

June 12, 2022

MEMORANDUM

To: Public Safety and Human Services Committee
From: Ann Gorman, Analyst
Subject: Proposed substitute bill to CB 120337

On June 14, 2022, the Public Safety and Human Services Committee plans to vote on a substitute for [Council Bill \(CB\) 120337](#), which would create a process and oversight framework for complaints to the Office of Police Accountability (OPA) that name the Chief of Police. CB 120337 (D1b) was introduced and referred on June 7, following Committee discussion of an unintroduced draft version of the bill on May 24. Since that time, ongoing discussion with OPA and the Office of the Inspector General (OIG) has illuminated the need for changes to the bill. This memo provides an overview of the intent of CB 120337, summarizes the differences between the introduced version of the bill (D1b) and the proposed substitute version of the bill (D2a), and lays out next steps.

Overview of Council Bill 120337

In 2017, [Ordinance 125315](#) established the City's police accountability system, including the roles of OPA and OIG. This ordinance gave OPA authority over complaints of misconduct involving Seattle Police Department (SPD) employees relating to SPD policy and federal, state, and local law. However, the ordinance did not take into account the handling of complaints that named the Chief of Police. Because both the OPA Director and the Chief of Police are Mayoral appointees, and OPA's practice following its investigations is to recommend findings to the Chief of Police, complaints that name the Chief could involve either a perceived or an actual conflict of interest. CB 120337 would establish a different process for the intake, evaluation, classification (i.e., does the complaint warrant an investigation?), and investigation of such complaints either by a City unit or by an independent investigative body that is external to the City.

CB 120337 would propose a role for OIG related to complaints that name the Chief that is consistent with its oversight role as described in Ordinance 125315. That role includes the review of misconduct complaint handling, investigations, and other activities that OPA performs and the audit of and review for any areas that may involve conflicts of interest or otherwise compromise the public's trust in the City's criminal justice system.

CB 120337 would also require that the complainant and stakeholders¹ in the City's police accountability system are notified in the following circumstances:

- By OPA or OIG, when an investigation will be conducted following a complaint that names the Chief;

¹ These stakeholders are the Mayor, the President of the City Council, the Chair of the Council's public safety committee, the Executive Director and Co-Chairs of the Community Police Commission, the City Attorney, and the City Director of Human Resources.

- By OIG, when it is unable to determine in its oversight role whether a completed investigation was timely, thorough, objective, and independent;
- By OIG, when it has determined that a completed investigation was not timely, thorough, objective, and independent; and
- By the Mayor, upon receipt of a completed investigation and its findings, with notification to include statements on those findings and of whether the Chief will be discharged, or any disciplinary action will be taken against the Chief.

Proposed Substitute For Council Bill 120337

In response to discussions with OPA and OIG, the substitute bill would reflect a variety of changes. The most significant of these is a revision to the intake and classification requirements described in CB 120337, which follow a standard rubric that is described in the OPA Manual (“Manual”) and that align with the relevant collective bargaining agreements (e.g., the Seattle Police Officers’ Guild). The Chief is not governed by a collective bargaining agreement, so the Manual’s process and structure do not apply. Where the Manual requires that complaints are ultimately classified into one of four categories, the proposed substitute bill would provide only two options for the complaints that name the Chief – a contact log² or the conduct of an investigation. The proposed substitute bill would also eliminate the requirement that a complaint that names the Chief is classified within 30 days in favor of a more deliberative process to determine whether an investigation is warranted.

Other changes in the proposed substitute bill (1) clarify OIG’s oversight role; (2) more accurately reflect current practices; and (3) clarify that complaints that name the Chief which may result in a criminal charge or charges are the only such complaints in which there is a role for an external law enforcement agency.

Table 1 summarizes these changes. Attachment A to this memo is a redline version of CB 120337 D1b, showing the changes in the substitute bill (D2a). Please note that Central Staff is still analyzing many of these changes, including the revised classification requirement, and working to understand their impacts. These changes are also pending review by the City Attorney’s Office. Technical review by that office identified the opportunity to include the proposed definitional refinement to “non-City entity” elsewhere in the bill to conform with the City Drafting Manual. Central Staff will explore this change, which may be reflected in a revised version of D2a.

