

ORDINANCE No. 120728

COUNCIL BILL No. 114088

The City of

AN ORDINANCE relating to the Office of Professional Accountability, the Office of Professional Accountability Auditor and the Office of Professional Accountability Review Board, repealing SMC Sections 3.28.600 through 3.28.760 and adding new sections 3.28.800 through 3.28.830, 3.28.850 through 3.28.870, 3.28.900 through 3.28.920.

Honorable President:

Your Committee on _____

to which was referred the within report that we have considered the

COMPTROLLER FILE No. _____

Introduced: FEB - 4 2002	By: COMPTON
Referred: FEB - 4 2002	To: Police, Fire, Courts and Technology
Referred:	To:
Referred:	To:
Reported: 2-11-02	Second Reading:
Third Reading: 2-11-02	Signed: 2-11-02
Presented to Mayor: 2-12-02	Approved: 2/15/02
Returned to City Clerk: 2/15/02	Published: full 21 pg.
Vetted by Mayor:	Veto Published:
Passed over Veto:	Veto Sustained:

Cow
Pasq
Du
2-11-02 Passed

Law Department

The City of Seattle--Legislative Department

Date Reported
and Adopted

REPORT OF COMMITTEE



City President:

Committee on _____

_____ was referred the within Council Bill No. _____

_____ that we have considered the same and respectfully recommend that the same:

Compton aye

Pageler aye

Duay O aye

CS 607-2001

9
6

02 Passed 9-0

Department



Committee Chair



Forwarded
to Council
1/11/01
L. [unclear]

ORDINANCE

120728

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3 AN ORDINANCE relating to the Office of Professional Accountability, the Office of
4 Professional Accountability Auditor and the Office of Professional Accountability
5 Review Board, repealing SMC Sections 3.28.600 through 3.28.760 and adding new
6 sections 3.28.800 through 3.28.830, 3.28.850 through 3.28.870, 3.28.900 through
7 3.28.920.
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9 WHEREAS, Seattle Ordinances 119805, 119816 and 119893 created the Office of
10 Professional Accountability in the Police Department, renamed and modified the duties
11 of the Internal Investigations Auditor within the Police Department, and created the
12 Office of Professional Accountability Review Board; and
13

14 WHEREAS, the Collective Bargaining Agreement between the City of Seattle and the
15 Seattle Police Officers' Guild effective through 2002 contains provisions relating to the
16 Office of Professional Accountability, the Office of Professional Accountability
17 Auditor, and the Office of Professional Accountability Review Board; and
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19 WHEREAS, the City of Seattle intends to fully implement that Collective Bargaining
20 Agreement; and
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22 WHEREAS, in accordance with that collective bargaining agreement and so long as that
23 agreement is in effect, the City of Seattle will not implement the reporting requirements
24 of the OPA Review Board that this ordinance enacts as Seattle Municipal Code
25 subsections 3.28.910(B)(6)(c) and 3.28.910(B)(6)(d) until the current Racial Profiling
26 Task Force has made its data collection recommendation, and until and unless the City
27 of Seattle decides it is appropriate to gather and report these data and provides the
28 Seattle Police Officers' Guild the opportunity to reopen negotiations on this subject;
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30 NOW THEREFORE, BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:
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32 **Section 1.** Sections 3.28.600 through 3.28.760 of the Seattle Municipal Code are repealed.
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2 **Section 2.** The following new Sections are added to the Seattle Municipal Code as follows:

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4 **Subchapter VII Office of Professional Accountability**

5 **3.28.800 Office of Professional Accountability created -- Functions and authority.**

6 There is created within the Seattle Police Department an Office of Professional
7 Accountability (hereinafter "OPA") to receive and investigate complaints of misconduct by
8 Seattle Police Department personnel. The responsibilities of the OPA include the following
9 areas: regularly advising the Chief, as well as the Mayor and City Council, on all matters
10 involving the Police Department's investigatory and disciplinary functions; recommending
11 policy to the Chief of Police, the Mayor, and the City Council on various issues concerning
12 the professional standards of the Police Department; evaluating the internal investigation
13 process; and, making recommendations on strategies and policies to improve complaint
14 gathering and investigative procedures.

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16 **3.28.805 Definitions.**

17 A. "Contact Log" is a record of the receipt, review and action taken on a complaint
18 or referral to the Office of Professional Accountability that is not assigned to the Line or
19 OPA Investigation Section for a full investigation.

20 B. "Office of Professional Accountability Investigations Section" means the section,
21 or any successor section or unit, of the Department responsible for investigating complaints
22 of misconduct by Department employees;



1 C. "Line referral investigations" refers to those complaints reviewed by Office of
2 Professional Accountability Investigations Section and referred to the subject officer's chain
3 of command for investigation;

4 D. "OPA complaint" refers to a complaint assigned to the Office of Professional
5 Accountability for investigation.

6 E. "OPA investigation" refers to an investigation of a complaint conducted by the
7 Office of Professional Accountability.

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9 **3.28.810 Office of Professional Accountability -- Director.**

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

13 A. Be a civilian with legal, investigative, or prosecutorial experience;

14 B. Be appointed by the Mayor and confirmed by the City Council;

15 C. Be appointed for a three (3) year term, with the possibility of being reappointed
16 for a second three (3) year term, for a maximum of six (6) years;

17 D. Report directly to the Chief of Police;

18 E. Be paid at a salary consistent with the level of responsibility established in this
19 section and as provided by ordinance;

20 F. Direct the OPA investigative process, classify all complaints, certify completion
21 and findings of all OPA cases, and make recommendations regarding disposition to the
22 Chief of Police. The Chief of Police remains the final Police Department decisionmaker in
23 disciplinary actions;



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2 G. Provide analysis to the Chief of Police regarding disciplinary action in order to
3 promote consistency of discipline.
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5 **3.28.815 OPA Deputy Director.**

6 The Chief of Police shall, with a recommendation from the OPA Director, appoint
7 the OPA Deputy Director from among the sworn Captain ranks of the Seattle Police
8 Department. The OPA Deputy Director, as overseen by the Director, shall oversee the day-
9 to-day management of the OPA investigative process, employing the best and most
10 effective OPA investigations practices.
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12 **3.28.820 OPA Procedures Manual.**

13 The Police Department shall produce an OPA procedures manual, which shall
14 include instructions for filing a complaint with OPA, and which shall be made available to
15 members of the public, as well as Police Department personnel.
16

17 **3.28.825 Reports.**

18 The Director shall issue semiannual reports to the Mayor and City Council
19 describing the work of the OPA and making recommendations for policy changes. The
20 Director shall provide to the OPA Auditor and OPA Review Board information necessary
21 for their respective reporting functions as set forth in this chapter. The OPA staff shall meet
22 with community groups and recommend to the Chief of Police changes in policy or areas
23 where training bulletins are needed.



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2 **3.28.830 Confidentiality of Files and Records.**

3 The Director shall, in the case of unsustained complaints, prepare a summary of the
4 investigation, including a description of the number of witnesses interviewed, the
5 investigative methods employed, and a brief explanation of why the complaint was not
6 sustained. The Director shall provide a copy of the summary to the complainant. The
7 Director shall protect the confidentiality of Department files and records to which s/he has
8 been provided access to the extent permitted by applicable law, in accordance with the
9 provisions of this chapter, and in the same manner and to the same degree as s/he would be
10 obligated to protect attorney-client privileged materials under legal and ethical requirements.
11 The Director shall also be bound by the confidentiality provisions of the Criminal Records
12 Privacy Act (RCW Chapter 10.97) and Public Disclosure Act (RCW Section 42.17.250 et
13 seq.) The Director shall not identify the subject of an investigation in any public report
14 required by this chapter.

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16 **Subchapter VIII Office of Professional Accountability Auditor**

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18 **3.28.850 Office of Professional Accountability Auditor Established.**

19 A. There shall be an Office of Professional Accountability Auditor (hereinafter
20 "OPA Auditor") who shall be appointed by the Mayor, subject to confirmation by the City
21 Council, to provide review and assessment of Office of Professional Accountability
22 (hereinafter "OPA") complaints. The OPA Auditor shall serve a term of two (2) years and
23 may be reappointed to two (2) subsequent two (2) year terms by the Mayor, subject to



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2 confirmation by the City Council. No individual may serve more than three (3) full two (2)
3 year terms as OPA Auditor. Beginning on January 1, 2002, terms shall begin on January 1st
4 of even-numbered years, and run through December 31st of the following odd-numbered
5 year. Should an OPA Auditor take office at any time after commencement of a regular term,
6 the expiration of that term shall remain unaffected. The OPA Auditor may be removed from
7 office for cause by the Mayor by filing a statement of reasons for removal with the City
8 Council. The OPA Auditor shall be compensated as provided by ordinance or by
9 appropriation in the City's annual budget.

10 B. The OPA Auditor should possess the following qualifications and characteristics:

- 11 1. A reputation for integrity and professionalism, as well as the ability to
12 maintain a high standard of integrity in the office;
- 13 2. A commitment to and knowledge of the need for and responsibilities of law
14 enforcement, as well as the need to protect basic constitutional rights of all affected parties;
- 15 3. A commitment to the statement of purpose and policies in this chapter;
- 16 4. A history of demonstrated leadership experience and ability;
- 17 5. The potential for gaining the respect of complainants, departmental personnel,
18 and the citizens of this City;
- 19 6. The ability to work effectively with the Mayor, City Council, City Attorney,
20 Chief of the Department, Office of Professional Accountability Board, departmental
21 personnel, public agencies, private organizations, and citizens;
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2 7. The ability, as shown by previous experience, to work with diverse groups and
3 individuals; and

4 8. The ability to work effectively under pressure.

5 C. In addition to the qualifications and characteristics set forth in subsection B here
6 in above, the OPA Auditor shall possess the following qualification: the OPA Auditor must
7 be a graduate of an accredited law school and member in good standing of the Washington
8 State Bar Association and, prior to appointment, have at least five (5) years of experience in
9 the practice of law or in a judicially related field.

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

12
13 **3.28.855 OPA Audit procedures and standards.**

14 A. Audit of All Investigations of Complaints of Unnecessary or Excessive Force.
15 The OPA Auditor shall audit all completed OPA case files involving complaints of
16 unnecessary or excessive force. Before a case file involving a complaint of unnecessary or
17 excessive force is referred to the subject officer's chain of command for review and
18 recommendations, and no more than three (3) business days after the Office of Professional
19 Accountability has completed its investigation, the Department shall forward a complete
20 copy of the file to the OPA Auditor.
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2 B. Audit of All Investigations of Complaints Not Involving Unnecessary or
3 Excessive Force Allegations. Each calendar year, the OPA Auditor shall audit all of the
4 completed OPA case files involving complaints other than those involving unnecessary or
5 excessive force. The Department shall notify the OPA Auditor of the completion of case
6 files on a weekly basis. The case file shall be forwarded to the subject officer's chain of
7 command for review and recommendations, if, within ten (10) business days of notification
8 of completion, the OPA Auditor has not advised the Department s/he will audit the
9 investigation. The OPA Auditor may audit a completed case file after referral to the subject
10 employee's chain of command; provided, however, in such instance the OPA Auditor shall
11 not request follow-up investigation.

12 C. The frequency of audits under this section shall be as determined by the OPA
13 Auditor; provided, however, audits of completed case files shall take place at unscheduled
14 intervals not to exceed ninety (90) days following initiation of the last audit.

15 D. OPA Auditor May Request Further Investigation.

16 1. The OPA Auditor shall use best efforts to complete audits under subsections
17 A and B of this section without unreasonably delaying review of the case file by the subject
18 officer's chain of command. After reviewing the file, the OPA Auditor may request the
19 Office of Professional Accountability, through the Chief of Police, to conduct further
20 investigation. The OPA Auditor shall provide a written statement to the Chief of Police
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2 identifying the reasons for his or her request for a follow-up investigation. Criteria the OPA
3 Auditor should consider include but are not limited to: (1) whether witnesses were contacted
4 and evidence collected; (2) whether interviews were conducted on a thorough basis; and (3)
5 whether applicable OPA procedures were followed. In the event the Chief of Police
6 disagrees with this recommendation, he or she shall within five (5) days provide the OPA
7 Auditor with a written statement of the grounds for this decision.

8 2. If the basis for the OPA Auditor's request for further investigation is that a
9 relevant witness or witnesses were not contacted, relevant evidence was not collected, or an
10 interview or interviews were not thorough, and the Chief of Police disagrees with the OPA
11 Auditor's recommendation for further investigation, the OPA Auditor may refer the issue of
12 further investigation to the OPA Review Board. The OPA Review Board shall decide
13 whether the OPA shall conduct the further investigation requested by the OPA Auditor. In
14 the event further investigation is ordered, the OPA Auditor may audit the file to ensure
15 compliance with the OPA Review Board's decision. If the OPA Auditor finds that the Police
16 Department has not complied with the OPA Review Board's decision, the OPA Auditor may
17 submit the matter of compliance to the OPA Review Board. The OPA Review Board shall
18 decide whether the Department has complied. The OPA Review Board's decisions
19 regarding further investigation and compliance therewith shall be final and binding.



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

5 F. Monthly Review of Contact Log and Complaint Records. The OPA Auditor
6 shall review the OPA contact log and OPA complaint records at least monthly. If, after
7 reviewing the OPA contact log and OPA complaint records, the OPA Auditor believes that a
8 contact log complaint should be investigated further, or that a case that has been designated
9 for a line referral should receive a full investigation by the OPA, the OPA Auditor may
10 request the OPA, through the Chief of Police, to conduct a full investigation. The OPA
11 Auditor shall provide a written statement to the Chief of Police identifying the reasons for
12 his/her request for a full investigation. The Chief of Police, or his/her designee, shall
13 consult with the OPA Auditor regarding the OPA Auditor's request, and shall promptly
14 advise the OPA Auditor of the investigative action s/he intends to take.

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

17 1. The OPA Auditor shall have access to all OPA files and records, including
18 but not limited to: OPA files, line review reports and files, and OPA contact logs, provided,
19 however, the OPA Auditor shall not have access to files designated by the OPA as relating
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2 to an active criminal investigation of an officer until such time as the Department has given
3 the subject officer written notification of the investigation. The OPA Director shall provide
4 the OPA Auditor with quarterly status reports regarding OPA cases in which criminal
5 investigations are also being undertaken. These status reports shall include the number of
6 ongoing OPA criminal investigations and the month during which each investigation was
7 originated, and the number of new criminal investigations initiated that quarter.

