wording of the Chapter, OIG could not determine whether certain activities would be in violation, including:

- Collecting protected information from public sources such as websites or social media
- Collecting protected information from a third party, such as a witness or victim

Other Findings

FINDING 2

- Past written authorizations were purged on schedule, making it impossible for OIG to confirm compliance

FINDING 3

- SPD policy does not reference obtaining written authorization for restricted information, and relevant training is not provided

FINDING 4

- Chapter 14.12 records retention requirements appear to conflict with state law and, if followed, may restrict SPD's ability to investigate reports of misconduct or crimes.

OIG issued five recommendations to address the findings.

1. Develop a clear policy for whether written authorization is required for collecting protected information from open sources or third parties.*
2. Develop a procedure to notify OIG of all approved written authorizations.
3. Ensure that SPD retains records relating to approved written authorizations for at least six months to facilitate future audits.
4. Ensure that SPD policy includes all the requirements of Chapter 14.12 and that staff are trained on the content.
5. Review Chapter 14.12 and applicable other records retention laws and develop a means of bringing record-keeping into alignment with both ordinance and law.*

SPD concurred with all recommendations.

SPD committed to implementing recommendations by Q3 and Q4 2019.

* In consultation with the City Attorney's Office

Revisions to Chapter 14.12

OIG CONSULTED WITH CPC ON CHAPTER 14.12 REVISIONS
PURSUANT TO COUNCIL RESOLUTION 31753.

Key Questions to Consider

1. Are there categories of information that should be protected by Chapter 14.12 today?
2. How should Chapter 14.12 address modern technology and the ready existence of public information, such as social media?
3. How does Chapter 14.12 intersect with Chapter 14.18, *Acquisition and Use of Surveillance Technologies*?
4. What types and levels of authorization should exist, and how can the ability to audit the authorizations best be preserved?
5. How can the City retain information for oversight purposes while being sensitive to issues such as aggregating sensitive information that is potentially subject to public disclosure or information requests from external agencies?