² A contact log includes circumstances when (a) the complaint does not involve a potential policy violation; (b) there is insufficient information to proceed with further inquiry; (c) the complaint has already been reviewed or adjudicated by OIG and/or OPA; or (d) the complaint presents fact patterns that are clearly implausible or incredible, and there are no indicia of other potential misconduct.

Table 1. Description of Changes in Proposed Substitute for CB 120337 (D2a)

Section/Title	Proposed Changes
3.29.500 Definitions	Strike definitions that are no longer applicable under the proposed revised intake process; add a definition for “intake.” In the definition of “non-City entity,” add language circumscribing the role of an external law enforcement agency.
3.29.510 OPA intake, examination, classification, and investigation scoping	For complaints, eliminate requirements that: (1) the Chief is notified and (2) the complaint is classified according to the rubric of the OPA Manual within 30 days. Revise classification requirement as described above. Add reference to the desirability of an interview with the complainant during the intake process. Establish an open-ended consultative role for OIG as OPA is evaluating the complaint to determine whether an investigation is warranted. Create new notification requirement to the complainant and a subset of public accountability stakeholders ³ should OIG determine that OPA’s evaluation is unnecessarily delayed. Add requirement that OPA document real or perceived conflicts of interest. Revise description of investigative plan preparation to better reflect OPA practice.
3.29.520 OIG review	Align bill language with the elimination of the classification requirement noted above and with revised “non-City entity” definition. Add requirement that the Chief is notified if a complaint has been determined to be appropriate for investigation.
3.29.530 Notification and reporting	Align bill language with the elimination of the classification requirement noted above and with revised “non-City entity” definition. Strike one element previously required in notification of investigation to complainant and police accountability stakeholders.
3.29.540 Assigning the investigation	Align bill language with revised “non-City entity” definition. Replace references to specific external law enforcement agencies with more general “appropriate and qualified” language.
3.29.550 Investigation	Clarify references to collective bargaining agreements. Revise description of development of range of discipline to better reflect OPA practice.
3.29.560 OIG review of the intake investigation, classification, and investigation	Include “independent” in the phrase “timely, thorough, objective, and independent” to reflect OIG’s evaluative mandate. Add language referencing the possibility that OIG determines that an investigation was not timely, thorough, objective, and independent.
3.29.570 Transmittal of investigative results	Include “independent” in the phrase “timely, thorough, objective, and independent” to reflect OIG’s evaluative mandate.
3.29.610 Implementation	Strike extraneous references to collective bargaining obligations and the obligations they create.

³ These stakeholders are the President of the City Council and the Chair of the Council’s public safety committee.

The proposed substitute bill would also make various non-substantive changes, including:

- In the recitals, minor textual edits for clarification, particularly around the non-applicability of a collective bargaining agreement to the Chief of Police.
- Throughout, the replacement of “the Equal Employment Opportunity Act” with a more expansive reference to the various statutes and policies that may apply.
- Edits for clarity, consistency, and concision and to correct prior textual errors.

Next Steps

If Committee members vote to replace D1b with D2a, version D2a of CB 120337 may be voted on at the next Committee meeting on June 28.

Attachments:

1. Redline comparison of D1b to D2a (CB 120337)

cc: Esther Handy, Director
Aly Pennucci, Deputy Director
Asha Venkataraman, Supervising Analyst

Attachment 1 - Redline comparison of D1b to D2a (CB 120337)

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

..title

AN ORDINANCE relating to civilian and community oversight of the police; establishing a process for investigating complaints naming the Chief of Police; adding a new subchapter V to Chapter 3.29 of the Seattle Municipal Code; and amending Section 49 of Ordinance 125315 to renumber the existing Subchapter V of Chapter 3.29 and Sections 3.29.500 and 3.29.510 of the Seattle Municipal Code.

..body

WHEREAS, The City of Seattle’s accountability system established in Ordinance 125315 (the Accountability Ordinance) with a civilian-led misconduct investigations unit, an independent police inspector general for public safety, and a strong community-based oversight commission, has strength not found in other models of oversight, and addresses systemic weaknesses with which other systems have struggled; and

WHEREAS, the goals of Ordinance 125315 are to institute a comprehensive and lasting police oversight system that ensures police services are delivered to the people of Seattle in a manner that fully complies with the Constitution and laws of the United States and State of Washington, effectively ensures public and officer safety, and promotes public confidence in the Seattle Police Department (SPD) and the services that it delivers; and

