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**Title:** AN ORDINANCE relating to civilian and community oversight of the police; adding a new Chapter 3.29 to the Seattle Municipal Code (SMC); recodifying Subchapters VII, VIII, and IX of Chapter 3.28 of the SMC as Subchapters I, II, and III of Chapter 3.29; amending or repealing sections in Chapters 3.28, 4.08, and 14.12 of the SMC; and concerning Ordinance 118482.

**Sponsors:** M. Lorena González, Sally Bagshaw, Tim Burgess, Bruce Harrell, Lisa Herbold, Rob Johnson, Debora Juarez, Mike O'Brien

**Indexes:**

**Attachments:** 1. Summary and Fiscal Note v2, 2. Summary and Fiscal Note v1, 3. Amendment 1 (added; 5/22/17), 4. Amendment 2 (added; 5/22/17), 5. Amendment 3 (added; 5/22/17), 6. Amendment 4 (added; 5/22/17), 7. Amendment 5 (added; 5/22/17), 8. Amendment 6 (added; 5/22/17), 9. Amendment 1 (added 5/19/17), 10. Amendment 2 I (added; 5/19/17), 11. Accountability Companion Draft Resolution (added; 5/19/17), 12. Amendment 1b to CB 118908 (added; 5/19/17), 13. Att 1 - Police Accountability Legislation Summary 5-16-17 (added; 5/19/17), 14. Att 1 - Police Accountability Legislation summary Revised 5/22/17 (added; 5/23/17), 15. Att 2 - Police Accountability Companion Resolution Summary 5-16-17 (added; 5/19/17), 16. Att 3 - Accountability Supplemental Budget CB 118908 summary (added; 5/19/17), 17. Presentation (added 5/17/17), 18. Signed Ordinance 125315, 19. Affidavit of Publication

Date	Ver.	Action By	Action	Result
6/1/2017	3	City Clerk	attested by City Clerk	
6/1/2017	3	Mayor	returned	
6/1/2017	3	Mayor	Signed	
5/24/2017	3	City Clerk	submitted for Mayor's signature	
5/22/2017	1	City Council	passed as amended	Pass
5/18/2017	1	Gender Equity, Safe Communities, and New Americans Committee	pass as amended	Pass
5/16/2017	1	Gender Equity, Safe Communities, and New Americans Committee	discussed	
5/8/2017	1	City Council	referred	
5/8/2017	1	Council President's Office	sent for review	
5/8/2017	1	City Clerk	sent for review	

CITY OF SEATTLE

ORDINANCE \_\_\_\_\_

COUNCIL BILL \_\_\_\_\_

AN ORDINANCE relating to civilian and community oversight of the police; adding a new Chapter 3.29 to the Seattle Municipal Code (SMC); recodifying Subchapters VII, VIII, and IX of Chapter 3.28 of the SMC as Subchapters I, II, and III of Chapter 3.29; amending or repealing sections in Chapters 3.28, 4.08, and 14.12 of the SMC; and concerning Ordinance 118482.

WHEREAS, The City of Seattle has a long history of police reform, and the recommendations of blue ribbon panels dating back to the 1990s resulted in the creation of the current police oversight structure which includes the Office of Professional Accountability (OPA), the OPA Auditor, and the OPA Review Board; and

WHEREAS, The City of Seattle recognizes the need to have effective, constitutional policing and a police department that has the trust, respect, and support of the community; and

WHEREAS, having constitutional policing requires a strong oversight system that takes into account the voice and values of the community that is being policed; and

WHEREAS, an essential element of a strong oversight system is a disciplinary system that prevents misconduct by engaging in thorough and timely civilian-led investigations that engender public trust and confidence; and

WHEREAS, a disciplinary system, with the Chief as the final arbiter, that metes out fair, impartial, and swift discipline commensurate to the wrongdoing will reduce misconduct and ensure and maintain a culture of accountability and adherence to policy and constitutional law; and

WHEREAS, it is The City of Seattle's intent to ensure by law a comprehensive and sustainable independent oversight system that guarantees a police department that has the trust and confidence of the community and respects the constitutional rights of the people of Seattle; and

WHEREAS, policing that aligns with Seattle community values, needs, and expectations has been an ongoing goal as highlighted by events involving allegations of unconstitutional use of force and biased policing, including the death of First Nations woodcarver John T. Williams and other episodes that led community groups in 2010 to call for the federal investigation that ensued into the policing practices of the Seattle Police Department (SPD); and

WHEREAS, The City of Seattle has been operating under a Settlement Agreement and Memorandum of Understanding with the United States Department of Justice since 2012, but also separately recognizes the need to have effective, constitutional policing and a police department that retains the trust, respect, and support of the community; and

WHEREAS, beginning in January 2014, the Community Police Commission reviewed and endorsed recommendations for improvements to the accountability system previously issued by the OPA Auditor and issued additional recommendations for broadening the scope and strengthening the independence and sustainability of the civilian-led system, all of which served as the foundation of the current legislation; and

WHEREAS, Councilmember M. Lorena González as Chair of the Gender Equity, Safe Communities, and New Americans Committee in early 2017 led a series of study missions accompanied by Committee Vice-Chair Tim Burgess, the Community Police Commission, Mayor's Office, and City Council staff to the cities of New York, Los Angeles, and New Orleans, to learn about their inspector general systems and community roles in and perspectives about police oversight systems; and

WHEREAS, The City of Seattle's proposed accountability system with a civilian-led misconduct investigations unit, an independent police inspector general, and a strong community-based oversight commission, has many strengths other models of oversight do not, and addresses systemic weaknesses with which other systems have struggled; and

WHEREAS, Charter Amendment 19, providing for geographic representation based on seven neighborhood districts, was approved by nearly 66 percent of Seattle voters in the fall of 2013 to ensure that Seattle, as a growing major metropolitan area, has a governance structure that reflects a commitment to geographic inclusion and that all areas of the city have an identifiable representative; and

WHEREAS, district representation is a fundamental feature of representative democracy, and has been a basic building block of local, state and national governments throughout the United States including all 50

state legislatures and, including the U.S. House of Representatives for over 200 years; and

WHEREAS, most large U.S. cities like Seattle which is 143 square miles and home to over 680,000 residents are represented by districts to ensure geographic representation to recognize the right of all residents to have a voice in their governance; and

WHEREAS, the Community Police Commission was created by federal consent decree in 2012 with the intent to show geographic representation as a body that is “representative of the many and diverse communities in Seattle, including members from each precinct of the city...” (Memorandum of Understanding between the United States and The City of Seattle, dated July 27, 2012); and

WHEREAS, the United States Supreme Court has repeatedly ruled in favor of adequate, orderly, geographically-based representation to ensure the strength of our democracy including the most recent *Evenwel et al v. Abbott, Governor of Texas*, 578 U.S. \_\_\_\_ (2016), with the opinion authored by Justice Ruth Bader Ginsburg, which upheld the one-person, one-vote principle ensuring jurisdictions must design districts based on total population and that all people regardless of current voting registration status are entitled to equal representation; and

WHEREAS, a Community Police Commission charged with significant oversight function and one that is intended to serve as a community voice for the entire City should include voices from all corners of the City selected in an orderly manner so that no geographic area is left out and that all parts of the City share responsibility for their governance; NOW, THEREFORE,

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

Section 1. The City Council (“Council”) makes the following findings of fact and declarations:

A. The history of police reform efforts in Seattle dates back decades, including, for example, 1988 grant-funded work by the Seattle Police Department (SPD) to implement community policing that was held up as a model partnership between the community and police by the National Institute of Justice in 1992.

B. The City of Seattle began civilian police oversight in 1992 by providing for a civilian auditor with

legal expertise to independently review police department internal investigations. Adopting the 1999 recommendations of the Citizens' Review Panel, The City of Seattle extended civilian oversight in 2002 by creating a three-part civilian oversight system. SPD's Internal Investigations Unit was replaced by a civilian-led OPA, the civilian auditor became the OPA Auditor, responsible for reviewing OPA investigations, and a three member OPA Review Board was created to review the quality of the complaint-handling process, advise The City of Seattle on police department policies and practices, and conduct public outreach.

C. In 2007, The City of Seattle convened two police accountability review panels and implemented many of their recommendations to further strengthen civilian police oversight by clarifying the roles of the OPA Director and the OPA Auditor, expanding the OPA Auditor's roles, and increasing OPA Review Board membership to seven.

D. On December 2, 2010, 35 civil rights and community-based organizations requested that the Civil Rights Division of the United States Department of Justice investigate whether SPD had engaged in a pattern or practice of violations of civil rights by using unnecessary and excessive force against residents, citing a series of incidents over the previous 18 months, particularly against persons of color, including a death from a police shooting.

E. In 2011, the Department of Justice conducted an investigation of SPD and found a pattern and practice of excessive force warranting federal intervention. Based on its findings, DOJ initiated a lawsuit against The City of Seattle, *United States of America v. City of Seattle*, 12 Civ. 1282 (JLR), in the United States District Court for the Western District of Washington ("federal court").

F. The federal court found that The City of Seattle and SPD fully cooperated with the investigation (Document 5, Stipulation and Joint Findings of Fact and Conclusions of Law, filed August 17, 2012).

G. The City of Seattle entered into a Settlement Agreement and Memorandum of Understanding (collectively, "consent decree") with the Department of Justice which the federal court approved on September 21, 2012, that included federal court oversight to ensure The City of Seattle implemented required

improvements and corrections to SPD policies, practices, training, and systems.

H. From 2014 to 2016, multiple police-involved deaths of African Americans and others across the nation received significant national attention and raised local community concerns to a new level. In a national climate of tense relations between the public and police, under the leadership of Mayor Edward B. Murray, the Seattle City Council, and stakeholders such as the City Attorney's Office, CPC, and the OPA Auditor, the importance of building an effective police oversight system with a sustainable community role has taken on new urgency.

I. President Obama's White House Task Force on 21st Century Policing released a comprehensive report in May 2015 that identified best practices and included recommendations on how policing practices can promote crime reduction while building public trust. In January, 2016, Seattle Police Chief Kathleen O'Toole joined First Lady Michelle Obama during President Obama's final State of the Union address, chosen for what the White House described as The City of Seattle's nationally recognized efforts to align SPD policies with current best practices and improve SPD ties with our community.

J. As stated in The City's Memorandum of Understanding with DOJ, "effective and constitutional policing requires a partnership between the police department, its officers, community members, and public officials . . . [O]ngoing community input into the development of reforms, the establishment of police priorities, and mechanisms to promote confidence in SPD will strengthen SPD and facilitate police/community relationships necessary to promote public safety."

K. The goals of this ordinance are to institute a comprehensive and lasting police oversight system that ensures that 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 SPD and the services that it delivers. To accomplish these goals, The City of Seattle has committed to strengthen elements of Seattle's existing system including building a strong community-based entity with authority to review and weigh in on police policies and assess the responsiveness

of SPD, The City of Seattle, and accountability system professionals to community concerns, which has been missing in previous reform efforts.

L. On April 6, 2017, the federal Monitor in his ninth systemic assessment on use of force, remarked that the department has “changed in fundamental ways” and that officers used force that was consistent with SPD policy 99.27 percent of the time from September 2015 through October 2016. In that report, the Monitor noted, “Chief Kathleen O’Toole, and her command staff, have worked tirelessly since she became chief in June 2014 to implement comprehensively the force related provisions of the Consent Decree.” The Monitor went on to state, “...the credit for this major milestone goes first and foremost to the men and women of the Seattle Police Department. Their ability to meaningfully and effectively implement the use of force policies and apply the related use of force training on the streets of Seattle - while facing the unpredictable challenges that are part and parcel of law enforcement - is worthy of substantial praise....[P]olice officers in Seattle are frequently tasked with addressing individuals and situations that the rest of the social service fabric has failed, left out, or left behind. Their ability to innovate, change approaches, and change the course of the Department while addressing these fundamental duties is commended.”

M. The police have extraordinary enforcement powers to maintain the public peace, and the protective measures put into place to ensure that their actions remain constitutional and in the public interest must be correspondingly strong.

N. Having a collaborative relationship between all police oversight entities, with specific roles and responsibilities for each, strengthens police accountability in a manner that is not possible for each entity alone.

O. The provisions of this ordinance are necessary to institute a lasting police oversight system that ensures that police services are delivered to the people of Seattle in a manner that fully complies with the United States Constitution, the Washington State Constitution, and laws of the United States, State of Washington, and City of Seattle; effectively ensures public and officer safety; and promotes public confidence in SPD and the services that it delivers.

Section 2. Section 3.28.805 of the Seattle Municipal Code, last amended by Ordinance 122744, is repealed:

~~((3.28.805 Definitions.~~

- ~~A. "OPA complaint" refers to a complaint assigned to the Office of Professional Accountability for investigation.~~
- ~~B. "OPA investigation" and "complaint investigation" refer to an investigation of an OPA complaint conducted by the Office of Professional Accountability.))~~

Section 3. Section 3.28.810 of the Seattle Municipal Code, last amended by Ordinance 122744, is repealed:

~~((3.28.810 Office of Professional Accountability – Director.~~

~~The Director of the OPA is responsible for the investigative and administrative functions of the police disciplinary process and shall manage the overall investigative, training, and administrative functions of the OPA. The OPA Director shall:~~

- ~~A. Be a civilian with legal, investigative, or prosecutorial experience;~~
- ~~B. Be appointed by the Mayor and confirmed by the City Council;~~
- ~~C. Be appointed for a three year term, with the possibility of being reappointed to a second or third three year term, for a maximum of nine years.~~
- ~~D. Report directly to the Chief of Police;~~
- ~~E. Be paid at a salary consistent with the level of responsibility established in this section and as provided by ordinance;~~
- ~~F. Direct the OPA investigative process, classify all complaints, certify in writing the completion and recommended findings of all OPA cases, and convey these recommendations to the Chief of Police, who is the final Police Department decision maker in disciplinary actions;~~
- ~~G. Attend employee due process hearings with the Chief of Police concerning possible employee~~



~~discipline resulting from OPA recommendations;~~

H. ~~Provide analysis and recommendations to the Chief of Police regarding disciplinary action in order to promote consistency of discipline;~~

I. ~~Provide recommendations to the Chief of Police, Mayor and City Council regarding the resources of the OPA, including but not limited to budget and staffing; and~~

J. ~~Provide recommendations to the Chief of Police, Major and City Council regarding Police Department policies and practices related to police accountability and professional conduct.))~~

Section 4. Section 3.28.815 of the Seattle Municipal Code, enacted by Ordinance 120728, is repealed:

~~**(3.28.815 OPA Deputy Director.**~~

~~The Chief of Police shall, with a recommendation from the OPA Director, appoint the OPA Deputy Director from among the sworn Captain ranks of the Seattle Police Department. The OPA Deputy Director, as overseen by the Director, shall oversee the day-to-day management of the OPA investigative process, employing the best and most effective OPA investigations practices.))~~

Section 5. Section 3.28.820 of the Seattle Municipal Code, last amended by Ordinance 120728, is repealed:

~~**(3.28.820 OPA procedures manual.**~~

~~The Police Department shall produce an OPA procedures manual, which shall include instructions for filing a complaint with OPA, and which shall be made available to members of the public, as well as Police Department personnel.))~~

Section 6. Section 3.28.905 of the Seattle Municipal Code, last amended by Ordinance 122744, is repealed:

~~**(3.28.905 Appointment of the OPA Review Board.**~~

A. ~~The City Council shall appoint the seven members of the OPA Review Board. The first term of any member shall be no longer than two years. Members may be reappointed to up to three subsequent two year~~

~~terms; no individual may serve more than four terms. Members shall serve staggered terms such that no more than four members' terms shall expire in any year. Should any member take office at any time after commencement of a regular term, the expiration of that term shall remain unaffected. The City Council may remove a member from office for cause by filing a statement of reasons for removal. Members shall be compensated as provided by ordinance. The compensation of members and other resources necessary for the OPA Review Board shall be appropriated in the budget of the Legislative Department.~~

~~B. Each OPA Review Board member shall at the time of appointment and throughout his or her term:~~

- ~~1. Have a reputation for integrity and professionalism, as well as the ability to maintain a high standard of integrity in the office;~~
- ~~2. Have a commitment to and knowledge of the need for and responsibilities of law enforcement, as well as the need to protect constitutional rights of all affected parties;~~
- ~~3. Have a commitment to the statement of purpose and policies in this chapter;~~
- ~~4. Have a history of demonstrated leadership experience and ability;~~
- ~~5. Have the potential for gaining the respect of complainants, departmental personnel, and the citizens of this City;~~
- ~~6. Be able to work effectively with the City Council, departmental personnel, public agencies, private organizations, and citizens;~~
- ~~7. Be able to work with diverse groups and individuals, as shown by previous experience;~~
- ~~8. Be able to maintain fairness and objectivity in an environment where controversy is common.~~
- ~~9. Be a high school graduate or recipient of a general equivalency diploma;~~
- ~~10. Be a United States citizen or lawfully authorized for employment in the United States;~~
- ~~11. Be at least 21 years of age;~~
- ~~12. Not have been convicted of or plead guilty to a felony, crime of violence, or offense~~

~~involving moral turpitude, or any plea thereto; and~~

- ~~13. Be able to comply with the appearance of fairness doctrine.~~

~~In addition, at any given time, at least one member of the OPA Review Board shall be a graduate of an accredited law school and a member in good standing of the Washington State Bar Association; at least one other member shall have significant experience in community involvement, organizing and outreach; at least one other member shall have at least five years experience as a sworn law enforcement officer; and at least one other member shall have at least five years experience in a field or fields related to law enforcement or criminal justice.~~

~~C. The Chief of Police shall cause a thorough background check of nominees for OPA Review Board identified by the Council and shall report the results to the Council.~~