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

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

19 H. OPA Auditor Access to Caseload, Workload and Procedural Information. The
20 OPA Auditor is authorized to request any information on OPA cases, workload, or
21 procedures that s/he finds necessary in order to conduct an ongoing analysis of the
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2 Department's OPA process. The Department shall make every reasonable effort to comply
3 with the OPA Auditor's requests.
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5 **3.28.860 OPA Auditor to prepare semiannual report.**

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

10 A. The OPA Auditor's report shall contain a general description of the files and
11 records reviewed, and should include, but not be limited to:

- 12 1. The number of cases reviewed by the OPA Auditor;
- 13 2. The number of follow-up investigations requested by the OPA Auditor, the
14 number of follow-up investigations completed by the Department, and the number of
15 follow-up investigation requests denied by the Department;
- 16 3. The number of contact log cases and line referral cases where the OPA
17 Auditor recommended that full investigations take place, the number of such investigations
18 completed by the Department, and the number of follow-up investigation requests denied by
19 the Department;
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2 4. A summary of issues, problems and trends noted by the OPA Auditor as a
3 result of his/her review;

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

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

9 7. The OPA Director's involvement in community outreach to inform citizens
10 of the complaint process and the role of the Office of Professional Accountability.

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

15 C. The OPA Auditor shall deliver a preliminary draft of his/her semiannual report to
16 the Chief of Police for review and comment. The Chief of Police shall review and comment
17 on the preliminary report within twenty (20) days after receipt of the report. The OPA
18 Auditor shall submit the final report within thirty (30) days after receipt of the Chief's
19 comments. The OPA Auditor's final report shall be submitted no later than the thirtieth day
20 of April and October of each year.



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2 D. The Chief of Police shall forward to the Mayor, City Council, City Attorney,
3 OPA Review Board and the City Clerk within twenty (20) working days of receipt of the
4 OPA Auditor's final report the Chief's written comments on the report.
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6 **3.28.865 OPA Auditor to meet with Mayor, City Council, and Chief of Police.**

7 The OPA Auditor shall meet periodically with the Mayor, City Council, OPA
8 Review Board and the Chief of Police regarding recommendations to improve the OPA
9 investigative process within the framework of applicable law and labor agreements.
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11 **3.28.870 Confidentiality of files and records.**

12 In discharging his or her responsibilities, the OPA Auditor shall protect the
13 confidentiality of Department files and records to which s/he has been provided access in the
14 same manner and to the same degree as s/he would be obligated to protect attorney-client
15 privileged materials under legal and ethical requirements. The OPA Auditor shall also be
16 bound by the confidentiality provisions of the Criminal Records Privacy Act (RCW Chapter
17 10.97) and Public Disclosure Act (RCW Section 42.17.250 et seq.). The OPA Auditor shall
18 not identify the subject of an investigation in any public report required by this chapter.
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Subchapter IX Office of Professional Accountability Board

3.28.900 Office of Professional Accountability Board Established.

There is created an Office of Professional Accountability Review Board (hereinafter "OPA Review Board") to establish independent review of the Office of Professional Accountability ("OPA") complaint handling process in a manner that will have the confidence of the general public, police officers, and complainants; and to enhance the credibility of the Office of Professional Accountability and the OPA investigation process. The OPA Review Board shall not participate in the management of the day-to-day functions of the Department, which are the responsibility of the Chief of Police. The OPA Review Board shall consist of three (3) members. Two (2) members shall be considered a quorum.

3.28.905 Appointment of the OPA Review Board.

A. The City Council shall appoint the three (3) members of the OPA Review Board to provide review and assessment of the investigation of Office of Professional Accountability complaints. Members of the OPA Review Board shall serve staggered terms. Each member of the OPA Review Board shall serve a term of two (2) years; except that the first term of one of the first appointees shall be one year. Members may be reappointed to one (1) subsequent two (2) year term by the City Council. No individual may



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2 serve more than two (2) full two (2) year terms as an OPA Review Board member. Should
3 an OPA Review Board member take office at any time after commencement of a regular
4 term, the expiration of that term shall remain unaffected. An OPA Review Board member
5 may be removed from office for cause by the Council by filing a statement of reasons for
6 removal. The OPA Review Board members shall be compensated as provided by ordinance
7 or by appropriation in the City's annual budget.

8 B. Each OPA Review Board member shall:

- 9 1. Have a reputation for integrity and professionalism, as well as the ability to
10 maintain a high standard of integrity in the office;
- 11 2. Have a commitment to and knowledge of the need for and responsibilities of
12 law enforcement, as well as the need to protect basic constitutional rights of all affected
13 parties;
- 14 3. Have a commitment to the statement of purpose and policies in this chapter;
- 15 4. Have a history of demonstrated leadership experience and ability;
- 16 5. Have the potential for gaining the respect of complainants, departmental
17 personnel, and the citizens of this City;
- 18 6. Be able to work effectively with the City Council, departmental personnel,
19 public agencies, private organizations, and citizens;
- 20 7. Be able to work with diverse groups and individuals, as shown by previous
21 experience;
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8. Be able to work effectively under pressure;
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 member shall have at least five (5) years of experience in the field of law enforcement; and at least one member shall have significant experience in community involvement, organizing and outreach;

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.

3.28.910 OPA Review Board to prepare quarterly report.

The OPA Review Board shall prepare and submit a quarterly report to the City Council, Chief of Police, City Attorney, Mayor, and City Clerk for filing as a public record. The OPA Review Board's report shall be prepared in accordance with the following provisions:



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2 A. The OPA Review Board shall review and report on the implementation of the
3 Office of Professional Accountability.

4 B. The OPA Review Board's report shall contain a general description of the files
5 and records reviewed, and should include, but not be limited to:

- 6 1. The number of closed, completed cases reviewed;
- 7 2. The total number of complaints received by the Office of Professional
8 Accountability;
- 9 3. The number of complaints by category and nature of allegation;
- 10 4. The percentage of complaints sustained and not sustained;
- 11 5. The nature of disciplinary action taken in sustained cases;
- 12 6. Patterns of complaints including:
 - 13 a. Type of complaint,
 - 14 b. Geographic area of complaint,
 - 15 c. Race, ethnicity, gender of complainants,
 - 16 d. Race, ethnicity, gender, assignment, seniority of officer(s) who is/are
17 subject of complaint;
- 18 7. The number of officers who have received three (3) or more sustained
19 complaints within one (1) year;
- 20 8. The number of follow-up investigations requested by the OPA Auditor, the
21 number of follow-up investigations completed by the Department, and the number of
22 follow-up investigation requests denied by the Department;



1 9. The number of contact log cases and line referral cases where the OPA
2 Auditor recommended that full investigations take place, the number of such investigations
3 completed by the Department, and the number of follow-up investigation requests denied by
4 the Department;

5 10. A summary of issues, problems and trends noted by the OPA Review Board
6 as a result of their review;

7 11. Any recommendations that the Department consider additional officer
8 training, including recommendations that the Department consider specialized training for
9 investigators;

10 12. Any recommendations the Department consider policy or procedural
11 changes; and

12 13. A Review of the OPA Director's involvement in community outreach to
13 inform citizens of the complaint process and the role of the Office of Professional
14 Accountability.

15 C. The OPA Review Board's report shall not contain any recommendations
16 concerning the discipline of any particular police officer, nor shall the report comment upon
17 or make any recommendation concerning potential civil or criminal liability of specific
18 employees, police officers, or citizens.



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2 D. The OPA Review Board's report shall forward its report to the President of the
3 City Council, the Chair of the City Council's Public Safety Committee, Mayor, City
4 Attorney and City Clerk no later than the thirtieth day of March, June, September and
5 December of each year.

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7 **3.28.915 OPA Review Board to meet with City Council.**

8 The OPA Review Board shall present their report quarterly to the City Council.
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10 **3.28.920 Access to and Confidentiality of files and records.**

11 A. The OPA Review Board shall have access to, for purposes of review, redacted
12 complaint forms of all OPA complaints and redacted files of all closed OPA investigations.
13 The OPA Review Board shall have access to summary information necessary for its
14 reporting obligations as set forth in section 3.28.910 of this chapter.

15 B. In discharging his or her responsibilities, OPA Review Board members shall
16 protect the confidentiality of Department files and records to which they have been provided
17 access in the same manner and to the same degree they would be obligated to protect
18 attorney-client privileged materials under legal and ethical requirements. The OPA Review
19 Board shall also be bound by the confidentiality provisions of the Criminal Records Privacy
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Act (RCW Chapter 10.97) and Public Disclosure Act (RCW Section 42.17.250 et seq.).
The OPA Review Board shall not identify the identity of the subject of an investigation in
any public report required by this chapter.

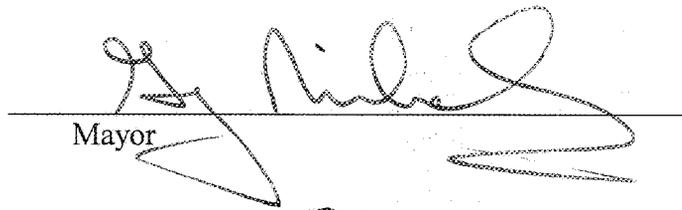
Section 3. This ordinance shall take effect and be in force thirty (30) days from and after
its approval by the Mayor, but if not approved and returned by the Mayor within ten (10)
days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the 11th day of February, 2002, and signed by me in
open session in authentication of its passage this 11th day of February, 2002.



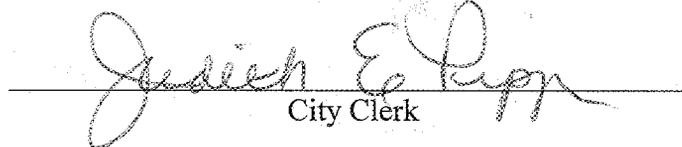
President _____ of the City Council

Approved by me this 15 day of February, 2002.



Mayor

Filed by me this 15 day of February, 2002.



City Clerk

(Seal)



January 29, 2002

To: Police, Fire, Courts & Technology Committee

From: Peter Harris, Central Staff

Re: Amending the Municipal Code for consistency with the Seattle Police Officers' Guild agreement on the OPA Review Board and OPA Auditor

Introduction

In December 1999, the Council passed Ordinance 119825 to create the Office of Professional Accountability (OPA) Review Board and to replace the Internal Investigations Auditor with an OPA Auditor. Several aspects of the roles and membership of the Review Board and Auditor subsequently became topics for labor contract negotiations between the City and the Seattle Police Officers' Guild. The final points in the negotiations were settled with an interest arbitration award last November.

Some provisions of the collective bargaining agreement between the City and Officers' Guild are inconsistent with the current Municipal Code. The purpose of the attached ordinance is to make the Municipal Code consistent with the agreement. The ordinance does so by replacing the existing sections of the Code concerning the Review Board, Auditor and OPA with new sections. The new sections are substantively the same as the existing sections except where changed for consistency with the agreement. The intent in amending the Code in this wholesale fashion, rather than line by line, is to make the end result clear, and also to improve the organization of this part of the Code.

None of the Code amendments proposed here represent significant policy decisions, because, where the Guild agreement and Code disagree, the City is obligated to follow the agreement. The Council has the option of not revising the Code to reflect the agreement. This would not change the roles and responsibilities of the Review Board and Auditor – they would remain as agreed – but could easily lead to confusion.

The ordinance is scheduled for discussion and possible vote in the February 6 meeting of the Committee.

Organization of this cover memo

Pages 2-3 summarize the results of the negotiations with the Officers' Guild on the Review Board and Auditor.

Pages 3-10 discuss the major questions that emerged from the negotiations and describe how they are addressed in the proposed ordinance. The major questions are these:



1. Who hires the OPA Auditor?
2. What should the Municipal Code list as qualifications of Review Board members?
3. Will the Auditor audit all case files of complaints not involving allegations of unnecessary or excessive force, or only some?
4. Who may initially request further investigation of complaints, the Auditor or the Review Board?
5. Should the Review Board resolve disputes between the Auditor and OPA Director about further investigation?
6. May the Auditor or Review Board review complaint classification decisions?
7. Should the Municipal Code state that a Review Board member's intentional breach of confidentiality is grounds for removal from the Board?
8. Pending the conclusions of the Racial Profiling Task Force and possible subsequent negotiations with the Guild, should the Municipal Code's requirements for Review Board reports exclude the race and ethnicity of complainants and of officers who are subjects of complaints?

Pages 10-12 summarize each section of the proposed ordinance, explaining how it varies from the existing Code and how it reflects the answers to the questions above.

Attached for reference are a September 2000 memorandum of understanding between the City and the Officers' Guild, which interprets and explains the portions of the collective bargaining agreement that apply to the OPA, Auditor and Review Board; the November 2001 interest arbitration award; and Municipal Code sections 3.28.600-760.

What were the main results of the negotiations?

The September 2002 Memorandum of Understanding (MOU) interprets and explains the entire collective bargaining agreement. The main points of agreement on the Review Board and Auditor were these:

the existing Internal Investigations Auditor shall be continued with its current authority, which includes auditing all investigations involving Guild members, "but may be renamed the OPA Auditor";

the City will implement the OPA Review Board "with at least three members";

the Review Board may review redacted versions of all complaint forms and redacted versions of all closed case files; and



when the Auditor and OPA Director disagree about whether further investigation of a case is warranted, the Review Board will make the final decision.

The MOU also called for further negotiations on the composition of the Review Board, confidentiality, the Board's reports, and several other topics. The further negotiations and the final interest arbitration award yielded the following points of agreement:

Review Board members shall have "a commitment to and knowledge of the need for and responsibilities of law enforcement, as well as the need to protect basic constitutional rights of all affected parties"; "the absence of any plea to or conviction for a felony, crime of violence, or an offense involving moral turpitude"; and the ability "to comply with the requirements of the appearance of fairness doctrine . . . as a member of the OPA Review Board."

The Review Board shall have three members (not at least three, as stated in the MOU). At least one shall be a member of the bar, one shall have at least five years of law enforcement experience, and one shall have significant community organizing experience.

The Council shall appoint Review Board members. It shall solicit Guild input on the Review Board candidates.

Each Review Board member shall sign a confidentiality agreement, and an intentional breach of the agreement shall be grounds for removal from the Board.

The Review Board's reports shall include a review of the implementation of the OPA, including its outreach activities, and a general overview of the cases the Board has reviewed and of the nature and patterns of complaints. The reports may also summarize issues, problems and trends, and make recommendations on Police Department policies and procedures.

Major questions emerging from the Guild agreement

1. Who hires the OPA Auditor?

SMC 3.28.600 currently says,

"The OPA Review Board shall, subject to City Council consultation . . . hire a full-time Auditor ('OPA Review Board Auditor') as its staff."

Prior to the ordinance creating the Review Board and OPA Auditor, SMC 3.28.620 said,

"The Mayor shall appoint an Auditor, subject to confirmation by the City Council, to provide review and assessment of the investigation of Internal Investigations complaints."



The MOU says,

“The City agrees that the IIS Auditor position shall be continued in effect with its current authority but may be renamed the OPA Auditor, with the clarification that the Auditor may audit all OPA cases involving Guild bargaining unit members.”

Labor Relations reports that the City and Guild understood this to mean that renaming the Auditor would be the only change in the Auditor's position from the current practice. The current practice is for the Mayor to appoint and Council to confirm the Internal Investigations Auditor. This implies that the OPA Auditor should be appointed by the Mayor and confirmed by the Council.

In addition to being inconsistent with the Guild agreement, the current Code creates an anomalous supervisory relationship. The Auditor has access to the full contents of all OPA case files. According to the agreement, unless there is a dispute between the Auditor and OPA Director about further investigation, the Review Board will see only redacted versions of closed files. If the Review Board hired the Auditor as its staff, the Board would have less access to information than its own staff.

The proposed ordinance would amend the Code so that the OPA Auditor is appointed by the Mayor and confirmed by the Council.

2. What should the Municipal Code list as qualifications of Review Board members?

The eligibility criteria for Review Board members were a main topic of the negotiations. In addition to repeating some of the qualifications already listed in SMC 3.28.620, the interest arbitration award says that all Board Members should:

be citizens of the U.S. or authorized to work in the U.S.;

possess a high school diploma;

be at least 21 years old;

not have a plea to or conviction for a felony, crime of violence, or offense involving moral turpitude; and

be able to comply with the appearance of fairness doctrine as members of the Board.

SMC 3.28.620 says that one Board Member shall be a member of the Bar, another shall have experience in community involvement and organizing, and another “shall have at least five years of experience in criminal justice or related fields”. The interest

arbitration award repeats the first two of these, but narrows the third, by saying that one member "shall have at least five years of experience in law enforcement."

The additional criteria will apply whether or not they are added to the Municipal Code. The requirement that one Board member have five years of law enforcement experience fits within the requirement that one member have five years of experience in criminal justice or a related field, so applying this criterion would not contradict the Code. Adding these criteria to the Code, however, would consolidate them in one place and may reduce uncertainty about what criteria apply.

The proposed ordinance would incorporate these qualifications in the Code.

3. Will the Auditor audit all case files from complaints not involving allegations of unnecessary or excessive force, or only some?

Prior to December 1999, the Code said the Auditor would audit only 20% of case files from complaints not involving allegations of unnecessary or excessive force. (The Auditor has audited and will continue to audit all case files from complaints that do involve such allegations.) SMC 3.28.600, which was amended in 2000 to allow the Internal Investigations Auditor to continue working until the OPA Review Board and Auditor are appointed, repeats this. SMC 3.28.630, however, says,

"the OPA Review Board Auditor shall audit all of the completed OPA case files involving complaints other than those involving unnecessary or excessive force."

Reportedly the current Auditor has routinely audited more than 20% of these case files, perhaps all of them. As noted above, the MOU says, "the Auditor may audit all OPA cases involving Guild bargaining unit members."

The only apparent benefit of having the Auditor audit only 20% of these case files would be to reduce costs. This option could be re-evaluated if and when Auditor's costs become a problem.

The proposed ordinance states that the Auditor will audit all case files from complaints not involving allegations of unnecessary or excessive force.

4. Who may initially request further investigation of complaints, the OPA Auditor or the Review Board?

The Municipal Code is somewhat ambiguous on this question, and the Guild agreement addresses it only indirectly.

SMC 3.28.600, which defines the duties of the Internal Investigations Auditor pending the creation of the OPA Auditor, says,



"Auditor may request further investigation. . . After reviewing the file, the [Internal Investigations] Auditor may request the OPA . . . to conduct further investigation. . . In the event the Chief of Police disagrees with this recommendation, he or she shall . . . provide the Auditor with a written statement of the grounds for this decision."

However, paragraph C in SMC 3.28.630, on Audit Procedures and Standards, says,

"OPA Review Board *Auditor* May Request Further Investigation. . . After the OPA Review Board Auditor has reviewed the file, the *OPA Review Board* may request the Office of Professional Accountability . . . to conduct further investigation." [emphasis added]

And paragraph E in this section says,

"Monthly Review of Contact Log and Complaint Records. The OPA Review Board *Auditor* shall review the OPA contact log and OPA complaint records at least monthly. If, after reviewing the OPA contact log and OPA complaint records, the *OPA Review Board* believes that a contact log complaint should be investigated further, or that a case that has been designated for a line referral should receive a full investigation by the OPA, the *OPA Review Board* may request the OPA . . . to conduct a full investigation." [emphasis added]

These two paragraphs imply either that the Review Board makes the initial request on behalf of the Auditor, or that the Review Board itself reviews files, contact logs and complaint records. The latter is inconsistent with the limits in the Guild agreement on the Review Board's access to OPA files and on the Review Board's role in individual cases. The former might be consistent with a relationship between the Auditor and Review Board in which the Review Board hired the Auditor as staff (a relationship that would be inconsistent with the Guild agreement, per #1 above), but if the Review Board did not read open case files and review contact logs, it would be in the position of requesting further investigation on the basis of information it did not itself directly have.

The Guild agreement implies, but does not say, that it is the Auditor and not the Review Board who may initially request further investigation of complaints. The MOU says,

"The OPA Review Board [will] render a final and binding decision in those cases referred by the Auditor in which there is a dispute between the Auditor and the OPA Director concerning whether further investigation of a case file is warranted".

The interest arbitration award says,

"The Basis for Requesting Further Investigation. Prior to submission of an issue to the OPARB the Auditor and OPA Director will delineate their dispute in

writing and the Auditor will specify what if any further investigation is being requested.”

By saying that the Review Board makes decisions on cases referred or submitted to it by the Auditor when the Auditor and OPA Director disagree, these imply that the Auditor makes the initial request for further investigation.

If the Review Board does not hire the Auditor, and does not have direct access to OPA case files, it would not be in the position to make the initial request for further investigation. In combination with the ambiguities in the Municipal Code and the implications of the Guild agreement, this suggests the best option is to clarify in the Municipal Code that the Auditor, and not the Review Board, may make initial requests for further investigation. This would be consistent with a structure in which the Auditor is appointed by the Mayor or Council, has complete access to OPA files, and may request further investigation, and the Review Board has limited access to OPA files and becomes involved in individual cases only when the Auditor and OPA Director or Police Chief disagree about further investigation. (See also #5 and #6 below.)

The proposed ordinance would amend the Code to clarify that the Auditor, and not the Review Board, makes the initial request for further investigation.

5. Should the Review Board resolve disputes between the Auditor and OPA Director about further investigation?

The Municipal Code currently does not give the Review Board the duty to resolve disputes between the Auditor and OPA Director about further investigation. As discussed in #4 above, SMC 3.28.630 says only that the Review Board may request further investigation. The Code states, or at least implies, that the Police Chief decides whether there will be further investigation. Paragraph C in this section of the Code concludes,

“In the event the Chief of Police disagrees with this recommendation [for further investigation], he or she shall . . . provide the Review Board with a written statement of the grounds for this decision.”

The MOU with the Guild says,

“The OPA Review Board shall have the following powers . . . To render a final and binding decision in those cases referred by the Auditor in which there is a dispute between the Auditor and the OPA Director concerning whether further investigation of a case file is warranted . . .”

The interest arbitration award says,

“Prior to submission of an issue to the OPARB the Auditor and OPA Director will delineate their dispute . . . and the Auditor will specify what . . . further investigation



is being requested. Such referrals will not consider disputes over classification decisions, and will be limited to disputes over (1) whether relevant witnesses were contacted and relevant evidence collected; and (2) whether interviews were conducted on a thorough basis. The OPARB after reviewing the file will issue a final and binding decision resolving the dispute between the OPA Director and Auditor. If the OPARB sends a case back for further investigation, it must specify what investigative task(s) need to be performed . . .”

It seems clear from the MOU and interest arbitration award that the Review Board’s “final and binding” decision in such cases would only be whether there will be further investigation, and not on any other aspects of the case, including the merits of the complaint. Nevertheless this would give the Review Board new decision-making authority on one aspect of some complaint investigations. It would create a third level of citizen oversight of the extent of investigations: First, the civilian OPA Director can direct the sworn Investigations Section of the OPA to conduct more investigation; second, the Auditor can recommend further investigation to the OPA Director; third, with this amendment, the Review Board could resolve disputes on this between the Auditor and OPA Director. It is difficult to predict how often the Board would be called on to resolve such disputes. The main effect may be to reinforce the Auditor’s recommendations in these cases.

The proposed ordinance would amend the Municipal Code so that the Review Board is authorized to render final decisions on further investigation when the Auditor and OPA Director disagree about whether further investigation is warranted.

6. May the Auditor or Review Board review complaint classification decisions?

The first decision in the OPA review of misconduct complaints is whether the complaint will receive an OPA investigation, be referred to the line supervisor for investigation, or only be entered on the contact log. This is the classification decision.

Paragraph E in SMC 3.28.630, quoted in #4 above, says that Auditor or Review Board may request that contact log complaints be reviewed further and may request that cases classified as line referrals instead be investigated by the OPA.

As quoted in #5 above, the interest arbitration award says that “disputes over classification decisions” may not be referred to the Review Board for resolution. Labor Relations reports that this was intended to mean that the Review Board has no role in classification decisions. Consistent with current practice, the Auditor may request changes in classification decisions, but not require them, and may not refer disputes with the OPA Director about classification decisions to the Review Board.

This question is linked to #1 and #4 above. If the Auditor is not staff to the Review Board, and it is the Auditor who may make initial requests for further investigation, and the Auditor has access to open complaint files but the Review Board does not, it would

be consistent for the Auditor to review complaint classification decisions, not the Review Board.

The proposed ordinance would amend the Code to clarify that the Auditor, and not the Review Board, may review complaint classification decisions.

7. Should the Municipal Code state that a Review Board member's intentional breach of confidentiality is grounds for removal from the Board?

The interest arbitration award says,

“An intentional breach of the confidentiality provisions of the ordinance [creating the Review Board] shall constitute grounds for removal.”

Both the current Code and the proposed ordinance require the Review Board to protect the confidentiality of Police Department files, and both say that the Council may remove Review Board members for cause. A Board member's violation of the confidentiality provisions of the Code would be a clear cause for removal. The question is whether the Code should state this explicitly.

There is no apparent reason why this cause should be singled out among all causes for removal. Listing one cause could potentially reduce the Council's ability to remove a Review Board member for other causes that are not listed.

The proposed ordinance would not add this statement to the Code.

8. Pending the conclusions of the Racial Profiling Task Force and possible subsequent negotiations with the Guild, should the Municipal Code's requirements for Review Board reports exclude the race and ethnicity of complainants and of officers who are subjects of complaints?

SMC 3.28.640 calls for quarterly public reports to the Council and others by the Review Board. The reports are to include

“Patterns of complaints, including . . . Race, ethnicity, gender of complainants [and] Race, ethnicity, gender, assignment, seniority of officer(s) who is/are subject of complaint.” [sic]

The interest arbitration award says,

“After the committee on racial profiling has made its final report and recommendations, the City may determine that it is appropriate to gather, maintain and report data on the race, ethnicity and gender of complainants, and on the race, ethnicity, gender, assignment and seniority of officers who are the subject of complaints. The City will provide thirty . . . days notice . . . of its intent to



begin gathering, maintaining, and report such data on complainants and officers . . . and . . . the Guild may request to reopen negotiations on that subject.”

The choice is whether to delete these particular reporting requirements from the Code pending the completion of the Racial Profiling Task Force’s work, the subsequent City decision about whether to gather these data, and the results of any negotiations on this. The advantage of deleting these reporting requirements would be to avoid creating an expectation that the Review Board’s reports will necessarily contain this information. The advantage of not deleting them would be to maintain the policy intent and avoid again amending the Code if the City chooses to have the Review Board report on these and successfully negotiates this with the Guild.

The proposed ordinance would leave these reporting requirements in the Code.

Summary of Municipal Code changes in the proposed ordinance

Section 1 of the proposed ordinance would repeal SMC sections 3.28.600 through 3.28.760, which currently create and define the OPA, the OPA Review Board, and the OPA Auditor.

Section 2 of the proposed ordinance would replace the repealed Code sections first by creating the OPA, then by creating the OPA Auditor, and then by creating the OPA Review Board; as follows:

Subchapter VII Office of Professional Accountability

New section 3.28.800, “Office of Professional Accountability created – Functions and authority,” exactly replicates the current 3.28.700.

New section 3.28.805, “Definitions,” replaces existing sections 3.28.610 and 3.28.710. The term “Internal Investigations Section” and the acronym “IIS” are replaced with “OPA Investigations Section” and “OPA.”

New sections 3.28.810, 3.28.815 and 3.28.820, titled “Office of Professional Accountability – Director,” “OPA Deputy Director,” and “OPA Procedures Manual,” exactly replicate the current 3.28.720, 3.28.730 and 3.28.740.

New section 3.28.825, “Reports,” replicates the current 3.28.750, adding the sentence, “The [OPA] Director shall provide to the OPA Auditor and OPA Review Board information necessary for their respective reporting functions as set forth in this chapter.” The purpose is to create an affirmative duty of the Director to support the Auditor’s and Review Board’s reporting functions. This is consistent with the 2002 Statement of Legislative Intent on OPA Complaint Investigations.

New section 3.28.830, “Confidentiality of Files and Records,” replicates the current 3.28.830, except that the title is changed from “Records.”

Subchapter VIII Office of Professional Accountability Auditor

New section 3.28.850, "Office of Professional Accountability Auditor Established," defines the appointment, term, and qualifications of the OPA Auditor as they were defined for the Internal Investigations Auditor prior to Ordinance 119825 in December 1999. This reflects the agreement with the Officers' Guild that the Auditor's role will continue as practiced today – namely, as the Internal Investigations Auditor – but be renamed. (The role of the Auditor did not change after December 1999 because the legislated changes in the Auditor's role depended on the implementation of the Review Board, which in turn depended on the conclusion of the negotiations with the Officers' Guild.) The key substantive changes to the current Code would be that the Mayor would appoint and Council would confirm the Auditor, the Auditor would not report to the Review Board, and the duties of the Auditor and Review Board would not be intermingled.