WHEREAS, Ordinance 125315 establishes the role of the Office of the Inspector General (OIG) as encompassing (1) the review of misconduct complaint-handling, investigations, and other activities performed by the Office of Police Accountability (OPA) and the effectiveness, accessibility, timeliness, transparency, and responsiveness of the complaint system and (2) audit and review for any areas that may involve potential conflicts of interest; involve possible fraud, waste, abuse, inefficiency, or ineffectiveness; undermine

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1 accountability or be unethical; or otherwise compromise the public's trust in the criminal
2 justice system; and

3 WHEREAS, a lasting police oversight system that ensures police services are delivered to the
4 people of Seattle benefits from an ongoing practice of re-examining and improving
5 processes, particularly after the occurrence of a significant event that becomes a catalyst
6 for system change or adaptation; and

7 WHEREAS, such an event occurred when three Office of Police Accountability (OPA)
8 Complaints were filed in 2020 against the Chief of the Seattle Police Department, and the
9 complaints were logged by OPA as follows: 1. OPA 2020-0345 (tear gas used after 30
10 day ban); 2. OPA 2020-0355 (sharing misinformation about crime in CHAZ/CHOP); and
11 3. OPA 2020-0476 (Chief ((~~lied~~)) was dishonest about dispatch error during CHOP
12 shooting); and

13 WHEREAS, the OPA Dashboard currently shows that each of these complaints is less than 50
14 percent investigated and that the OPA Director requested over 18 months ago that then-
15 Mayor Durkan forward the complaints for investigation to an agency external to The City
16 of Seattle; and

17 WHEREAS, Mayor Harrell's office has indicated that the complaints have been forwarded to an
18 external agency for investigation; and

19 WHEREAS, the OPA Policy Manual (OPA Manual) identifies a process for determining
20 whether OPA or an outside agency would investigate the Chief of Police, but ((~~the~~)) that
21 ~~manual ((does not include policies that can protect against any abuse of discretion that~~
22 ~~might occur if the Mayor or OPA Director are involved in the complaint or seek to~~

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1 ~~conceal the complaint~~); is subject to change and a strong police accountability system
2 requires a standard, codified process for making such determination; and

3 WHEREAS, OPA's current procedures do not provide for notification of elected officials upon
4 commencement of an investigation or for an evaluation of OPA's analysis of the
5 credibility of the complaint, as should be conducted by an independent oversight entity
6 such as the Office of the Inspector General for Public Safety (OIG); and

7 WHEREAS, all sworn SPD staff are within the chain of command of the Chief of Police, and the
8 involvement of such staff in any investigation of a complaint that names the Chief of
9 Police creates in some cases an actual conflict of interest and potentially in all cases a
10 perceived conflict of interest; and

11 WHEREAS, ~~((although SPD's statutory role includes investigations where))~~ any investigation of
12 complaint against the Chief of Police that may result in a criminal charge or charges
13 ~~((could result, such investigations that include the Chief of Police as a party also))~~ poses a
14 conflict((-)of((-)interest ((concerns)) and should be ~~((avoided in all possible~~
15 ~~instances))~~ referred to an outside investigator; and

16 WHEREAS, the Seattle Department of Human Resources houses the City of Seattle's
17 Investigations Unit, which investigates complaints and alleged violations of applicable
18 City Personnel Rules and/or related policies, including allegations of harassment,
19 discrimination, and misconduct such as those that are prohibited under ~~((the Equal~~
20 ~~Employment Opportunity Act))~~ local, state, and federal anti-discrimination laws; and

21 WHEREAS, the Accountability Ordinance did not contemplate the processes necessary to ensure
22 that a City-led investigation of the Chief of Police is fair, transparent, and free of any
23 potential conflicts of interest; and

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1 WHEREAS, although the OPA Manual establishes a process and structure for complaint review
2 that is consistent with the relevant collective bargaining agreements, ~~((the same process~~
3 ~~and structure may not be appropriate for an))~~ investigation into the Chief of Police is not
4 governed by a collective bargaining agreement thus that process and structure are
5 inapplicable;

6 NOW, THEREFORE,

7 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

8 Section 1. A new Subchapter V is added to Chapter 3.29 of the Seattle Municipal Code as
9 follows:

10 **Subchapter V Investigation of the Chief of Police**

11 **3.29.500 Definitions**

12 As used in this Subchapter V:

13 “Contact Log” means the term as it is defined in the OPA Manual. “Contact Log”
14 includes circumstances when: (a) the complaint does not involve a potential policy violation by
15 an SPD employee; (b) there is insufficient information to proceed with further inquiry; (c) the
16 complaint has already been reviewed or adjudicated by OPA and/or OIG; or (d) the complaint
17 presents fact patterns that are clearly implausible or incredible, and there are no indicia of other
18 potential misconduct.

