

CM HERBOLD - FILE ACCESS - AMENDMENT 4

This amendment would amend CB 118969 to add CPC authority to view unredacted SPD files under confidentiality restrictions, and to clarify similar confidentiality provisions with OPA and OIG.

Amended language is shown in double strike-out, double-underline, and is highlighted for ease of viewing.

Section 21. Section 3.28.830 of the Seattle Municipal Code, last amended by Ordinance 120728, is renumbered, recodified in Subchapter I of Chapter 3.29, and amended as follows:

~~((3.28.830))~~ **3.29.150 Office of Police Accountability – Confidentiality of files and records ((:))**

~~((The Director shall, in the case of unsustained complaints, prepare a summary of the investigation, including a description of the number of witnesses interviewed, the investigative methods employed, and a brief explanation of why the complaint was not sustained. The Director shall provide a copy of the summary to the complainant.))~~ The)) Consistent with federal and state

law, including the Criminal Records Privacy Act, chapter 10.97 RCW, as well as relevant

collective bargaining agreements, the OPA Director shall protect ((the confidentiality of

((Department)) from disclosure confidential, non-public OPA and SPD files and records to which

((s/he)) OPA has been provided access. ((to the extent permitted by applicable law and collective

bargaining agreements, in accordance with the provisions of this ((chapter)) Chapter 3.29, and in

the same manner and to the same degree as ((s/he)) the OPA Director would be obligated to

protect attorney-client privileged materials under legal and ethical requirements. The OPA

Director shall also be bound by the confidentiality provisions of the Criminal Records Privacy

Act, (((RCW Chapter 10.97))) chapter 10.97 RCW, and ((Public Disclosure Act (RCW Section

1 ~~42.17.250 et seq.)) disclosure limitations under state and federal law.))~~ The OPA Director shall
2 not identify the ~~((subject of an))~~ named employee in an OPA investigation in any public report
3 required by this ~~((chapter))~~ Chapter 3.29.

4 ***

5 Section 31. Section 3.28.870 of the Seattle Municipal Code, last amended by Ordinance
6 120728, is renumbered, recodified in Subchapter II of Chapter 3.29, and amended as follows:

7 ~~((3.28.870))~~ **3.29.280 Office of Inspector General for Public Safety – ((Confidentiality of**
8 **files)) Files and records**

9 A. ((In discharging his or her responsibilities, the OPA Auditor)) The)) Consistent
10 with federal and state law, including the Criminal Records Privacy Act, chapter 10.97 RCW, as
11 well as relevant collective bargaining agreements, the Inspector General shall protect ((the
12 confidentiality of ((Department)) from disclosure confidential, non-public OPA, and SPD, and
13 City files and records to which ((s/he)) OIG has been provided access. ((to the extent permitted
14 by applicable law and collective bargaining agreements, in accordance with the provisions of this
15 Chapter 3.29, and in the same manner and to the same degree as ((s/he)) the Inspector General
16 would be obligated to protect attorney-client privileged materials under legal and ethical
17 requirements. The ((OPA Auditor)) Inspector General shall also be bound by the confidentiality
18 provisions of the Criminal Records Privacy Act, chapter 10.97 RCW, ((RCW Chapter 10.97))
19 and ((Public Disclosure Act (RCW Section 42.17.250 et seq.)) disclosure limitations under state
20 and federal law.)) The ~~((OPA Auditor))~~ Inspector General shall not identify the ~~((subject of an~~
21 ~~investigation))~~ named employee in an OIG audit OPA investigation in any public report required
22 by this ~~((chapter))~~ Chapter 3.29.

23 ***

1 Section 40. A new Section 3.29.360 of the Seattle Municipal Code is added to Subchapter
2 III of Chapter 3.29 as follows:

3 **3.29.360 Community Police Commission – Authority and responsibility**

4 CPC shall have the authority and responsibility to:

5 ***

6 H. Review closed OPA investigations ~~and any other SPD or OPA data~~ to identify
7 opportunities for systemic improvements in accordance with Section 3.29.380. However, CPC
8 shall not serve as a review board for individual investigations; shall not evaluate or opine on the
9 sufficiency of the evidence, findings, or determinations of any specific OPA investigations; and
10 shall not seek to influence the course or outcome of any specific OPA investigation, or the
11 findings, discipline, or other remedial action recommended or imposed in such cases.

12 ***

Section 8 is all new language (SMC 3.28.920 is renumbered, recodified, and amended, instead of repealed), with the changes to SMC 3.28.920 shown in double underline and double strikeout. For ease of viewing, this new section is not highlighted in its entirety.

13
14 Section 8. Section 3.28.920 of the Seattle Municipal Code, last amended by Ordinance
15 122126, is ~~repealed~~ renumbered, recodified in Subchapter III of Chapter 3.29, and amended as
16 follows:

17 ~~((3.28.920))~~ **3.29.380 Community Police Commission – Access to and confidentiality of files**
18 **and records**~~((=))~~

19 A. For the purpose of reviewing ~~((the OPA complaint handling process, the OPA~~
20 ~~Review Board))~~ closed OPA investigations to identify opportunities for systemic improvements,
21 CPC and the Office of the CPC shall have access to unredacted complaint forms of all OPA
22 complaints and unredacted files of all closed OPA investigations, except for information~~((the))~~

1 OPA would be required to withhold from persons not members of criminal justice agencies
2 pursuant to the Criminal Records Privacy Act, ~~((Chapter))~~ chapter 10.97 RCW((§)), as it now
3 exists and may hereafter be amended. ~~((The OPA Review Board shall have access to summary
4 information necessary for its reporting obligations as set forth in Section 3.28.910 of this
5 chapter.))~~

6 B. ~~((In discharging their responsibilities, OPA Review Board members))~~1.
7 Consistent with federal and state law, including the Criminal Records Privacy Act, chapter 10.97
8 RCW, as well as relevant collective bargaining agreements, CPC Commissioners and staff shall
9 protect ((the confidentiality of Department))from disclosure confidential, non-public OPA and
10 SPD files and records to which ((they have))CPC has been provided access. ((OPA Review
11 Board members))

12 2. CPC Commissioners and staff shall not disclose information contained in ((these
13 Department files and records))closed OPA files that would not be available to the public, except
14 in the reports required by ordinance. ((OPA Review Board))CPC reports shall not contain
15 identifying information about anyone involved in an OPA complaint or OPA investigation other
16 than ((the)) OPA ((Director))investigative personnel. “Identifying information” is defined as
17 name, badge number, physical description, address, telephone number, email address,
18 photographs or drawings, or any other unique identifying numbers such as driver’s license,
19 employee, vehicle, or social security numbers.

20 3. In the event of a public disclosure request pursuant to the Public Disclosure Act
21 (RCW 42.17.250 et seq.), ((the OPA Review Board))CPC shall not disclose any information
22 contained in OPA complaint forms or in files on closed OPA investigations, and shall transmit
23 all such requests to the OPA Director for response.

1 ~~4.~~ Indemnification and defense of ~~((OPA Review Board members))~~CPC is
2 governed by Chapter 4.64~~((SMC))~~. It is outside the scope of ~~((OPA Review Board members'~~
3 ~~assignments))~~CPC's duties and authority to publicly disclose ~~((information in Department))~~any
4 confidential, non-public SPD files and records~~((other than as allowed in subsection B of this~~
5 ~~section))~~ to which CPC has access.

6 C. CPC shall make every reasonable effort to maintain the security of files belonging
7 to other City departments and offices while in CPC's possession.

8 D. Upon completion of review, CPC shall return to the City department or office all
9 original files, reports, and records to which CPC has been provided access.

10 ***