New section 3.28.855, "OPA Audit procedures and standards," replicates the current 3.28.630, with two minor changes and one addition. The position title "OPA Review Board Auditor" is replaced by the title "OPA Auditor." The last sentence in the current paragraph B becomes new paragraph C, and subsequent paragraphs are re-lettered accordingly. The addition defines the roles of the Auditor and Review Board in disputes over further investigation, per the MOU:

"If the basis for the OPA Auditor's request for further investigation is that a relevant witness or witnesses were not contacted, relevant evidence was not collected, or an interview or interviews were not thorough, and the Chief of Police disagrees with the OPA Auditor's recommendation for further investigation, the OPA Auditor may refer the issue of further investigation to the OPA Review Board. The OPA Review Board shall decide whether the OPA shall conduct the further investigation requested by the OPA Auditor. In the event further investigation is ordered, the OPA Auditor may audit the file to ensure compliance with the OPA Review Board's decision. If the OPA Auditor finds that the Police Department has not complied with the OPA Review Board's decision, the OPA Auditor may submit the matter of compliance to the OPA Review Board. The OPA Review Board shall decide whether the Department has complied. The OPA Review Board's decisions regarding further investigation and compliance therewith shall be final and binding."

New sections 3.28.860 and 3.28.865, titled "OPA Auditor to prepare semiannual report" and "OPA Auditor to meet with Mayor, City Council, and Chief of Police," define the Auditor's reporting requirements as they were defined before the Code was amended by Ordinance 119825 in December 1999.

New section 3.28.870, "Confidentiality of files and records," creates confidentiality requirements for the Auditor parallel to those for the OPA Director.



Subchapter IX Office of Professional Accountability Review Board

New section 3.28.900, "Office of Professional Accountability Review Board Established," replicates paragraph A of the current 3.28.600, except that the Review Board no longer hires the Auditor, and a quorum is defined.

New section 3.28.905, "Appointment of the OPA Review Board," replicates the current 3.28.620, except that the qualifications are revised for grammar, the new qualifications from the interest arbitration award are added, and the requirement that one Review Board member have "experience in criminal justice or a related field" is changed to "experience in the field of law enforcement."

New section 3.28.910, "OPA Review Board to prepare quarterly reports," replicates the current 3.28.640, except that the reporting requirement of a "[l]ist of officers who have received three (3) or more sustained complaints within one (1) year" is revised to "[t]he number of officers . . .", per the interest arbitration award. This is consistent with the Review Board's role in reviewing trends in complaints and the quality of complaint handling, rather than becoming involved in individual cases and disciplinary decisions. Note that files on sustained complaints, including the names of the parties, are public records.

New section 3.28.915, "OPA Review Board to meet with City Council," exactly replicates the current 3.28.650.

New section 3.28.920, "Access to and Confidentiality of files and records," creates confidentiality requirements for the Review Board parallel to those for the OPA Director and Auditor.

Conclusion

The proposed ordinance and this memo were prepared in consultation with Maureen Madion and Marilyn Sherron of the Law Department and Fred Treadwell of Labor Relations. If you would like a briefing on this topic, please let me know.

cc: Edsonya Charles, Mayor's Office
Fred Treadwell, Labor Relations

MEMORANDUM OF AGREEMENT

by and between

THE CITY OF SEATTLE

and

THE SEATTLE POLICE OFFICERS' GUILD

The parties to this Memorandum of Agreement, the City of Seattle ("City") and the Seattle Police Officers' Guild ("Guild"), are contemporaneously executing a Collective Bargaining Agreement to cover the term from January 1, 2000, through December 31, 2002. This Memorandum of Agreement is being reached to explain and interpret provisions of the Collective Bargaining Agreement.

1. The dollar loss reporting threshold for secondary operators in the Communications Center shall remain \$1,500 for car prowls and \$500 for other crimes. This dollar loss reporting threshold was first established by a Memorandum of Agreement dated December 12, 1996, and it was not intended that it would supplant the Telephone Reporting Unit functions.
2. The parties have previously agreed on the attached job description, labeled "Detective Aides," and that the Guild will not assert any collective bargaining or grievance rights should the City create a civilian job with the job duties listed in the job description. Should the City assign to civilian employees any duties currently being performed by Guild members that are not listed on the attached job description, the Guild shall retain collective bargaining and grievance rights over the assignment of such duties. It is the intent of the parties that detective aides are intended to assist detectives. There is no intent on the part of the City or the Guild that detective aides will supplant detectives. During the term of the parties Collective Bargaining Agreement effective January 1, 2000, the City may employ no more than ten detective aides at any one time. In addition, the City may maintain no lesser ratio than twenty-two detectives to one detective aide.
3. The parties have previously agreed on the attached language governing the use of storefront volunteers and storefront employees, labeled "Storefront Volunteers/Employees," and that the Guild will not assert any collective bargaining or grievance rights should the City create such positions with the job duties listed in the attachment. Should the City assign to civilian employees any duties currently being performed by Guild members that are not listed on the attached job description, the Guild shall retain collective bargaining and grievance rights over the assignment of such duties.
4. Supplemental Benefits Eligibility - Employees must meet the standards listed in SMC 4.44.080 to be eligible for the benefit amount provided in SMC 4.44.020, hereinafter referred to as supplemental benefits, which exceeds the rate required to



be paid by state law. These standards require that employees: (1) comply with all Department of Labor and Industries rules and regulations and related City of Seattle and employing department policies and procedures; (2) respond, be available for, and attend medical appointments and treatments and meetings related to rehabilitation, and work hardening, conditioning, or other treatment arranged by the City and authorized by the attending physician; (3) accept modified or alternative duty assigned by supervisors when released to perform such duty by the attending physician; (4) attend all meetings scheduled by the City of Seattle Industrial Insurance Unit or employing department concerning the employee's status or claim when properly notified at least five (5) working days in advance of such meeting unless other medical treatment conflicts with the meeting and the employee provides twenty-four (24) hours' notice of such meeting or examination.

The City will provide a copy of the eligibility requirements to employees when they file a workers' compensation claim. If records indicate two (2) no-shows, supplemental benefits may be terminated no sooner than seven (7) days after notification to the employee. The City's action is subject to the grievance procedure.

5. Already-Implemented Health Care Changes - The changes in health care coverage resulting from the City's change to self-insurance shall be maintained during the term of the Collective Bargaining Agreement.
6. Changes in Health Care Plan Third-Party Administrators and/or Provider Networks - During the term of the Collective Bargaining Agreement and consistent with Section 11.11 of the Agreement, the City shall have the right to contract with and/or change one or more third-party administrators for health care benefit plans and to change provider networks, even though such a change may exclude the health care providers of some employees from coverage under the City's benefit plans, if benefits remain substantially similar to the current level of benefits. The City shall provide the Guild with at least 30 days written notice of any change of provider networks and/or third party administrators.
7. The parties agree that the following shall be agenda items for discussion by the Labor-Management Committee: vacation scheduling; changing the clothing allowance to a voucher and/or quartermaster system; the 72-hour notice provision, Section 7.3; access to, retention of, and the contents of personnel files; the procedures used by the City with respect to employees who initially fail to qualify with their firearms, Section 7.5; and alternative work shifts. The parties also agree that patrol shift start times would be an appropriate topic for an Employee Involvement Committee.



8. Transfers - The Collective Bargaining Agreement calls for the use of a Disciplinary Review Board (DRB) to hear appeals of disciplinary action and defines as disciplinary action "Suspensions, demotions, terminations, and disciplinary transfers identified by the City." If the Guild believes that a transfer not identified by the City as disciplinary in nature is in fact disciplinary, the Guild's challenge to the transfer shall be handled through the normal grievance procedure.
9. The provisions of Section 3.6A apply only to complaints received after the execution of the Collective Bargaining Agreement.
10. Office of Professional Accountability (OPA) Review Board - The OPA Review Board Auditor position and the right of the Review Board to recommend further investigation of an Internal Investigations Section (IIS) complaint shall be subject to the following provisions:
 - A. The City agrees that the IIS Auditor position shall be continued in effect with its current authority but may be renamed the OPA Auditor, with the clarification that the Auditor may audit all OPA cases involving Guild bargaining unit members.
 - B. The Guild agrees that the City will implement a civilian OPA Review Board with at least three members to be appointed by the City Council at the conclusion of the process outlined in paragraph "D" below.
 - C. The OPA Review Board shall have the following powers with respect to complaints lodged against Guild bargaining unit members:
 1. To review all redacted 2.7 complaint forms with classification noted;
 2. To render a final and binding decision in those cases referred by the Auditor in which there is a dispute between the Auditor and the OPA Director concerning whether further investigation of a case file is warranted; and
 3. To request and review closed, redacted case files.
 - D. Upon ratification of the Collective Bargaining Agreement, the parties shall commence interest-based negotiations over:
 1. The composition of the OPA Review Board;



2. Eligibility for appointment to the OPA Review Board;
3. Confidentiality issues;
4. The basis on which further investigation may be requested;
5. The impacts on employee discipline, if any;
6. Any reporting to accomplish the OPA Review Board's mission; or
7. Any other mutually agreed upon topics.

In the event the parties are unable to reach agreement within 60 days or six meetings, whichever comes sooner, either party may advance remaining issues to final and binding interest arbitration pursuant to the criteria of RCW 41.56 et seq. The time limits in this paragraph may be extended by mutual written agreement of the parties. A single arbitrator shall be selected using the same procedure as set forth in the Collective Bargaining Agreement. The parties will be precluded from asserting during this proceeding that any of the issues listed in this paragraph are not proper subjects for interest arbitration.

- E. Upon completion of the process set forth in paragraph "D" above, the City shall amend its ordinances related to police oversight so as to harmonize with its terms.
 - F. Only the Chief of Police, or his/her designee under the circumstances set forth in the Collective Bargaining Agreement, may impose discipline on bargaining unit members.
11. Equal Employment Opportunity (EEO) Investigations – The Department may assign the responsibility for EEO matters, including investigations, outside the Internal Investigations Section; provided the investigation is conducted in accordance with the Collective Bargaining Agreement; and provided any questioning of bargaining unit members is conducted by an EEO investigator who is a sworn member with the civil service rank of sergeant. If the subject of the complaint is the EEO Investigator, the questioning shall be conducted by a sworn member other than the EEO investigator.

Memorandum of Understanding
Seattle Police Officers' Guild
June 23, 2000
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All disputes regarding the application or interpretation of this Memorandum of Agreement shall be adjudicated in accordance with the provisions of the grievance procedure in the parties' Collective Bargaining Agreement.

Signed this ____ day of _____, 2000.

SEATTLE POLICE OFFICERS' GUILD

THE CITY OF SEATTLE

Mike Edwards
President

Fred Treadwell
Labor Negotiator

FT:ljplm

Attachments: Detective Aides Job Description
Storefront Volunteers/Employees Job Description

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DETECTIVE AIDES

Assist sworn detectives by performing certain non-field work functions. At the direction of a detective or sworn supervisor, a detective aide may perform the following tasks:

1. Process arrest reports and citations.
 - 1.1 Coordinate and arrange witness interviews conducted by a detective.
 - 1.2 Obtain booking numbers.
 - 1.3 Check court dates, times, and locations.
 - 1.4 Obtain photographs to be selected and assembled by a detective into a photo montage.
 - 1.5 Retrieve documents and records and other items.
2. Respond to telephone calls and receive visitors.
 - 2.1 Provide authorized information regarding the Department's investigative policies and procedures on various programs.
 - 2.2 Screen and refer visitors and telephone calls to the appropriate person.
3. Run criminal histories, Department of Corrections checks, and other records checks.
4. Perform computer operations.
 - 4.1 Perform data entry using word processors, spreadsheets, and other programs using personal computers or computer terminals.
 - 4.2 Assist employees in computer operations and procedures.
5. Locate witnesses and suspects through the use of computer programs, library resources, and other means that do not require field work.
6. Record, post, or log specific information; prepare tallies of documents.
7. Process impounded and found property.
8. Maintain logs and prepare statistical data concerning crimes investigated by the detectives to which the detective aide is assigned.
9. Assist a detective or other sworn employee in clearing evidence.



STOREFRONT VOLUNTEERS/EMPLOYEES

1. Provide information to citizens in the Seattle Police Department (SPD). Provide information concerning the resources of SPD, the options available if a matter is handled through SPD, and the procedures that SPD will generally follow in processing certain types of cases.
2. Provide referrals to organizations/individuals within SPD, and/or other community agencies.
3. Take written reports only of the same type now taken by secondary operators in Communications and by Community Service Officers, where the following circumstances apply:
 - 3.1 The loss is under \$500.
 - 3.2 There is no evidence.
 - 3.3 The crime is not a crime against a person.
 - 3.4 There is no suspect information.
 - 3.5 No firearm is taken.
 - 3.6 The crime is not one of domestic violence or racially, sexually, or politically motivated.
4. Not be attired in a police uniform.
5. Not perform any duties relating to crime scene processing and crime scene investigation.





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Janet L. Gaunt

Attorney at Law

(206) 932-7020

Fax (206) 932-7021

Arbitration / Mediation / Factfinding

November 26, 2001

Christopher K. Vick
Aitchison & Vick, Inc.
Evergreen Building, Suite 414
15 South Grady Way
Renton, Washington 98055

Marilyn Sherron
Director, Employment Section
City of Seattle Law Department
600 Fourth Avenue, 10th Floor
Seattle, WA 98104-1877

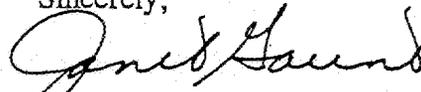
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SEATTLE CITY ATTORNEY

Re: Seattle Police Officers' Guild and City of Seattle
Interest Arbitration (PERC Nos. 15596-I-01-355)

Dear Counsel,

I am enclosing an Interest Arbitration Award for the above-referenced case along with a bill for my services. Congratulations on your hard work and successful resolution of the OPARB issues.

Sincerely,


Janet L. Gaunt

Enclosures (2)

cc: Marvin L. Schurke (PERC)

4907 S.W. Othello Street • Seattle, Washington 98136-2027



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IN THE MATTER OF THE INTEREST ARBITRATION

BETWEEN

<p>CITY OF SEATTLE, Employer, vs. SEATTLE POLICE OFFICER'S GUILD, Union. PERC Case No. 15596-1-01-355</p>	<p>INTEREST ARBITRATION AWARD</p>
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On January 29, 2001, an interest arbitration was initiated pursuant to RCW 41.56.450 to resolve certain bargaining issues that had remained at impasse despite collective bargaining and mediation by the Public Employment Relations Commission (PERC). The issues certified by the PERC Executive Director for arbitration were:

1. The process for resolving disputes regarding the Office of Professional Accountability Review Board implementation agreement, and
2. The scope of the issues to which the resolution process would apply.

By mutual consent, Janet L. Gaunt was selected to serve as the neutral Arbitrator.

After some earlier postponements, the interest arbitration was scheduled to commence on November 6, 2001. Prior to that date, the parties advised the Arbitrator that they had reached agreement upon terms and provisions that completely and equitably resolved the issues submitted for arbitration. At the request of the parties, I have been asked

to adopt those provisions as my award and hereby do so. Pursuant to the parties' joint stipulation and in accordance with the statutory criteria of RCW 41.56.465, the following language should be renumbered and inserted as an Appendix to the current Collective Bargaining Agreement.

OPA REVIEW BOARD

- I. NOTHING IN THE AGREEMENT BETWEEN THE CITY AND THE GUILD SHALL BE CONSTRUED AS A WAIVER AND/OR LIMITATION ON THE CITY'S RIGHT TO ADOPT LEGISLATION ENACTING THE OPARB SO LONG AS NOTHING IN SUCH LEGISLATION IMPLICATES A MANDATORY SUBJECT OF BARGAINING AND/OR IS INCONSISTENT WITH THE AGREEMENT BETWEEN THE CITY AND THE GUILD. THE CONTRACT GRIEVANCE PROCESS SHALL NOT APPLY TO THE TERMS OF THIS APPENDIX. THE EXCLUSIVE PROCESS FOR RESOLVING DISPUTES RELATING TO THE TERMS OF THIS APPENDIX IS SET FORTH AT 6 BELOW.

1. COMPOSITION OF THE OPA REVIEW BOARD

The City of Seattle's Office of Accountability Review Board ("OPARB") shall consist of three (3) members. A quorum shall be two members.

- A. The City Council shall appoint all of the members of the OPARB.
- B. The City Council shall solicit input from the Guild concerning potential appointments to the OPARB.
- C. The City Council shall establish the term of office for the members of the OPARB with none serving a term of more than two (2) years, although members may be appointed to successive terms.

2. ELIGIBILITY CRITERIA FOR BOARD MEMBERS

The OPA Review Board members should possess the following qualifications and characteristics:



- A. A citizen of the United States or be lawfully authorized to work in the United States.
- B. Possess a high school diploma or a GED at time of appointment.
- C. Be at least 21 years of age for appointment.
- D. A commitment to and knowledge of the need for and responsibilities of law enforcement, as well as the need to protect basic constitutional rights of all affected parties.
- E. A reputation for integrity and professionalism, as well as the ability to maintain a high standard of integrity in the office.
- F. The absence of any plea to or conviction for a felony, crime of violence, or an offense involving moral turpitude.
- G. Because members of the OPA Review Board may serve in a quasi-judicial capacity in making decisions about whether or not investigations of police misconduct are complete, as a requirement for appointment, candidates must be able to comply with the requirements of the appearance of fairness doctrine with respect to their duties as a member of the OPA Review Board. For the purposes of this Appendix, the appearance of fairness doctrine shall be applied as an eligibility criteria for appointment to the OPA Review Board, as opposed to being applied on a case-by-case basis.

In an effort to limit disputes regarding the type of information which must be provided to the Guild regarding a candidate, the parties hereby set forth the information to which the Guild is entitled. Criminal history record information which includes records of arrest, charges, allegations of criminal conduct and nonconviction data relating to a candidate for appointment, and Department records of any complaints of police misconduct filed by the candidate shall be made available to the Guild. Access to such records by the Guild shall be for the sole purpose of assessing whether or not the candidate meets the above eligibility criteria. Access shall be limited to the executive officers and members of the Board of Directors of the Guild and the Guild's attorneys. Such records shall not be used by anyone in connection with any other civil, criminal or other matter, or for any other purpose. After the Guild has conducted its assessment of the candidate, the records shall be promptly returned to the Department unless the Guild challenges the appointment as set forth in Section 6, below. If the Guild challenges the appointment, the records shall be used solely for the purpose of the arbitration, will be presented to the arbitrator under seal, and will be returned to the City at the conclusion of the arbitration. Except as otherwise necessary for the purposes of this Appendix or the resolution of a dispute under Section 6 below, such records shall be maintained by the Guild as confidential and shall not be copied, disclosed or disseminated.

Section 3: In addition to the qualifications and characteristics set forth in Section 2 above, at least one (1) member of the OPARB shall be a graduate of an accredited law school and a member in good standing of the Washington State Bar Association.

Section 4: In addition to the qualifications and characteristics set forth in Section 2 above, at least one (1) member of the OPARB shall have at least five (5) years of experience in the field of law enforcement.

Section 5: In addition to the qualifications and characteristics set forth in Section 2 above, at least one (1) other member of the OPARB shall have significant experience and history in community involvement, and community organizing and outreach.

Section 6: The City Council may establish such additional qualifications and characteristics, as it deems appropriate, consistent with this Appendix.

II. 3. CONFIDENTIALITY

An intentional breach of the confidentiality provisions of the ordinance shall constitute grounds for removal.

In addition, Board members shall sign a confidentiality agreement that states, as follows:

As a member of the City of Seattle's Office of Accountability Review Board ("OPARB"), I understand that I will have access to confidential and/or investigative information and/or records that I am prohibited from disclosing. I agree not to disclose any such confidential and/or investigative information and/or records. I understand that proven, intentional, release or disclosure of such confidential and/or investigative information and/or records shall constitute grounds for my removal as a member of the OPARB.

I further agree to indemnify, defend, and hold the City of Seattle harmless for and from any legal action(s) arising from proven, intentional, release or disclosure of such confidential and/or investigative information by me.

Finally, I understand that in the event I do not intentionally release or disclose any confidential and/or investigative information and/or records, the City has agreed to indemnify, defend, and hold me harmless for and from any legal action(s) arising from my conduct as a member of the OPARB in accordance with SMC 4.64.100 and SMC 4.64.110.

III. 4. THE BASIS FOR REQUESTING FURTHER INVESTIGATION

Prior to submission of an issue to the OPARB the Auditor and OPA Director will delineate their dispute in writing and the Auditor will specify what if any further investigation is being requested. Such referrals will not consider disputes over classification decisions, and will be limited to disputes over (1) whether relevant witnesses were contacted and relevant evidence collected; and (2) whether interviews were conducted on a thorough basis. The OPARB after reviewing the file will issue a final and binding decision resolving the dispute between the OPA Director and Auditor.

If the OPARB sends a case back for further investigation, it must specify what investigative task(s) need to be performed as previously outlined by the Auditor.

A case only may be sent back for further investigation if a reasonable amount of time is available to accomplish the articulated investigative task(s) leaving time for the administrative processing of the investigation before expiration of the contractual 180 day time period. The administrative processing of the investigation includes the time required for line review, but does not include any time subsequent to the mailing or other delivery of the Loudermill notice.

The OPA Director will notify the OPA Auditor when the articulated investigative tasks have been completed and/or will provide an explanation to the OPA Auditor of the reasons the requested tasks could not be completed. The OPA Auditor may perform an audit of the file to ensure compliance with the OPARB's request for further investigation. If the OPA Auditor does not agree that the Department has complied with the request for further investigation, the OPA Auditor will meet with the OPA Director to try and resolve the matter and gain compliance. If the OPA Auditor and OPA Director can not agree regarding compliance, the matter of compliance will be submitted to the OPARB. The decision of the OPARB regarding compliance shall be final and binding. All other conditions set forth above regarding time constraints shall be applicable.

IV. 5. OPA REVIEW BOARD REPORTS

The Board shall generate reports and those reports shall be quarterly. The Board reports shall include the following:

- 1) A review and report on the implementation of the Office of Professional Accountability.
- 2) A general overview of the files and records reviewed by the Board, including the number of closed, completed cases reviewed.
- 3) IIS shall be responsible for gathering statistical data relating to complaints and shall

provide the same statistical data to the Board as is provided to the Auditor. That data shall include the:

- a) number of complaints received;
 - b) category and nature of the allegations;
 - c) percentage of cases sustained;
 - d) disciplinary action taken in sustained cases;
 - e) data on patterns of complaints, including types of complaints;
 - f) geographic area of the complaint, and census tract rather than street addresses may be used to identify the geographic area of a complaint;
 - g) number of officers, if any, who receive three or more sustained complaints in one year. The names of the officers shall not be disclosed.
- 4) The Board's report shall include the number of cases in which the Board requests further investigation.
- 5) The Board's report shall include: a summary of issues, problems and trends noted by the Board as a result of their review; any recommendations that the City consider additional officer training, including recommendations that the City consider specialized training for investigators; and any recommendations that the Department consider policy or procedural changes.
- 6) The Board shall be advised and the Auditor shall report on the OPA Director's involvement in community outreach to inform citizens of the complaint process and the OPA's role.
- 7) After the committee on racial profiling has made its final report and recommendations, the City may determine that it is appropriate to gather, maintain and report data on the race, ethnicity and gender of complainants, and on the race, ethnicity, gender, assignment, and seniority of officers who are the subject of complaints. The City will provide thirty (30) days notice to the Guild of its intent to begin gathering, maintaining and reporting such data on complainants and officers who are the subject of complaints, and within the thirty (30) day notice period, the Guild may request to reopen negotiations on that subject. Such bargaining shall follow the requirements of paragraph 10D of the Memorandum of Understanding executed on September 7, 2000. During the bargaining process, the preexisting status quo will be maintained.
6. Dispute Resolution Process
- A. Disputes between the City and the Guild over alleged violations of the terms of this Appendix shall be resolved solely through recourse directly to arbitration.
- B. With respect to disputes over a Board candidate meeting the eligibility criteria for appointment or whether or not the City has met its obligation to provide records



regarding a candidate, the Guild shall provide written notice to the President of the City Council, with a copy to the Mayor, the Chair of the Public Safety Committee and the Chief of Police, of the Guild's objections, including a summary of the evidence that the Guild has at the time in support of its objections. Such written notice shall be provided not more than ten (10) work days following the date that the City Council solicits input from Guild on the appointment, as required by Section 1.B above. If the City intends to proceed with the appointment despite the Guild's objections and/or refuses to provide the required information, the Guild may submit the matter directly to an arbitrator by providing written notice to the Director of Labor Relations of the intent to do so, within ten (10) work days following the date that the Guild is notified by the City of the intent to proceed with the appointment and/or is notified that the required information will not be provided. If the Guild fails to raise a timely objection to the appointment there shall be no arbitration. In the event the City is ordered to provide additional records, the Guild may rely on such records in raising an objection to an appointment, by providing written notice in the manner prescribed above not more than ten (10) work days following receipt of the records, including a summary of the evidence that the Guild has at the time in support of its objections. If the City does not act on the Guild's objections, the Guild may submit the matter directly to an arbitrator by providing written notice to the Director of Labor Relations of the intent to do so, within ten (10) work days following the date that the Guild is notified by the City of the intent not to take action on the Guild's objections.

- C. With respect to disputes over a Board member violating confidentiality requirements, the Guild shall provide written notice to the President of the City Council, with a copy to the Mayor, the Chair of the Public Safety Committee and the Chief of Police, of the Guild's allegations that confidentiality requirements have been breached by a Board member, including a summary of the evidence that the Guild has at the time in support of its allegations. Such notice shall be provided not more than ten (10) work days following the date of the alleged breach of confidentiality or of the date that the Guild knew or should have known of the alleged breach. If the Board member remains on the Board more than ten (10) work days following notice to the City from the Guild, the Guild may submit the matter directly to an arbitrator by providing written notice to the Director of Labor Relations of the intent to do so within ten (10) work days following the ten (10) work day notice period.
- D. With respect to other disputes over alleged violations of the terms of the Appendix other than those denominated above, the Guild shall provide written notice to the President of the City Council, with a copy to the Mayor, the Chair of the Public Safety Committee and the Chief of Police, of the Guild's allegations that a provision of this Appendix has been breached, including a summary of the evidence that the Guild has at the time in support of its allegations and the remedy sought. Such notice shall be provided not more than ten (10) work days following

the date of the alleged breach or the date that the Guild knew or should have known of the alleged breach. If the city does not provide notice of its intent to implement the remedy sought within ten (10) work days following notice to the City from the Guild, the Guild may submit the matter directly to an arbitrator by providing written notice to the Director of Labor Relations of the intent to do so within ten (10) work days following the ten (10) work day notice period.

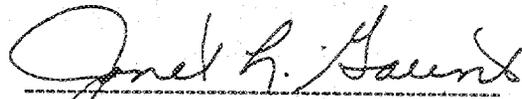
- E. The contractual 180 day time period for completion of an investigation shall be tolled and no discipline shall be imposed from the date a dispute alleging a violation of Section 4 of this Appendix is submitted to arbitration until the date of the arbitration award or the date of the settlement or dismissal of the arbitration.
- F. The parties shall meet and select an arbitrator no later than ten (10) work days from the date of the written notice of arbitration from the Guild to the Director of Labor Relations.
1. The parties agree that the following arbitrators shall constitute the pool from which arbitrators shall be selected:
 - a) Michael Beck
 - b) Janet Gaunt
 - c) Kenneth McCaffree
 - d) Shelly Shapiro
 - e) Don Wollett
 2. The same arbitrator shall not be eligible to serve as the arbitrator in consecutive arbitrations, except by mutual agreement.
 3. The first eligible arbitrator from the above list available to conduct the hearing within sixty (60) days shall be selected. If none are available to conduct a hearing within sixty (60) days, the eligible arbitrator with the earliest available hearing date shall be selected unless the parties otherwise agree, and the hearing shall commence on the earliest available hearing date for the arbitrator selected unless the parties otherwise agree in writing.
 4. The parties may mutually agree to make additions or deletions to the list at any time, but the number of arbitrators on the list shall not be less than five. If an arbitrator is no longer available so there are less than five on the list and the parties are unable to mutually agree on a replacement, an arbitrator shall be added to the list using the selection process specified by the grievance provision in the collective bargaining agreement.
- G. Briefs, if any are offered, shall be filed and served no later than the beginning of the arbitration hearing. The parties shall present their evidence to the arbitrator at the hearing. The arbitrator shall issue his/her decision immediately at the close



of the hearing and following oral argument by the parties. The cost of the arbitrator shall be borne by the party that does not prevail, and each party shall bear the costs and attorney fees of presenting its own case, except as provided by subsection J below. The decision of the arbitrator shall be final and binding on the parties, and there shall be no appeal from the arbitrator's decision.