19 ~~((“Expedited Investigation” means the term as it is defined in the OPA Manual. “Intake~~
20 ~~Investigation” includes circumstances when a complaint alleges a violation of SPD policy or~~
21 ~~other category of violation that OPA is required by law and policy to investigate. However,~~
22 ~~OPA, with the agreement of OIG, determines that findings can be reached based on the intake~~
23 ~~investigation, and no further investigation needs to be conducted. This classification is most~~

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1 ~~appropriate when: (a) the evidence shows that misconduct did not occur as alleged; (b) minor~~
2 ~~misconduct occurred, but OPA does not deem corrective action other than discipline to be~~
3 ~~appropriate; or (c) minor misconduct may have occurred, but there is a systemic issue with SPD~~
4 ~~policy or training for which OPA deems a Management Action Recommendation (MAR) to be~~
5 ~~appropriate.~~

6 ~~“Intake Investigation” means the term as it is defined in the OPA Manual.))~~

7 “Intake” means the receipt and evaluation of a complaint to determine whether an
8 investigation is warranted.

9 “Investigation,” when used to describe a type of classification, means the term as it is
10 defined in the OPA Manual.

11 “Investigative plan,” when used to describe a document, means a document that aims to
12 specify and direct, as required, the investigative aims and objectives, for which purpose it may be
13 continually updated until such time as the investigation is closed.

14 “Non-City entity” means an entity other than The City of Seattle. Investigation of a
15 suspected violation of law will be investigated by a non-Seattle law enforcement entity. An
16 outside entity conducting an investigation of any other non-criminal violations alleged against
17 the Chief will not be a law enforcement agency.

18 ~~((“Supervisor Action” means the term as it is defined in the OPA Manual. “Supervisor~~
19 ~~Action” includes circumstances when a minor policy violation or personnel issue is best~~
20 ~~addressed through training, communication, or coaching from the employee’s supervisor.))~~

21 **3.29.510 OPA intake, classification, and investigation scoping**

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1 A. If the Chief of Police is named in a complaint, the initial screening process (~~((required~~
2 ~~under the OPA Manual))~~) shall include the immediate creation of a case file and the immediate
3 notification of the OPA Director.

4 B. If the Chief of Police is named in a complaint, OPA shall notify OIG as soon as is
5 practicable, but within 30 calendar days (~~((provide notice of the complaint to the Chief of~~
6 ~~Police))~~). OIG will ensure that OPA is pursuing its investigation without unnecessary delay. In
7 the event that OIG determines that unnecessary delay is occurring, OIG shall promptly notify the
8 President of the City Council, the Chair of the Council's public safety committee, and the
9 complainant. Notification shall consist of: (1) the nature of the complaint, (2) the date the
10 complaint was received, and (3) an explanation of why OIG has determined that unnecessary
11 delay is occurring.

12 C. A civilian supervisor investigator shall be assigned to complete the intake of the
13 complaint and available information to determine (~~((, which shall consist of a preliminary process~~
14 ~~that is))~~) whether an investigation should be conducted. This examination shall be designed to
15 answer relevant factual questions and ensure the collection and preservation of time-sensitive
16 evidence and, when possible, it will include an interview with the complainant.

17 D. OPA shall (~~((examine the results of the intake process to determine whether any laws~~
18 ~~or SPD policies would have been violated if the alleged actions are later proven to be true. OPA~~
19 ~~shall classify the complaint according to the OPA Manual categories of Contact Log, Supervisor~~
20 ~~Action, Expedited Investigation, or Investigation))~~) consult with OIG when examining a
21 complaint, with the goal of determining whether any laws or SPD policies would have been
22 violated if the alleged actions are later proven to be true and/or to determine whether any
23 additional laws or SPD policies may have been violated beyond those referenced in and/or

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1 implied by the complaint. This examination will result in OPA's classification of the complaint
2 for investigation, or as a contact log, as appropriate.