~~D. The OPA Review Board shall annually elect one of its members to be the Chair of the OPA Review Board. In the event that all members of the Review Board are newly appointed, the City Council may appoint an interim Chair until the Review Board can conduct the election.))~~

Section 7. Section 3.28.910 of the Seattle Municipal Code, last amended by Ordinance 122744, is repealed:

~~**((3.28.910 OPA Review Board Responsibility.**~~

~~A. The OPA Review Board shall review the OPA's complaint handling process. Based on its review of OPA complaint forms and files on closed OPA complaints, and on the Review Board's public outreach and research on best practices, the Review Board shall assess the apparent fairness, thoroughness and timeliness of the OPA complaint handling process as a whole. The Review Board shall not comment on the discipline of any officer or lack thereof, or on the liability of anyone involved in a specific complaint. The Review Board shall present its assessments of the OPA's complaint handling process in semiannual reports to the City. These reports shall include a general description of the OPA files and records reviewed.~~

~~B. The OPA Review Board shall organize and conduct public outreach on behalf of itself, the OPA~~

~~and the OPA Auditor. The Review Board shall solicit public comments on the fairness, thoroughness and timeliness of the OPA complaint handling process and on the professional conduct of Seattle police officers. The Review Board shall invite the OPA, OPA Auditor and Police Department to participate in its outreach efforts.~~

~~C. The OPA Review Board shall advise the City on Police Department policies and practices related to police accountability and professional conduct. The Review Board shall base its recommendations on its review of the OPA complaint handling process and of the OPA Director's and OPA Auditor's reports, on any public comments it has received, and on its own research on national trends and best practices in police accountability and civilian oversight of law enforcement. The Review Board shall present its recommendations in its semiannual reports.~~

~~D. The OPA Review Board shall recommend to the OPA Auditor topics for the Auditor's review of Police Department policies and practices related to police accountability and professional conduct.~~

~~E. The OPA Review Board shall submit its semiannual reports to the City Council, Mayor, Chief of Police, City Attorney and City Clerk.)~~

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

~~((3.28.920))~~**3.29.380 Community Police Commission - Access to and confidentiality of files and records**~~((~~  
~~))~~

A. For the purpose of reviewing ~~((the OPA complaint handling process, the OPA Review Board))~~ closed OPA investigations to identify opportunities for systemic improvements, CPC and the Office of the CPC shall have access to unredacted complaint forms of all OPA complaints and unredacted files of all closed OPA investigations, except for information~~((the))~~ OPA would be required to withhold from persons not members of criminal justice agencies pursuant to the Criminal Records Privacy Act, ~~(((Chapter)))~~ chapter 10.97 RCW~~(())~~, as it now exists and may hereafter be amended. ~~((The OPA Review Board shall have access to summary~~

information necessary for its reporting obligations as set forth in Section 3.28.910 of this chapter.)

B. ~~((In discharging their responsibilities, OPA Review Board members))~~

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

2. CPC Commissioners and staff shall not disclose information contained in ((these Department files and records)) closed OPA files that would not be available to the public, except in the reports required by ordinance. ~~((OPA Review Board))~~ CPC reports shall not contain identifying information about anyone involved in an OPA complaint or OPA investigation other than ~~((the))~~ OPA ~~((Director))~~ investigative personnel.

“Identifying information” is defined as name, badge number, physical description, address, telephone number, email address, photographs or drawings, or any other unique identifying numbers such as driver’s license, employee, vehicle or social security numbers.

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

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

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

D. Upon completion of review, CPC shall return to the City department or office all original files,

reports, and records to which CPC has been provided access.

Section 9. A new Chapter 3.29 is added to the Seattle Municipal Code as follows:

## **Chapter 3.29 CIVILIAN AND COMMUNITY OVERSIGHT OF POLICE**

### **3.29.010 Purpose - Enhancing and sustaining effective police oversight**

A. The police are granted extraordinary power to maintain the public peace, including the power of arrest and statutory authority under RCW 9A.16.040 to use deadly force in the performance of their duties under specific circumstances. Public trust in the appropriate use of those powers is bolstered by having a police oversight system that reflects community input and values.

It is The City of Seattle's intent to ensure by law a comprehensive and sustainable approach to independent oversight of the Seattle Police Department (SPD) that enhances the trust and confidence of the community, and that builds an effective police department that respects the civil and constitutional rights of the people of Seattle. The purpose of this Chapter 3.29 is to provide the authority necessary for that oversight to be as effective as possible.

B. Oversight of SPD shall be comprised of an Office of Police Accountability (OPA) to help ensure the actions of SPD employees are constitutional and in compliance with federal, state, local laws, and with City and SPD policies, and to promote respectful and effective policing, by initiating, receiving, classifying, investigating, and making findings related to complaints of misconduct; an Office of Inspector General for Public Safety (OIG) to help ensure the fairness and integrity of the police system as a whole in its delivery of law enforcement services by providing civilian auditing of the management, practices, and policies of SPD and OPA and oversee ongoing fidelity to organizational reforms implemented pursuant to the goals of the 2012 federal Consent Decree in *United States of America v. City of Seattle*, 12 Civ. 1282 (JLR); and a Community Police Commission (CPC) to help ensure public confidence in the effectiveness and professionalism of SPD and the responsiveness of the police accountability system to public concerns by engaging the community to develop recommendations on the police accountability system and provide a community-based perspective on

law enforcement-related policies, practices, and services affecting public trust; all for the purpose of ensuring constitutional, accountable, effective, and respectful policing.

C. An accountability system requires a strong, effective Chief to implement oversight recommendations and to create the culture change from within the police department that is necessary to support lasting reform. The Chief by City Charter is “the chief peace officer of the City, and...shall maintain the peace and quiet of the City.” The City Charter also dictates that the Chief manages SPD and prescribes the Department’s rules and regulations, consistent with law. In performing those duties, the Chief is responsible and accountable to the Mayor and City Council for the administration and management of SPD and is the final decision-maker, subject to appeal rights, in all matters related to misconduct, including discipline. Nothing in this Chapter 3.29 shall be interpreted or applied so as to limit or restrict the responsibilities of the Chief under the City Charter.

### **3.29.020 Definitions**

As used in this Chapter 3.29:

“Budget Control Level” means the level at which expenditures are controlled to meet state and City budget law provisions.

“Chief” means the Chief of Police.

“Council” means the City Council.

“CPC” means the Community Police Commission.

“Inconclusive” means the term as it is defined in the OPA Manual.

“Lawful and Proper” means the term as it is defined in the OPA Manual.

“Management Action” means the term as it is defined in the OPA Manual.

“Misconduct” means a violation of law or SPD policy.

“Not Sustained” means the term as it is defined in the OPA Manual.

“OIG” means the Office of Inspector General for Public Safety.

“OPA” means the Office of Police Accountability.

“OPA Manual” means the Office of Police Accountability Internal Operations and Training Manual.

“Public safety committee” means the City Council committee responsible for public safety matters.

“Rapid Adjudication” means a complaint resolution for certain types of alleged misconduct whereby the employee self-reports or immediately acknowledges a policy violation occurred, waives the right to an investigation, and signs an agreement

acknowledging the violation and accepting the imposition of pre-determined discipline or other resolution.

“SPD” means the Seattle Police Department.

“Supervisor Action” means the term as it is defined in the OPA Manual.

“Sustained” finding means the term as it is defined in the OPA Manual.

“Training Referral” means the term as it is defined in the OPA Manual.

“Unfounded” means the term as it is defined in the OPA Manual.

### 3.29.030 Independent and collaborative oversight

A. OPA, OIG, and CPC have an obligation to exercise independent judgment and offer critical analysis in the performance of their duties under this Chapter 3.29. These oversight entities shall exercise their responsibilities under this Chapter 3.29 without interference from any person, group, or organization, including the Chief, other SPD employees, or other City officials. City employees and agents who violate these provisions may be subject to dismissal, discipline, or censure consistent with City and state laws.

B. OPA, OIG, CPC, and the Chief shall each advise the Council, Mayor, City Attorney, and each other on issues related to the purposes of this Chapter 3.29, and recommend and promote to policymakers changes to policies and practices, collective bargaining agreements, City ordinances, and state laws in order to support systemic improvements and other enhancements to SPD performance and in furtherance of community trust.

C. OPA, OIG, CPC, and SPD shall engage in collaborative conversations with each other on a quarterly basis and as otherwise reasonably requested by each other in order to effectuate coordinated oversight, including meeting collectively to review the extent to which the purposes and requirements of this Chapter 3.29 are being met.

Section 10. Subchapter VII of Chapter 3.28 of the Seattle Municipal Code is recodified as Subchapter I of Chapter 3.29 and amended as follows:

#### **Subchapter ((VII)) I Office of ((Professional)) Police Accountability**

Section 11. Section 3.28.800 of the Seattle Municipal Code, last amended by Ordinance 122744, is renumbered, recodified in Subchapter I of Chapter 3.29, and amended as follows:

#### **~~((3.28.800))~~ 3.29.100 Office of ((Professional)) Police Accountability established ((created-)) - Functions and authority ((-))**

A. There is ~~((created within the Seattle Police Department))~~ established an independent Office of ~~((Professional))~~ Police Accountability ~~((hereinafter “OPA”) to receive and investigate complaints of misconduct by Seattle Police Department personnel))~~ to fulfill the purposes set forth in Section 3.29.010. ~~((The responsibilities of the OPA include the following areas: regularly advising the Chief, as well as the Mayor and City Council, on all matters involving the Police Department’s investigatory~~



and disciplinary functions and on Police Department policies and practices related to police accountability and professional conduct; evaluating the internal investigation process; and, making recommendations on strategies and policies to improve complaint gathering and investigative procedures.))

B. There shall be a civilian OPA Director responsible for carrying out the duties set forth in this Subchapter I. There shall be a civilian OPA Deputy Director to perform such duties and have such powers as the OPA Director may prescribe and delegate to implement and efficiently and effectively manage the duties set forth in this Subchapter I.

C. OPA shall establish and manage processes to initiate, receive, classify, and investigate allegations of police misconduct.

D. OPA policies and practices shall be applied uniformly regardless of rank or position.

E. OPA complaint processes shall: be fair, impartial, consistent, thorough, timely, understandable, and accessible for the public, employees, and complainants; provide effective solutions; improve SPD standards; help reduce misconduct or policy violations; and enhance employee conduct.

F. OPA shall have the authority to address complaints of police misconduct through investigation, Supervisor Action referral, mediation, Rapid Adjudication, or other alternative resolution processes, as well as through Management Action findings and Training Referrals. Management Action findings may be made for either Sustained or Not Sustained complaints of misconduct.

G. OPA's jurisdiction shall include all types of possible misconduct. In complaints alleging criminal misconduct, OPA shall have the responsibility to coordinate investigations with criminal investigators external to OPA and prosecutors on a case-by-case basis to ensure that the most effective, thorough, and rigorous criminal and administrative investigations are conducted.

H. OPA shall have the authority to identify systemic problems in SPD policies, training, supervision, and management identified in the course of OPA's investigation of possible misconduct or policy violations, or in the course of OPA's other obligations under this Chapter 3.29.

I. OPA shall enhance an SPD culture of police accountability through means including, but not limited to, the following:

1. Supporting SPD supervisors and strengthening supervisors' involvement in the accountability system, including supervisors' responsibilities to mentor employees and to investigate, document, and address minor policy violations, performance, and customer service concerns at the precinct and unit level;

2. Assisting SPD in the development and delivery of SPD in-service training related to the accountability system and helping ensure that this training is part of the curriculum for all new employees; and

3. Collaborating with SPD to make disciplinary processes as fair, impartial, objective, certain, timely, consistent,

understandable, transparent, and effective as possible.

J. OPA shall be responsive to community needs and concerns through means including, but not limited to, the following:

1. Maintaining frequent and regular communications with complainants and named employees about the status of their investigations, including information to complainants about disciplinary appeal and grievance processes and any outcomes that result in the modification of final findings and discipline determinations;

2. Using OPA complaint navigators, community-based organizations, and other approaches that reflect or take into account the diversity of Seattle's communities in order to provide additional channels for filing complaints and support understanding of the system and how to access it;

3. Obtaining information about community perspectives and concerns germane to OPA access and OPA's oversight responsibilities, including using the expertise of CPC;

4. Conducting community outreach to inform the public about the police accountability system and how to access it, in consultation with CPC, and receiving feedback from CPC on issues that surface as a result of the community outreach activities; and

5. Providing technical assistance on OPA matters to CPC, as reasonably requested and consistent with the purposes of this Chapter 3.29.

Section 12. A new Section 3.29.105 of the Seattle Municipal Code is added to Subchapter I of Chapter 3.29 as follows:

### **3.29.105 Office of Police Accountability - Independence**

A. OPA shall be physically housed outside any SPD facility and be operationally independent of SPD in all respects. OPA's location and communications shall reflect its independence and impartiality, except that OPA shall be organizationally in SPD in order to ensure complete and immediate access to all SPD-controlled data, evidence, and personnel necessary for thorough and timely investigations and complaint handling.

B. The City shall provide staff and resources that it deems sufficient to enable OPA to perform all of its responsibilities specified in this Chapter 3.29. The OPA Director shall submit an annual budget request to the Mayor. The OPA Director may advocate for resources directly to Councilmembers or the Council during the budget process and throughout the year.

C. Only the OPA Director or the OPA Director's designee shall comment publicly on the specifics of any ongoing OPA investigation.

Section 13. A new Section 3.29.110 of the Seattle Municipal Code is added to Subchapter I of Chapter 3.29 as follows:

### **3.29.110 Office of Police Accountability Director - Qualifications**

The OPA Director shall be a civilian with significant legal, investigative, human resources, law enforcement oversight, or prosecutorial experience; shall not have been formerly employed by SPD as a sworn officer; and should also have the following additional qualifications and characteristics:

- A. A reputation for integrity and professionalism, and the ability to maintain a high standard of integrity and professionalism in the office;
- B. A commitment to the need for and responsibilities of law enforcement, including enforcement, community care-taking, and the need to protect the constitutional rights of all affected parties;
- C. A commitment to the statements of purpose and policies in this Chapter 3.29;
- D. A history of leadership experience;
- E. The ability to relate, communicate, and engage effectively with all who have a stake in policing, including, but not limited to, the general public, complainants, disenfranchised communities, SPD employees, and relevant City and other officials including the Mayor, Council, City Attorney, Chief, Inspector General, and CPC;
- F. An understanding of the City's ethnic and socio-economic diversity and proven experience working with and valuing the perspectives of diverse groups and individuals; and
- G. The ability to carry out the duties of the OPA Director in a manner that reflects sound judgment, independence, fairness, and objectivity in an environment where controversy is common.

Section 14. A new Section 3.29.115 of the Seattle Municipal Code is added to Subchapter I of Chapter 3.29 as follows:

**3.29.115 Office of Police Accountability Director - Appointment and removal**

- A. The OPA Director shall be appointed and reappointed in accordance with the process described in this Section 3.29.115. All appointments and reappointments shall be confirmed by a majority vote of the full Council. If the Council does not act within 30 days of notice of an appointment or reappointment, the appointment or reappointment shall be deemed confirmed.
- B. For appointments, the Mayor shall select from up to three qualified finalists identified by a search committee through a national process using merit-based criteria. CPC Commissioners shall constitute at least 25 percent of the search committee, one of whom shall serve as one of the search committee co-chairs. The Mayor shall either appoint from among the finalists or initiate a new search. The Mayor shall receive input from CPC and the Inspector General prior to reappointments.
- C. The OPA Director may be appointed and reappointed for up to three four-year terms for a total of 12 years. Each term shall commence on January 1, except that the first OPA Director appointed pursuant to this Chapter 3.29 shall serve an interim term that commences immediately following Council confirmation; the interim term shall not count as a full term for the purposes of calculating term limits under this Section 3.29.115. The first full term shall begin in the first year after the commencement of the

Mayor's term of office, to ensure that these terms do not run concurrently. If the OPA Director assumes office mid-term due to a prior vacancy, the OPA Director may complete that term and then be reappointed for up to three four-year subsequent terms.

D. Each appointment and reappointment shall be made whenever possible sufficiently prior to the expiration of the incumbent's term of office, or the effective date of an incumbent's resignation, to permit Council action on the appointment or reappointment at least 45 days before the expiration of the present term or the effective date of the resignation, so as to increase the likelihood of a seamless transition without a gap in oversight. If the Mayor does not make an appointment or reappointment within 90 days of the first day of the expiration of a term, of a vacancy, or of a rejection by the Council, the public safety committee shall appoint the OPA Director.

E. In the event of a vacancy, the Mayor shall designate an interim OPA Director within ten days after the first day of the vacancy to serve until a new OPA Director is appointed. If the Mayor does not designate an interim OPA Director within ten days of the first day of the vacancy, the City Attorney's Office shall provide notice to the Council President and the interim OPA Director shall be designated by the Council President. The interim OPA Director may be either an OPA employee or an individual from outside OPA, but must substantially meet the qualifications of Section 3.29.110. An OPA Director whose term is ending may continue on an interim basis until a successor has been confirmed by a majority vote of the full Council. An interim term shall not count as a full term for the purposes of calculating term limits under this Section 3.29.115.

F. To strengthen the independence of the OPA Director, the Mayor may remove the OPA Director from office only for cause, and in accordance with the following provisions:

1. The Mayor shall give written notice, specifying the basis for the intended removal, to the OPA Director, the Council President, the Chair of the public safety committee, the Inspector General, the Chief, and the CPC Executive Director.

2. Within ten days after receipt of the notice, the OPA Director may file with the Council President and the Chair of the public safety committee a request for a hearing on the cause for removal. The OPA Director's request for a hearing shall be delivered at the same time to the Mayor, the Inspector General, the Chief, and the CPC Executive Director. If such request is made, the Council shall convene a de novo hearing on the cause for removal in the public safety committee not sooner than 30 days and not more than 60 days following the OPA Director's request for a hearing, at which the OPA Director may appear and be heard. The Council shall vote to approve or reject the removal within 30 days of the hearing.

3. If no request for a hearing is made, the Council shall vote to approve or reject the removal within 30 days of receiving the Mayor's notice of the intended removal, following input from the Inspector General and CPC.

4. A majority vote of the full Council is required to approve removal.

G. The Seattle Department of Human Resources shall obtain from an outside law enforcement agency a thorough

background check of the Mayor's nominees for OPA Director, including records of arrest, charges, or allegations of criminal conduct or other nonconviction data for the purpose of determining the individual's fitness to perform the duties of OPA Director, and report the results to the Mayor, prior to submittal of the nomination to the Council for confirmation.

H. The Mayor shall be responsible for the performance evaluation of the OPA Director, and shall seek the input of the public, Council, City Attorney, OIG, Chief, SPD employees, and CPC. CPC shall provide input in accordance with subsection 3.29.360.M.

Section 15. A new Section 3.29.120 of the Seattle Municipal Code is added to Subchapter I of Chapter 3.29 as follows:

**3.29.120 Office of Police Accountability Director - Authority and responsibility**

The OPA Director shall have the authority and responsibility to:

- A. Manage all functions and responsibilities of OPA.
- B. Hire, supervise, and discharge OPA civilian staff, and supervise and transfer out of OPA any sworn staff assigned to OPA. OPA staff shall collectively have the requisite credentials, skills, and abilities to fulfill the duties and obligations of OPA set forth in this Chapter 3.29.
- C. Manage the complaint process so that all complaints of police misconduct or policy violations are initiated, received, referred, classified, investigated, and appropriately resolved.
- D. Oversee and strengthen the effectiveness of OPA investigations, Supervisor Action referrals, mediation, Rapid Adjudication, and other alternative resolution processes, as well as Management Actions and Training Referrals. The OPA Director shall, in consultation with CPC and OIG, make and maintain a fair and effective mediation program and a fair and effective Rapid Adjudication process.
- E. Ensure OPA policies and practices are detailed in, and in compliance with, the OPA Manual, which shall be updated at least annually. Such updates shall be done in accordance with a process established by the OPA Director that provides for consultation and input by OIG and CPC prior to final adoption of any updates.
- F. Classify complaints; direct OPA investigative processes; address any additional investigative work requested or directed by OIG; certify in writing the completion and recommended findings of all OPA investigations and convey these recommendations to the Chief; participate in meetings related to recommended findings and discipline and in due process hearings; testify as needed in disciplinary appeals; and where requested, advise the Chief as to discipline and the Chief and City Attorney with regard to disciplinary appeals.
- G. Comply with all OPA deadlines, including investigation deadlines.
- H. Work with OIG, SPD, CPC, and the City Attorney's Office to help reduce or prevent misconduct through

identification of patterns or trends arising through complaints, investigations, and lawsuits.

I. Be present at the scene of all SPD officer-involved shootings and other serious use of force incidents pursuant to its duties set forth in Section 3.29.125 or designate OPA staff members to do so.

J. Conduct administrative investigations in compliance with the OPA Manual and the purposes of this Chapter 3.29. Ensure that investigators and investigative supervisors receive orientation and training when they begin working at OPA, including on administrative investigations, commensurate with their duties.

K. Consult with CPC regularly to ensure that OPA materials are readily understandable and that informational materials are culturally and linguistically appropriate and widely available to Seattle's diverse residents both in English and in translation.

L. Collaborate with the Chief, other SPD leadership, and OIG to strengthen the involvement of supervisory personnel in the accountability system to enhance a culture of accountability throughout SPD.

M. Provide input to the Council on the performance of the Inspector General in advance of the Council's performance evaluation of the Inspector General.

Section 16. A new Section 3.29.125 of the Seattle Municipal Code is added to Subchapter I of Chapter 3.29 as follows:

3.29.125 Office of Police Accountability - Classifications and investigations

A. Allegations of unnecessary or excessive force, biased policing, and violations of law shall not be classified as Supervisor Action.

B. It shall be a condition of employment for all SPD employees to fully and timely participate in an investigation whenever requested by OPA and failure to do so may result in discipline by the Chief, up to and including termination. Complainants may remain anonymous and must be given the choice of an in-person interview. Unless the OPA Director determines exigent circumstances require otherwise, all SPD employee interviews shall be conducted in-person. All interviews shall be audio-recorded and transcribed, except any interviews conducted before a Rapid Adjudication disposition. If an interview is transcribed both the recording and the transcription shall be retained in the OPA case file.

C. OPA shall have the authority to observe and review all administrative investigation processes at SPD to ensure they are not in conflict with OPA's authority and are consistent with the purposes of this Chapter 3.29.

D. OPA representatives shall have access to any incident scene as necessary to ascertain and assess whether possible violations of SPD policies may have occurred. Following such incidents, OPA representatives may attend and participate in any SPD administrative investigation unit interviews or meetings held to review Force Investigation Team information or discuss the incident, and may at that time identify any areas of concern related to possible violations of SPD policies. OPA may participate in SPD

administrative investigation unit interviews or meetings of any other incident, at the OPA Director's discretion.

E. When necessary, the OPA Director may issue a subpoena at any stage in an investigation if evidence or testimony material to the investigation is not provided to OPA voluntarily, in order to compel witnesses to produce such evidence or testimony. If the subpoenaed individual or entity does not respond to the request in a timely manner, the OPA Director may ask for the assistance of the City Attorney to pursue enforcement of the subpoena through a court of competent jurisdiction.

F. Every OPA investigation shall have an investigation plan approved by the OPA Director or the OPA Director's designee prior to the initiation of an investigation. OPA investigation plans shall include the prioritization of the investigation within OPA's ongoing body of work, the witnesses to be interviewed, the perishable evidence to be prioritized, other material evidence to be obtained, and the approach to addressing each allegation of possible policy violation or misconduct. If OPA is unable to investigate an allegation in the manner the OPA Director believes appropriate due to resource constraints in light of other investigation priorities, the investigation plan and case file should indicate that this intentional decision is being made regarding allocation of investigative resources.

G. In cases where a Sustained finding has been recommended by the OPA Director and hearing from the complainant would help the Chief better understand the significance of the concern or weigh issues of credibility, the OPA Director may recommend that the Chief meet with the complainant prior to the Chief making final findings and disciplinary decisions.

H. Consistent with subsection 3.29.240.D, the OPA Director shall establish in the OPA Manual a protocol for referral to OIG for classification and appropriate complaint-handling, such as Supervisor Action, investigation, or alternative resolution, any complaints involving OPA staff that cannot be handled within OPA due to a potential conflict of interest.

I. OPA shall have discretion to investigate any specific SPD policy violation it chooses, but with SPD supervisors generally handling minor performance issues and OPA prioritizing its investigative resources on allegations that concern public trust and maintaining systemic oversight of all SPD accountability systems.

Section 17. A new Section 3.29.130 of the Seattle Municipal Code is added to Subchapter I of Chapter 3.29 as follows:

**3.29.130 Office of Police Accountability - Classification and investigation timelines**

A. OPA shall notify named employees, the Captain or equivalent of the named employees, and the bargaining unit of the named employees within 30 days of receiving directly or by referral a complaint of possible misconduct or policy violation. The notice shall by default not include the name and address of the complainant, unless the complainant gives OPA written consent for disclosure after OPA communicates to the complainant a full explanation of the potential consequences of disclosure. The notice shall confirm the complaint and enumerate allegations that allow the named employees to begin to prepare for the OPA investigation; however, if OPA subsequently identifies additional allegations not listed in the 30-day notice, these may also be addressed in the

investigation.

B. The time period in which investigations must be completed by OPA is 180 days. The time period begins on the date OPA initiates or receives a complaint. The time period ends on the date the OPA Director issues proposed findings.

C. SPD employees shall timely refer incidents involving possible policy violations and misconduct to OPA. Members of any SPD unit or board with authority to conduct administrative investigations or review compliance with policy also have a responsibility for ensuring complete and timely referral to OPA of any incident they review that involves such potential misconduct or policy violation.

D. If an SPD employee fails to timely refer a complaint to OPA the failure to refer shall also constitute misconduct subject to complaint and investigation, and discipline under this Chapter 3.29 and the authority of the Chief. OPA shall initiate a complaint and investigation of such failure to timely refer.

E. If an OPA interview of a named or witness employee must be postponed due to the unavailability of the interviewee or the interviewee's labor representative, the additional number of days needed to accommodate the schedule of the employee or the employee's bargaining representative shall not be counted as part of the 180-day investigation period.

F. If the OPA Director position becomes vacant due to unforeseen exigent circumstances, the 180-day period shall be extended by 60 days to permit the designation of an interim OPA Director and the initiation of the appointment process for a permanent OPA Director.

G. In cases involving possible criminal actions, if an OPA administrative investigation is not commenced or is paused due to a criminal investigation, that time shall not be counted as part of the 180-day investigation period, and shall be documented in an administrative intake or investigation follow-up log in the investigation file. The OPA administrative investigation shall be paused as long as is necessary so that neither the OPA administrative nor the criminal investigation of the same incident is compromised. The 180-day clock shall resume whenever any administrative investigation steps are taken by OPA.

H. Investigations required by OIG for review and certification shall be provided to OIG as soon as possible after the investigator submits them, to afford sufficient time for OPA to conduct additional investigation if requested or directed by OIG, or to investigate new material evidence appropriately raised by the named employee during a due process hearing. Any further investigation shall be re-submitted to OIG for review in a timely manner, so as not to lessen the quality of the investigation due to the passage of time and to meet all contractual deadlines so that additional investigation does not foreclose the possibility of discipline being imposed.

I. To ensure the integrity and thoroughness of investigations, and the appropriateness of disciplinary decisions, if at any point during an OPA investigation the named employee or the named employee's bargaining representative becomes aware of any



witness or evidence that the named employee or the employee's bargaining representative believes to be material, they shall disclose it as soon as is practicable to OPA, or shall otherwise be foreclosed from raising it later in a due process hearing, grievance, or appeal. Information not disclosed prior to a due process hearing, grievance, or appeal shall not be allowed into the record after the OPA investigation has concluded if it was known to the named employee or the named employee's bargaining representative during the OPA investigation, and if OPA offered the employee an opportunity to discuss any additional information and suggest any additional witnesses during the course of the employee's OPA interview.

J. If further investigation is initiated because new information is brought forward during an OPA interview or a due process hearing, or because of any additional investigation directed by OIG, the 180-day investigation time period shall be extended by 60 days.

Section 18. Section 3.28.812 of the Seattle Municipal Code, last amended by Ordinance 122744, is renumbered, recodified in Subchapter I of Chapter 3.29, and amended as follows:

**~~((3.28.812))~~ 3.29.135 Office of ~~((Professional))~~ Police Accountability-Explanations of ~~((Certain Complaint Dispositions))~~ certain complaint dispositions**

A. If there is disagreement between the Chief and the OPA Director as to the OPA Director's recommendations on findings, the Chief and the OPA Director shall engage in a supplemental meeting to discuss the disagreement, which shall occur after an employee due process meeting has taken place.

~~((A-))~~ B. If the Chief ~~((of Police))~~ decides not to follow ~~((the OPA's))~~ one or more of the OPA Director's written recommendations on ~~((the disposition of an OPA complaint))~~ findings following an OPA investigation, the Chief shall ~~((make))~~ provide a written statement of the material reasons for the decision within 30 days of the Chief's decision on the disposition of the complaint. ~~((The statement shall not contain the officer's name or any personal information about the officer.))~~ If the basis for ~~((not sustaining the complaint))~~ the action is personal, involving family or ~~((medical information))~~ health-related circumstances about the ~~((officer))~~ named employee, the statement shall refer to "personal ~~((information))~~ circumstances" as the basis. ~~((The Chief shall make the written statement within 60 days of his or her final decision on the disposition of the complaint)).~~ The written statement shall be provided to the Mayor, the Council President and the Chair of the public safety committee, the City Attorney, the OPA Director, the Inspector General, and the CPC Executive Director, and be included in the OPA case file and in a communication with the complainant and the public. If any findings or discipline resulting from an investigation are changed pursuant to an appeal or grievance, this responsibility shall rest with the City Attorney.

~~((B-))~~ C. If ~~((no discipline results from an OPA complaint because))~~ an investigation time limit ~~((specified in a collective bargaining agreement between the City and the subject employee's bargaining unit))~~ as set forth in Section 3.29.130 has

been exceeded, within ~~((60))~~ 30 days of the final ~~((disposition of the complaint investigation))~~ certification of the investigation by the OPA Director, the OPA Director shall make a written ~~((explanation))~~ statement of the nature of the allegations in the complaint and the reason or reasons why the time limit was exceeded. This requirement applies whether the OPA Director ~~((recommends that))~~ recommended the complaint be sustained, not sustained, or ~~((declines))~~ declined to make a recommendation because the time limit ~~((has))~~ had been exceeded. The written statement shall be included in the OPA case file and provided to the Mayor, the Council President and the Chair of the public safety committee, the City Attorney, the Inspector General, and the CPC Executive Director, and included in a communication with the complainant and the public.

~~((C.))~~ D. The written ~~((explanations))~~ statements required by ~~((Subsections A and B of this Section))~~ this Section 3.29.135 shall not identify named employees or divulge personal information about ~~((the subject officer or officers))~~ named employees or anyone else involved in the complaint and shall be subject to any applicable ~~((confidentiality requirements))~~ disclosure limitations in state or federal law. The ~~((explanations))~~ statements shall not affect any discipline decisions; ~~((as specified in Seattle Municipal Code 3.28.810 Subsection F,))~~ the Chief ~~((of Police))~~ remains the final ~~((Police Department))~~ SPD decision-maker in disciplinary actions.

~~((D.))~~ E. ~~((The written explanations required by Subsections A and B of this Section shall be provided to the Mayor and City Council.))~~ The OPA Director shall include summaries of ~~((these explanations))~~ the written statements required by this Section 3.29.135 in the OPA Director's annual report ~~((reports required by Seattle Municipal Code 3.28.825)).~~ The summaries ~~((shall not identify or divulge personal information about the subject officer or officers or anyone else involved in the complaint and))~~ shall be ~~((subject to))~~ consistent with any applicable confidentiality requirements in state or federal law.

F. Termination is the presumed discipline for a finding of material dishonesty based on the same evidentiary standard used for any other allegation of misconduct.

Section 19. A new Section 3.29.140 of the Seattle Municipal Code is added to Subchapter I of Chapter 3.29 as follows:

### **3.29.140 Office of Police Accountability - Staffing**

A. The OPA Director and the Deputy Director shall be civilians and, within 18 months of the effective date of the ordinance introduced as Council Bill 118969, all investigative supervisors shall be civilian.

B. All OPA staff working directly with SPD supervisors to support the handling of minor violations and public access to the accountability system shall be civilians.

C. Within 12 months of the effective date of the ordinance introduced as Council Bill 118969, intake and investigator personnel shall be entirely civilian or a mix of civilian and sworn, in whatever staffing configuration best provides for continuity, flexibility, leadership opportunity, and specialized expertise, and supports public trust in the complaint-handling process.

D. All staff shall have the requisite skills and abilities necessary for OPA to fulfill its duties and obligations as set forth

in this Chapter 3.29 and for OPA's operational effectiveness.

No civilian staff shall be required to have sworn experience and no civilian staff shall have been formerly employed by SPD as a sworn officer.

E. The OPA Director and the Chief shall collaborate with the goal that the rotations of sworn staff into and out of OPA are done in such a way as to maintain continuity and expertise, professionalism, orderly case management, and the operational effectiveness of both OPA and SPD, pursuant to subsection 3.29.430.G.

F. The appropriate level of civilianization of OPA intake and investigator personnel shall be evaluated by OIG pursuant to Section 3.29.240.

G. OPA investigators and investigative supervisors shall receive training by professional instructors outside SPD in best practices in administrative and police practices investigations. OPA investigators and investigative supervisors shall also receive in-house training on current SPD and OPA policies and procedures.

Section 20. Section 3.28.825 of the Seattle Municipal Code, last amended by Ordinance 122744, is renumbered, recodified in Subchapter I of Chapter 3.29, and amended as follows:

**((3.28.825 Reports.)) 3.29.145 Office of Police Accountability - Reporting**

A. OPA shall maintain a website consistent with City Information Technology standards. OPA's website shall contain its OPA Manual and comprehensive, substantive, and timely information on matters of public interest concerning SPD's accountability system, including information about OIG and CPC and links to their websites.

B. OPA shall post online, in a timely manner, summaries of completed investigations, including the allegations, analysis, and findings. OPA shall post on its website and distribute, by electronic subscription, a compilation of completed investigation summaries from the prior quarter, noting any investigations for which discipline has been appealed.

C. At the time they are issued, OPA shall post online and copy to OIG and CPC letters sent to SPD recommending Management Actions. OPA shall timely post online and copy to OIG and CPC updates on the outcomes of its Management Action recommendations, including SPD written responses to OPA Management Action recommendations and the status of these recommended changes to SPD policies or practices.

D. OPA shall work with the City Attorney's Office to publicly release information about closed OPA cases as promptly and with as much transparency as legally and practically possible.

E. Each year in June and December, OPA shall provide to OIG status reports regarding (a) all OPA cases that were referred by OPA for possible criminal investigations during the previous six months and (b) all OPA cases that were referred by OPA for possible criminal investigations in earlier periods and for which investigations remained open at any time during the current

reporting period. These status reports shall include the nature of the criminal allegation, the case number, the named employees, the date of complaint, the timeliness of the criminal investigation, and the current status of the case.

F. The OPA Director shall produce annual reports that are readily understandable and useful to policymakers. The annual report shall describe the work of OPA in fulfilling OPA's purpose, duties, and responsibilities detailed in this Chapter 3.29. The report shall include OPA Director recommendations for changes in policies and practices, collective bargaining agreements, City ordinances, and state law and summarize the implementation status of any previous OPA recommendations, and, for any that have not been implemented, the reasons. The annual report shall also summarize information received from community outreach that has informed OPA's work. The annual report shall be posted online and electronically distributed to the Mayor, City Attorney, Council, Chief, Inspector General, and CPC, as well as to the City Clerk for filing as a public record.

~~((A.))~~ ~~((The Director shall issue at least two reports per year to the Mayor and City Council describing the work of the OPA and making recommendations for policy changes as determined by the Director. Each year at least one of the Director's reports shall report))~~ The annual report shall also include, but not be limited to, the following statistics and information:

- ~~1. The total number of complaints received by the Office of Professional Accountability;~~
- ~~2. The number of complaints by classification and nature of allegation;~~
- ~~3. The percentage of complaints resulting in each kind of finding, namely, sustained, not sustained, unfounded, supervisory intervention or exonerated;~~
- ~~4. The nature of disciplinary action taken in sustained cases;))~~
1. The number and percentage of all complaints by classification and nature of allegation received by OPA;
2. The number and percentage of all complaints and allegations sustained and the specific disciplinary or other remedial action taken in sustained cases;
3. The number and percentage of cases that were not certified as thorough, timely, and objective by OIG, including actions taken by the OPA Director to reduce the number of not certified cases;
4. The number and percentage of cases that were appealed or grieved, and the number and percentage of these cases in which findings and/or discipline determinations were changed, and the nature of those changes, as a result of appeals or for other reasons;
5. The number and percentage of all complaints and allegations not sustained, and the categorization of all not sustained findings, e.g., unfounded, inconclusive, or lawful and proper;
6. The number and percentage of all complaints handled directly by frontline supervisors, referred for Supervisor Action, Management Action, training, or alternative resolution;

~~((5.))~~ 7. The ~~((geographic))~~ precinct, sector, and shift distribution of incidents underlying complaints;

~~((6.))~~ 8. The racial, ethnic, ~~((and))~~ gender, and geographic distributions of complainants, ~~((as))~~ to the extent this information is provided voluntarily by complainants;

~~((7.))~~ 9. The racial, ethnic, gender, assignment, shift, and service seniority distributions of ~~((officers))~~ named employees who are subjects of complaints;

~~((8.))~~ 10. The number of ~~((officers))~~ named employees who have received ~~((three))~~ two or more sustained complaints within one year; ~~((and~~

9. The timeliness of OPA complaint handling.))

11. Patterns and trends in all OPA complaints, including year-to-year comparisons of demographic data that can help identify problems, deter misconduct, and inform SPD policy and practice improvements; and

12. The accessibility, transparency, timeliness, thoroughness, responsiveness, and effectiveness of OPA and SPD processes, including but not limited to, OPA investigations; complaints referred by OPA for Supervisor Action; complaints handled directly by frontline supervisors; Supervisor Action referrals; mediations, Rapid Adjudication, and other alternative resolution processes; and Management Actions and Training Referrals.

~~((B. The OPA Director and OPA staff may meet with citizens and community groups to solicit community input on policies and practices related to police accountability.))~~

~~((C.))~~ G. The OPA Director shall make available to ~~((the OPA Auditor and OPA Review Board))~~ OIG and CPC information necessary for their respective ~~((auditing and reporting))~~ functions ~~((as))~~ set forth in this ~~((chapter))~~ Chapter 3.29, in a timeframe allowing for the timely performance of their duties.

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, in accordance with the provisions of this chapter, and in the same manner and to the same degree as s/he would be obligated to protect attorney-client privileged materials under legal and~~

ethical requirements. The Director shall also be bound by the confidentiality provisions of the Criminal Records Privacy Act (RCW Chapter 10.97) and Public Disclosure Act (RCW Section 42.17.250 et seq.)) The OPA Director shall not identify the ((subject of an)) named employee in an OPA investigation in any public report required by this ((chapter)) Chapter 3.29.

Section 22. Subchapter VIII of Chapter 3.28 of the Seattle Municipal Code is recodified as Subchapter II of Chapter 3.29 and amended as follows:

**Subchapter ((VIII)) II Office of ((Professional Accountability Auditor)) Inspector General for Public Safety**

Section 23. A new Section 3.29.200 of the Seattle Municipal Code is added to Subchapter II of Chapter 3.29 as follows:

**3.29.200 Office of Inspector General for Public Safety established - Functions and authority**

- A. There is established an independent Office of Inspector General for Public Safety (OIG) to fulfill the purposes set forth in Section 3.29.010.
- B. There shall be a civilian Inspector General responsible for carrying out the duties set forth in this Subchapter II.
- C. There shall be a civilian Deputy Inspector General to perform such duties and have such powers as the Inspector General may prescribe and delegate to fulfill and effectively manage the duties set forth in this Subchapter II, including acting on behalf of the Inspector General when necessary. The Inspector General shall obtain from an outside law enforcement agency a thorough background check of the Deputy Inspector General, including records of arrest, charges, or allegations of criminal conduct or other nonconviction data for the purpose of determining the individual's fitness to perform the duties of the Inspector General, prior to the Deputy Inspector General's appointment to the position, as well as of any staff who will have access to confidential OPA classification, OPA investigation, or Police Intelligence Auditor information.
- D. OIG oversight activities shall objectively ensure the ongoing integrity of SPD processes and operations and that SPD is meeting its mission to address crime and improve quality of life through the delivery of constitutional, professional, and effective police services, and meeting its mission in a way that reflects the values of Seattle's diverse communities.
- E. OIG shall conduct risk management reviews and performance audits, including analysis of sample and aggregate data, to identify systemic problems and to establish patterns and trends, of any and all SPD and OPA operations, and criminal justice system operations that involve SPD or OPA.
- F. OIG shall review OPA's misconduct complaint-handling and investigations, other OPA activities, and the effectiveness, accessibility, timeliness, transparency, and responsiveness of the complaint system.
- G. OIG may also conduct audits and reviews for any areas that may (a) involve potential conflicts of interest; (b) involve possible fraud, waste, abuse, inefficiency, or ineffectiveness; (c) undermine accountability or be unethical; or (d) otherwise compromise the public's trust in the police or the criminal justice system.

H. OIG shall have the authority to review and audit policies and practices of other City departments and offices in areas related to policing and criminal justice matters.

I. OIG shall enhance an SPD culture of police accountability through means including, but not limited to, the following:

1. Collaborating with the Chief, the OPA Director, and other SPD leadership to strengthen the involvement of supervisory personnel in the accountability system;
2. Assisting SPD in the development and delivery of SPD in-service training related to the accountability system and helping ensure that this training is part of the curriculum for all new employees; and
3. Collaborating with SPD to make disciplinary processes as fair, impartial, objective, certain, timely, consistent, understandable, transparent, and effective as possible.

J. OIG shall be responsive to community needs and concerns through means including, but not limited to, the following:

1. Obtaining information about community perspectives and concerns germane to OIG's oversight responsibilities, including using the expertise of CPC;
2. Conducting community outreach to inform the public about OIG's role and scope of responsibilities, in consultation with CPC, and receiving feedback from CPC on issues surfaced as a result of its community outreach activities;
3. Consulting with CPC regularly to ensure that OIG materials are readily understandable, and that informational materials are culturally and linguistically appropriate and widely available to Seattle's diverse residents both in English and in translation;
4. Providing technical assistance on OIG matters to CPC, as reasonably requested and consistent with the purposes of this Chapter 3.29; and
5. Maintaining and promoting use of a hotline and other technologies to receive anonymous reports from the public and City employees regarding matters germane to this Chapter 3.29.

K. OIG shall review evidence-based research and successful police practices in other jurisdictions and make recommendations based on such reviews to City policymakers for increasing the effectiveness of SPD and related criminal justice system processes.

Section 24. A new Section 3.29.210 of the Seattle Municipal Code is added to Subchapter II of Chapter 3.29 as follows:

**3.29.210 Office of Inspector General for Public Safety - Independence**

A. The City shall provide staff and resources that it deems sufficient to enable OIG to perform all of its responsibilities

specified in this Chapter 3.29. The Inspector General shall submit an annual budget request to the Mayor. The OIG budget shall be appropriated in a Budget Control Level that is independent of any other City department. The Inspector General may advocate for resources directly to Councilmembers or the Council during the budget process and throughout the year.

B. Except as prohibited by law, OIG shall have timely, full, and direct access to all relevant City employees, facilities, documents, files, records, and data in OPA, SPD, and other City departments and offices that are necessary to perform its duties set forth in this Chapter 3.29. Should any City department decline to provide OIG access to documents or data, the declining department shall provide the Inspector General with an itemization describing the documents or data withheld and the legal basis for withholding access to each item.

C. OIG shall have authority to observe reviews, meetings, and trainings, such as SPD administrative investigation unit meetings, disciplinary hearings, or discussions of misconduct complaint investigations.

Section 25. Section 3.28.850 of the Seattle Municipal Code, last amended by Ordinance 122744, is renumbered, recodified in Subchapter II of Chapter 3.29, and amended as follows:

**((3.28.850)) 3.29.220 Office of ((Professional Accountability Auditor established.)) Inspector General for Public Safety -**

**Qualifications**

~~((A. There shall be an Office of Professional Accountability Auditor (hereinafter “OPA Auditor”) who shall be appointed by the Mayor, subject to confirmation by the City Council, to provide review and assessment of Office of Professional Accountability (hereinafter “OPA”) complaints and of Police Department policies and practices related to police accountability and professional conduct. The OPA Auditor shall serve a term of three years and may be reappointed to two subsequent three year terms by the Mayor, subject to confirmation by the City Council. No individual may serve more than three three year terms as OPA Auditor. Should an OPA Auditor take office at any time after commencement of a regular term, the expiration of that term shall remain unaffected. The OPA Auditor may be removed from office for cause by the Mayor by filing a statement of reasons for removal with the City Council. The OPA Auditor shall be compensated as provided by ordinance or by appropriation in the City’s annual budget.~~

B.)) The Inspector General shall be a civilian with a background in criminal, civil rights, labor law, governmental investigations, and/or the management of governmental auditing; shall not be required to have law enforcement experience; and shall not have been formerly employed by SPD as a sworn officer. The Inspector General shall have a demonstrated ability to lead and manage staff in auditing, evaluating, and conducting investigations; conducting financial and performance audits; analyzing and assessing complex aggregate data for patterns and trends; and in recommending systemic improvements to policies and practices to support constitutional policing, ongoing system effectiveness, and police excellence. The ((OPA Auditor)) Inspector General should ((possess )) also have the following additional qualifications and characteristics ((at the time of appointment and throughout his or her term)):



~~((1-))~~ A. A reputation for integrity and professionalism, ~~((as well as))~~ and the ability to maintain a high standard of integrity and professionalism in the office;

~~((2-))~~ B. ~~((A commitment to and knowledge))~~ A commitment to ~~((of))~~ the need for and responsibilities of law enforcement, ~~((as well as the need))~~ including enforcement, community care-taking, and the need to protect the ~~((basic))~~ constitutional rights of all affected parties;

~~((3-))~~ C. A commitment to the statements of purpose and policies in this ~~((chapter))~~ Chapter 3.29;

~~((4-))~~ D. A history of ~~((demonstrated))~~ leadership experience ~~((and ability))~~ ;

~~((5-))~~ E. The potential for gaining the respect of complainants, Police Department personnel, and the citizens of this City;

~~((6-))~~ E. The ability to ~~((work))~~ relate, communicate, and engage effectively with all who have a stake in policing, including, but not limited to, the general public, complainants, disenfranchised communities, SPD employees, and relevant City and other officials including the Mayor, ((City)) Council, City Attorney, Chief ((of Police)), OPA Director, ((other Police Department personnel, OPA Review Board, other public agencies, private organizations, and citizens)) and CPC;

~~((7-))~~ F. ~~((The ability, as shown by previous experience, to work with))~~ An understanding of the city's ethnic and socio-economic diversity, and proven experience working with and valuing the perspectives of diverse groups and individuals; and

~~((8-))~~ G. The ability to ~~((maintain))~~ exercise sound judgment, independence, fairness, and objectivity in an environment where controversy is common.

~~((C-))~~ In addition to the qualifications and characteristics set forth in subsection B above, the OPA Auditor shall possess the following qualification: the OPA Auditor must be a graduate of an accredited law school and member in good standing of the Washington State Bar Association and, prior to appointment, have at least five years of experience in the practice of law or in a judicially related field.

~~D-))~~ The Chief of Police shall cause a thorough background check of nominees for OPA Auditor identified by the Mayor and shall report the results to the Mayor.)

Section 26. A new Section 3.29.230 of the Seattle Municipal Code is added to Subchapter II of Chapter 3.29 as follows:

### **3.29.230 Office of Inspector General for Public Safety - Appointment and removal**

A. The Inspector General shall be appointed and reappointed in accordance with the process described in this Section 3.29.230. All appointees and reappointments shall be confirmed by a majority vote of the full Council. If the Council does not act within 30 days of notice of an appointment or reappointment, the appointment or reappointment shall be deemed confirmed.

B. For appointments, the public safety committee shall select from up to three qualified finalists identified by a search committee through a national process using merit-based criteria. CPC Commissioners shall constitute at least 25 percent of the search

committee, one of whom shall serve as one of the search committee co-chairs. The public safety committee shall either appoint from among the finalists or initiate a new search. The public safety committee shall receive input from CPC and the OPA Director prior to reappointments.

C. The Inspector General may be appointed and reappointed for up to two six-year terms for a total of 12 years. Each term shall commence on January 1, except that the first Inspector General appointed pursuant to this Chapter 3.29 shall serve an interim term that commences immediately following Council confirmation; the interim term shall not count as a full term for the purposes of calculating term limits under this Section 3.29.230. The first full term shall begin in the first year after the commencement of the OPA Director's term of office, to ensure that these terms do not run concurrently. Each appointment and reappointment shall be made whenever possible sufficiently prior to the expiration of the latest incumbent's term of office, or the effective date of an incumbent's resignation, permitting Council action on the appointment or reappointment at least 45 days before the expiration of the present term or the effective date of the resignation, so as to increase the likelihood of a seamless transition without a gap in oversight. If the public safety committee does not make an appointment or reappointment within 90 days of the first day of the expiration of a term, of a vacancy, or of Council rejection of the committee's appointee, the Mayor shall appoint the Inspector General.

D. In the event of a vacancy, the Council President shall designate an interim Inspector General within ten days after the first day of the vacancy to serve until a new Inspector General is appointed. If the Council President does not designate an interim Inspector General within ten days of the first day of the vacancy, the City Attorney's Office shall provide notice to the Mayor and the interim Inspector General shall be designated by the Mayor. The interim Inspector General may be either an OIG employee or an individual from outside OIG, but must substantially meet the qualifications in Section 3.29.220. An Inspector General whose term is ending may continue on an interim basis until a successor has been confirmed by the Council. An interim term shall not count as a full term for the purposes of calculating term limits under this Section 3.29.230.

E. To strengthen the independence of the Inspector General, the Council may remove the Inspector General from office only for cause, and in accordance with the following provisions:

1. Upon a majority vote of the full Council initiating removal, the Council President shall give written notice, specifying the basis for the intended removal, to the Inspector General, the Mayor, the OPA Director, and the CPC Executive Director.
2. Within ten days after receipt of the notice, the Inspector General may file with the Council President and the Chair of the public safety committee a request for a hearing on the cause for removal. The Inspector General's request for a hearing shall be delivered at the same time to the Mayor, the OPA Director, the Chief, and the CPC Executive Director. If such request is made, the Council shall convene a hearing on the cause for removal in the public safety committee not sooner than 30 days and not

more than 60 days following the Inspector General's request for a hearing, at which the Inspector General may appear and be heard. The Council shall vote to approve or reject the removal within 30 days of the hearing.

3. If no request for a hearing is made, the Council shall vote to approve or reject the removal within 30 days of issuing notice of the intended removal, following input from CPC.

4. A two-thirds vote of the full Council is required to approve removal.

F. The Seattle Department of Human Resources shall obtain from an outside law enforcement agency a thorough background check of nominees for Inspector General, including records of arrest, charges, or allegations of criminal conduct or other nonconviction data for the purpose of determining the individuals' fitness to perform the duties of Inspector General, and report the results to the appointing authority, prior to the Council taking final action on the appointment.

G. The Council shall be responsible for the performance evaluation of the Inspector General and shall seek the input of the public, Mayor, City Attorney, Chief, OPA Director, other SPD employees, and CPC. CPC shall provide input in accordance with subsection 3.29.360.N.

Section 27. Section 3.28.855 of the Seattle Municipal Code, last amended by Ordinance 122744, is renumbered, recodified in Subchapter II of Chapter 3.29, and amended as follows:

~~((3.28.855 OPA Auditor's Authority and Responsibility.))~~ **3.29.240 Office of Inspector General for Public Safety - Inspector General - Authority and responsibility**

~~((A. The OPA Auditor shall review OPA complaint classifications and complaint investigations. Every week the OPA shall notify the Auditor of the complaint classifications made and complaint investigations completed in the previous week, and shall make the case files available to the Auditor. The Auditor may recommend to the OPA that it change a complaint classification or further investigate a complaint, or, as specified elsewhere in this section, require further investigation. If within 10 days after being notified that a case file has been completed the Auditor has not advised the Department of concerns with the investigation, the OPA shall forward the case file to the subject officer's chain of command for review and recommendations. The OPA Auditor may review a completed case file after the OPA has referred the case file to the subject officer's chain of command, but in these instances the OPA Auditor shall not require further investigation.~~

~~B. The OPA Auditor may audit any and all OPA records. The purpose of such audits is to support the Auditor's recommendations on the thoroughness, fairness and timeliness of OPA investigations, and on any other Police Department or City policies and practices related to police accountability and police professional conduct. The Auditor shall issue public reports on the results of such audits. The Auditor shall determine the topics, scope and frequency of such audits after consulting at least annually with the OPA Director and OPA Review Board.~~

C. OPA Auditor May Require Further Investigation of OPA Complaints.

1. The OPA Auditor shall use best efforts to complete audits under subsections A and B of this section without unreasonably delaying review of the case file by the subject officer's chain of command. After reviewing the file, the OPA Auditor may request the Office of Professional Accountability to conduct further investigation. The OPA Auditor shall provide a written statement to the OPA Director identifying the reasons for his or her request for further investigation. Criteria the OPA Auditor should consider include but are not limited to: (1) whether witnesses were contacted and evidence collected; (2) whether interviews were thorough; and (3) whether applicable OPA procedures were followed. In the event the OPA Director disagrees with this recommendation, he or she shall within five days provide the OPA Auditor with a written explanation of the reasons. After giving due consideration to the OPA Director's explanation, the Auditor may require the OPA to conduct the specified further investigation.

D. Secure Temporary Space. The Department shall, upon request of the OPA Auditor, provide secure temporary space for the OPA Auditor to conduct the audits close to the records to be reviewed.

[E. Reserved.]

F. OPA Auditor's Access to Records; Restriction on Access When Criminal Investigation Pending; Return of Records.

1. The OPA Auditor shall have access to all OPA files and records, provided, however, that the OPA Auditor shall not have access to files designated by the OPA as relating to an active criminal investigation of an officer until such time as the Department has given the subject officer written notification of the investigation. The OPA Director shall provide the OPA Auditor with quarterly status reports regarding OPA cases in which criminal investigations are also being undertaken. These status reports shall include the number of ongoing OPA criminal investigations and the month during which each investigation was originated, and the number of new criminal investigations initiated that quarter.

2. OPA files and records made available to the OPA Auditor are the property of the Police Department and shall not, by operation of this sub-chapter, become the property of the OPA Auditor. The OPA Auditor shall make every reasonable effort to maintain the security of files belonging to the Department while in the OPA Auditor's possession. Any requests made to the OPA Auditor for OPA files or records, whether through litigation discovery or pursuant to public disclosure, shall be referred to the Chief of Police for response.

3. Upon completion of an audit, the OPA Auditor shall return to the OPA all section files, reports, and records to which he or she has been provided access pursuant to these audit procedures and standards. Following completion of an audit, the OPA Auditor may, however, continue to have access to closed OPA files.

G. OPA Auditor Access to Caseload, Workload and Procedural Information. The OPA Auditor is authorized to request any information on OPA cases, workload, or procedures that he or she finds necessary in order to conduct an ongoing analysis of the

Department's OPA process. The Department shall make the requested information available to the Auditor.))

The Inspector General shall have the authority and responsibility to:

- A. Manage all functions and responsibilities of OIG.
- B. Hire, supervise, and discharge OIG employees. OIG staff shall collectively have the requisite credentials, skills, and abilities to fulfill the duties and obligations of OIG set forth in this Chapter 3.29; no OIG staff shall have been formerly employed by SPD as a sworn officer.
- C. Review OPA and SPD handling of allegations of misconduct, including directing audits and reviews of OPA classifications and investigations, directing any additional OPA investigation, and making certification determinations on OPA investigations.
- D. Handle misconduct complaints involving OPA staff where a potential conflict of interest precludes OPA from handling the complaint.
- E. Perform the police intelligence auditor functions defined in Chapter 14.12.
- F. Create OIG's annual workplan, in consultation with OPA, CPC, and the Chair of the public safety committee, and transmit a copy to the Council by January 1. The Inspector General's annual workplan shall identify all workplan recommendations from OPA and CPC. The Inspector General's annual workplan shall also identify which of those recommendations were accepted, which were declined, and provide the reason for any declined recommendations. The Inspector General may modify the OIG workplan during the year to accommodate emergent issues, but in doing so, shall take into account budget constraints of OIG and its need to balance a range of priorities in adding areas to its workplan.
- G. Review SPD handling of incidents involving death, serious injury, serious use of force, mass demonstrations, serious property or vehicle damage, or other issues as determined by OIG. This may include auditing, monitoring, or other review of SPD's administrative investigations or reviews of incidents to assess the quality, thoroughness, and integrity of the investigations; assessing the integrity of specific findings from the investigations; and reviewing after-action reports.
  1. The Inspector General or OIG representatives designated by the Inspector General, shall have access to any incident scene related to OIG's authority as set forth in this Chapter 3.29.
  2. OIG representatives may also attend and participate in SPD administrative investigation unit interviews and meetings held to review Force Investigation Team information or discuss any incidents.
  3. Whether at the scene of an incident or in subsequent SPD administrative investigation unit interviews or meetings concerning any incident, OIG representatives may identify areas of concern related to OIG's authority as set forth in this Chapter 3.29.

H. Monitor the implementation by SPD, OPA, City elected officials, and other City departments and offices of recommendations made by the Inspector General, the OPA Director, and CPC.

I. Through semi-annual review, assess the thoroughness, fairness, consistency, and timeliness of OPA complaint-handling for those cases not investigated, including cases directly handled by or referred to supervisors, mediated, or resolved through alternative resolution, and the timely and substantive follow-through on OPA recommendations for Management Actions and Training Referrals.

J. OIG shall review and comment on any revisions proposed by OPA to the OPA Manual in accordance with a process established by the OPA Director that provides for consultation and input prior to final adoption of any revisions.

K. Issue a subpoena if evidence or testimony necessary to perform the duties of OIG set forth in this Chapter 3.29 is not provided voluntarily, in order to compel witnesses to produce such evidence or testimony. If the subpoenaed individual or entity does not respond to the request in a timely manner, the Inspector General may ask for the assistance of the City Attorney to pursue enforcement of the subpoena through a court of competent jurisdiction.

L. Provide input to the Mayor on the performance of the OPA Director in advance of the Mayor's performance evaluation of the OPA Director.

Section 28. A new Section 3.29.250 of the Seattle Municipal Code is added to Subchapter II of Chapter 3.29 as follows:

**3.29.250 Office of Inspector General for Public Safety - Review of OPA classifications**

A. OIG shall conduct audits of random samples of classifications of all misconduct complaints from the prior quarter to validate that OPA classifications were appropriately assigned for OPA investigation, Supervisor Action, or an alternative resolution, and that allegations and employees associated with the complaints were properly identified.

B. In conducting the quarterly audits, if the Inspector General determines that further review of classifications is warranted, the Inspector General may instead require that the OPA Director submit each proposed classification decision to OIG for review and input prior to OPA making a final classification determination, until such time as OIG determines that review of each classification is no longer needed.

Section 29. A new Section 3.29.260 of the Seattle Municipal Code is added to Subchapter II of Chapter 3.29 as follows:

**3.29.260 Office of Inspector General for Public Safety - Review of OPA investigations**

A. OIG shall review certain OPA investigations as described below prior to certification by the OPA Director to determine whether the investigation should be certified by the OIG as thorough, timely, and objective.

1. After OPA believes an investigation to be complete, OIG shall review all investigations involving misconduct allegations concerning violations of law; honesty; use of force; use of force reporting; bias-free policing; integrity; ethics;

professionalism; use of position or authority for personal gain; conflicts of interest; gifts and gratuities; off-duty conduct; retaliation; harassment; responsibilities of employees regarding complaints of misconduct; discretion and authority; primary investigations; stops, detentions and arrests; or search and seizure.

2. Additionally, OIG shall have discretion to direct at the time of classification or during the investigative process that any other investigation not including the allegations listed in subsection 3.29.260.A.1 be submitted by OPA for review and certification.

3. Other than investigations that involve Type III Force as defined in SPD policy, if OIG determines that the quality of investigations is such that individual review of investigations is no longer needed, OIG may instead require the OPA Director to submit only certain investigations or certain categories of investigation for review by OIG and otherwise conduct random investigation audits. Should those audits raise concerns, OIG shall have the discretion to reinstitute individual investigation review in whatever manner and duration is needed to address the concerns.

B. The OPA Director shall submit all required or requested initial and subsequent investigations to OIG for OIG's review sufficiently in advance of investigation deadlines in order to allow the deadlines to be met in the event OIG directs additional investigation. OIG shall complete its review of initial and subsequent investigations in a timely manner, so as to also meet investigation deadlines.

C. If OIG determines that the investigation is thorough, timely, and objective, OIG shall certify the investigation. After such certification, the OPA Director shall issue recommended findings to the Chief.

D. If OIG finds that the investigation is not ready to be certified, OIG may request or direct further investigation. Upon completion of any additional work requested or directed by OIG, the case shall be re-submitted to OIG for certification before the OPA Director may issue proposed findings.

E. If additional investigation is requested by the Chief after a due process hearing, the case shall be re-submitted to OIG for re-certification following the additional investigation.

F. After reviewing the investigation, OIG shall document in writing the investigation as (a) certified as thorough, timely, and objective; (b) not certified because the investigation is not thorough, timely, and objective but additional investigation is not requested or directed, and the reason; or (c) not certified because the investigation is not thorough and objective, along with any requested or directed further investigation to be conducted by OPA or a request to meet with the OPA Director to discuss possible further investigation.

1. Should additional investigation be requested or directed by OIG, upon completion of the additional investigatory work, the investigation shall be re-submitted for certification. The certification memorandum by OIG shall be included

as an exhibit in the case file indicating the date of review, whether the case has been certified, whether further action is requested or directed, and if not certified, the reasons.

2. Criteria OIG should consider in reviewing investigations include, but are not limited to: (a) whether witnesses were contacted, interviewed, and all other material evidence was timely collected; (b) whether interviews were thorough and unbiased and conflicting testimony was sufficiently addressed; (c) whether additional clarifying information would strengthen the investigation; (d) whether the written summary and analysis are objective and accurately reflect the evidence; and (e) whether applicable OPA procedures were followed and the intake and investigation were conducted in accordance with the OPA Manual.

G. If OIG has not advised OPA of concerns with the investigation within ten days after being notified by OPA that an investigation has been preliminarily completed, the OPA Director may certify the case and issue findings. In these instances, OIG is precluded from requiring further investigation.

H. If OIG determines an investigation is not thorough, timely, or objective, and that additional investigation cannot or did not remedy the concern, the OPA Director must include this determination in the recommended findings and the Chief may take OIG's non-certification into account in making a final findings determination.

Section 30. Section 3.28.860 of the Seattle Municipal Code, last amended by Ordinance 122744, is renumbered, recodified in Subchapter II of Chapter 3.29, and amended as follows:

~~((3.28.860 OPA Auditor to prepare semiannual report.))~~ **3.29.270 Office of Inspector General for Public Safety - Audits, reviews and reporting**

~~((The OPA Auditor shall prepare a semiannual report of his or her audit activities and submit the report to the City Council, Chief of Police, City Attorney, Mayor, OPA Review Board, and City Clerk for filing as a public record. The OPA Auditor's report shall be prepared in accordance with the following provisions:))~~

A. OIG shall conduct audits and reviews. OIG's audits and reviews may include any and all police operations, for the purposes of determining whether SPD is meeting its mission to address crime and improve quality of life through the delivery of constitutional, professional, and effective police services consistent with best practices, and meeting its mission in a way that reflects the values of Seattle's diverse communities. These audits and reviews may include, but are not limited to:

1. All SPD and OPA policies, regulations, practices, budgets, and consultant contracts;
2. SPD administrative investigation unit processes, such as force review and collision review;
3. SPD crime data and SPD's overall crime data collection and reporting practices;
4. Recruitment, hiring, post-Academy and in-service training, promotions, assignments, use of overtime, secondary employment, deployment, and supervision, including command and front-line supervisory functions;



5. The effectiveness of any early intervention or performance mentoring system in supporting improved officer performance and mitigating misconduct;
  6. Technology and systems of data collection, management, and analysis;
  7. The acquisition of, uses, and significant changes to tactical equipment, vehicles, facilities, and uniforms;
  8. The accuracy and thoroughness of video recording reviews and the appropriate recording and retention of video recordings;
  9. Patterns, including disparate impacts, in SPD deployment, uses of force, re-classifications of levels and types of force; stops, arrests, searches, and interactions with those in behavioral crisis;
  10. Incidents of significant concern to the public, such as those involving injury or death in police custody or the management of demonstrations;
  11. Patterns in complaints and misconduct outcomes involving, among other categories, use of force and biased policing;
  12. Assessment of the fairness, objectivity, certainty, timeliness, consistency, and the appropriate application and effectiveness of imposed discipline in sustained misconduct cases;
  13. Evaluation of the final outcomes of appeals and grievances and whether overturned findings or discipline, or other settlements, suggest opportunities to improve OPA processes and SPD training;
  14. Assessment of inquests, federal and local litigation, and their final outcomes, patterns relating to civil claims and lawsuits alleging SPD misconduct, payout amounts over time, units disproportionately represented as subjects of claims and lawsuits, related training, and review of the investigation of the underlying incidents described in such claims and lawsuits; and
  15. Evaluation of appropriate SPD records retention, and conformity to public disclosure, open access to information, and privacy standards.
- B. OIG shall maintain a website, consistent with City Information Technology standards.
- C. In partnership with CPC, OIG shall periodically evaluate and issue reports on how effective SPD's processes are in meeting community needs for a diverse work force, including the relevance of traditional disqualifying factors and the speed of the hiring process, to assess if there are unfair impediments to hiring and retaining diverse and skilled officers.
- D. The Inspector General shall produce annual reports that are readily understandable and useful to policymakers. The annual report shall include, but not be limited to, the following:

1. A summary of OIG's audit and review activities for the previous year;
2. An evaluation of the extent to which the purposes, duties, and responsibilities detailed in this Chapter 3.29 have been met by the responsible entities;
3. A description of the work of OIG in fulfilling OIG's purpose, duties, and responsibilities detailed in this Chapter 3.29;
4. Inspector General recommendations for changes in policies and practices, collective bargaining agreements, City ordinances, and state laws;
5. A summary of the implementation status of any previous OIG recommendations, and for any that have not been implemented, the reasons;
6. A summary of OIG's review and the outcome of SPD reviews for officer-involved shootings, in-custody deaths, and any other cases of significant public concern;
7. An analysis of any patterns and trends of disproportionality or other concerns compared to previous years, including from review of inquests, claims and lawsuits alleging SPD misconduct;
8. The outcome of reviews of successful practices in other jurisdictions, and any associated OIG recommendations, including for changes in the mix of OPA sworn and civilian staff;
9. A summary of information received from OIG's hotline, any of its other anonymous intake systems, and from community outreach that has informed OIG's work; and
10. A summary of OIG's review of OPA's complaint handling system, including at a minimum:
  - ~~1.)~~ a. The number of ((eases)) investigations reviewed ((by the OPA Auditor));
  - ~~2.)~~ The number of and a description of OPA cases in which the Auditor requested or required further investigation and a description of the OPA's responses;
  3. The number of and a description of OPA complaints for which the OPA Auditor requested reclassification or further investigation and a description of the OPA's responses;))
    - b. A general description of the complaints and cases reviewed by OIG;
    - c. A description of OPA's follow-up for those cases which OIG did not certify and those cases for which OIG requested or required further investigation;
    - d. A review of cases not investigated by OPA, including Contact Logs, Supervisor Action referrals,

mediation, Rapid Adjudication, Management Actions and Training Referrals; and

~~((4. A summary of issues, problems and))~~ e. A description of any concerns or trends noted ((by the OPA Auditor as a result of his or her review;)) in OPA complaint intake and investigations.

~~((5. Any recommendations that the Department consider additional officer training, including recommendations that the Department consider specialized training for IIS investigators;~~

~~6. Any recommendations the Department consider policy or procedural changes; and~~

~~7. Any findings from audits of OPA records or the OPA Director's reports;))~~

~~((B. The OPA Auditor's report shall not contain any recommendations concerning the discipline of any particular police officer, nor shall the report comment upon or make any recommendation concerning potential civil or criminal liability of any employee, police officer, or citizen.))~~

~~((C.))~~ E. The ((OPA Auditor)) Inspector General shall deliver a preliminary draft of ((his/her semiannual report)) the reports to the ((OPA Director and)) Chief ((of Police)), the OPA Director, CPC Executive Director, or other City directors, when any of their departments or offices is the subject of the report, for review and comment. ((The OPA Director and Chief of Police)) They shall review and comment on the preliminary report to the Inspector General within ((10 working days)) ten days after receipt of the report. They shall not release or distribute the report to others during the review period. The ((OPA Auditor)) Inspector General shall ((submit)) then issue the final report within ((10 working days)) ten days after receipt of ((the Director's and Chief's)) any comments.

F. OIG shall post online and electronically distribute its reports to the Mayor, City Attorney, Council, Chief, OPA Director, and CPC, as well as to the City Clerk for filing as a public record.

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

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

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

B. OIG shall make every reasonable effort to maintain the security of files belonging to other City departments and offices while in the Inspector General's possession.

C. Upon completion of an audit, the Inspector General shall return to the City department or office all original files, reports, and records to which the Inspector General has been provided access.

Section 32. Subchapter IX of Chapter 3.28 of the Seattle Municipal Code is recodified as Subchapter III of Chapter 3.29 and amended as follows:

**Subchapter ((IX)) III ((Office of Professional Accountability Board)) Community Police Commission**

Section 33. A new Section 3.29.300 of the Seattle Municipal Code is added to Subchapter III of Chapter 3.29 as follows:

**3.29.300 Community Police Commission established - Functions and authority**

A. One of the cornerstones of effective oversight of law enforcement is community involvement. The Community Police Commission is established to fulfill the purposes set forth in Section 3.29.010.

B. CPC was originally established by ordinance with responsibilities under the Consent Decree between The City of Seattle and the United States Department of Justice. The responsibilities of CPC under Executive Order 02-2012 and Ordinance 124021 are subsumed in this Chapter 3.29. It is the City's intention that civilian oversight be enhanced and broadened beyond the scope set forth in the Consent Decree in order to better serve the public. To the extent not otherwise covered by this Chapter 3.29, CPC shall continue to fulfill the responsibilities of CPC as set forth in the Consent Decree and Memorandum of Understanding in *United States of America v. City of Seattle*, 12 Civ. 1282 (JLR) until such time as the Consent Decree ends. Until such time as the Consent Decree ends, CPC shall prioritize these ongoing responsibilities over any additional responsibilities set forth in this Chapter 3.29.

C. CPC shall review and provide input to OPA, OIG, SPD, and other City departments and offices, including the Mayor, Council, and City Attorney on the police accountability system, police services, and SPD policies and practices of significance to the public, consistent with the purposes of this Chapter 3.29. Such review may include input on policy and practice changes recommended by the OPA Director, the Inspector General, or SPD.

D. CPC shall be responsive to community needs and concerns through means including, but not limited to, the following:

1. Engaging in community outreach to obtain the perspectives of community members and SPD employees on police-community relations, SPD policies and practices, the police accountability system, and other matters consistent with the purposes of this Chapter 3.29.

2. Maintaining connections with representatives of disenfranchised communities and with other community

groups in all of the City's legislative districts, as well as with SPD demographic and precinct advisory councils.

3. Providing SPD, OPA and OIG with community feedback relevant to their operations received as a result of its public outreach activities.

4. Providing technical assistance on community matters to OPA and OIG, as reasonably requested and consistent with the purposes of this Chapter 3.29.

E. Identify and advocate for reforms to state laws that will enhance public trust and confidence in policing and the criminal justice system. Such advocacy may include, but is not limited to, reforms related to the referral of certain criminal cases to independent prosecutorial authorities, officer de-certification, pension benefits for employees who do not separate from SPD "in good standing," and the standards for arbitrators to override termination decisions by the Chief.

Section 34. Section 3.28.900 of the Seattle Municipal Code, last amended by Ordinance 122744, is renumbered, recodified in Subchapter III of Chapter 3.29, and amended as follows:

~~((3.28.900))~~ **3.29.310 Office of ((Professional Accountability Board established.)) the Community Police Commission - Established**

~~((A.))~~ There is ~~((created))~~ established an Office of ~~((Professional Accountability Review Board (hereinafter "OPA Review Board")))~~ the CPC. The purpose of the ~~((OPA Review Board))~~ Office of the CPC is to ~~((review the quality of the Office of Professional Accountability's (OPA) complaint handling process; to advise the City on Police Department policies and practices related to police accountability and professional conduct; and to organize and conduct public outreach on behalf of itself, the OPA and the OPA Auditor; all to enhance the quality and credibility of the City's police accountability system and thereby maintain public confidence in the professionalism and effectiveness of the Police Department))~~ administer and manage the functions of CPC.

~~((B. The OPA Review Board shall not participate in the investigation or disposition of complaints to the OPA, and shall not seek to influence the course or outcome of specific OPA complaint investigations or the discipline of specific police officers.~~

~~C. The OPA Review Board shall consist of seven members. Four members shall be considered a quorum.))~~

Section 35. A new Section 3.29.320 of the Seattle Municipal Code is added to Subchapter III of Chapter 3.29 as follows:

**3.29.320 Office of the Community Police Commission - Executive Director**

A. The term of the current CPC Executive Director (Executive Director) appointed pursuant to Subchapter IX of Chapter 3.14 shall expire on December 31, 2018. The current Executive Director may be reappointed to subsequent terms consistent with the requirements of this Chapter 3.29.

B. Executive Director - Appointment

1. There shall be an Executive Director, appointed by CPC using merit-based criteria. The position of

Executive Director shall be exempt from the classified civil service. The Executive Director shall not have been formerly employed by SPD. The term of the Executive Director position is six years.

2. Each Executive Director's initial appointment is subject to confirmation by the Council. Reappointment of an Executive Director to successive terms by CPC is not subject to Council confirmation. If an individual who previously served as Executive Director is again appointed after a different individual was confirmed as the Executive Director by the Council that new appointment is subject to Council confirmation as an initial appointment.

3. If an individual is reappointed to a successive term as Executive Director within 60 days prior to or 60 days after the expiration of that individual's term, the ensuing term begins on the date the prior term expired. If an individual is reappointed to a successive term as Executive Director more than 60 days prior to or 60 days after the expiration of the individual's term, the new term begins on the date of reappointment unless CPC chooses, at the time of reappointment, to make the new term begin on the date the prior term expires or expired.

4. Each appointment shall be made whenever possible sufficiently prior to expiration of the latest incumbent's term of office, permitting Council action to approve or disapprove an appointment at least 60 days before the expiration of the present term, so as to have seamless transition without a gap in leadership.

5. In the event of a vacancy, CPC shall designate an interim Executive Director within ten days of the first day of the vacancy.

C. CPC may remove the Executive Director only for cause upon a majority vote of its membership.

D. The Executive Director shall have the authority and responsibility to:

1. Oversee and manage the functions of the Office of the CPC to advance the mission of the Office and perform other duties as CPC may prescribe;

2. Hire, supervise, and discharge employees of the Office of the CPC. Employees of the Office of the CPC shall collectively have the requisite credentials, skills, and abilities to fulfill the duties and obligations of CPC set forth in this Chapter 3.29;

3. Manage the preparation of CPC's proposed budget, authorize necessary expenditures, and enter into contracts for professional and other services in accordance with the adopted budget, develop and manage programs, and undertake authorized activities;

4. Execute, administer, modify, and enforce such agreements and instruments as the Executive Director shall deem necessary to implement programs and carry out the responsibilities, functions, and activities of the Office; apply for grants and donations for Commission programs; and solicit and use volunteer services;

5. Represent, together with Commissioners, CPC in providing testimony and expertise to City departments and offices, commissions, and other organizations pertaining to issues of constitutional policing; and

6. Exercise such other and further powers and duties as prescribed by this Chapter 3.29.

Section 36. A new Section 3.29.330 of the Seattle Municipal Code is added to Subchapter III of Chapter 3.29 as follows:

**3.29.330 Community Police Commission - Independence**

A. CPC is self-governing and functionally independent. CPC may adopt bylaws to govern its own activities.

B. The CPC Executive Director shall have authority for the hiring, supervision, and discharge of all employees of the Office of the CPC. No employee of the Office of the CPC shall have been formerly employed by SPD as a sworn officer.

C. The City shall provide staff and resources that it deems sufficient to enable CPC to perform all of its responsibilities specified in this Chapter 3.29. The CPC Executive Director shall submit an annual budget request to the Mayor. The Office of the CPC budget shall be appropriated in a Budget Control Level that is independent of any other City department. CPC Commissioners and the CPC Executive Director may advocate for resources directly to Councilmembers or the Council during the budget process and throughout the year.

D. Without the necessity of making a public disclosure request, CPC may request and shall timely receive from other City departments and offices, including SPD, information relevant to its duties under this Chapter 3.29 that would be disclosed if requested under the Public Records Act.

Section 37. A new Section 3.29.340 of the Seattle Municipal Code is added to Subchapter III of Chapter 3.29 as follows:

**3.29.340 Community Police Commission - Qualifications**

A. Commissioners shall be respected members of Seattle's many diverse communities. All Commissioners shall reside or work in Seattle at the time of appointment or reappointment and shall be geographically representative of the city of Seattle in a distribution that allows CPC to assign Council district representatives in accordance with the requirements of subsection 3.29.360.B.

B. Commissioners shall be representative of Seattle's diverse population, drawn from different socio-economic backgrounds and racial and ethnic groups, including immigrant/refugee communities, and from the African-American, LGBTQ, youth, faith, business, and other communities reflecting the overall demographics of Seattle residents. Some shall represent or be knowledgeable of the issues of those who are limited-English speakers, homeless, or who have mental illness and substance abuse disorders.

C. Individual Commissioners shall have expertise in law enforcement; law enforcement oversight; police accountability; human resources; community engagement; organizational change; constitutional, criminal, or labor law; social justice; training; or other disciplines important to CPC's work. Altogether, there shall be a balance that allows CPC as a whole to benefit

from the knowledge and expertise of its individual members.

D. At least two Commissioners shall be graduates of an accredited law school and members in good standing of the Washington State Bar Association, with significant experience in the fields of public defense and civil liberties law. CPC membership shall include a representative of the Seattle Police Officers Guild (SPOG) and a representative of the Seattle Police Management Association (SPMA). The representatives from SPOG and SPMA should have background relevant to police-community relations and demonstrated connection to the membership of their respective unions.

E. All Commissioners shall have the following qualifications and characteristics:

1. A reputation for integrity and professionalism, and the ability to be effective in a board or commission role;
2. A commitment to the need for and responsibilities of law enforcement, including enforcement, community care-taking, and the need to protect the constitutional rights of all affected parties;
3. A commitment to the statements of purpose and policies in this Chapter 3.29;
4. A history of leadership experience or deep roots in communities represented;
5. The ability to relate, communicate, and engage effectively with all who have a stake in policing, including, but not limited to, the general public, complainants, disenfranchised communities, SPD employees, and relevant City and other officials including the Mayor, Council, City Attorney, Chief, OPA Director, Inspector General, and other CPC members;
6. An understanding of the city's ethnic and socioeconomic diversity, and proven experience working with and valuing the perspectives of diverse groups and individuals; and
7. The ability to exercise sound judgment, independence, fairness, and objectivity in an environment where controversy is common.

Section 38. A new Section 3.29.350 of the Seattle Municipal Code is added to Subchapter III of Chapter 3.29 as follows:

**3.29.350 Community Police Commission - Appointment, removal, and compensation**

A. CPC shall consist of 21 Commissioners, appointed and reappointed as set forth in this Chapter 3.29. The Mayor shall select seven Commissioners, the Council shall select seven Commissioners, and CPC shall select seven Commissioners, including the public defense representative, the civil liberties law representative, and the SPOG and SPMA representatives.

B. Each appointing authority shall provide a process that allows individuals to apply and be considered for appointment, and shall ensure appointees meet the qualifications outlined in Section 3.29.340 and ensure the collective membership of CPC meets the requirements of subsection 3.29.360.B. The appointing authorities shall consult with one another prior to making their respective appointments and reappointments. All Commissioners appointed or reappointed by the Mayor or CPC shall be confirmed by a majority vote of the full Council and shall assume office upon receiving Council confirmation; Commissioners



appointed or reappointed by the Council shall assume office upon appointment or reappointment.

C. Commissioners in position numbers 1, 4, 7, 10, 13, 16, and 19 shall be appointed, and where applicable, reappointed by the Mayor. Commissioners in position numbers 2, 5, 8, 11, 14, 17, and 20 shall be appointed, and where applicable, reappointed by the Council. Commissioners in position numbers 3, 6, 9, 12, 15, 18, and 21 shall be appointed, and where applicable, reappointed by CPC. Position number 3 shall be designated for the public defense representative; position number 6 shall be designated for the civil liberties law representative; position number 15 shall be designated for the SPOG representative; and position number 18 shall be designated for the SPMA representative.

D. All CPC Commissioners shall be eligible to serve a maximum of three three-year terms, with each term commencing on January 1, except for the first term under this Section 3.29.350 which will begin at the time of their confirmation following enactment of Council Bill 118969. All terms shall be staggered so that no more than seven Commissioners' terms expire in any given year. If a Commissioner assumes office prior to the expiration of the term of the Commissioner's predecessor, the Commissioner may complete that term and then be reappointed for up to three three-year subsequent terms.

E. Each appointment and reappointment shall be made whenever possible sufficiently prior to the expiration of the incumbent's term of office or the effective date of an incumbent's resignation, to permit Council action to approve or disapprove the appointment or reappointment, at least 45 days before the vacancy, so as to avoid undue vacancy. All appointments to fill positions due to resignations without notice shall be made as soon as reasonably possible, but should be made no later than 90 days after the effective date of the resignation of the incumbent. A Commissioner whose term is ending may continue on an interim basis until a successor has been confirmed by the Council.

F. To strengthen the independence of CPC, Commissioners may be removed from office by the appointing authority only for cause. By a three-quarters vote of its membership, CPC may approve removal of Commissioners appointed by CPC. A majority vote of the full Council is required to confirm the removal of any Commissioner.

G. Commissioners shall be compensated, if at all, as provided by ordinance.

Section 39.

A. By July 1, 2017, each presently serving Commissioner of the CPC created by the Consent Decree and Stipulated Order of Resolution Between the United States of America and The City of Seattle (Consent Decree CPC) who wishes to serve on CPC as established by Chapter 3.29 of the Seattle Municipal Code (CPC) shall submit a written statement to the Mayor, the Council President, and the CPC Executive Director indicating that the Commissioner wishes to serve on CPC. In order to determine the extent of gaps in meeting the desired mix of Commissioners, the written statement shall include a description of how the Commissioner meets the qualifications in Section 3.29.340 of the Seattle Municipal Code; a list of all Council districts in which the Commissioner

lives, works, or has significant professional or civic ties in furtherance of subsection 3.29.360.B of the Seattle Municipal Code; and whether the Commissioner is a lawyer with public defender or civil liberties expertise, or a member of SPOG or SPMA.

B. By September 1, 2017, the City Attorney or a designee of the City Attorney shall, in a CPC meeting, draw numbers to determine the position number for each Commissioner who indicated a wish to continue to serve, excluding those designated as public defender and/or civil liberties law and SPOG and SPMA representatives. The pool of numbers from which to draw shall include 1, 2, 4, 5, 7, 8, 9, and 10.

C. The term for position numbers 1 through 5 ends on December 31, 2017; the term for position numbers 6 through 10 and 18 ends on December 31, 2018; and the term for position numbers 11 through 13 and 15 ends on December 31, 2019. Continuing Commissioners may be reappointed to a maximum of one subsequent three-year term after the expiration of this term. The term of any presently serving Commissioner who chooses not to serve on CPC shall terminate on the effective date of the ordinance introduced as Council Bill 118969.

D. Continuing Commissioners shall retain the position numbers established by Section 3.29.350 of the Seattle Municipal Code and each subsequent Commissioner corresponding to such position number shall be appointed and, where applicable, reappointed by the appointing authority designated for that position.

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

**3.29.360 Community Police Commission - Authority and responsibility**

CPC shall have the authority and responsibility to:

A. Appoint a CPC Commissioner to co-chair and any other CPC Commissioners to serve on the search committees for OPA Directors and Inspectors General, identify qualified finalists, advise the appointing authority on these appointments, and review and provide input to the appointing authority on the reappointment or removal of OPA Directors and Inspectors General.

B. Assign at least one Commissioner to represent each Council district. Each Commissioner representing a Council district shall live, work, or have significant professional or civic ties in that district; demonstrate a deep understanding of neighborhood issues; actively engage the people within the Council district on a regular basis; and regularly report back to CPC on community issues on law enforcement in the Council district.

C. Convene an annual meeting to receive public comments and present to the community highlights of CPC's annual report.

D. Hold regular meetings open to the public, no less than once a month, and establish workgroup subcommittees of its members to meet as necessary.

E. Monitor the implementation by SPD, OPA, City elected officials, and other City departments and offices of

recommendations made by the Inspector General, the OPA Director, and CPC.

- F. Review reports required by this Chapter 3.29 and any recommendations of the OPA Director and the Inspector General.
- G. Pursuant to subsection 3.29.240.F, annually review OIG's workplan and recommend to the Inspector General specific areas for OIG investigation and evaluation, including emergent issues that arise that in CPC's judgment are needed to support public confidence in SPD and related criminal justice practices.
- H. Review closed OPA investigations to identify opportunities for systemic improvements in accordance with Section 3.29.380. However, CPC shall not serve as a review board for individual investigations; shall not evaluate or opine on the sufficiency of the evidence, findings, or determinations of any specific OPA investigations; and shall not seek to influence the course or outcome of any specific OPA investigation, or the findings, discipline, or other remedial action recommended or imposed in such cases.
- I. Collaborate with SPD, OPA, and the City Attorney's Office in improving system transparency, including improving SPD public disclosure procedures and providing for timely online posting by OPA of information about the status of investigations and their outcomes.
- J. Review and provide input into SPD recruiting, hiring, and promotional practices, and assist SPD in the development and delivery of SPD in-service training related to the accountability system and helping ensure that this training is part of the curriculum for all new employees.
- K. Review and comment on any revisions proposed by OPA to the OPA Manual, in accordance with a process established by the OPA Director that provides for consultation and input prior to final adoption of revisions.
- L. Annually evaluate the performance of the CPC Executive Director, after soliciting perspectives from the public, Mayor, City Attorney, Chief, OPA Director, other SPD employees, and CPC Commissioners.
- M. Provide input to the Mayor on the performance of the OPA Director in advance of the Mayor's performance evaluation of the OPA Director.
- N. Provide input to the Council on the performance of the Inspector General in advance of the Council's performance evaluation of the Inspector General.

Section 41. A new Section 3.29.370 of the Seattle Municipal Code is added to Subchapter III of Chapter 3.29 as follows:

**3.29.370 Community Police Commission - Reporting**

- A. CPC shall produce annual reports that are readily understandable and useful to policymakers. The annual report shall be posted online and electronically distributed to the Mayor, City Attorney, Council,

Chief, OPA Director, and Inspector General, as well as to the City Clerk for filing as a public record. The annual report shall include, but not be limited to, the following:

1. An evaluation of the extent to which all of the purposes, duties, and responsibilities detailed in this Chapter 3.29 have been met;
2. A summary of all recommendations for changes in policies and practices, collective bargaining agreements, City ordinances, and state laws;
3. A summary of the implementation status of any previous recommendations and, for any that have not been implemented, the reasons; and
4. Information about CPC's outreach to SPD employees and the public, the perspectives gathered by CPC from such outreach, and how the outreach informed CPC's work.

B. In partnership with OIG, CPC shall periodically evaluate and issue reports on how effective SPD's processes are in meeting community needs for a diverse work force, including the relevance of traditional disqualifying factors and the speed of the hiring process, to assess if there are unfair impediments to hiring and retaining diverse and skilled officers.

Section 42. A new Subchapter IV, which includes new Sections 3.29.400, 3.29.410, 3.29.420, 3.29.430, 3.29.440, 3.29.450, 3.29.460, 3.29.470, and 3.29.480, is added to Chapter 3.29 of the Seattle Municipal Code as follows:

#### **Subchapter IV Mechanisms to Support Accountability**

##### **3.29.400 Reporting of potential misconduct and police accountability issues**

A. SPD shall establish and maintain clear written policies requiring that all significant matters coming to SPD's attention that involve potential police misconduct or policy violations are documented and forwarded in a timely manner to OPA, including cases originating from outside sources and from all SPD units or boards with authority to review compliance with policy or to conduct administrative investigative processes.

B. The Inspector General and CPC Co-Chairs, or their designees, shall present a mid-year report to the public safety committee on the status of recommendations issued by OPA, OIG, and CPC, including those which involve the City's budget, state legislative agenda, and collective bargaining agenda. The report shall include whether follow-through was timely and effectively addressed needed improvements. The Chief and OPA Director, or their designees, shall participate in the presentation, as well as a Mayor's Office representative as appropriate.

C. The procedures of any SPD board, unit, or process created to review performance must be approved by the Chief

and set forth in the SPD Policy Manual. SPD administrative investigation units, including the Force Review Board, shall maintain a schedule of review that limits the duration of each incident review to 90 days. SPD administrative investigation units shall not make determinations of misconduct or recommend discipline.

D. Where cases are referred by OPA to the named employee's supervisors for follow-through, including training, SPD shall ensure follow-through is timely and substantive.

E. SPD and OPA shall establish an effective system of referral to OPA for investigation of possible misconduct any concerns regarding officers whom others in the criminal justice system believe may have not acted with integrity or honesty.

F. The City Attorney's Office, the Department of Finance and Administrative Services (FAS), and OPA shall establish an effective system to ensure that any claim evaluated and investigated by FAS pursuant to Chapter 5.24 involving possible misconduct by an SPD employee is reviewed by OPA to determine whether the claim provides a basis for a complaint of misconduct to be initiated by OPA. In such cases, the OPA Director, FAS and the City Attorney's Office shall determine an appropriate timing and approach to the claims review process so that it will not interfere with the OPA complaint-handling and investigation process. OPA shall be responsible for notifying each complainant of coordination between the complaint investigation and the tort claim process, and shall provide periodic updates as to the status of its investigation to the complainant, FAS and the City Attorney's Office. Within five business days after the OPA case is closed, OPA shall provide (a) notice of the closure to FAS and the City Attorney's Office and (b) an electronic copy of the complete OPA file to FAS, subject to appropriate redactions where required by law.

G. SPD, OPA, the City Attorney's Office, CPC, and all other City departments and offices shall timely inform the Inspector General of any problems or deficiencies not previously reported to OIG related to operations, policies, programs, and practices that would reasonably be expected to adversely affect SPD effectiveness, public safety, police accountability, constitutional policing, or the public's confidence in SPD.

H. As appropriate, the City Attorney shall advise the OPA Director and the Chief of any issues identified through litigation, grievances, or disciplinary appeals to help OPA and SPD make informed improvements to policies and procedures.

I. Complaints against any employee of OPA, OIG, or the Office of the CPC where the allegation is discrimination, harassment, retaliation, or any other act that may violate Equal Employment Opportunity laws and policies shall be investigated by the Seattle Department of Human Resources.

### **3.29.410 Continuous improvement**

A. 1. SPD and OPA shall confer with and respond in writing within 30 days to any oversight entity issuing written recommendations contained in reports required by this Chapter 3.29. For any accepted recommendations, the response shall provide a plan for implementation, including a plan for regular written progress reports. For any recommendations not accepted or not

scheduled for implementation, the response shall provide an explanation of why not. If the lead entity responsible for the implementation of any recommendation is a City department or office other than SPD or OPA, the Mayor's Office shall coordinate providing the necessary information to include in the response.

2. The OPA Director, Inspector General, the CPC co-chairs, and the Chief, or their designees, shall meet together at least quarterly to collectively review and verify their positions on the status of all recommendations.

3. CPC shall compile and maintain a database of all recommendations and their status, as represented to CPC by the issuing entity. Following the quarterly meetings, CPC shall update the database. CPC may include their analyses and comments.

B. SPD shall respond in writing to any Training Referral or Supervisor Action referral with an explanation of actions taken.

C. In consultation with CPC, OIG, and OPA, SPD shall establish a schedule and protocol for regular and timely review of proposed revisions to the SPD Policy Manual for the purpose of ensuring SPD policies are consistent with best practices, which may include recommendations from the civilian oversight entities. SPD's schedule and protocol shall allow opportunity for meaningful SPD Policy Manual reviews.

D. SPD shall maintain systems of critical self-analysis, including audits and reviews of critical events, lawsuits, claims, and complaints. These reviews should focus on ways to improve policies, training, and supervision so as to help prevent misconduct, policy violations, poor performance, or other adverse outcomes.

E. At the time the Mayor's annual proposed budget is submitted to the Council, the Mayor shall notify the Council and CPC in writing, with copies to the Inspector General and the OPA Director, when recommendations requiring City funding issued in reports made in the prior year consistent with the reporting requirements set forth in this Chapter 3.29 by those responsible for implementing the purposes of this Chapter 3.29 are not included for funding in the budget proposal. The Mayor shall also identify any reductions to the OPA, OIG, or CPC baseline budgets in the proposed budget, or compared to the budgets as proposed to the Mayor by OPA, OIG, or CPC, with an explanation of the reasons for the reductions.

F. At the time the Mayor's proposed state legislative agenda is presented to the Council, the Mayor shall notify the Council and CPC in writing, with copies to the Inspector General and the OPA Director, when associated recommendations made by those responsible for implementing the purposes of this Chapter 3.29 are not included in the proposed state legislative agenda.

G. The City's Office of Intergovernmental Relations shall consult with the OPA Director, the Inspector General, and CPC during the development of the City's state legislative agenda.

H. Each year the City Attorney's Office shall provide the OPA Director and Inspector General with two status reports, one covering the period from January 1 to June 30 and one from July 1 to December 31, regarding (a) all OPA cases in which the

findings or discipline have been appealed during the previous six months and (b) all OPA cases in which the findings or discipline have been appealed in earlier periods and that remained open at any time during the current reporting period. These status reports shall include all OPA cases not yet closed due to appeal, the case number, the named employee or employees, the date of complaint, the date of disciplinary action, the Chief's disciplinary decision, the date of appeal, the nature of the appeal, and the current status of the case, including any modification to the case disposition as a result of appeal.

### **3.29.420 Disciplinary, grievance, and appeals policies and processes**

A. SPD disciplinary, grievance, and appeal policies and processes shall be timely, fair, consistent, and transparent.

1. SPD shall track all records of Chief disciplinary determinations. The OPA Director and the Inspector General shall have unfettered access to this information, and SPD shall report on disciplinary patterns in such a way that the public can assess whether the Chief of Police is exercising disciplinary authority in a fair and consistent manner.

2. To help ensure timeliness, the following deadlines shall apply to the disciplinary and appeal processes:

a. OPA shall complete investigations within the period set forth in Section 3.29.130.

b. SPD shall provide a copy of any proposed Disciplinary Action Report or successor disciplinary action document to the affected employee via electronic communication. If the employee seeks a due-process meeting with the Chief or the Chief's designee, the employee must communicate that request to the Chief's office electronically within 10 days of the date of receipt of the disciplinary action document.

c. The Chief or the Chief's designee shall hold the due process meeting within 30 days of the employee's request.

d. The Chief or the employee may request one reasonable postponement of the due-process meeting, not to exceed two weeks from the date of the originally scheduled meeting.

e. The Chief shall issue a final disciplinary decision within two weeks of the due-process meeting. This decision may be delivered electronically, with an electronic copy sent to the employee's collective bargaining representative.

f. An employee may appeal a disciplinary decision as set forth in Chapter 4.08.

g. The Public Safety Civil Service Commission (PSCSC) shall adhere to the timelines set forth in Chapter 4.08.

3. SPD shall implement discipline when it is imposed or shortly thereafter, not upon conclusion of any disciplinary appeal process.

4. The Chief shall have the authority to place an SPD employee on leave without pay prior to the initiation or completion of an OPA administrative investigation where the employee has been charged with a felony or gross misdemeanor; where

the allegations in an OPA complaint could, if true, lead to termination; or where the Chief otherwise determines that leave without pay is necessary for employee or public safety, or security or confidentiality of law enforcement information. In any case of such leave without pay, the employee shall be entitled to back pay if reinstated, less any amounts representing a sustained penalty of suspension.

5. No disciplinary action will result from a complaint of misconduct where the misconduct comes to the attention of OPA more than five years after the date of the alleged misconduct, except where the alleged misconduct involves criminal law violations, dishonesty, or Type III Force, as defined in the SPD policy manual or by applicable laws, or where the alleged act of misconduct was concealed.

6. All appeals related to employee discipline shall be governed by this Chapter 3.29 and Chapter 4.08. Only appeals for which the hearing has already been scheduled prior to the effective date of the ordinance introduced as Council Bill 118969-including Disciplinary Review Board proceedings for officers and sergeants, and arbitration proceedings for lieutenants and captains-shall continue in accordance with the relevant contractual or legislated procedures. As of the effective date of the ordinance introduced as Council Bill 118969, all other disciplinary appeals may proceed only under this Chapter 3.29 and Chapter 4.08.

7. Public Safety Civil Service Commission

a. All appeals related to SPD employee discipline shall be open to the public and shall be heard by PSCSC.

b. The PSCSC shall be composed of three Commissioners, none of whom shall be current City employees or individuals employed by SPD within the past ten years, who are selected and qualified in accordance with subsection 4.08.040.A.

c. Oral reprimands, written reprimands, “sustained” findings that are not accompanied by formal disciplinary measures, and alleged procedural violations may be processed through grievance processes established by the City Personnel Rules or by Collective Bargaining Agreements, but no grievance procedure may result in any alteration of the discipline imposed by the Chief. Such grievances are not subject to arbitration and may not be appealed to the PSCSC or any other forum.

8. SPD employees shall not use any type of accrued time balances to be compensated while satisfying a disciplinary penalty that includes an unpaid suspension.

9. The City Attorney’s Office shall determine legal representation for SPD in disciplinary challenges. The City, including SPD, shall not settle or resolve grievances or disciplinary appeals without the approval of the City Attorney’s Office.

10. The Chief shall notify in writing the Washington State Criminal Justice Training Commission (WSCJTC) when any sworn employee is terminated from employment, or who would have been terminated from employment had separation not already occurred, whenever the nature of the employee’s misconduct qualifies for de-certification under state law. The notification



shall include the facts and circumstances of the termination and any other information necessary to provide the evidentiary basis for the Chief's disciplinary decision so as to allow the WSCJTC to have a full and complete record when deciding whether de-certification is appropriate.

**3.29.430 Recruitment, hiring, assignments, promotions, and training**

A. SPD shall develop and implement recruitment, hiring, testing, training, mentoring, assignment, and promotional practices that emphasize leadership and policing skills consistent with accountability, which support equity and the goals set forth in the Consent Decree. In doing so, SPD shall consult with CPC and OIG and may obtain guidance from other community stakeholders.

B. To support operational efficiency and excellence, SPD may employ civilians with specialized skills and expertise to perform any SPD management and operational functions, including, but not limited to, training, human resources, technology, budget and finance, crime analysis, recruiting, hiring, and testing, which in the judgment of the Chief do not require law enforcement sworn personnel, allowing SPD the ability to more flexibly deploy civilian and sworn resources to best meet both its administrative and law enforcement needs.

C. Consistent with Chapter 4.08, SPD shall use preference points in hiring sworn employees who are multi-lingual and/or have work experience or educational background providing important skills needed in modern policing, such as experience working with diverse communities, and social work, mental health or domestic violence counseling, or other similar work or community service backgrounds.

D. After consulting with and receiving input from OIG, OPA, and CPC, SPD shall establish an internal office, directed and staffed by civilians, to manage the secondary employment of its employees. The policies, rules, and procedures for secondary employment shall be consistent with SPD and City ethical standards, and all other SPD policies shall apply when employees perform secondary employment work.

E. SPD shall adopt consistent standards that underscore the organizational expectations for performance and accountability as part of the application process for all specialty units, in addition to any unique expertise required by these units, such as field training, special weapons and tactics, crime scene investigation, and the sexual assault unit. In order to be considered for these assignments, the employee's performance appraisal record and OPA history must meet certain standards and SPD policy must allow for removal from that assignment if certain triggering events or ongoing concerns mean the employee is no longer meeting performance or accountability standards.

F. SPD shall ensure that its "take-home" policy for SPD vehicles, and the opportunities for assignments that provide additional financial remuneration, are consistent with SPD accountability practices and an effective use of taxpayer resources.

G. The Chief shall collaborate with the OPA Director with the goal that sworn staff assigned to OPA have requisite

skills and abilities and with the goal that the rotations of sworn staff into and out of OPA are done in such a way as to maintain OPA's operational effectiveness. To fill such a sworn staff vacancy, the Chief and the OPA Director should solicit volunteers to be assigned to OPA for two-year periods. If there are no volunteers or the OPA Director does not select from those who volunteer, the Chief shall provide the OPA Director with a list of ten acting sergeants or sergeants from which the OPA Director may select OPA personnel to fill intake and investigator positions. Should the OPA Director initially decline to select personnel from this list, the Chief shall provide the OPA Director with a second list of ten additional acting sergeants or sergeants for consideration. If a second list is provided, the OPA Director may select personnel from either list, or from among volunteers.

H. SPD shall collaborate with OPA, OIG, and CPC in the development and delivery of SPD in-service training related to the accountability system.

### **3.29.440 Public disclosure, data tracking, and record retention**

A. SPD and the City Attorney's Office shall work with OPA to release information associated with closed OPA cases as promptly and with as much transparency as legally and practically possible.

B. SPD shall maintain current and searchable public databases, to the extent technologically feasible, that include every stop, frisk, use of force, and disciplinary matter. The databases shall protect the privacy of members of the public and City employees who are involved to the extent allowed by law, while including all relevant available information of each interaction, including race, gender, time, place, assignment, reason, or any other consideration that can help provide information regarding possible bias.

C. SPD shall make available information about its policies and operations that are matters of concern to the public by posting such information online, such as the SPD Policy Manual, performance audit reports, reviews of shootings by officers, and reviews of in-custody injuries and deaths.

D. SPD shall track and document OPA cases referred from the OPA Director to the Chief in OPA and SPD data systems.

E. All SPD personnel and OPA case files shall be retained as long as the employee is employed by the City, plus either six years or as long as any action related to that employee is ongoing, whichever is longer. SPD personnel files shall contain all associated records, including Equal Employment Opportunity complaints, and disciplinary records, litigation records, and decertification records; and OPA complaint files shall contain all associated records, including investigation records, Supervisor Action referrals and outcomes, Rapid Adjudication records, and referrals and outcomes of mediations. Records of written reprimands or other disciplinary actions shall not be removed from employee personnel files.

F. For sworn employees who are terminated or resign in lieu of termination, such that the employee was or would have

been separated from SPD for cause and at the time of separation was not “in good standing,” SPD shall include documentation in SPD personnel and OPA case files verifying (a) a letter was sent by SPD to the Washington State Criminal Justice Training Commission (WSCJTC) regarding de-certification and consistent with the requirements set forth in subsection 3.29.420.A.11; (b) whether action was taken by the WSCJTC in response to that letter; (c) that the Chief did not and will not grant the employee authorization to serve in a Special Commission capacity, as a reserve officer or as a retired officer in a private company that provides flagging, security, or related services; and (d) that the Chief did not or will not grant any request under the Law Enforcement Officers Safety Act to carry a concealed firearm. The latter two actions shall also be taken and documentation included in the SPD personnel and OPA case files whenever a sworn employee resigns or retires with a pending complaint and does not fulfill an obligation to fully participate in an OPA investigation.

### **3.29.450 Criminal cases**

The City Attorney shall maintain a protocol so that, whenever possible, cases referred to prosecutors for possible filing of charges against SPD employees are reviewed concurrently by City, county, and federal prosecutors so as to minimize delay and better serve the public, the named employee, and SPD.

### **3.29.460 Collective bargaining and labor agreements**

A. Those who provide civilian oversight of the police accountability system shall be consulted in the formation of the City’s collective bargaining agenda for the purpose of ensuring their recommendations with collective bargaining implications are thoughtfully considered and the ramifications of alternative proposals are understood. These individuals shall be subject to the same confidentiality provisions as any member of the Labor Relations Policy Committee.

B. The terms of all collective bargaining agreements for SPD employees, along with any separate agreements entered into by SPD or the City in response to an unfair labor practice complaint, settlement of grievance or appeal, or for other reasons, including those previously reached, shall be clearly and transparently provided to the public, by posting on the SPD website.

C. Whenever collective bargaining occurs, any separate agreements in place affecting ongoing practices or processes which were entered into by SPD or the City in response to an unfair labor practice complaint, settlement of grievance or appeal, or for any other reasons, shall be incorporated into the new or updated collective bargaining agreement or shall be eliminated.

### **3.29.470 Public statements**

While any incident of public concern is under OPA, SPD or OIG review, no City employee should comment, either in their official or personal capacity, in a way that suggests that any factual, policy, or legal conclusions have been reached about the incident. These provisions shall not restrict the ability of a union representative to comment in their representative capacity, or the OPA Director to communicate OPA findings and recommendations.

### 3.29.480 Protection of civilian oversight entities

A. Retaliation by adverse employment action or harassment against OPA and OIG employees, against employees of the Office of the CPC or CPC Commissioners, or against employees of other City departments or offices who provide information to OPA, OIG, or CPC undermines the effectiveness of civilian oversight efforts by threatening the continued flow of information. No City official or employee shall retaliate against, punish, or penalize any other person for complaining to, cooperating with or assisting OPA, OIG, or CPC in the performance of their duties. Any OPA or OIG employee, CPC employee or Commissioner, or employee of other City departments or offices who believes he or she has been retaliated against for making such complaint to, disclosing information to, or responding to such queries from OPA, OIG, or CPC may report such action to the Inspector General. If retaliation is suspected, the Inspector General is authorized to open an investigation into the matter and refer a complaint to the appropriate authority. Any City official or employee who violates these provisions may be subject to dismissal, discipline, or censure consistent with City and state laws. These protections shall not apply when the contact was made or the information was disclosed with knowledge that it was false or with willful disregard for its truth or falsity.

B. When, due to a conflict of interest, lack of technical expertise, or capacity reasons, the City Attorney's Office declines to provide legal representation to an oversight entity in any legal matter, enforcement action, or court proceeding, the City Attorney shall so indicate to the oversight entity in writing with the reason for the declined representation, and that oversight entity shall be entitled to representation by private legal counsel. Private legal counsel shall be selected and retained by the City Attorney's Office, in consultation with the oversight entity. The City shall provide sufficient funding for the legal services separate from the oversight entity's operational budget, which shall be reviewed and approved in advance by the City Budget Office.

Section 43. Section 14.12.310 of the Seattle Municipal Code, last amended by Ordinance 110640, is amended as follows:

#### 14.12.310 Appointment and responsibilities of Auditor ((-))

~~((A. The Mayor shall appoint an **Auditor**, subject to confirmation by the City Council, to monitor compliance with this chapter. The **Auditor** shall serve for a term of three (3) years and may be reappointed by the Mayor, subject to confirmation by the City Council. The **Auditor** may be removed from office for cause by the Mayor by filing a statement of reasons for the removal with the City Council.~~

~~B. The **Auditor** should possess the following qualities and characteristics:~~

~~1. A reputation for integrity and professionalism, as well as the ability to maintain a high standard of integrity in the office;~~

~~2. A commitment to and knowledge of the need for and responsibilities of law enforcement, as well as the need to protect basic constitutional rights;~~

3. A commitment to the statement of purpose and policies in this chapter;
4. A history of demonstrated leadership experience and ability;
5. The potential for gaining the respect of **departmental personnel** and citizens of the City;
6. The ability to work effectively with the Mayor, the City Council, the City Attorney, the Chief of the **Department**, **departmental personnel**, public agencies, private organizations, and citizens; and
7. The ability to work effectively under pressure.

C. The Chief of the **Department** shall cause a thorough background check of nominees for **Auditor** identified by the Mayor and shall report the results to the Mayor.

D. Except as limited by Section 14.12.320, the **Auditor** shall have access to all **Department** files and records, including nonconviction data pursuant to RCW 10.97.050(4).)

The Inspector General, or the Inspector's designee or designees in the Office of Inspector General for Public Safety, shall perform the duties of the **Auditor**. The Inspector General shall ensure that an outside law enforcement agency has conducted a thorough background check, including records of arrest, charges, or allegations of criminal conduct or other nonconviction data for the purpose of determining the individual's fitness to perform the duties of Police Intelligence Auditor, for any staff of the Office of Inspector General for Public Safety prior to the staff's commencement of any work under this Chapter 14.12 that may involve access to confidential information.

Section 44. Subsection 14.12.320.A of the Seattle Municipal Code, which section was last amended by Ordinance 117242, is amended as follows:

**14.12.320 Limitations on the Auditor.**

○ ○ ○ A. ~~((The))~~ Notwithstanding the Inspector General's access to all **Department** files and records under Chapter 3.29, including nonconviction data pursuant to RCW 10.97.050(4), the **Auditor** shall not examine the following in performing the duties of this Chapter 14.12:

1. **Department** personnel files;
- ~~((2. Internal Investigation Section files;))~~
2. Office of Police Accountability files;
3. Files of confidential communications as defined in Section 14.12.090;
4. Personal files of the Chief of the **Department** which are excluded from this ~~((chapter))~~

Chapter 14.12 by ~~((Section))~~ subsection 14.12.120.A.4;

5. Specific case files which the King County Prosecuting Attorney personally certifies in writing need to be withheld from the **Auditor's** review because the files involve investigations of corruption or malfeasance in office of a governmental official or employee, a potential conflict of interest for the **Auditor**, or investigations of organized criminal activity conducted as a continuing enterprise solely for the purpose of obtaining monetary gain wholly or in part through racketeering, vice, narcotics, gambling, fencing, or similar economic criminal activity. As to each file, the Prosecuting Attorney's certificate shall state that he has personally reviewed the case file and found that the file complies with this ~~((chapter))~~ Chapter 14.12. The Prosecuting Attorney's certificate shall also include a summary apprising the **Auditor** of the scope and purpose of the investigation. With respect to the certified files, the Prosecuting Attorney shall exercise all the powers and discharge all the responsibilities normally exercised and discharged by the **Auditor** under the provisions of this ~~((chapter))~~ Chapter 14.12;

6. Files maintained exclusively for confidential criminal information regarding organized criminal activity received by the **Department** through membership in the Law Enforcement Intelligence Unit (LEIU) and files maintained exclusively for confidential criminal information regarding narcotics activity received by the **Department** through membership in the Western States Information Network (WSIN), which are audited under subsection 14.12.320.C.

\* \* \*

Section 45. Section 4.08.040 of the Seattle Municipal Code, last amended by Ordinance 123744, is amended as follows:

**4.08.040 Public Safety Civil Service Commission~~((s))~~**

A. There is created a Public Safety Civil Service Commission composed of three members. ~~((One))~~Two members shall be appointed by the Mayor~~((s))~~ and one by the City Council ~~((and one elected by and representing employees))~~. Commissioners shall be selected using merit-based criteria and shall have appropriate expertise and objectivity regarding disciplinary and promotional decisions. The Commissioners' terms shall be staggered; initial terms shall be for one year for one Mayoral appointment, two years

for the Council appointment, and three years for the second Mayoral appointment. Subsequently, ~~((The))~~the term of each Commissioner shall be three full years~~((; provided, that the term of the first Council Commissioner shall be two years and the term of the first Mayor's Commissioner shall be one year.))~~ Each term shall commence on January 1~~((st))~~, and appointments to fill vacancies shall be for the unexpired term. A Commissioner shall be eligible to serve three full terms plus any time spent filling a vacancy for an unexpired term or a shortened initial term. Two Commissioners shall constitute a quorum. ~~(( ))~~Commissioners may receive compensation for their services as may be fixed from time to time by ordinance. The term of the first Commissioners appointed after the effective date of the ordinance introduced as Council Bill 118969 shall begin at the time of appointment, but shall be deemed to begin for the purpose of calculating term length on the following January 1. Commissioners who will continue to hold office after the effective date of the ordinance introduced as Council Bill 118969 may continue to hold their positions until those first terms begin; they may also be reappointed by the Mayor or Council in accordance with this subsection 4.08.040.A.

B. ~~((Officers and employees in the Mayor's office, on the City Council staff, and on the Public Safety Civil Service Commission staff, and employees holding exempt positions))~~Current City of Seattle employees, as well as individuals employed by SPD within the past ten years, shall be ineligible for the office of Commissioner.

~~((C. All regular and probationary employees who are members of this system are eligible to vote for an employee-selected Public Safety Civil Service Commissioner.~~

D. Election shall be administered by the City Clerk. Election shall be held during the week beginning on the first Monday in November, 1987, and every third year thereafter. The City Clerk shall give notice of such election and furnish ballots therefor. Balloting shall be permitted by mail postmarked between the hours of 12:01 a.m. Monday to 12 midnight of the succeeding Friday of the election week. Provided however that when there is a holiday during that week, ballots may be postmarked no later than 12 midnight the following Monday. Ballots may also be deposited during regular office hours at polling places prescribed by the City Clerk.

E. Not earlier than the first Monday in October of each year in which a Commissioner will be elected, nor later than the succeeding Friday, any person who is to become a candidate for Commissioner shall file a declaration of candidacy for office with the City Clerk, on a form furnished by the City Clerk.

F. The candidate receiving the majority of votes cast shall win the election. If no candidate receives a majority of the votes cast, the two candidates receiving the highest and next highest number of votes shall be candidates in a runoff election at a date and time to be determined by the City Clerk. The runoff election be scheduled so that completion of balloting and certification shall occur before 5 P.M. on the last business day of December of the election year. Notice and balloting shall be the same as for a regular Commissioner's election.

G. ~~Vacancies occurring in the office of the employee's Commissioner shall be filled at a special election to be called for such purpose by resolution of the City Council.~~

H. ~~No City employee who is elected to the Public Safety Civil Service Commission shall suffer a monetary loss or other penalty on account of his/her absence from his/her regular position during regular hours while performing the duties of Commissioner.~~

I. Candidates for Public Safety Civil Service Commission shall comply with the terms of the Fair Campaign Practices Chapter 2.04 regarding filing of disclosure statements regarding campaign financing.))

~~((F.))C.~~ Pursuant to ~~((the))~~ City Charter Article XIX, Commissioners may be removed for cause by the City Council following a hearing and the Mayor's ~~((appointee))~~ appointees may also be removed by the Mayor upon filing a statement of reasons therefor.

Section 46. Section 4.08.070 of the Seattle Municipal Code, last amended by Ordinance 124567, is amended as follows:

**4.08.070 Powers and duties of Commission((-))**

The Commission shall:

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F. 1. With the support of the Seattle Human Resources Director, prepare a register for each class of positions in this system from the returns or reports of the examiners of the persons whose standing upon examination for such class is not less than the minimum established by the Commission. Persons, when graded, shall take rank upon the register as candidates in the order of their relative excellence as determined by competitive examination.

a. Veteran's preference. Veteran's preference in examination and appointment shall be granted as required by federal and state law including RCW ~~((41.08.040 and 41.12.040))~~41.04.010; provided, a person shall be entitled to use such preference only once to successfully attain an appointment or promotion to a position.

b. Language preference. An applicant for a Seattle Police Department (SPD) position deemed fluent in a language other than English may be entitled to have 10 percent credit added to the applicant's examination score for initial hiring or promotion. To receive such credit on his or her examination score, the applicant's fluency will be verified by the hiring authority based on a measure to be established by the Department.

c. Community service/work experience preference. An applicant for an SPD position who has completed service in the Peace Corps, AmeriCorps or other verified equivalent work experience or community service of two years or more may be entitled to have 10 percent credit added to the examination score. An applicant seeking credit for service in the Peace Corps must present a Peace Corps Description of Service (DOS) certifying completion of their service in the Peace Corps. To receive such credit on his or her



examination score, an applicant's equivalent work experience or community service will be assessed by the hiring authority based on standards to be established by the Department. For example, equivalent work experience or community service might include professional or volunteer experience providing domestic violence counseling, mental health care, or social services. The equivalent work experience or community service must be confirmed through regular Department background verification processes.

2. No applicant for an SPD position may receive more than a single 10 percent credit, which may be either for veteran's preference, language preference, or community service/work experience preference.

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J. ~~((To hear))~~Hear and determine appeals or complaints respecting the administration of this ~~((chapter))~~Chapter 4.08, including, but not limited to, all appeals affecting discipline of SPD employees defined in subsection 4.08.060.A. In hearing police discipline cases, the Commission may delegate its authority to conduct hearing appeals to a hearing officer that it retains, or to a hearing officer in the City of Seattle Office of the Hearing Examiner, subject to Commission review. Any hearing officer shall have appropriate expertise and objectivity regarding police disciplinary decisions.

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Section 47. Section 4.08.100 of the Seattle Municipal Code, last amended by Ordinance 107791, is amended as follows:

**4.08.100 Tenure of employment for firefighters - Removal for cause~~((:))~~**

A. The tenure of every regular employee who is a member of this system and employed by the Seattle Fire Department (SFD) shall be only during good behavior and acceptable job performance, and any such employee may be removed, suspended, demoted, or discharged for cause. Suspensions shall not exceed ~~((thirty))~~30 days. Any regular SFD employee may be removed, suspended, demoted, or discharged by the appointing authority only upon the filing with the Commission of a statement in writing of the reasons therefor, a duplicate of which shall be served upon the employee. Any regular SFD employee so removed, suspended, demoted, or discharged may within ten days from the date of service of such statement, file with the Commission a written demand for a hearing, whereupon, in due course, the Commission shall conduct such hearing. The hearing shall be confined to the determination of the question of whether such removal, suspension, demotion, or discharge was made in good faith for cause. After such hearing, the Commission may affirm the action of the appointing authority, or if it shall find that the action was not made in good faith for cause, shall order the immediate reinstatement or reemployment of such person in the office, place, position or employment from which such person was removed, suspended, demoted, or discharged. The Commission upon such hearing, in lieu of affirming the removal, may modify the order of removal, suspension, demotion, or discharge by directing a suspension, without pay, for up to ~~((thirty))~~30 days, and subsequent restoration to duty, or demotion in classification, grade or pay. The findings of the Commission shall be certified in writing by the appointing authority, and shall be forthwith enforced by such officer.

Section 48. A new Section 4.08.105 of the Seattle Municipal Code is added to Chapter 4.08 as follows:

**4.08.105 Tenure of employment for police officers - Removal in good faith for cause**

A. The tenure of every police officer who is an employee under this system shall be only during good behavior and acceptable job performance, and any such employee may be removed, suspended, demoted, or discharged in good faith for cause. Suspensions shall not exceed 30 days.

1. Any employee removed, suspended, demoted, or discharged may within ten days from the date of electronic service of the final disciplinary decision by the Chief of Police, file with the Commission a written notice of appeal. The notice of appeal may be filed electronically, and the employee shall submit copies of this notice to the City Attorney and the Chief of Police.

2. The Commission shall ensure that a hearing is conducted as soon as practicable, but in no event later than three months after submission of the notice of appeal. The hearing shall be confined to the determination of whether the employee's removal, suspension, demotion, or discharge was made in good faith for cause.

3. Within 30 days of a hearing conducted by the Hearing Officer, the Hearing Officer shall issue a recommended decision. If neither party files written objections to the recommended decision within 20 days of the date of the decision, the recommended decision shall be the final decision of the Commission. If either party objects to the decision, the Commission shall set a schedule for briefs and oral argument. The oral argument shall occur in a public meeting of the Commission and shall be held within 60 days of the date of the recommended decision. The Commission will review the recommended decision and, within 30 days of the oral argument, issue a final determination whether the disciplinary decision was in good faith for cause, giving deference to the factual findings of the Hearing Officer. Both the recommended decision and the final decision should affirm the disciplinary decision unless the Commission specifically finds that the disciplinary decision was not in good faith for cause, in which case the Commission may reverse or modify the discipline to the minimum extent necessary to achieve this standard.

4. The final decision of the Commission shall be certified in writing to the Chief of Police and shall be forthwith enforced by the Chief.

5. Any failure by the City to adhere to a deadline in this Chapter 4.08 will not, in itself, invalidate the Chief's disciplinary decision. The Commission may, however, consider missed deadlines in determining whether the disciplinary decision is in good faith for cause.

B. All hearings pursuant to this Section 4.08.105 shall be open to the public. Hearings shall be held after due notice of the time and place of hearing to the affected employee. The employee has the right to union and legal representation of the employee's choosing and at the employee's own expense. Hearings and related deadlines shall not be delayed more than two weeks

due to the unavailability of the City's or the employee's union representative or legal counsel.

C. The Commission shall cause to be made a record of all such hearings. Upon request, the Commission shall furnish such record to the employee.

Section 49. A new Subchapter V, which includes new Sections 3.29.500 and 3.29.510, is added to Chapter 3.29 of the Seattle Municipal Code as follows:

**Subchapter V Construction and implementation**

**3.29.500 Construction**

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

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

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

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

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

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

### **3.29.510 Implementation**

A. Provisions of the ordinance introduced as Council Bill 118969 subject to the Public Employees' Collective Bargaining Act, chapter 41.56 RCW, shall not be effective until the City completes its collective bargaining obligations. As noted in Section 3.29.010, the police are granted extraordinary power to maintain the public peace, including the power of arrest and statutory authority under RCW 9A.16.040 to use deadly force in the performance of their duties under specific circumstances. Timely and comprehensive implementation of this ordinance constitutes significant and essential governmental interests of the City, including but not limited to (a) instituting a comprehensive and lasting civilian and community oversight system that ensures that police services are delivered to the people of Seattle in a manner that fully complies with the United States Constitution, the Washington State Constitution and laws of the United States, State of Washington and City of Seattle; (b) implementing directives from the federal court, the U.S. Department of Justice, and the federal monitor; (c) ensuring effective and efficient delivery of law enforcement services; and (d) enhancing public trust and confidence in SPD and its employees.

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

B. Until the effective date of the ordinance introduced as Council Bill 118969, the current accountability system shall remain in place to the extent necessary to remain consistent with provisions of the

Consent Decree in the matter of *United States of America v. City of Seattle*, 12 Civ. 1282 (JLR).

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

Passed by the City Council the \_\_\_\_\_ day of \_\_\_\_\_, 2017, and signed by me in open session in authentication of its passage this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
President \_\_\_\_\_ of the City Council

Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_  
Edward B. Murray, Mayor

Filed by me this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

\_\_\_\_\_

Monica Martinez Simmons, City Clerk

(Seal)