H. Disputes submitted to arbitration by the Guild and defenses raised by the City shall be well grounded in fact and not interposed for any improper purpose, such as to harass or delay. Violations of this subsection shall support the award of reasonable attorney fees at prevailing commercial rates by an arbitrator.

Dated this 26th day of November, 2001 by



Janet L. Gaunt

3.28.510 Appointment—Eligibility.
 To be eligible for appointment as a Reserve Police Officer, a person shall be twenty-one (21) years of age or more, a citizen of the United States, of good moral character, and shall not have been convicted of or have pleaded guilty to a felony, a crime of violence, or an offense involving moral turpitude. The Chief of Police may establish such additional qualifications for appointment as he deems necessary.
 (Ord. 109758 § 2, 1981.)

3.28.520 Application for appointment.
 A person desiring an appointment as a Reserve Police Officer shall complete and file an application with the Chief of Police on a form supplied by the Chief. An applicant shall be considered for appointment as a Reserve Police Officer in the manner determined by the Chief.
 (Ord. 109758 § 3, 1981.)

3.28.530 Authority, training and compensation.
 A Reserve Police Officer shall exercise the same police authority as a regular police officer, and shall be subject to the orders of the Chief and the rules and regulations of the Police Department. A Reserve Police Officer shall receive such training as is deemed appropriate and perform such duties as are specified by the Chief of Police, but shall receive no compensation from the City for performing such training or duties, except such insurance as may be provided by the City.
 (Ord. 109758 § 4, 1981.)

3.28.540 Revocation of appointment—Conditions.
 The Chief of Police may revoke a Reserve Police Officer's appointment for any violation of Police Department rules and regulations or any other cause which the Chief deems sufficient.
 (Ord. 109758 § 5, 1981.)

Subchapter VII Internal Investigations Auditor

3.28.600 Office of Professional Accountability Review Board.
 A. There is created an Office of Professional Accountability Review Board (hereinafter "OPA Review Board") to establish independent review

of the Office of Professional Accountability ("OPA") complaint handling process in a manner that will have the confidence of the general public, police officers, and complainants; and to enhance the credibility of the Office of Professional Accountability and the OPA investigation process. The OPA Review Board and the OPA Review Board Auditor shall not participate in the management of the day-to-day functions of the Department, which are the responsibility of the Chief of Police. The OPA Review Board shall consist of three (3) members. The OPA Review Board shall, subject to City Council consultation and confirmation, and as provided by ordinance, hire a full-time Auditor ("OPA Review Board Auditor") as its staff. The OPA Review Board Auditor shall: report to the OPA Review Board; audit, in accordance with SMC Section 3.28.630 and SMC Section 3.28.640, the work of the Office of Professional Accountability as to its handling, processing and investigation of complaints filed with that office; and assist the OPA Review Board in the performance of their duties as provided in this chapter.

B. The position of the Internal Investigations Auditor that was created in Ordinance 115975 shall continue in full force and effect. The Internal Investigations Auditor shall perform the following tasks:

1. Audit of All Investigations of Complaints of Unnecessary or Excessive Force. The Auditor shall audit all completed OPA case files involving complaints of unnecessary or excessive force. Before a case file involving a complaint of unnecessary or excessive force is referred to the subject officer's chain of command for review and recommendations, and no more than three (3) business days after the OPA has completed its investigation, the Department shall forward a complete copy of the file to the Auditor.

2. Random Audit of Investigations of Complaints Not Involving Unnecessary or Excessive Force Allegations. Each calendar year, the Auditor shall audit on a random basis approximately twenty (20) percent of the completed OPA case files involving complaints other than those involving unnecessary or excessive force. The Department shall notify the Auditor of the completion of case files on a weekly basis. The case file shall be forwarded to the subject officer's chain of command for review and recommendations, if, within ten (10) business days of noti-



cation of completion, the Auditor has not advised the Department s/he will audit the investigation. The Auditor may audit a completed case file after referral to the subject employee's chain of command; provided, however, in such instance the Auditor shall not request follow-up investigation.

The frequency of audits under this subsection shall be as determined by the Auditor; provided, however, audits of completed case files shall take place at unscheduled intervals not to exceed ninety (90) days following initiation of the last audit.

3. Auditor May Request Further Investigation.

The Auditor shall use best efforts to complete audits under subsections B1 and 2 hereinabove without unreasonably delaying review of the case file by the subject officer's chain of command. After reviewing the file, the Auditor may request the OPA, through the Chief of Police, to conduct further investigation. The Auditor shall provide a written statement to the Chief of Police identifying the reasons for his/her request for a follow-up investigation. Criteria the Auditor should consider includes but is not limited to: (a) whether witnesses were contacted and evidence collected; (b) whether interviews were conducted on a thorough basis; and (c) whether applicable OPA procedures were followed. In the event the Chief of Police disagrees with this recommendation, he or she shall within five (5) days provide the Auditor with a written statement of the grounds for this decision.

4. Transition. The Auditor shall continue to serve up to ninety days after the City Council confirms the first OPA Review Board Auditor in order to advise the OPA Review Board and OPA Review Board Auditor on implementation of the OPA review process unless the OPA Review Board files a notice of termination with the City Clerk any time after the confirmation of the first OPA Review Board Auditor.
(Ord. 119893 § 1, 2000; Ord. 119825 § 1, 1999; Ord. 115975 § 1(part), 1991.)

3.28.610 Definitions.

As used in this subchapter, the following definitions apply:

A. "Contact log" is a record of a complaint or referral to the Internal Investigation Section not assigned for a full IIS investigation or line referral investigation.

B. "Internal Investigations Section" means the section, or any successor section or unit, of the Department responsible for investigating complaints of misconduct by Department employees.

C. "IIS investigation" refers to a complaint assigned to Internal Investigations Section investigators for investigation.

D. "Line referral investigations" refers to those complaints reviewed by the Internal Investigations Lieutenant and referred to the subject officer's chain of command for investigation.
(Ord. 115975 § 1(part), 1991.)

3.28.620 Appointment of the OPA Review Board.

A. The City Council shall appoint the three (3) members of the OPA Review Board to provide review and assessment of the investigation of Office of Professional Accountability complaints. Each member of the OPA Review Board shall serve a term of two (2) years and may be reappointed to one (1) subsequent two (2) year term by the City Council. No individual may serve more than two (2) full two (2) year terms as an OPA Review Board member. Should an OPA Review Board member take office at any time after commencement of a regular term, the expiration of that term shall remain unaffected. An OPA Review Board member may be removed from office for cause by the Council by filing a statement of reasons for removal. The OPA Review Board members shall be compensated as provided by ordinance or by appropriation in the City's annual budget.

B. The OPA Review Board members should possess the following qualifications and characteristics:

1. At least one (1) member of the Board shall be a graduate of an accredited law school and a member in good standing of the Washington State Bar Association;

2. A second member of the Board shall have at least five (5) years of experience in criminal justice or related fields;

3. The third member of the Board shall have significant experience and history in community involvement, and community organizing and outreach;

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

5. A commitment to and knowledge of the need for and responsibilities of law enforcement, as well as the need to protect basic constitutional rights of all affected parties;

6. A commitment to the statement of purpose and policies in this chapter;

7. A history of demonstrated leadership experience and ability;

8. The potential for gaining the respect of complainants, departmental personnel, and the citizens of this City;

9. The ability to work effectively with the City Council, departmental personnel, public agencies, private organizations, and citizens;

10. The ability, as shown by previous experience, to work with diverse groups and individuals; and

11. The ability to work effectively under pressure.

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.

(Ord. 119825 § 2, 1999; Ord. 118093 § 1, 1996; Ord. 115975 § 1(part), 1991.)

3.28.630 Audit procedures and standards.

A. Audit of All Investigations of Complaints of Unnecessary or Excessive Force. The OPA Review Board Auditor shall audit all completed OPA case files involving complaints of unnecessary or excessive force. Before a case file involving a complaint of unnecessary or excessive force is referred to the subject officer's chain of command for review and recommendations, and no more than three (3) business days after the Office of Professional Accountability has completed its investigation, the Department shall forward a complete copy of the file to the OPA Review Board Auditor.

B. Audit of Investigations of Complaints Not Involving Unnecessary or Excessive Force Allegations. Each calendar year, the OPA Review Board Auditor shall audit all of the completed OPA case files involving complaints other than those involving unnecessary or excessive force. The Department shall notify the OPA Review Board Auditor of the completion of case files on a weekly basis. The case file shall be forwarded to the subject officer's chain of command for review and recommendations, if, within ten (10)

business days of notification of completion, the OPA Review Board Auditor has not advised the Department s/he will audit the investigation. The OPA Review Board Auditor may audit a completed case file after referral to the subject employee's chain of command; provided, however, in such instance the OPA Review Board Auditor shall not request follow-up investigation. The frequency of audits under this subsection shall be as determined by the OPA Review Board Auditor; provided, however, audits of completed case files shall take place at unscheduled intervals not to exceed ninety (90) days following initiation of the last audit.

C. OPA Review Board Auditor May Request Further Investigation. The OPA Review Board Auditor shall use his or her 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 the OPA Review Board Auditor has reviewed the file, the OPA Review Board may request the Office of Professional Accountability, through the Chief of Police, to conduct further investigation. The OPA Review Board shall provide a written statement to the Chief of Police identifying the reasons for their request for a follow-up investigation. Criteria the OPA Review Board should consider includes but is not limited to: (1) whether witnesses were contacted and evidence collected; (2) whether interviews were conducted on a thorough basis; and (3) whether applicable OPA procedures were followed. In the event the Chief of Police disagrees with this recommendation, he or she shall within five (5) days provide OPA Review Board with a written statement of the grounds for this decision.

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

E. Monthly Review of Contact Log and Complaint Records. The OPA Review Board Auditor shall review the OPA contact log and OPA complaint records at least monthly. If, after reviewing the OPA contact log and OPA complaint records, the OPA Review Board believes that a contact log complaint should be investigated further, or that a case that has been designated for a line referral should receive a full investigation by the OPA, the OPA Review Board may request the OPA, through the Chief of Police, to conduct a full investigation. The OPA Review Board shall provide a written statement to the Chief of Police identifying the reasons for their request for a full investigation. The Chief of Police, or his/her designee, shall consult with the OPA Review Board regarding the OPA Review Board's request, and shall promptly advise the OPA Review Board of the investigative action s/he intends to take.

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

1. The OPA Review Board Auditor shall have access to all OPA files and records, including but not limited to: OPA files, line review reports and files, and OPA contact logs, provided, however, the OPA Review Board 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 Review Board 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 Review Board Auditor are the property of the Police Department and shall not, by operation of this subchapter, become the property of the OPA Review Board or the OPA Review Board Auditor. The OPA Review Board and the OPA Review Board Auditor shall make every reasonable effort to maintain the security of files belonging to the Department while in the OPA Review Board Auditor's possession. Any requests made to the OPA Review Board or the OPA Review Board 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 Review Board Auditor shall return to the OPA all section files, reports, and records to which s/he has been provided access pursuant to these audit procedures and standards. Following completion of an audit, the OPA Review Board Auditor may, however, continue to have access to closed OPA files.

G. OPA Review Board Auditor Access to Caseload, Workload and Procedural Information. The OPA Review Board Auditor is authorized to request any information on OPA cases, workload, or procedures that s/he finds necessary in order to conduct an ongoing analysis of the Department's OPA process. The Department shall make every reasonable effort to comply with the OPA Review Board Auditor's requests. (Ord. 119825 § 3, 1999; Ord. 115975 § 1(part), 1991.)

3.28.640 OPA Review Board to prepare quarterly report.

The OPA Review Board shall prepare a quarterly report of the OPA Review Board Auditor's activities. This report shall be forwarded to the

City Council, Chief of Police, City Attorney, Mayor, and City Clerk for filing as a public record. The OPA Review Board's report shall be prepared in accordance with the following provisions:

A. The OPA Review Board shall review and report on the implementation of the Office of Professional Accountability.

B. The OPA Review Board's report shall contain a general description of the files and records reviewed, and should include, but not be limited to:

1. The number of cases reviewed by the OPA Review Board Auditor;
2. The total number of complaints received by the Office of Professional Accountability;
3. The number of complaints by category and nature of allegation;
4. The percentage of complaints sustained and not sustained;
5. The nature of disciplinary action taken in sustained cases;
6. Patterns of complaints including:
 - a. Type of complaint,
 - b. Geographic area of complaint,
 - c. Race, ethnicity, gender of complainants,
 - d. Race, ethnicity, gender, assignment, seniority of officer(s) who is/are subject of complaint;
7. List of officers who have received three (3) or more sustained complaints within one (1) year;
8. The number of follow-up investigations requested by the OPA Review Board, the number of follow-up investigations completed by the Department, and the number of follow-up investigation requests denied by the Department;
9. The number of contact log cases and line referral cases where the OPA Review Board recommended that full investigations take place, the number of such investigations completed by the Department, and the number of follow-up investigation requests denied by the Department;
10. A summary of issues, problems and trends noted by the OPA Review Board as a result of their review;
11. Any recommendations that the Department consider additional officer training, including recommendations that the Department consider specialized training for investigators;

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

13. Review of OPA Director's involvement in community outreach to inform citizens of the complaint process and the OPA's role.

C. The OPA Review Board'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 specific employees, police officers, or citizens.

D. The OPA Review Board's report shall be forwarded to the President of the City Council and the Chair of the City Council's Public Safety Committee no later than the thirtieth day of March, June, September and December of each year.

E. The OPA Review Board shall forward to the Mayor, City Attorney, and the City Clerk the report no later than the thirtieth day of March, June, September and December of each year. (Ord. 119825 § 4, 1999; Ord. 117242 § 5, 1994; Ord. 115975 § 1(part), 1991.)

3.28.650 OPA Review Board to meet with City Council.

The OPA Review Board shall present their report quarterly to the City Council. (Ord. 119825 § 5, 1999; Ord. 115975 § 1(part), 1991.)