3 ~~((D))~~E. If the OPA Director determines, upon conclusion of the examination, that ~~((the~~
4 ~~intake warrants an))~~ investigation is appropriate, ~~((then))~~ they will determine:

5 1. Whether OPA, the Seattle Department of Human Resources (SDHR), or a non-
6 City entity will perform the investigation. In making this determination OPA shall consider and
7 document whether there are any conflicts of interest, real or potentially perceived, that could
8 undermine the public trust if the investigation is conducted by OPA or SDHR; and

9 2. Whether criminal charges could result from the investigation~~((, and, if so,~~
10 ~~whether an SPD criminal investigation could undermine public trust))~~; and

11 3. Whether the investigation could result in a finding of a violation or violations
12 of ~~((the Equal Employment Opportunity Act))~~ local, state, and federal anti-discrimination laws
13 and/or any applicable City and/or SPD policies that prohibit harassment and/or discrimination.

14 ~~((E))~~F. If the OPA Director or a designee of the Director determines that the intake
15 warrants an investigation, then the Director or designee shall work with the assigned civilian
16 investigator supervisor to prepare an investigative plan that includes, at a minimum, information
17 that will be necessary in the case that OIG must issue a request for proposal for an investigation
18 by a non-City entity.

19 ~~((F. OPA shall within 30 calendar days route to OIG all documentation of the intake and~~
20 ~~classification process, including the recommendations from subsection 3.29.510.D regardless of~~
21 ~~the classification decision.))~~

22 **3.29.520 OIG review**

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1 A. OIG shall conduct a review of OPA's intake (~~((investigation))~~) examination and
2 classification to ensure that (1) the intake (~~((investigation was))~~) and examination process were
3 timely, thorough, and objective, and (2) OIG concurs with the classification determination.

4 B. If OIG does not concur with OPA's classification determination, the OIG
5 determination shall prevail and shall be considered definitive for the complaint.

6 C. If (~~((the classification determination is other than Contact Log, Supervisor Action, or~~
7 ~~Expedited Investigation))~~) investigation is appropriate, (~~((then))~~) OIG shall review the OPA
8 recommendation on whether (~~((a full investigation should be conducted and whether))~~) that
9 investigation should be (1) conducted by either OPA or SDHR; or (2) conducted by a non-City
10 entity. OIG shall then determine whether it concurs with OPA's recommendations. In making
11 this determination, OIG shall consider the factors in subsections 3.29.510.~~((D))~~E.1 and
12 3.29.510.~~((D))~~E.2. If OIG and OPA do not concur, the OIG determination shall prevail and shall
13 be considered definitive for the complaint.

14 D. If OIG determines, either solely or with the concurrence of OPA, that the complaint
15 warrants investigation, OPA shall provide notice of the complaint to the Chief of Police as soon
16 as is practicable.

17 ~~((D))~~E. If OPA has determined (~~((that))~~) the investigation could result in a finding of a
18 violation or violations of (~~((the Equal Employment Opportunity Act))~~) local, state, and federal
19 anti-discrimination laws and/or any applicable City and/or SPD policies that prohibit harassment
20 and/or discrimination, then OIG shall review the OPA recommendation on whether a full
21 investigation should be conducted by SDHR or by a non-City entity. OIG shall then determine
22 whether it concurs with OPA's recommendations. In making this determination, OIG shall

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1 consider the factors in subsection 3.29.510.((D))E.1. If OIG and OPA do not concur, the OIG
2 determination shall prevail and shall be considered definitive for the complaint.

3 ((E))F. Where OIG has determined, either solely or with the concurrence of OPA, that a
4 non-City entity should conduct the investigation, OIG shall consult with OPA to (1) discuss
5 which of these two agencies should manage the contract for that entity's work and (2) identify
6 one or more candidate entities to conduct the investigation. However, following this consultation
7 OIG shall solely make decisions about (1) whether the investigation contract should be managed
8 by OPA or OIG and (2) which non-City entity should conduct the investigation.

9 ((F))G. If OIG believes that criminal charges could result from the investigation, then it
10 shall consult with OPA and ((determine whether SPD or a)) identify which non-City entity
11 would be most appropriate for the investigation. However, following this consultation OIG shall
12 solely make decisions about (1) whether the investigation should be managed by OPA or OIG
13 and (2) which non-City entity should conduct the investigation. If OIG and OPA do not concur,
14 the OIG determination shall prevail and shall be considered definitive for the complaint.

15 **3.29.530 Notification and reporting**

16 A. Where the classification determination is a ((C))contact ((L))log((Supervisor Action,
17 or Expedited Investigation)), OIG shall include the finding in its annual report required under
18 Subchapter II of this Chapter 3.29. No other notification or reporting is required.

19 B. ((Where the classification determination is other than Contact Log, Supervisor Action,
20 or Expedited Investigation, and the investigation)) When an investigation will be:

21 1. Conducted by OPA or SDHR, OPA shall immediately notify the Mayor, the
22 President of the City Council, the Chair of the Council's public safety committee, the Executive
23 Director and Co-Chairs of the Community Police Commission, the City Attorney, the City

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1 Director of Human Resources, and the complainant. Notification shall consist of: (1) the
2 classification type; (2) whether OPA or SDHR will conduct the investigation; and (3) the
3 rationale for the determination as supported by the factors in subsections 3.29.510.~~((D))~~E.1 and
4 3.29.510.~~((D))~~E.2(~~;~~ and (4) if the investigation will be conducted by SDHR, whether the
5 investigation could result in findings of a violation or violations of the Equal Employment
6 Opportunity Act)).

7 2. Conducted by a non-City entity, OIG shall immediately notify the entities in
8 subsection 3.29.530.B.1. Notification by OIG pursuant to subsection 3.29.530.B.2 shall consist
9 of: (1) the classification type; (2) the non-City entity by whom OIG has determined, either solely
10 or with the concurrence of OPA, that the investigation be conducted; and (3) the rationale for the
11 determination as supported by the factors in subsections 3.29.510.~~((D))~~E.1 and
12 3.29.510.~~((D))~~E.2.

13 F. Notification pursuant to this Section 3.29.530 shall include no more information that
14 would otherwise be available to the public on the OPA website, so as to not compromise the
15 integrity of the investigation.

16 **3.29.540 Assigning the investigation**

17 A. Any investigation conducted by OPA shall be conducted exclusively by civilian
18 personnel. If OIG, either solely or with the concurrence of OPA, has determined that an
19 investigation should be conducted by OPA and OPA is unable to commit that it will be
20 conducted exclusively by civilian personnel, then the investigation shall be reassigned to a non-
21 City entity.

22 B. If the investigation could result in findings of a violation or violations of ~~((the Equal~~
23 ~~Employment Opportunity Act))~~ local, state, and federal anti-discrimination laws and/or any

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1 applicable City and/or SPD policies that prohibit harassment and/or discrimination and OIG has
2 determined, either solely or with the concurrence of OPA, that it should be conducted by SDHR,
3 then SDHR shall have the opportunity to ~~((notify OIG that it))~~ decline~~((s to conduct the~~
4 ~~investigation))~~. In this case, OIG shall consult with OPA to (1) discuss which of these two
5 agencies should manage the contract for the investigation to be conducted by a non-City entity
6 and (2) identify one or more candidate entities to conduct the investigation. However, following
7 this consultation OIG shall solely make decisions about (1) whether the investigation contract
8 should be managed by OPA or OIG and (2) which non-City entity should conduct the
9 investigation.

10 ~~((C. If criminal charges could result from an investigation, OIG, either solely or with the~~
11 ~~concurrence of OPA, will determine whether an SPD investigation could compromise public~~
12 ~~trust. OIG, either solely or with the concurrence of OPA, will include in this determination its~~
13 ~~understanding of the general concerns of community members and stakeholders in the public~~
14 ~~accountability process.))~~

15 ~~((D))~~C. If criminal charges could result from an investigation ((and OIG, either solely or
16 with the concurrence of OPA, has determined that an SPD investigation could compromise
17 public trust, then OIG shall consult with the Director of the State Office of Independent
18 Investigations (OII) to identify the investigative agency)) ,OIG shall consult with OPA and will
19 identify an appropriate and qualified outside law enforcement agency to conduct the
20 investigation. Care will be taken to select an agency that has particular expertise and a reputation
21 for trust and transparency.

22 **3.29.550 Investigation**

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1 A. The Chief shall fully cooperate with any investigation. When necessary, the Inspector
2 General for Public Safety or OPA Director may issue on behalf of an OPA investigation, or an
3 investigation conducted by a non-City entity, a subpoena consistent with Section 3.29.125 and
4 Ordinance 126264.