3.28.660 Confidentiality of files and records.

In discharging his or her responsibilities, the OPA Review Board members and the OPA Review Board Auditor shall protect the confidentiality of Department files and records to which they have been provided access in the same manner and to the same degree they would be obligated to protect attorney-client privileged materials under legal and ethical requirements. The OPA Review Board and the OPA Review Board 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 Review Board and the OPA Review Board Auditor shall not identify the identity of the subject of an investigation in any public report required by this chapter.



(Ord. 119825 § 6, 1999; Ord. 115975 § 1(part), 1991.)

Subchapter VIII Office of Professional Accountability

3.28.700 Office of Professional Accountability created— Functions and authority.

There is created within the Seattle Police Department an Office of Professional Accountability (hereinafter "OPA") to receive and investigate complaints of misconduct by Seattle Police Department personnel. 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; recommending policy to the Chief of Police, the Mayor, and the City Council on various issues concerning the professional standards of the Police Department; evaluating the internal investigation process; and, making recommendations on strategies and policies to improve complaint gathering and investigative procedures. (Ord. 119816 § 1(part), 1999.)

3.28.710 Definitions.

A. "OPA complaint" refers to a complaint assigned to the Office of Professional Accountability for investigation.

B. "OPA investigation" refers to an investigation of a complaint conducted by the Office of Professional Accountability. (Ord. 119816 § 1(part), 1999.)

3.28.720 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 (3) year term, with the possibility of being reappointed for a second three (3) year term, for a maximum of six (6) 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 completion and findings of all OPA cases, and make recommendations regarding disposition to the Chief of Police. The Chief of Police remains the final Police Department decisionmaker in disciplinary actions;

G. Provide analysis to the Chief of Police regarding disciplinary action in order to promote consistency of discipline. (Ord. 119816 § 1(part), 1999.)

3.28.730 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. (Ord. 119816 § 1(part), 1999.)

3.28.740 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. (Ord. 119816 § 1(part), 1999.)

3.28.750 Reports.

The Director shall issue semiannual reports to the Mayor and City Council describing the work of the OPA and making recommendations for policy changes. The OPA staff shall meet with community groups and recommend to the Chief of Police changes in policy or areas where training bulletins are needed. (Ord. 119816 § 1(part), 1999.)

3.28.760 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

ORDINANCE _____

AN ORDINANCE relating to the Office of Professional Accountability, the Office of Professional Accountability Auditor and the Office of Professional Accountability Review Board, repealing SMC Sections 3.28.600 through 3.28.760 and adding new sections 3.28.800 through 3.28.830, 3.28.850 through 3.28.870, 3.28.900 through 3.28.920.

WHEREAS, Seattle Ordinances 119805, 119816 and 119893 created the Office of Professional Accountability in the Police Department, renamed and modified the duties of the Internal Investigations Auditor within the Police Department, and created the Office of Professional Accountability Review Board; and

WHEREAS, the Collective Bargaining Agreement between the City of Seattle and the Seattle Police Officers' Guild effective through 2002 contains provisions relating to the Office of Professional Accountability, the Office of Professional Accountability Auditor, and the Office of Professional Accountability Review Board; and

WHEREAS, the City of Seattle intends to fully implement that Collective Bargaining Agreement, NOW THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Sections 3.28.600 through 3.28.760 of the Seattle Municipal Code are repealed.

Section 2. The following new Sections are added to the Seattle Municipal Code as follows:

Subchapter VII Office of Professional Accountability

3.28.800 Office of Professional Accountability created -- Functions and authority.

There is created within the Seattle Police Department an Office of Professional Accountability (hereinafter "OPA") to receive and investigate complaints of misconduct by Seattle Police Department personnel. 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; recommending policy to the Chief of Police, the Mayor, and the City Council on



1 various issues concerning the professional standards of the Police Department; evaluating the internal
2 investigation process; and, making recommendations on strategies and policies to improve complaint
3 gathering and investigative procedures.

4
5 **3.28.805 Definitions.**

6 A. "Contact Log" is a record of the receipt, review and action taken on a complaint or referral
7 to the Office of Professional Accountability that is not assigned to the Line or OPA Investigation
8 Section for a full investigation.

9 B. "Office of Professional Accountability Investigations Section" means the section, or any
10 successor section or unit, of the Department responsible for investigating complaints of misconduct by
11 Department employees;

12 C. "Line referral investigations" refers to those complaints reviewed by Office of Professional
13 Accountability Investigations Section and referred to the subject officer's chain of command for
14 investigation;

15 D. "OPA complaint" refers to a complaint assigned to the Office of Professional
16 Accountability for investigation.

17 E. "OPA investigation" refers to an investigation of a complaint conducted by the Office of
18 Professional Accountability.

19
20 **3.28.810 Office of Professional Accountability -- Director.**

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



1 A. Be a civilian with legal, investigative, or prosecutorial experience;

2 B. Be appointed by the Mayor and confirmed by the City Council;

3 C. Be appointed for a three (3) year term, with the possibility of being reappointed for a
4 second three (3) year term, for a maximum of six (6) years;

5 D. Report directly to the Chief of Police;

6 E. Be paid at a salary consistent with the level of responsibility established in this section and
7 as provided by ordinance;

8 F. Direct the OPA investigative process, classify all complaints, certify completion and
9 findings of all OPA cases, and make recommendations regarding disposition to the Chief of Police. The
10 Chief of Police remains the final Police Department decisionmaker in disciplinary actions;

11 G. Provide analysis to the Chief of Police regarding disciplinary action in order to promote
12 consistency of discipline.

13
14 **3.28.815 OPA Deputy Director.**

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

19
20 **3.28.820 OPA Procedures Manual.**

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



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3.28.825 Reports.

The Director shall issue semiannual reports to the Mayor and City Council describing the work of the OPA and making recommendations for policy changes. The Director shall provide to the OPA Auditor and OPA Review Board information necessary for their respective reporting functions as set forth in this chapter. The OPA staff shall meet with community groups and recommend to the Chief of Police changes in policy or areas where training bulletins are needed.

3.28.830 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 Director shall protect the confidentiality of Department files and records to which s/he 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 Director shall not identify the subject of an investigation in any public report required by this chapter.

Subchapter VIII Office of Professional Accountability Auditor

3.28.850 Office of Professional Accountability Auditor Established.



1 A. There shall be an Office of Professional Accountability Auditor (hereinafter "OPA
2 Auditor") who shall be appointed by the Mayor, subject to confirmation by the City Council, to provide
3 review and assessment of Office of Professional Accountability (hereinafter "OPA") complaints. The
4 OPA Auditor shall serve a term of two (2) years and may be reappointed to two (2) subsequent two (2)
5 year terms by the Mayor, subject to confirmation by the City Council. No individual may serve more
6 than three (3) full two (2) year terms as OPA Auditor. Beginning on January 1, 2002, terms shall begin
7 on January 1st of even-numbered years, and run through December 31st of the following odd-numbered
8 year. Should an OPA Auditor take office at any time after commencement of a regular term, the
9 expiration of that term shall remain unaffected. The OPA Auditor may be removed from office for
10 cause by the Mayor by filing a statement of reasons for removal with the City Council. The OPA
11 Auditor shall be compensated as provided by ordinance or by appropriation in the City's annual budget.

12 B. The OPA Auditor should possess the following qualifications and characteristics:

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

15 2. A commitment to and knowledge of the need for and responsibilities of law
16 enforcement, as well as the need to protect basic constitutional rights of all affected parties;

17 3. A commitment to the statement of purpose and policies in this chapter;

18 4. A history of demonstrated leadership experience and ability;

19 5. The potential for gaining the respect of complainants, departmental personnel, and
20 the citizens of this City;

21 6. The ability to work effectively with the Mayor, City Council, City Attorney,
22 Chief of the Department, Office of Professional Accountability Board, departmental personnel, public
23 agencies, private organizations, and citizens;



1 7. The ability, as shown by previous experience, to work with diverse groups and
2 individuals; and

3 8. The ability to work effectively under pressure.

4 C. In addition to the qualifications and characteristics set forth in subsection B here in above, the
5 OPA Auditor shall possess the following qualification: the OPA Auditor must be a graduate of an
6 accredited law school and member in good standing of the Washington State Bar Association and, prior
7 to appointment, have at least five (5) years of experience in the practice of law or in a judicially related
8 field.

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

11
12 **3.28.855 OPA Audit procedures and standards.**

13 A. Audit of All Investigations of Complaints of Unnecessary or Excessive Force. The OPA Auditor
14 shall audit all completed OPA case files involving complaints of unnecessary or excessive force. Before
15 a case file involving a complaint of unnecessary or excessive force is referred to the subject officer's
16 chain of command for review and recommendations, and no more than three (3) business days after the
17 Office of Professional Accountability has completed its investigation, the Department shall forward a
18 complete copy of the file to the OPA Auditor.

19 B. Audit of All Investigations of Complaints Not Involving Unnecessary or Excessive Force
20 Allegations. Each calendar year, the OPA Auditor shall audit all of the completed OPA case files
21 involving complaints other than those involving unnecessary or excessive force. The Department shall
22 notify the OPA Auditor of the completion of case files on a weekly basis. The case file shall be
23 forwarded to the subject officer's chain of command for review and recommendations, if, within ten (10)



1 business days of notification of completion, the OPA Auditor has not advised the Department s/he will
2 audit the investigation. The OPA Auditor may audit a completed case file after referral to the subject
3 employee's chain of command; provided, however, in such instance the OPA Auditor shall not request
4 follow-up investigation.

5 C. The frequency of audits under this section shall be as determined by the OPA Auditor; provided,
6 however, audits of completed case files shall take place at unscheduled intervals not to exceed ninety
7 (90) days following initiation of the last audit.

8 D. OPA Auditor May Request Further Investigation.

9 1. The OPA Auditor shall use best efforts to complete audits under subsections A and B of this
10 section without unreasonably delaying review of the case file by the subject officer's chain of command.
11 After reviewing the file, the OPA Auditor may request the Office of Professional Accountability,
12 through the Chief of Police, to conduct further investigation. The OPA Auditor shall provide a written
13 statement to the Chief of Police identifying the reasons for his or her request for a follow-up
14 investigation. Criteria the OPA Auditor should consider include but are not limited to: (1) whether
15 witnesses were contacted and evidence collected; (2) whether interviews were conducted on a thorough
16 basis; and (3) whether applicable OPA procedures were followed. In the event the Chief of Police
17 disagrees with this recommendation, he or she shall within five (5) days provide the OPA Auditor with a
18 written statement of the grounds for this decision.

19 2. If the basis for the OPA Auditor's request for further investigation is that a relevant witness or
20 witnesses were not contacted, relevant evidence was not collected, or an interview or interviews were
21 not thorough, and the Chief of Police disagrees with the OPA Auditor's recommendation for further
22 investigation, the OPA Auditor may refer the issue of further investigation to the OPA Review Board.
23 The OPA Review Board shall decide whether the OPA shall conduct the further investigation requested
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1 by the OPA Auditor. In the event further investigation is ordered, the OPA Auditor may audit the file to
2 ensure compliance with the OPA Review Board's decision. If the OPA Auditor finds that the Police
3 Department has not complied with the OPA Review Board's decision, the OPA Auditor may submit the
4 matter of compliance to the OPA Review Board. The OPA Review Board shall decide whether the
5 Department has complied. The OPA Review Board's decisions regarding further investigation and
6 compliance therewith shall be final and binding.

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

9 F. Monthly Review of Contact Log and Complaint Records. The OPA Auditor shall review the
10 OPA contact log and OPA complaint records at least monthly. If, after reviewing the OPA contact log
11 and OPA complaint records, the OPA Auditor believes that a contact log complaint should be
12 investigated further, or that a case that has been designated for a line referral should receive a full
13 investigation by the OPA, the OPA Auditor may request the OPA, through the Chief of Police, to
14 conduct a full investigation. The OPA Auditor shall provide a written statement to the Chief of Police
15 identifying the reasons for his/her request for a full investigation. The Chief of Police, or his/her
16 designee, shall consult with the OPA Auditor regarding the OPA Auditor's request, and shall promptly
17 advise the OPA Auditor of the investigative action s/he intends to take.

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

20 1. The OPA Auditor shall have access to all OPA files and records, including but not limited to:
21 OPA files, line review reports and files, and OPA contact logs, provided, however, the OPA Auditor
22 shall not have access to files designated by the OPA as relating to an active criminal investigation of an
23 officer until such time as the Department has given the subject officer written notification of the
24



1 investigation. The OPA Director shall provide the OPA Auditor with quarterly status reports regarding
2 OPA cases in which criminal investigations are also being undertaken. These status reports shall include
3 the number of ongoing OPA criminal investigations and the month during which each investigation was
4 originated, and the number of new criminal investigations initiated that quarter.

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

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

15 H. OPA Auditor Access to Caseload, Workload and Procedural Information. The OPA Auditor is
16 authorized to request any information on OPA cases, workload, or procedures that s/he finds necessary
17 in order to conduct an ongoing analysis of the Department's OPA process. The Department shall make
18 every reasonable effort to comply with the OPA Auditor's requests.

19
20 **3.28.860 OPA Auditor to prepare semiannual report.**

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

3 A. The OPA Auditor's report shall contain a general description of the files and records reviewed,
4 and should include, but not be limited to:

5 1. The number of cases reviewed by the OPA Auditor;

6 2. The number of follow-up investigations requested by the OPA Auditor, the number of follow-
7 up investigations completed by the Department, and the number of follow-up investigation requests
8 denied by the Department;

9 3. The number of contact log cases and line referral cases where the OPA Auditor recommended
10 that full investigations take place, the number of such investigations completed by the Department, and
11 the number of follow-up investigation requests denied by the Department;

12 4. A summary of issues, problems and trends noted by the OPA Auditor as a result of his/her
13 review;

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

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

17 7. The OPA Director's involvement in community outreach to inform citizens of the complaint
18 process and the role of the Office of Professional Accountability.

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

22 C. The OPA Auditor shall deliver a preliminary draft of his/her semiannual report to the Chief of
23 Police for review and comment. The Chief of Police shall review and comment on the preliminary
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1 report within twenty (20) days after receipt of the report. The OPA Auditor shall submit the final report
2 within thirty (30) days after receipt of the Chief's comments. The OPA Auditor's final report shall be
3 submitted no later than the thirtieth day of April and October of each year.

4 D. The Chief of Police shall forward to the Mayor, City Council, City Attorney, OPA Review Board
5 and the City Clerk within twenty (20) working days of receipt of the OPA Auditor's final report the
6 Chief's written comments on the report.

7
8 **3.28.865 OPA Auditor to meet with Mayor, City Council, and Chief of Police.**

9 The OPA Auditor shall meet periodically with the Mayor, City Council, OPA Review Board and
10 the Chief of Police regarding recommendations to improve the OPA investigative process within the
11 framework of applicable law and labor agreements.

12
13 **3.28.870 Confidentiality of files and records.**

14 In discharging his or her responsibilities, the OPA Auditor shall protect the confidentiality of
15 Department files and records to which s/he has been provided access in the same manner and to the
16 same degree as s/he would be obligated to protect attorney-client privileged materials under legal and
17 ethical requirements. The OPA Auditor shall also be bound by the confidentiality provisions of the
18 Criminal Records Privacy Act (RCW Chapter 10.97) and Public Disclosure Act (RCW Section
19 42.17.250 et seq.). The OPA Auditor shall not identify the subject of an investigation in any public
20 report required by this chapter.

21
22 **Subchapter IX Office of Professional Accountability Board**

23 **3.28.900 Office of Professional Accountability Board Established.**



1 There is created an Office of Professional Accountability Review Board (hereinafter "OPA
2 Review Board") to establish independent review of the Office of Professional Accountability ("OPA")
3 complaint handling process in a manner that will have the confidence of the general public, police
4 officers, and complainants; and to enhance the credibility of the Office of Professional Accountability
5 and the OPA investigation process. The OPA Review Board shall not participate in the management of
6 the day-to-day functions of the Department, which are the responsibility of the Chief of Police. The
7 OPA Review Board shall consist of three (3) members. Two (2) members shall be considered a quorum.

8
9 **3.28.905 Appointment of the OPA Review Board.**

10 A. The City Council shall appoint the three (3) members of the OPA Review Board to provide
11 review and assessment of the investigation of Office of Professional Accountability complaints.
12 Members of the OPA Review Board shall serve staggered terms. Each member of the OPA Review
13 Board shall serve a term of two (2) years; except that the first term of one of the first appointees shall be
14 one year. Members may be reappointed to one (1) subsequent two (2) year term by the City Council.
15 No individual may serve more than two (2) full two (2) year terms as an OPA Review Board member.
16 Should an OPA Review Board member take office at any time after commencement of a regular term,
17 the expiration of that term shall remain unaffected. An OPA Review Board member may be removed
18 from office for cause by the Council by filing a statement of reasons for removal. The OPA Review
19 Board members shall be compensated as provided by ordinance or by appropriation in the City's annual
20 budget.

21 B. Each OPA Review Board member shall:

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



- 1 2. Have a commitment to and knowledge of the need for and responsibilities of law
- 2 enforcement, as well as the need to protect basic constitutional rights of all affected parties;
- 3 3. Have a commitment to the statement of purpose and policies in this chapter;
- 4 4. Have a history of demonstrated leadership experience and ability;
- 5 5. Have the potential for gaining the respect of complainants, departmental
- 6 personnel, and the citizens of this City;
- 7 6. Be able to work effectively with the City Council, departmental personnel, public
- 8 agencies, private organizations, and citizens;
- 9 7. Be able to work with diverse groups and individuals, as shown by previous
- 10 experience;
- 11 8. Be able to work effectively under pressure;
- 12 9. Be a high school graduate or recipient of a general equivalency diploma;
- 13 10. Be a United States citizen or lawfully authorized for employment in the United
- 14 States;
- 15 11. Be at least 21 years of age;
- 16 12. Not have been convicted of or plead guilty to a felony, crime of violence, or
- 17 offense involving moral turpitude, or any plea thereto; and
- 18 13. Be able to comply with the appearance of fairness doctrine.

19 In addition, at any given time, at least one member of the OPA Review Board shall be a
20 graduate of an accredited law school and a member in good standing of the Washington State Bar
21 Association; at least one member shall have at least five (5) years of experience in the field of law
22 enforcement; and at least one member shall have significant experience in community involvement,
23 organizing and outreach;



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

3
4 **3.28.910 OPA Review Board to prepare quarterly report.**

5 The OPA Review Board shall prepare and submit a quarterly report to the City Council, Chief
6 of Police, City Attorney, Mayor, and City Clerk for filing as a public record. The OPA Review Board's
7 report shall be prepared in accordance with the following provisions:

8 A. The OPA Review Board shall review and report on the implementation of the Office of
9 Professional Accountability.

10 B. The OPA Review Board's report shall contain a general description of the files and records
11 reviewed, and should include, but not be limited to:

- 12 1. The number of closed, completed cases reviewed;
- 13 2. The total number of complaints received by the Office of Professional
14 Accountability;
- 15 3. The number of complaints by category and nature of allegation;
- 16 4. The percentage of complaints sustained and not sustained;
- 17 5. The nature of disciplinary action taken in sustained cases;
- 18 6. Patterns of complaints including:
 - 19 a. Type of complaint,
 - 20 b. Geographic area of complaint,
 - 21 c. Race, ethnicity, gender of complainants,
 - 22 d. Race, ethnicity, gender, assignment, seniority of officer(s) who is/are
23 subject of complaint;



1 7. The number of officers who have received three (3) or more sustained complaints
2 within one (1) year;

3 8. The number of follow-up investigations requested by the OPA Auditor, the
4 number of follow-up investigations completed by the Department, and the number of follow-up
5 investigation requests denied by the Department;

6 9. The number of contact log cases and line referral cases where the OPA Auditor
7 recommended that full investigations take place, the number of such investigations completed by the
8 Department, and the number of follow-up investigation requests denied by the Department;

9 10. A summary of issues, problems and trends noted by the OPA Review Board as a
10 result of their review;

11 11. Any recommendations that the Department consider additional officer training,
12 including recommendations that the Department consider specialized training for investigators;

13 12. Any recommendations the Department consider policy or procedural changes;
14 and

15 13. A Review of the OPA Director's involvement in community outreach to inform
16 citizens of the complaint process and the role of the Office of Professional Accountability.

17 C. The OPA Review Board's report shall not contain any recommendations concerning the
18 discipline of any particular police officer, nor shall the report comment upon or make any
19 recommendation concerning potential civil or criminal liability of specific employees, police officers, or
20 citizens.

21 D. The OPA Review Board's report shall forward its report to the President of the City
22 Council, the Chair of the City Council's Public Safety Committee, Mayor, City Attorney and City Clerk
23 no later than the thirtieth day of March, June, September and December of each year.



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3.28.915 OPA Review Board to meet with City Council.

The OPA Review Board shall present their report quarterly to the City Council.

3.28.920 Access to and Confidentiality of files and records.

A. The OPA Review Board shall have access to, for purposes of review, redacted complaint forms of all OPA complaints and redacted files of all closed OPA investigations. 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 his or her responsibilities, OPA Review Board members shall protect the confidentiality of Department files and records to which they have been provided access in the same manner and to the same degree they would be obligated to protect attorney-client privileged materials under legal and ethical requirements. The OPA Review Board 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 Review Board shall not identify the identity of the subject of an investigation in any public report required by this chapter.



1 **Section 3.** This ordinance shall take effect and be in force thirty (30) days from and after its approval
2 by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall
3 take effect as provided by Municipal Code Section 1.04.020.

4
5 Passed by the City Council the _____ day of _____, 2002, and signed by me in open
6 session in authentication of its passage this _____ day of _____, 2002.

7
8 _____
9 President _____ of the City Council

10
11 Approved by me this _____ day of _____, 2002.

12
13 _____
14 Mayor

15
16 Filed by me this _____ day of _____, 2002.

17
18 _____
19 City Clerk

20
21 (Seal)



February 5, 2002

To: Police, Fire, Courts & Technology Committee
From: Peter Harris
Re: Amendment to ordinance relating to the OPA, OPA Auditor, and OPA Review Board

You may wish to amend the ordinance by adding this recital at the end of the current recitals:

WHEREAS, in accordance with that collective bargaining agreement and so long as that agreement is in effect, the City of Seattle will not implement the reporting requirements of the OPA Review Board that this ordinance enacts as Seattle Municipal Code subsections 3.28.910(B)(6)(c) and 3.28.910(B)(6)(d) until the current Racial Profiling Task Force has made its data collection recommendations, and until and unless the City of Seattle decides it is appropriate to gather and report these data and provides the Seattle Police Officers' Guild the opportunity to reopen negotiations on this subject; NOW, THEREFORE . . .

3.28.760 ADMINISTRATION

provide a copy of the summary to the complainant.

The Director shall protect the confidentiality of Department files and records to which s/he has been provided access to the extent permitted by applicable law, 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 Director shall not identify the identity of the subject of an investigation in any public report required by this chapter.

(Ord. 119816 § 1(part), 1999.)

**Chapter 3.30
SEATTLE-KING COUNTY
DEPARTMENT OF PUBLIC HEALTH¹**

Sections:

**Subchapter I Health Department
Regulations**

- 3.30.010 Agreement between City and King County.**
- 3.30.020 Organization—Funding.**
- 3.30.050 Use of stamps, seals, permits, and forms.**
- 3.30.060 Penalty for violation of Section 3.30.050.**

Statutory Reference: For Charter provisions on the Public Health Department, see Charter Art. IX; for statutory provisions authorizing combined City-county health departments, see RCW Ch. 70.08.

1. Cross-reference: For provisions regarding noise control, see Chapter 25.08 of this Code.

Subchapter II Health Services¹

- 3.30.100 Agreement with municipalities for environmental and personal health care services.**
- 3.30.110 Refund of permit fee.**
- 3.30.120 Duplicate Medicare payments.**
- 3.30.140 Personal health services—
Authorization to solicit
monetary donations—
Conditions.**



STATE OF WASHINGTON – KING COUNTY

--SS.

141721
City of Seattle, Clerk's Office

No. ORDINANCE IN FULL

Affidavit of Publication

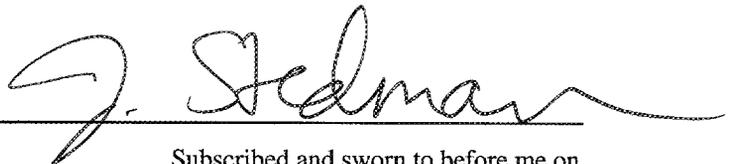
The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:120728

was published on

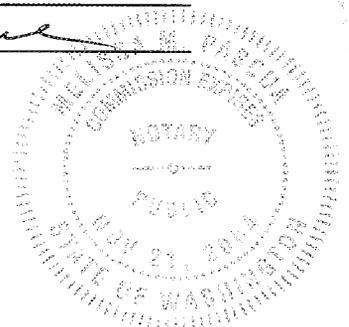
2/27/2002


Subscribed and sworn to before me on

2/28/2002


Notary public for the State of Washington,
residing in Seattle

Affidavit of Publication



State

of the claim with the Court Administrator for the Office of the Administrator for the Courts at (360) 705-5328, or from the Internet at the Washington State Supreme Court homepage: <http://www.courts.wa.gov/>

RCW 11.40.020(3); or (2) within four (4) months after the date of first publication of the notice. If the claim is not presented within this time frame, the claim is forever barred, except as otherwise provided in RCW 11.40.051 and 11.40.060. This bar is effective as to claims against both the decedent's probate and nonprobate assets.

Date of filing copy of Notice to Creditors with Clerk of the Court: February 12, 2002.

Date of First Publication: February 13, 2002.

ROGER E. DUNHAM, Personal Representative. Name and Address of Attorney for Estate: SCOTT FRIEDMAN, Suite 800, 2033 6th Avenue, Seattle, WA 98121. (206) 728-7799.

NOTICE TO CREDITORS

Estate of CHARLES H. LOUGH IN THE SUPERIOR COURT of the State of Washington for King County.

In Re the Estate of Charles H. Lough, Deceased. No. 02-4-01167-5 SEA. Notice to Creditors. (RCW 11.40.030).

The co-personal representatives named below have been appointed as co-personal representatives of the Estate.

SECTION 1. Sections 3.28.600 through 3.28.760 of the Seattle Municipal Code are repealed.

SECTION 2. The following new Sections are added to the Seattle Municipal Code as follows:

SUBCHAPTER VII OFFICE OF PROFESSIONAL ACCOUNTABILITY

3.28.800 OFFICE OF PROFESSIONAL ACCOUNTABILITY CREATED

There is created within the Seattle Police Department an Office of Professional Accountability (hereinafter "OPA") to receive and investigate complaints of misconduct by Seattle Police Department personnel. 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; recommending policy to the Chief of Police, the Mayor, and the City Council on

contacting the Office of the Administrator for the Courts at (360) 705-5328, or from the Internet at the Washington State Supreme Court homepage: <http://www.courts.wa.gov/>

5. If you wish to seek the advice of an attorney in this matter, you should do so promptly so that your written response, if any, may be served on time.

6. One method of serving a copy of your response on the petitioner is to send it by certified mail with return receipt requested.

This summons is issued pursuant to RCW 4.28.100 and Superior Court Civil Rule 4.1 of the State of Washington. Dated: February 19, 2002. CYNTHIA WEST, Petitioner.

File original of your response with the Clerk of the Court at King County Superior Court, E609, King County Courthouse, 516 3rd Ave., Seattle, WA 98104.

Serve a copy of your response on: Petitioner, Cynthia West, 7918 47th Pl. SE, Seattle, Washington 98118. 3/27(141530FA)

SUMMONS BY PUBLICATION Superior Court No. 02-3-00329-3 SEA

IN THE SUPERIOR COURT of Washington in and for King County.

In re the Marriage of: Nina M. Lepeska, Petitioner, and Ruben G. Dominguez, Respondent. No. 02-3-00329-3 SEA. Summons by Publication.

To the Respondent: Ruben G. Dominguez. 1. The petitioner has started an action in the above court requesting that your marriage be dissolved.

INGTON THE COU JUVENILE IN RE DEPE WILLOW DOB NO: 02- NOTICE TO: Unk anyone claim child(ren) an requested. You are h the 22nd da petition for in the above suant to R RCW 26.33. WILLOW

FOR MATION, 8:00 a.m. Said P hour of 8: Superior Department Seattle, V above ent you are answer th tion will t be taken appear to said child 2002. F COUNT CLERK Dates of Daily Jc 20, 27 a

IN THE C WASH THI JUVI I N NC TO: may enter an Order of Default Father