5 B. Where the investigation is conducted by OPA, the investigation shall follow the
6 policies and procedures identified in the OPA Manual and accord with any relevant collective
7 bargaining agreements as they may relate to employees other than the Chief. With regard to
8 investigative findings related to the Chief~~((, except))~~: (1) ~~((the OPA Director shall not develop~~
9 ~~a))~~ no range of recommended discipline will be developed; and (2) the investigation file shall not
10 be presented to the Chief.

11 C. Where the investigation is conducted by SDHR, the investigation shall be conducted
12 consistent with that unit's standards and practices ~~((and in accordance with any relevant~~
13 ~~collective bargaining agreements))~~.

14 **3.29.560 OIG review of the intake investigation, classification, and investigation**

15 A. OIG shall immediately notify the entities in subsection 3.29.530.B.1 if it: (1) is unable
16 to determine whether the OPA intake was timely, thorough, ~~((and))~~ objective, and independent;
17 or (2) disagrees with the OPA Director's classification decision.

18 B. OIG shall conduct a review of any completed investigation ~~((completed by OPA or by~~
19 ~~SDHR))~~, consistent with the requirements of Section 3.29.260, to determine whether the
20 investigation was timely, thorough, ~~((and))~~ objective, and independent.

21 ~~((C. OIG shall conduct a review of any investigation completed by any non-City entity,~~
22 ~~consistent with the requirements of Section 3.29.260, to determine whether the investigation was~~
23 ~~timely, thorough, and objective.))~~

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1 ((~~Ⓓ~~))C. To determine whether any completed investigation ((~~completed by OPA, by~~
2 ~~SDHR, or by a non-City entity~~)) was timely, thorough, ((~~and~~)) objective, and independent, OIG
3 shall retain the authority to access any investigative materials that will support making the
4 determination.

5 ((~~E~~))D. OIG shall immediately notify the entities in subsection 3.29.530.B.1 if it is unable
6 to determine whether an ((~~outside~~)) investigation was timely, thorough, ((~~and~~)) objective, and
7 independent or if it determines that an investigation was not timely, thorough, objective, and
8 independent. In such case, OIG shall choose a new non-City entity to perform a new
9 investigation.

10 **3.29.570 Transmittal of investigative results**

11 A. For any investigation completed by OPA, upon determination by OIG that the
12 investigation was timely, thorough, ((~~and~~)) objective, and independent, OPA will transmit the
13 investigation file and findings to the Mayor.

14 B. For any investigation completed by SDHR, upon determination by OIG that the
15 investigation was timely, thorough, ((~~and~~)) objective, and independent, OIG will transmit the
16 investigation and findings, as determined by SDHR, to the Mayor.

17 C. For any investigation conducted by a non-City entity, upon determination that the
18 investigation was timely, thorough, ((~~and~~)) objective, and independent, OIG will transmit the
19 investigation and findings, as determined by the non-City entity, to the Mayor.

20 **3.29.580 Notification of investigative results**

21 Within 30 calendar days of receiving the results of the investigation, the Mayor shall
22 communicate to the entities in subsection 3.29.530.B.1:

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1 A. A statement on the investigation and its findings, including whether the Chief's
2 actions were consistent with SPD department policy as articulated in the SPD police manual, the
3 City's values, and SPD's values to protect and serve;

4 B. Notification of whether the Mayor intends to discharge the Chief or take any
5 disciplinary action against the Chief, regardless of when such action will be final; and

6 C. Investigative detail that mirrors the detail that would otherwise be provided to the
7 public by OPA in a closed case summary, discipline action report, or other related report.

8 Section 2. Section 49 of Ordinance 125315 is amended as follows:

9 **Subchapter VI Construction and implementation**

10 **~~(3.29.500)~~ 3.29.600 Construction**

11 A. In the event of a conflict between the provisions of this Chapter 3.29 and any other
12 City ordinance, the provisions of this Chapter 3.29 shall govern.

13 B. It is the express intent of the Council that, in the event a subsequent ordinance refers to
14 a position or office that was abolished by the ordinance introduced as Council Bill 118969, that
15 reference shall be deemed to be the new position or office created by the ordinance introduced as
16 Council Bill 118969, and shall not be construed to resurrect the old position or office unless it
17 expressly so provides by reference to the ordinance introduced as Council Bill 118969.

18 C. It is the express intent of the Council that, in the event a subsequent ordinance refers to
19 or amends a section or subsection of the Seattle Municipal Code or a previously enacted
20 ordinance that is amended or recodified in the ordinance introduced as Council Bill 118969, but
21 the later ordinance fails to account for the change made by the ordinance introduced as Council
22 Bill 118969, the two sets of amendments should be given effect together if at all possible. The

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1 code reviser may publish the section or subsection in the official code with all amendments
2 incorporated therein.

3 D. The terms and provisions of this Chapter 3.29 are not retroactive and shall apply only
4 to those rules, orders, actions, or proceedings that occur, or have been initiated, on or after the
5 effective date of the ordinance introduced as Council Bill 118969.

6 E. Nothing in this Chapter 3.29 creates or is intended to create a basis for any private
7 cause of action.

8 F. The provisions of this Chapter 3.29 are declared to be separate and severable. The
9 invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this Chapter
10 3.29, or the invalidity of its application to any person or circumstance, does not affect the
11 validity of the remainder of this Chapter 3.29, or the validity of its application to other persons or
12 circumstance.

13 **~~((3.29.510))~~ 3.29.610 Implementation**

14 A. (~~(Provisions of the ordinance introduced as Council Bill 118969 subject to the Public~~
15 ~~Employees' Collective Bargaining Act, chapter 41.56 RCW, shall not be effective until the City~~
16 ~~completes its collective bargaining obligations.)) As noted in Section 3.29.010, the police are
17 granted extraordinary power to maintain the public peace, including the power of arrest and
18 statutory authority under RCW 9A.16.040 to use deadly force in the performance of their duties
19 under specific circumstances. Timely and comprehensive implementation of this ordinance
20 constitutes significant and essential governmental interests of the City, including but not limited
21 to (a) instituting a comprehensive and lasting civilian and community oversight system that
22 ensures that police services are delivered to the people of Seattle in a manner that fully complies
23 with the United States Constitution, the Washington State Constitution and laws of the United~~

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1 States, State of Washington and City of Seattle; (b) implementing directives from the federal
2 court, the U.S. Department of Justice, and the federal monitor; (c) ensuring effective and
3 efficient delivery of law enforcement services; and (d) enhancing public trust and confidence in
4 SPD and its employees.

5 ~~((For these reasons, the City shall take whatever steps are necessary to fulfill all legal~~
6 ~~prerequisites within 30 days of Mayoral signature of this ordinance, or as soon as practicable~~
7 ~~thereafter, including negotiating with its police unions to update all affected collective~~
8 ~~bargaining agreements so that the agreements each conform to and are fully consistent with the~~
9 ~~provisions and obligations of this ordinance, in a manner that allows for the earliest possible~~
10 ~~implementation to fulfill the purposes of this Chapter 3.29.))~~

11 B. Until the effective date of the ordinance introduced as Council Bill 118969, the current
12 accountability system shall remain in place to the extent necessary to remain consistent with
13 provisions of the Consent Decree in the matter of United States of America v. City of Seattle, 12
14 Civ. 1282 (JLR).

15 C. Provisions of the ordinance introduced as Council Bill 118969 for which the City has
16 fulfilled its collective bargaining requirements, if any, will go into effect after Court approval in
17 the matter of United States of America v. City of Seattle, 12 Civ. 1282 (JLR) and 30 days after
18 Mayoral signature, or after 40 days if the Mayor fails to sign the bill. Consistent with Section
19 ~~((3.29.500))~~ 3.29.600, any provisions for which bargaining is not yet complete shall not go into
20 effect until collective bargaining obligations are satisfied.

Attachment 1 - Redline comparison of D1b to D2a (CB 120337)

1 Section 3. This ordinance shall take effect and be in force 30 days after its approval by
2 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
3 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

4 Passed by the City Council the _____ day of _____, 2022,
5 and signed by me in open session in authentication of its passage this _____ day of
6 _____, 2022.

7 _____
8 President _____ of the City Council

9 Approved / returned unsigned / vetoed this _____ day of _____, 2022.

10 _____
11 Bruce A. Harrell, Mayor

12 Filed by me this _____ day of _____, 2022.

13 _____
14 Monica Martinez Simmons, City Clerk

15 (Seal)
16
17
18
19

20 Attachments: