

## CIVILIAN OVERSIGHT OF POLICE

### Chapter 3.29 CIVILIAN OVERSIGHT OF POLICE

#### 3.29.005 Purpose – Enhancing and sustaining effective civilian oversight

Because the police are granted extraordinary power, including the use of force and the authority to constrain personal liberty, and because civilian oversight of police is critically important to enhancing the trust, respect, and confidence of the community, it is the City's intent to ensure by law rather than solely by policy or directive a comprehensive, independent, and sustained approach to civilian oversight of the Seattle Police Department (SPD). It is the purpose of this Chapter 3.29 to provide the authority necessary for that oversight to be as effective as possible.

Civilian oversight of SPD shall be comprised of an Office of Police Accountability (OPA) to handle complaints of misconduct, an Office of Inspector General (OIG) to provide systemic oversight of the management, practices, and policies of SPD and OPA, and the Community Police Commission (CPC) to provide community input so that police services are delivered in a lawful and nondiscriminatory manner and are aligned with community values and expectations.

#### 3.29.007 Court Review and Effective Date

This legislation shall take effect [XXXX] (xx) days after enactment unless further delay in implementation in whole or in part is directed by the court in United States of America v. City of Seattle, No 2:12-cv-01282-JLR (W.D. Wash.).

### Subchapter I Office of Police Accountability

#### 3.29.010 Office of Police Accountability established – Purpose and authority

- A. There is established as a separate and independent office of the City an OPA, whose Director and Deputy Director shall be civilians, to provide oversight, guidance, and leadership in matters related to police accountability for SPD. OPA shall help ensure that the actions of SPD employees are constitutional; comply with federal, State, and local laws, and City and SPD policies; and are respectful, effective, and conducive to the public good. The work of OPA is intended to instill confidence and public trust in the fairness and integrity of the police accountability system and in the effectiveness and professionalism of SPD.
- B. OPA shall establish and manage processes to receive and investigate allegations of police misconduct that are fair, impartial, consistent, thorough, timely, understandable, transparent, and accessible for the public, employees, and complainants. OPA policies and practices shall apply equally to all SPD employees regardless of rank or position, and shall be detailed in an OPA Internal Operations and Training Manual (OPA Manual) which shall be posted publicly online and reviewed and updated annually in consultation with the OIG and the CPC.
- C. OPA shall receive and have the authority to initiate complaints of misconduct or policy violations against SPD employees, and resolve those complaints in accordance with the

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OPA Manual through investigation, Supervisor Action referral, mediation, rapid adjudication, and/or other alternative resolution processes, as well as Management Action findings issued in relation to both sustained and not sustained findings, and Training referrals that provide effective solutions and help reduce future misconduct or policy violations.

- D. OPA’s jurisdiction shall include all types of possible misconduct, including criminal misconduct. OPA shall have responsibility to oversee investigations of allegations of criminal misconduct and in such cases shall coordinate with prosecutors on a case-by-case basis to ensure that the most effective, thorough, and rigorous criminal and administrative investigations are conducted.
- E. OPA shall have the authority to observe or review all administrative investigation processes at SPD to ensure they are not in conflict with OPA’s authority and are consistent with the purposes of this **Chapter 3.29**.
- F. OPA shall support the appropriate role of SPD line supervisors in the accountability system, including their responsibilities to mentor employees and to investigate, document, and address minor policy violations, performance, and customer service concerns at the precinct or unit level. OPA’s precinct liaison program shall employ civilian OPA staff with professional expertise to work directly with supervisors and others in the precincts to support the fair and consistent handling of such minor violations and concerns.
- G. OPA shall audit how lower level policy violations are addressed by SPD supervisors, to assess their completeness, fairness, consistency, and appropriateness. OPA shall have discretion to investigate any specific policy violation it chooses, regardless of the level of seriousness so that all policy violations are appropriately addressed, but with supervisors usually handling minor performance issues and OPA focusing its investigative resources on cases involving more serious allegations and maintaining general oversight of all SPD accountability systems.
- H. OPA shall identify and make recommendations to correct systemic problems in SPD policies, training, supervision, and management identified in the course of OPA’s investigation of possible misconduct or policy violations, or OPA’s other obligations under this **Chapter 3.29**, to help improve SPD standards and enhance employee conduct.
- I. OPA shall release information associated with its completed investigations as quickly as legally and practically possible, and in a manner that is consistent with the concept and values of “open source data.”
- J. OPA shall collaborate with SPD in the development and delivery of SPD in-service training related to the accountability system and ensure that this training is part of the curriculum for all new employees.

### **3.29.015 Office of Police Accountability – Independence**

- A. OPA shall be organizationally housed in SPD in order to enhance complete and

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immediate access to all SPD-controlled data, evidence, and personnel necessary for thorough and timely investigations, but shall operate completely independent of SPD in all respects.

- B. The OPA Director and OPA staff shall exercise their discretionary and investigatory responsibilities without interference from any person, group, or organization, including the Chief of Police, other SPD employees, or other City officials, except that the OPA Director and OPA staff shall be subject to oversight as set forth in this **Chapter 3.29**. Any person who violates these provisions may be subject to dismissal, discipline, or censure consistent with City and State laws.
- C. The OPA Director shall have authority for the hiring, supervision, and discharge of all civilian staff and for the selection, supervision, and transfer back to SPD of any sworn staff assigned to OPA. All OPA precinct liaison and complainant navigator staff shall be civilians, and intake personnel, investigator, and investigative supervisor positions shall each be entirely civilian or a mix of civilian and sworn, in whatever staffing configuration best provides for continuity, flexibility, leadership opportunity, and specialized expertise, and supports public trust in the complaint-handling process. All staff shall have the requisite skills and abilities necessary for OPA to fulfill its duties and obligations set forth in this **Chapter 3.29** and for OPA's operational effectiveness, and no civilian staff shall be required to have sworn experience. The rotation of any sworn staff into and out of OPA shall be managed in a way that maintains continuity and expertise, professionalism, orderly case management, and OPA effectiveness.
- D. An annual budget to support sufficient staffing and resources for effective OPA operations shall be based on not less than x percent (x%) of SPD's annual appropriations. The OPA Director shall have budget and program control of OPA operations.
- E. OPA's physical location and all communications shall reflect its independence, the impartiality of its investigators, and promote public access and transparency.

**3.29.020 Office of Police Accountability – Director**

- A. The duties of the OPA Director are to:
  - 1. Manage all functions and responsibilities of OPA.
  - 2. Manage the complaint process so that all complaints of police misconduct or policy violations are initiated, received, referred, classified, and resolved or investigated appropriately.
  - 3. Prepare and annually update, in consultation with the OIG and the CPC, the OPA Manual that details OPA policies and procedures, and ensure OPA processes are in compliance with the OPA Manual.
  - 4. Oversee and strengthen the effectiveness of OPA investigations, Supervisor Action referrals, mediation, rapid adjudication, and other alternative resolution

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processes, as well as Management Actions and Training Referrals. The OPA Director shall collaborate with the CPC and OIG to implement improvements, consistent with best practices, to make and maintain a fair and effective mediation program and a fair and effective rapid adjudication process.

5. Direct OPA investigative processes employing best practices for administrative investigations and in compliance with the OPA Manual and the purposes of this Chapter 3.29. All SPD employees shall be required to fully participate in an investigation whenever requested by OPA, under the authority of the Chief of Police, and failure to do so may result in discipline, up to and including termination. Complainants may remain anonymous and must be given the choice of an in-person interview; all SPD employee interviews shall be conducted in-person. All interviews shall be audio-recorded and transcribed, with both the recording and the transcription retained in the OPA case file.
6. Classify complaints; address any additional investigative work requested or directed by the OIG; certify in writing the completion and recommended findings of all OPA investigations and convey these recommendations to the Chief of Police; participate in meetings related to recommended findings and discipline and in due process hearings; and testify as needed in disciplinary appeals.
7. Ensure that every OPA investigation has an investigation plan approved by the OPA Director prior to the initiation of an investigation. Such plans shall include the witnesses to be interviewed, the perishable evidence to be prioritized, other material evidence to be obtained, and the approach to addressing each allegation of possible policy violation or misconduct. If OPA is unable to investigate an allegation in the manner the OPA Director believes appropriate due to resource constraints in light of other investigation priorities, the investigation plan and case file should indicate that this intentional decision is being made regarding allocation of investigative resources.
8. In order for the accountability system to best serve the public, complainants, and SPD employees by completing investigations in a timely manner, consistently apply OPA deadlines, including investigation deadlines, tolling of investigation deadlines, and extensions to investigation deadlines.
  - a. OPA shall notify the named employee(s), the Captain or equivalent of the named employee(s), and the bargaining unit of the named employee(s) within thirty (30) days of receiving directly or by referral a complaint of possible misconduct or policy violation. The notice shall not include the name and address of the complainant if the complainant is a member of the public. The notice shall confirm the complaint and enumerate allegations which allow the named employee(s) to begin to prepare for the OPA investigation; however, if OPA subsequently identifies additional allegations not listed in the thirty (30) day notice, these may also be addressed in the investigation.
  - b. The time period in which investigations must be completed by OPA in

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order for discipline to be imposed is 180 days. The time period begins on the date OPA initiates a complaint, a complaint is filed with OPA, or a complaint should have been referred to OPA by an SPD employee or an SPD administrative investigation unit such as force review or collision review. The time period ends on the date the OPA Director issues proposed findings.

- c. SPD employees shall timely refer incidents involving possible policy violations and misconduct to OPA. Members of any SPD unit or board with authority to conduct administrative investigations or review compliance with policy also have a responsibility for ensuring complete and timely referral to OPA of any incident they review that involves such potential misconduct or policy violation. Failure to timely refer shall also constitute misconduct subject to complaint and investigation under this **Chapter 3.29**. If the failure by an SPD employee to timely refer results in OPA being unable to complete an investigation within 180 days, OPA shall initiate a complaint and investigation of this allegation with an investigation timeline of the later of a) 180 days following the end of the 180-day period for the underlying, untimely-referred alleged misconduct or b) 180 days following the determination that the 180-day deadline was missed due to a failure to timely refer.
- d. OPA investigation deadlines may be tolled in cases involving possible criminal actions. Tolling will occur when an OPA administrative investigation does not commence or is paused in order to allow a criminal investigation of the same incident to proceed. The 180-day clock shall resume whenever any administrative investigation steps are taken by OPA.
- e. Investigations required by the OIG for review and certification shall be provided as soon as possible after the investigator submits them, to afford sufficient time for OPA to conduct additional investigation if requested or directed by the OIG, or to investigate new material evidence appropriately raised by the named employee during a due process hearing. Any further investigation shall be re-submitted to the OIG for review in a timely manner, so as not to lessen the quality of the investigation due to the passage of time and to meet all contractual deadlines so that additional investigation does not foreclose the possibility of discipline being imposed.
- f. To ensure the integrity and thoroughness of investigations and the appropriateness of disciplinary decisions, additional information shall not be allowed into the record after the OPA investigation has concluded if it was known to the named employee or the named employee's bargaining representative during the OPA investigation. The named employee or the named employee's bargaining representative shall disclose during the investigative process any witness or evidence they are then aware of that they believe to be material and may not otherwise



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at any time during the current reporting period. These status reports shall include all OPA cases not yet closed due to appeal, the case number, the named employee(s), the date of complaint, the date of disciplinary action, the Chief of Police disciplinary decision, the date of appeal, the nature of the appeal, and the current status of the case, including any modification to the case disposition as a result of appeal.

13. Review and report on the effectiveness, accessibility, timeliness, transparency, and responsiveness of the complaint system.
14. The OPA Director shall work with the OIG and SPD to ensure that SPD's disciplinary processes are fair, objective, certain, timely, and effective.
15. The OPA Director shall work with the OIG, SPD, and the City Attorney's Office to help reduce or prevent misconduct through identification of patterns or trends arising through complaints, investigations, and lawsuits, and, without waiving any attorney-client privilege, shall report to the public recommendations made by OPA to City officials based on those patterns or trends.
16. Only the OPA Director shall comment publicly on the status of OPA cases under investigation. This does not preclude the Chief of Police, the City Attorney, the Mayor, Councilmembers, or other City employees from acknowledging a case has been referred to OPA.
17. Personally respond to the scene of all SPD officer-involved shootings and other serious use of force incidents or designate OPA staff member(s) to do so. At the incident scene, OPA representative(s) shall have access to the scene to the extent that they request it to ascertain and assess whether possible violations of SPD policies may have occurred. Following such incidents, OPA representative(s) may attend and participate in any SPD administrative investigation unit interviews or meetings, including Force Review Board meetings, held to review Force Investigation Team (FIT) information or discuss the incident, and may identify any areas of concern related to possible violations of SPD policies. OPA may respond to the scene and participate in SPD administrative investigation unit interviews or meetings of any other incident, at the OPA Director's discretion.
18. When necessary, issue a subpoena at any stage in an investigation if evidence or testimony material to the investigation is not provided to OPA voluntarily, in order to compel non-SPD witnesses to produce such evidence or testimony. If the subpoenaed individual or entity does not respond to the request in a timely manner, the OPA Director may ask for the assistance of the City Attorney to pursue enforcement of the subpoena through a court of competent jurisdiction.
19. Manage OPA with the goal that OPA maintain frequent and regular communications with complainants and named employees about the status of their investigation, including information to complainants about disciplinary appeal and grievance processes. Report to complainants and the public on the outcome of any such processes that result in the modification of final findings

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and discipline determinations.

20. Ensure that investigators and investigative supervisors receive orientation and training, as they transition into OPA, on administrative investigation best practices, including the importance of open-ended non-leading questions, critical follow-up, and other techniques; the importance of being respectful to all; interacting and communicating with complainants, witnesses, and employees in fair ways; exercising independence and objectivity; and having expertise on tactics, equipment, and relevant procedures, policies and law. OPA investigators and investigative supervisors shall receive training by professional instructors outside SPD in best practices in administrative and police practices investigations. OPA investigators and investigative supervisors shall also receive in-house training on current SPD and OPA policies and procedures.
21. Maintain a robust and easily navigable website; and conduct community outreach to inform the public about the police accountability system and how to access it. Collaborate with the CPC to regularly update and provide OPA informational materials that are readily understandable and widely available to Seattle's diverse residents both in English and in translation. Obtain information about community perspectives and concerns germane to OPA access and OPA's oversight responsibilities by coordinating with the CPC on community outreach and receiving feedback from the CPC on issues surfaced as a result of its community outreach activities.
22. Facilitate access to the accountability system, including the use of OPA complainant navigators and community-based organizations reflecting the diversity of Seattle's diverse communities to provide additional channels for filing complaints and support understanding of the system and how to access it.
23. Consistent with any obligations to maintain confidentiality, brief the CPC on issues of significant public interest related to police accountability and professional conduct.
24. Advise the Mayor, City Attorney, City Council, Chief of Police, Inspector General, and the CPC on issues related to the purposes of this **Chapter 3.29**, and recommend and promote to policymakers changes to policies and practices, collective bargaining agreements, City ordinances, and State laws in order to support systemic improvements and other enhancements to SPD performance and in furtherance of community trust.
25. Provide technical assistance to the CPC, as requested.
26. Work with the Chief of Police and other SPD leadership to strengthen the involvement of supervisory personnel in the accountability system so as to build a culture of accountability throughout SPD.

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B. Qualifications.

The OPA Director shall be a civilian with significant legal, investigative, human resources, law enforcement oversight, or prosecutorial experience and shall also have the following additional qualifications and characteristics:

1. A reputation for integrity and professionalism, and the ability to maintain a high standard of integrity and professionalism in the office;
2. A commitment to and knowledge of the need for and responsibilities of law enforcement, including enforcement and care-taking, and the need to protect the basic constitutional rights of all affected parties;
3. A commitment to the statements of purpose and policies in this **Chapter 3.29**;
4. A history of leadership experience;
5. The ability to relate, communicate, and engage effectively with and gain the respect of all who have a stake in policing, including, but not limited to, the general public, complainants, disenfranchised communities, SPD employees, and relevant City and other officials including the Mayor, City Council, City Attorney, Chief of Police, Inspector General, and the CPC;
6. An understanding of the city's ethnic and socio-economic diversity and proven experience working with and valuing the perspectives of diverse groups and individuals; and
7. The ability to exercise sound judgment, independence, fairness, and objectivity, and to carry out the duties of the OPA Director in a manner that is perceived by all who have a stake in policing as exercising sound judgment, independence, fairness, and objectivity in an environment where controversy is common.

C. Appointment, removal, and compensation.

1. The OPA Director shall be appointed and reappointed by the Mayor, subject to confirmation by a majority affirmative vote of the City Council. The CPC shall serve as the search committee for the OPA Director, identifying up to three qualified finalists using merit-based criteria. In the event the search committee does not identify a sufficient number of qualified finalists, the Mayor rejects the finalists offered, or the City Council does not confirm an appointee, the search committee shall conduct a subsequent search for up to three qualified finalists. Prior to the Mayor selecting an appointee from among the finalists, a public meeting shall be convened to allow community members to ask questions and hear from the finalists their perspectives on their qualifications and the requirements of the position. Following the public meeting, the Mayor may appoint from among the finalists. The Mayor shall consult with the CPC prior to reappointments. The OPA Director shall assume office upon receiving City Council confirmation.

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2. The OPA Director may be appointed and reappointed for up to three, four-year terms for a total of twelve years, each year commencing on July 1st. The terms shall be set to commence in years separate from the Mayor's term of office. If the OPA Director assumes office mid-term due to a prior vacancy, the OPA Director may complete that term and then be reappointed for up to three, four-year subsequent terms.
3. Each appointment and reappointment shall be made whenever possible sufficiently prior to the expiration of the latest incumbent's term of office, permitting City Council action to approve or disapprove the appointment or reappointment at least forty-five (45) days before the expiration of the present term, so as to have a seamless transition without a gap in oversight.
4. Within five (5) business days after a vacancy occurs or the Mayor learns that a vacancy is expected to occur, the Mayor shall provide written notice of the vacancy or expected vacancy to the CPC which shall commence recruitment of candidates to fill the vacancy.
5. Within one hundred and twenty (120) days of notice by the Mayor, the CPC shall identify an initial set of qualified finalists and forward to the Mayor their resumes and other relevant information, including criteria relied on by the CPC in choosing the finalists. The CPC may rank the finalists and summarize the particular strengths of each candidate. The Mayor shall provide written notice to the CPC within fifteen (15) days after receiving its initial list of finalists if additional candidates should be identified. The City Council shall provide written notice to the CPC within five (5) business days of its action to not confirm an appointee.
6. In the event of a vacancy, the Mayor shall designate an interim OPA Director within thirty (30) days after a vacancy occurs to serve until a new OPA Director is appointed. The interim OPA Director may be either an OPA employee or an individual from outside OPA, but must meet the qualifications in this **Section 3.29.020**.
7. To strengthen the independence of the OPA Director, the Mayor may remove the OPA Director from office only for cause, and in accordance with the following provisions. The Mayor shall give written notice, specifying the basis for the intended removal, to the OPA Director, the City Council, the Inspector General, and the CPC. Within ten (10) days after receipt of the notice, the OPA Director may file with the City Council a request for a hearing on the cause for removal. The OPA Director's request for a hearing shall be delivered at the same time to the Mayor, the Inspector General, and to the CPC Executive Director and CPC co-chairs. If such request is made, the City Council shall convene a hearing on the cause for removal not sooner than thirty (30) days and not more than sixty (60) days following the OPA Director's request for a hearing, at which the OPA Director may appear, be represented by publicly funded counsel, and be heard. Following the Mayor's notice, and any hearing held at the request of the OPA Director, the City Council shall finalize its de novo review of the

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grounds for removal and by a majority vote of its members approve or not approve the removal within thirty (30) days of the hearing if held, or if no hearing is held, within thirty (30) days of receiving notice of the intended removal from the Mayor, following input from the Inspector General and the CPC.

8. The OPA Director shall be paid a salary consistent with the level of responsibility established in this **Section 3.29.020**.
9. The Seattle Department of Human Resources shall obtain from an outside law enforcement agency a thorough background check of nominees for OPA Director identified by the Mayor and report the results to the Mayor, prior to submittal of the nomination to the City Council for confirmation.

**3.29.025 Office of Police Accountability – Explanations of certain complaint dispositions**

- A. If the Chief of Police decides not to follow the OPA Director's written recommendations on findings following an OPA investigation, the Chief shall provide a written statement of the material reasons for the decision. If the basis for the action is personal, involving family or health-related circumstances about the named employee, the statement shall refer to “personal circumstances” as the basis. The Chief of Police shall make this written statement within thirty (30) days of the Chief’s decision. The written statement shall be provided to the Mayor, City Councilmembers, the City Attorney, the OPA Director, and the Inspector General, and be included in the OPA case file and in a communication with the complainant and the public. If any findings or discipline resulting from an investigation are changed pursuant to an appeal or grievance, this responsibility shall rest with the City Attorney.
- B. If no discipline results from an OPA complaint because an investigation time limit specified in a collective bargaining agreement between the City and the named employee’s bargaining unit has been exceeded, within thirty (30) days of the final certification of the investigation by the OPA Director, the OPA Director shall make a written statement of the nature of the allegations in the complaint and the reason or reasons why the time limit was exceeded. This requirement applies whether the OPA Director recommended the complaint be sustained, not sustained, or declined to make a recommendation because the time limit had been exceeded. The written statement shall be included in the OPA case file and provided to the Mayor, City Councilmembers, the City Attorney, and the Inspector General, and included in a communication with the complainant and the public.
- C. The written statements required by this **Section 3.29.025** shall not identify named employees or divulge personal information about named employees or anyone else involved in the complaint and shall be subject to any applicable confidentiality requirements in State or federal law. The statements shall not affect any discipline decisions; the Chief of Police remains the final SPD decision maker in disciplinary actions.

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- D. The OPA Director shall include summaries of the written statements required by this **Section 3.29.025** in the OPA Director's reports required by this **Chapter 3.29**. The summaries shall be consistent with any applicable confidentiality requirements in State or federal law.

**3.29.030 Office of Police Accountability – Reporting**

- A. Timely and informative reporting to the public and its elected officials by OPA is important to sustain public trust, help the City's police accountability system function effectively, and allow for regular and continuous improvement. The OPA Director shall collaborate with the CPC to make OPA reports readily understandable, and focused on issues and trends of most concern to the public and stakeholders. The reports should be delivered through channels that are easily accessible to the broad public.
- B. OPA's website shall be easily navigable and contain comprehensive, substantive, and timely information on matters of public interest concerning SPD's accountability system, including information about the OIG and the CPC and links to their websites.
- C. OPA shall post online, in a timely manner, summaries of completed investigations, including the allegations, the analysis, the findings, and the results of disciplinary appeals; and shall distribute a compilation of these summaries electronically, no less than once a month, to interested stakeholders.
- D. OPA shall forward to the CPC and post online Management Actions at the time they are issued, and forward to the CPC and post online timely updates on the outcome of Management Actions directed as a result of OPA investigations or complaints, including the status of changes recommended to SPD policies or practices.
- E. Report quarterly to the Mayor, City Council, OIG, and the CPC on the implementation of, or response to, OPA recommendations for Management Actions, Training Referrals, and other policy and practice improvements, providing information on their status and whether follow-through was timely and substantive.
- F. OPA shall post online and electronically distribute an annual report to the Mayor, City Attorney, City Council, Chief of Police, Inspector General, and the CPC, as well as to the City Clerk for filing as a public record. This report shall describe the work of OPA and include any OPA Director recommendations for changes in policies and practices, collective bargaining agreements, City ordinances, and State law. The annual report shall also detail the implementation status of any previous OPA policy and practice recommendations to SPD or other City departments and agencies. The annual report shall also summarize information received from community outreach which has informed its work.
- G. The OPA Director's annual report shall include the following, which may be modified in consultation with the CPC if it is determined that other information would better help public understanding:
1. The number and percentage of all complaints by classification and nature of

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allegation received by OPA;

2. The number and percentage of all complaints and allegations sustained and the specific disciplinary or other remedial action taken in sustained cases;
3. The number and percentage of cases which were not certified as thorough, timely, and objective by the OIG, including actions taken by the OPA Director to reduce the number of not certified cases.
4. The number and percentage of cases which were appealed or grieved, and the number and percentage of these cases in which findings and/or discipline determinations were changed, and the nature of those changes, as a result of appeals or for other reasons;
5. The number and percentage of all complaints and allegations not sustained, and the basis for all not sustained findings, e.g., unfounded, inconclusive, lawful and proper;
6. The number and percentage of all complaints handled directly by frontline supervisors, referred for Supervisor Action, Management Action, training or alternative resolution;
7. The geographic and shift distribution of incidents underlying complaints;
8. The racial, ethnic, gender, and geographic distributions of complainants, as this information is provided voluntarily by complainants;
9. The racial, ethnic, gender, assignment, shift and seniority distributions of named employees who are subjects of complaints;
10. The number of named employees who have received two or more sustained complaints within one year;
11. The timeliness, thoroughness, and effectiveness of certain OPA and SPD processes, including but not limited to, OPA investigations; complaints referred by OPA for Supervisor Action; complaints handled directly by frontline supervisors; Supervisor Action referrals; mediations, rapid adjudication, and other alternative resolution processes; and Management Actions and Training Referrals;
12. Patterns and trends in all OPA complaints, including year-to-year comparisons of demographic data that can help identify problems, deter misconduct, and inform SPD policy and practice improvements; and
13. A summary of all cases of significant public concern related to public confidence and trust, including the outcome of reviews by SPD units of officer-involved shootings and in-custody deaths.

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- H. The OPA Director shall make available to the OIG and the CPC information necessary for their respective auditing and oversight functions set forth in this **Chapter 3.29**, in a timeframe allowing for the timely performance of those auditing and oversight functions.

**3.29.035 Office of Police Accountability – Meetings**

- A. The OPA Director shall meet with the CPC, its committees, and/or staff regularly, and at the CPC’s request, to provide and receive information concerning SPD and the police accountability system, and the extent to which the purposes and requirements of this **Chapter 3.29** are being met. The OPA Director shall review the OPA annual reports, recommendations, and the implementation status of those recommendations in these meetings with the CPC.
- B. The OPA Director shall meet periodically with the Mayor, City Attorney, City Council, and Chief of Police to advise on the investigatory and disciplinary functions of OPA and SPD and make recommendations to improve OPA and SPD policies and practices, consistent with the purposes of this **Chapter 3.29**.

**3.29.040 Office of Police Accountability – Confidentiality of files and records**

The OPA Director and all OPA staff, consultants, and experts hired by OPA shall keep confidential the identity of all complainants, named employees, and witnesses, as well as all documents, files, records, and data to which OPA has been provided access to the extent permitted by applicable law and collective bargaining agreements, in accordance with the provisions of this **Chapter 3.29**, and in the same manner and to the same degree as attorney-client privileged materials would be protected under legal and ethical requirements. They shall also be bound by the confidentiality provisions of the Criminal Records Privacy Act (**Chapter 10.97 RCW**) and Public Disclosure Act (**RCW 42.17.250 et seq.**). No complainant, named employee, or witness involved in an OPA investigation shall be identified in any public report required by this **Chapter 3.29**.

**Subchapter II Office of Inspector General**

**3.29.100 Office of Inspector General established – Purpose and authority**

- A. There is established as a separate and independent office of the City within the Office of the City Auditor an OIG to provide robust civilian oversight of the effectiveness and responsiveness of SPD and OPA management and operations, as well as accountability and criminal justice system operations and practices that involve SPD or OPA. The OIG is an essential component of the checks and balances that comprise the police oversight system.
- B. The work of the OIG is intended to further instill confidence and public trust in the effectiveness and professionalism of SPD and in the fairness and integrity of the police accountability system by providing an independent perspective on the efficacy of the policies, procedures, and practices of SPD, OPA, and related City departments and agencies, and by providing additional professional review of OPA investigations.

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- C. The OIG shall provide objective, third party review of misconduct complaint-handling and investigations, and other OPA activities.
- D. The OIG shall have primary responsibility, following the conclusion of the Settlement Agreement, to ensure ongoing fidelity to organizational reforms implemented pursuant to the goals of the Settlement Agreement to ensure constitutional, accountable, effective, and respectful policing.
- E. The OIG shall have responsibility to oversee and audit police activities to ensure the ongoing integrity of SPD processes and operations.
- F. The OIG shall review evidence-based research and successful police practices in other jurisdictions and make recommendations based on such reviews to City policymakers for increasing the effectiveness of SPD and related criminal justice system processes.
- G. The OIG shall have the authority to review and audit policies and practices of other City departments and agencies in areas related to policing and criminal justice matters.
- H. The OIG shall make recommendations for the City budget, the City's state legislative agenda, and City collective bargaining agreements regarding police accountability and related matters.

### **3.29.105 Office of Inspector General – Independence**

- A. The OIG shall exercise discretionary and oversight responsibilities granted by this **Chapter 3.29** without interference from the Chief of Police, other SPD employees, or other City officials, except that the Inspector General and OIG staff shall be subject to oversight as set forth in this **Chapter 3.29**. Any person who violates these provisions may be subject to dismissal, discipline, or censure consistent with City and State laws.
- B. The Inspector General shall have authority for the hiring, supervision, and discharge of all OIG staff. OIG staff shall collectively have the requisite credentials, skills, and abilities to fulfill the duties and obligations of the OIG set forth in **Chapter 3.29**. This **Chapter 3.29** does not require nor preclude the hiring of any OIG staff with sworn experience.
- C. An annual budget to support sufficient staffing and resources for effective OIG operations shall be based on not less than x percent (x%) of SPD's annual appropriations. The Inspector General shall have budget and program control of the OIG operations.
- D. The Inspector General shall independently set the OIG's workplan. However, the Inspector General shall meet with the CPC annually to review a draft of the OIG's workplan. At this meeting, the CPC may identify additional specific areas for investigation and evaluation by the OIG that in the CPC's judgment are needed to ensure constitutional policing and public trust in SPD and in related criminal justice practices. These identified areas shall be incorporated into the annual OIG workplan. The OIG's annual workplan shall also make provision for the investigation and evaluation of

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emergent issues identified by the CPC and others during the year which may not be identified at the time that the annual OIG workplan is adopted.

- E. Except where prohibited by law, the OIG shall have timely, full, and direct access to all relevant City employees, facilities, documents, files, records, and data in OPA, SPD, and other City departments and agencies which are necessary to perform its duties set forth in this **Chapter 3.29**. Should the City decline to provide the OIG access to documents or data based on attorney-client privilege or because they are open criminal investigative files, the City shall inform the Inspector General that it is withholding access on such bases and will provide the Inspector General with an itemization describing the documents or data withheld. The attorney-client privilege may not be used to prevent the OIG from observing reviews, meetings, and trainings, such as SPD administrative investigation unit meetings, disciplinary hearings, or discussions of misconduct complaint investigations.
- F. The OIG is authorized to legally represent itself, including, as necessary, retaining outside, private legal counsel in any legal matter, enforcement action, or court proceeding, when the Inspector General determines that the City Attorney's Office would have a conflict in representing the interests of the OIG.

### **3.29.110 Office of Inspector General – Inspector General**

- A. The duties of the Inspector General are to:
  - 1. Conduct risk management reviews and performance audits, including analysis of sample and aggregate data to establish patterns and trends, of any and all SPD and OPA operations, and criminal justice system operations that involve SPD or OPA. Audits may also be conducted for any areas that may a) involve potential conflicts of interest; b) involve possible fraud, waste, abuse, inefficiency or ineffectiveness; c) undermine accountability or ethical standards; or d) otherwise compromise the public's trust in the police or the criminal justice system.
  - 2. Review SPD handling of incidents involving death, serious injury, serious use of force, mass demonstrations, serious property or vehicle damage, or other issues as determined by the OIG. This may include auditing, monitoring, or other review of SPD's administrative investigations or reviews of incidents to assess the quality, thoroughness, and integrity of the investigations; assessing the integrity of specific findings from the investigations; and reviewing after-action reports. To fulfill the OIG's monitoring obligations of incidents, the Inspector General or OIG representative(s) designated by the Inspector General, shall have full authority to respond to any incident scene and have access to the scene to the extent that they request it. OIG representative(s) may also attend and participate in SPD administrative investigation unit interviews and meetings, including Force Review Board meetings, held to review FIT information or discuss any incidents, including those to which scenes the OIG has responded, at the Inspector General's discretion. Whether at the scene of an incident or in subsequent SPD administrative investigation unit interviews or meetings concerning any incident, OIG representative(s) may identify areas of concern

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related to issues of possible SPD policy violations, and the integrity, thoroughness, or objectivity of the investigation or its review.

3. Issue recommendations to improve operations, policies, and practices to address any systemic problems identified in the OIG's performance audits and reviews of specific incidents.
4. The OIG's audits and reviews may include any and all police operations, for the purposes of determining whether SPD is meeting its mission to address crime and improve quality of life through the delivery of constitutional, professional, and effective police services consistent with best practices, and meeting its mission in a way that reflects the values of Seattle's diverse communities. These audits and reviews may include, but not be limited to:
  - a. All SPD and OPA policies, regulations, practices, budgets, and consultant contracts;
  - b. SPD administrative investigation unit processes, such as force review and collision review.
  - c. SPD crime data and SPD's overall crime data collection and reporting practices;
  - d. Recruitment, hiring, post-Academy and in-service training, promotions, assignments, use of overtime, secondary employment, deployment and supervision, including command and front-line supervisory functions;
  - e. The effectiveness of any early intervention or performance mentoring system in supporting improved officer performance and mitigating misconduct;
  - f. Technology and systems of data collection, management, and analysis;
  - g. The acquisition of, uses, and significant changes to tactical equipment, vehicles, facilities and uniforms;
  - h. The accuracy and thoroughness of video recording reviews and the appropriate recording and retention of video recordings;
  - i. Patterns, including disparate impacts, in SPD deployment, uses of force, re-classifications of levels and types of force; stops, arrests, searches, and interactions with those in behavioral crisis;
  - j. Incidents of significant concern to the public, such as those involving injury or death in police custody or the management of demonstrations;
  - k. Patterns in complaints and misconduct outcomes involving, among other categories, use of force and biased policing;

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- l. Assessment of the fairness, consistency, appropriate application and effectiveness of imposed discipline in sustained misconduct cases, including SPD's compliance with the SPD discipline matrix;
  - m. Evaluation of the outcomes of appeals and grievances and whether overturned findings or discipline, or other settlements, suggest opportunities to improve OPA processes and SPD training;
  - n. Assessment of inquests, federal and local litigation, and their outcomes, patterns relating to civil claims and lawsuits alleging SPD misconduct, payout amounts over time, units disproportionately represented as subjects of claims and lawsuits, related training, and review of the investigation of the underlying incidents described in such claims and lawsuits; and
  - o. Evaluation of appropriate records retention, and conformity to public disclosure, open access to information, and privacy standards.
5. Oversee the review of OPA and SPD handling of allegations of misconduct.
- a. Each quarter, the OIG shall conduct a random audit of the classifications of all misconduct complaints from the prior quarter to validate that OPA classifications were properly assigned for OPA investigation, Supervisor Action, or an alternative resolution, and that all allegations and employees associated with the complaints were properly identified. The Inspector General shall make recommendations to OPA for remedying any concerns noted in the quarterly audit and report to the CPC the results of the classification audits and any of the OIG's associated recommendations. If the OIG determines that the classification decisions reflect a need for additional oversight, the OIG may require the OPA Director to submit each proposed classification decision to the OIG for review and input prior to OPA making a final classification determination until such time the OIG is satisfied that such increased involvement in classifications is no longer needed and quarterly random audits shall resume.
  - b. The OIG shall review OPA investigations prior to certification by the OPA Director to determine whether the investigation was thorough, timely, and objective. The OPA Director shall submit all initial and subsequent investigations to the OIG for the OIG's review sufficiently in advance of contractual deadlines in order to allow for additional investigation as requested or directed by the OIG and still ensure discipline may be imposed should a sustained finding result. The OIG shall complete its review of initial and subsequent investigations in a timely manner, so as to also meet contractual deadlines.
    1. The OIG shall, after OPA believes an investigation to be complete, review all investigations involving misconduct

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allegations concerning violations of law; honesty; use of force; use of force reporting; bias-free policing; integrity; ethics; professionalism; use of position or authority for personal gain; conflicts of interest; gifts and gratuities; off-duty conduct; retaliation; harassment; responsibilities of employees regarding complaints of misconduct; discretion and authority; primary investigations; stops, detentions and arrests; or search and seizure. Additionally, the OIG shall have discretion to direct at the time of classification or during the investigative process that any other investigation not including these allegations be submitted by OPA for review and certification.

2. If the OIG determines that the investigation is thorough, timely, and objective, the OIG shall certify it and the OPA Director may then proceed to issue recommended findings to the Chief of Police.
3. If the OIG finds that the investigation is not ready to be certified, the OIG may request or direct further investigation. Upon completion of any additional work requested or directed by the OIG, the case shall be re-submitted to the OIG for certification before the OPA Director may issue proposed findings.
4. If additional investigation is requested by the Chief of Police after a due process hearing, as allowed under collective bargaining agreements, the case shall be re-submitted to the OIG for re-certification following the additional investigation.
5. After reviewing the investigation, the OIG shall document in writing the case as a) certified as thorough, timely, and objective; b) not certified at that point because the investigation is not thorough, timely, and objective but additional investigation is not requested or directed, and the reason; or c) not certified because the investigation is not thorough and objective, along with any requested or directed further investigation to be conducted by OPA or a request to meet with the OPA Director to discuss possible further investigation. Should additional investigation be requested or directed by the OIG, upon completion of the additional investigatory work, the investigation shall be re-submitted for certification. The certification memorandum by the OIG shall be included as an exhibit in the case file indicating the date of review, whether the case has been certified, whether further action is requested or directed, and if not certified, the reasons. Criteria the OIG should consider in reviewing investigations include, but are not limited to: (a) whether witnesses were contacted, interviewed, and all other material evidence was timely collected; (b)

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whether interviews were thorough and unbiased and conflicting testimony was sufficiently addressed; (c) whether additional clarifying information would strengthen the investigation; (d) whether the written summary and analysis are objective and accurately reflect the evidence; and (e) whether applicable OPA procedures were followed and the intake and investigation were conducted in accordance with the OPA Manual.

6. If within ten (10) days after being notified that an investigation has been preliminarily completed, the OIG has not advised OPA of concerns with the investigation, the OPA Director may certify the case and issue findings. In these instances, the OIG is precluded from requiring further investigation.
  7. If the OIG determines an investigation is not thorough, timely, or objective, and that additional investigation cannot or did not remedy the concern, the OPA Director must include this determination in the recommended findings and the Chief of Police may take the OIG's non-certification into account in making a final findings determination.
- c. Through semi-annual review, assess the thoroughness and timeliness of OPA complaint-handling for those cases not investigated, including cases referred to supervisors, mediated, or resolved through alternative resolution, and for the timely and substantive follow-through on OPA recommendations for Management Actions and Training Referrals.
  - d. The OIG shall review and comment on any revisions proposed by OPA to the OPA Manual in accordance with an established process that provides for consultation and input prior to final adoption of the OPA Manual.
6. Handle complaints involving OPA staff where a potential conflict of interest precludes OPA from handling the complaint.
  7. Issue a subpoena if evidence or testimony necessary to perform the duties of the OIG set forth in this **Chapter 3.29** is not provided voluntarily, in order to compel non-SPD witnesses to produce such evidence or testimony. If the subpoenaed individual or entity does not respond to the request in a timely manner, the Inspector General may ask for the assistance of the City Attorney to pursue enforcement of the subpoena through a court of competent jurisdiction.
  8. Should an arbitrator be used by the City for hearing disciplinary appeals, designate an independent body, such as an established bar association committee with arbitration expertise, to compile a list of arbitrators meeting certain qualifications identified in writing by the Inspector General. Persons identified on the list shall be available to hear one or more disciplinary appeals in the

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subsequent three (3) or more years. To encourage timeliness in appeals and ensure decisions are issued without concern for future selection, both initially and going forward, appointments to the arbitration list to fill vacancies shall follow the same process as used to establish an initial list. No arbitrators shall be subject to approval or disapproval by either the City or the police unions either at the time they are added to the list or when drawn at random to preside over a disciplinary appeal. An arbitrator may only be removed from the list if the Inspector General determines, in writing, that the arbitrator fails to meet the minimum qualifications for serving as such. Should a hearing examiner be used, the OIG shall establish qualifications, conduct a hiring process, and nominate a hearing examiner, subject to City Council confirmation.

9. Perform the police intelligence auditor functions defined in **Chapter 14.12**.
10. Advise the Mayor, City Attorney, City Council, Chief of Police, OPA Director, and the CPC on issues related to the purposes of this **Chapter 3.29**, and recommend and promote to policymakers changes to policies and practices, collective bargaining agreements, City ordinances, and State laws in order to support systemic improvements and other enhancements to SPD performance and in furtherance of public trust.
11. Provide technical assistance to the CPC, as requested.
12. Maintain and promote use of a whistleblower hotline to receive anonymous reports from the public and City employees of unethical or improper conduct, and other issues germane to OIG audits and reviews.
13. Maintain a robust website that is easy to navigate; and conduct community outreach to inform the public about the OIG's role and scope of responsibilities. Collaborate with the CPC to regularly update and provide OIG informational materials that are readily understandable and widely available to Seattle's diverse residents both in English and in translation. Obtain information about community perspectives and concerns germane to the OIG's oversight responsibilities by coordinating with the CPC on community outreach and receiving feedback from the CPC on issues surfaced as a result of its community outreach activities.

### B. Qualifications.

The Inspector General shall be a civilian with a background in criminal, civil rights, labor law, governmental investigations, and/or the management of governmental auditing and shall not be required to have law enforcement experience. The Inspector General shall have a demonstrated ability to lead staff in auditing, evaluating, and conducting investigations; conducting financial and performance audits; analyzing and assessing complex aggregate data for patterns and trends; and in recommending systemic improvements to policies and practices to support constitutional policing, ongoing system effectiveness, and police excellence. The Inspector General shall also have the following additional qualifications and characteristics:

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1. A reputation for integrity and professionalism, and the ability to maintain a high standard of integrity and professionalism in the office;
2. A commitment to and knowledge of the need for and responsibilities of law enforcement, including enforcement and care-taking, and the need to protect the basic constitutional rights of all affected parties;
3. A commitment to the statements of purpose and policies in this **Chapter 3.29**;
4. A history of leadership experience;
5. The ability to relate, communicate, and engage effectively with and gain the respect of all who have a stake in policing, including, but not limited to, the general public, complainants, disenfranchised communities, SPD employees, and relevant City and other officials including the Mayor, City Council, City Attorney, Chief of Police, OPA Director, and the CPC;
6. An understanding of the city's ethnic and socio-economic diversity, and proven experience working with and valuing the perspectives of diverse groups and individuals; and
7. The ability to exercise sound judgment, independence, fairness, and objectivity, and to carry out the duties of the Inspector General in a manner that is perceived by all who have a stake in policing as exercising sound judgment, independence, fairness, and objectivity in an environment where controversy is common.

In addition to the above qualifications and characteristics, it may be helpful for the Inspector General to have appropriate professional auditing credentials and/or at least five (5) years' experience in law enforcement oversight.

### C. Appointment, removal and compensation

1. The Inspector General shall be appointed and reappointed by the City Council. The CPC shall serve as the search committee for the Inspector General, identifying up to three qualified finalists using merit-based criteria. In the event the search committee does not identify a sufficient number of qualified finalists or the City Council rejects the finalists offered, the search committee shall conduct a subsequent search for up to three qualified finalists. Prior to the City Council selecting an appointee from among the finalists, a public meeting shall be convened to allow community members to ask questions and hear from the finalists their perspectives on their qualifications and the requirements of the position. Following the public meeting, the City Council may appoint from among the finalists. The City Council shall consult with the CPC prior to reappointments. The Inspector General shall assume office upon formal appointment by the full City Council.
2. The Inspector General may be appointed for up to three, four-year terms for a

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total of twelve years, each year commencing on July 1st. If the Inspector General assumes office mid-term due to a prior vacancy, the Inspector General may complete that term and then be reappointed for up to three, four-year subsequent terms.

3. Each appointment and reappointment shall be made whenever possible sufficiently prior to the expiration of the latest incumbent's term of office, permitting City Council action to appoint or reappoint at least forty-five (45) days before the expiration of the present term, so as to have a seamless transition without a gap in oversight.
4. Within five (5) business days after a vacancy occurs or the City Council learns that a vacancy is expected to occur, the City Council shall provide written notice of the vacancy or expected vacancy to the CPC which shall commence recruitment of candidates to fill the vacancy.
5. Within one hundred and twenty (120) days of notice by the City Council, the CPC shall identify an initial set of qualified finalists and forward to the City Council their resumes and other relevant information, including criteria relied on by the CPC in choosing the finalists. The CPC may rank the finalists and summarize the particular strengths of each candidate. The City Council shall provide written notice to the CPC within five (5) business days of its action to not appoint.
6. In the event of a vacancy, the City Council president shall designate an interim Inspector General within thirty (30) days after a vacancy occurs to serve until a new Inspector General is appointed. The interim Inspector General may be either an OIG employee or an individual from outside the OIG, but must meet the qualifications in [Section 3.29.110](#).
7. To strengthen the independence of the Inspector General, the City Council may remove the Inspector General from office only for cause, and in accordance with the following provisions. The City Council shall give written notice, specifying the basis for the intended removal, to the Inspector General and the CPC. Within ten (10) days after receipt of the notice, the Inspector General may file with the City Council a request for a hearing on the cause for removal. The Inspector General's request for a hearing shall be delivered at the same time to the Mayor and to the CPC Executive Director and CPC co-chairs. If such request is made, the City Council shall convene a hearing on the cause for removal not sooner than thirty (30) days and not more than sixty (60) days following the Inspector General's request for a hearing, at which the Inspector General may appear, be represented by publicly-funded counsel, and be heard. Following the City Council's notice, and any hearing held at the request of the Inspector General, the City Council shall finalize its review of the grounds for removal and by a majority vote of its members approve or not approve the removal within thirty (30) days of the hearing if held, or if no hearing is held, within thirty (30) days of issuing notice of the intended removal, following input from the CPC.

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8. The Inspector General shall be paid a salary consistent with the level of responsibility established in this **Section 3.29.110**.
9. The Seattle Department of Human Resources shall obtain from an outside law enforcement agency a thorough background check of nominees for Inspector General identified by the City Council and report the results to the City Council, prior to the City Council taking final action on the appointment.

**3.29.115 Office of Inspector General – Reporting**

- A. The Inspector General shall report quarterly to the Mayor, City Council, and the CPC on the implementation of, or response to, OIG recommendations for policy and practice improvements, providing information on their status and whether follow-through was timely and substantive.
- B. To effectuate the purposes of this **Chapter 3.29**, the Inspector General shall, in addition to the timely publishing of OIG audits and studies, issue an annual public report that summarizes the results of the OIG’s oversight of OPA’s complaint-handling system, its review or investigation of other incidents of significant public concern, its analyses of patterns and trends, its performance audits, and its assessment of research and successful practices in other jurisdictions. This report shall include any OIG recommendations for changes in policies and practices, collective bargaining agreements, City ordinances, and State laws. The annual report shall also detail the implementation status of any previous OIG policy and practice recommendations to SPD, OPA, or other City departments and agencies. The annual report shall also summarize information received from its whistleblower hotline and from community outreach which has informed its work.
  1. With respect to the OIG’s oversight of SPD’s complaint-handling system, the annual report shall contain a general description of the complaints and cases reviewed, and should include, but not be limited to:
    - a. The number of investigations reviewed, a description of those cases in which the OIG did not certify, those cases for which the OIG requested or required further investigation, and a description of OPA's follow-up;
    - b. The semi-annual reviews of OPA complaint-handling for cases not investigated by OPA, including Contact Logs, Supervisor Action referrals, mediation, rapid adjudication, Management Actions and Training Referrals;
    - c. A description of any concerns or trends noted in OPA complaint intake and investigations;
    - d. A description of other issues, problems, and trends noted by the OIG as a result of the OIG’s oversight;
    - e. Recommendations that SPD or OPA make policy, practice, training, or procedural changes;

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- f. Findings from audits of OPA records or the OPA Director's reports; and
  - g. Other information, as appropriate, including information requested by the CPC that would help make reporting as useful as possible to the public.
- C. The Inspector General shall deliver a preliminary draft of the reports to the Chief of Police, the OPA Director, and other City departments and agencies, as appropriate, for review and comment. They shall review and comment on the preliminary report to the Inspector General within ten (10) days after receipt of the report. They shall not release or distribute the report to others during the review period. The Inspector General shall then issue the final report within ten (10) days after receipt of any comments.
- D. The Inspector General shall collaborate with the CPC to make OIG reports readily understandable and deliver them through channels that are easily accessible to the broad public.
- E. The OIG shall post online and electronically distribute its reports to the Mayor, City Attorney, City Council, Chief of Police, OPA Director, and the CPC, as well as to the City Clerk for filing as a public record.

**3.29.120 Office of Inspector General – Meetings**

- A. The Inspector General shall meet with the CPC, its committees, and/or staff, regularly and at the CPC's request, to provide and receive information concerning SPD and the police accountability system, and the extent to which the purposes and requirements of this **Chapter 3.29** are being met. The Inspector General shall review all of the OIG's reports, recommendations, and the implementation status of those recommendations in these meetings with the CPC.
- B. The Inspector General shall meet periodically with the Mayor, City Attorney, City Council, and Chief of Police, to advise on the performance and functions of OPA and SPD and make recommendations to improve OPA and SPD policies and practices, consistent with the purposes of this **Chapter 3.29**.

**3.29.125 Office of Inspector General – Confidentiality of files and records**

The Inspector General and all OIG staff, consultants, and experts hired by the OIG shall keep confidential the identity of all complainants, named employees, and witnesses, as well as all documents, files, records, and data to which the OIG has been provided access to the extent permitted by applicable law and collective bargaining agreements, in accordance with the provisions of this **Chapter 3.29**, and in the same manner and to the same degree as attorney-client privileged materials would be protected under legal and ethical requirements. They shall also be bound by the confidentiality provisions of the Criminal Records Privacy Act (**Chapter 10.97 RCW**) and Public Disclosure Act (**RCW 42.17.250 et seq.**). No complainant, named employee, or witness involved in an OIG audit shall be identified in any public report required by this **Chapter 3.29**.

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**Subchapter III Community Police Commission**

**3.29.200 Community Police Commission established – Purpose and authority**

- A. One of the cornerstones of effective oversight of law enforcement is community involvement. The purpose of the CPC is to provide the public with meaningful participatory oversight of SPD policies and practices of particular significance to the public or affecting public trust in accord with the purposes of this **Chapter 3.29** with the goal that police services are delivered in a lawful and nondiscriminatory manner and are in alignment with the values and expectations of the community. The work of the CPC is intended to further instill confidence and public trust in the fairness and integrity of the police accountability system and in the effectiveness and professionalism of SPD.
- B. The CPC was originally established by ordinance with responsibilities under a Settlement Agreement between The City of Seattle and the United States Department of Justice. The additional and ongoing responsibilities of the CPC detailed in this **Chapter 3.29** are separate from those under **Subchapter IX of Chapter 3.14**, to make clear the City's intention that civilian oversight be enhanced and broadened beyond the limited time and scope initially set forth in the Settlement Agreement in order to better serve the public.
- C. The CPC shall not serve as a review board for individual OPA investigations, nor seek to influence the course or outcome of specific OPA investigations, or findings, discipline, or other remedial action recommended or imposed.

**3.29.205 Community Police Commission – Independence**

- A. The CPC is situated within the City of Seattle's Executive Department, but is self-governing and functionally independent. An annual budget to support sufficient staffing and resources for effective CPC operations shall be based on not less than x percent (x%) of SPD's annual appropriations. In addition, the City shall provide the CPC with sufficient resources necessary to fulfill its periodic search committee obligations as required under this **Chapter 3.29**. The CPC shall have budget and program control of its own operations, and the Executive Director shall have authority for the hiring, supervision, and discharge of all CPC staff.
- B. The CPC's independence is critical to its ability to perform its oversight role effectively. SPD employees and City officials shall respect the obligation of Commissioners and CPC staff to exercise independent judgment and offer critical analysis. The CPC shall exercise discretionary and oversight responsibilities granted by this **Chapter 3.29** without interference from the Chief of Police, other SPD employees, or other City officials. Any person who violates these provisions may be subject to dismissal, discipline, or censure consistent with City and State laws.
- C. The Executive Director shall be selected by the CPC using merit-based criteria, subject to confirmation by a majority affirmative vote of the City Council. The CPC may remove the Executive Director from office at will, upon a majority vote of its membership. To maintain independence, the CPC Executive Director shall receive

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programmatic direction only from the CPC. The CPC may adopt bylaws to govern its own activities.

**3.29.210 Community Police Commission – Commission**

A. The duties of the CPC are to:

1. Review and provide input to OPA, the OIG, SPD, and other City departments and agencies, including the Mayor, City Council, and City Attorney on the police accountability system and SPD policies and practices of significance to the public, consistent with the purposes of this **Chapter 3.29**. Such review may include input on policy and practice changes recommended by the OPA Director, the Inspector General, and SPD.
2. Review and comment annually on any revisions proposed by OPA to the OPA Manual, in accordance with a process that provides for input prior to final adoption.
3. Engage in community outreach to obtain the perspectives of community members and SPD employees on police-community relations, SPD policies and practices, the police accountability system, and other matters consistent with the purposes of this **Chapter 3.29**. In conducting public outreach, the CPC shall be responsible for maintaining connections with representatives of disenfranchised communities and with other community groups in all of the City's legislative districts, as well as with SPD demographic and precinct advisory councils. The CPC shall provide OPA and the OIG with community feedback relevant to their operations received as a result of its public outreach activities.
4. Review and provide input on all memoranda of understanding provisions between the Chief of Police and the OPA Director prior to their finalization for consistency with the purposes of this **Chapter 3.29**.
5. Monitor and report on the implementation by City elected officials, SPD, and OPA of policy and practice recommendations made by the OPA Director, the Inspector General, and the CPC, including monitoring, tracking, and reporting on the City's budget, state legislative agenda, and collective bargaining agenda as these relate to advocacy for, and implementation of, recommendations by the oversight entities.
6. Review and provide input into SPD recruiting, hiring, and promotional practices.
7. Meet with the OPA Director and the Inspector General, no less than quarterly, to review information they wish to provide the CPC concerning the effectiveness of SPD or any obstacles to the OPA Director's or the Inspector General's abilities to perform their duties.
8. Review reports required by this **Chapter 3.29** and any recommendations of the OPA Director and the Inspector General.

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9. Serve as the search committee for OPA Directors and Inspectors General, identifying qualified finalists and advising the Mayor on these appointments, and review and provide input to the Mayor on the reappointment or removal of OPA Directors and Inspectors General.
10. Annually review the effectiveness of the OPA Director and the Inspector General after soliciting public, Mayoral, City Attorney, City Council, Chief of Police, and SPD employee perspectives.
11. Advise the Mayor, City Attorney, City Council, Chief of Police, OPA Director, and Inspector General on issues related to the purposes of this **Chapter 3.29**, and recommend and promote to policymakers changes to policies and practices, collective bargaining agreements, City ordinances, and State laws in order to support systemic improvements and other enhancements to SPD performance and in furtherance of community trust.
12. Convene an annual meeting to receive public comments and to formally report to the community on the effectiveness of the police accountability system, including providing an update on the implementation status of any previously recommended improvements.
13. Serve as an advisory body to the OPA Director and the Inspector General, identifying problems and recommending improvements to police accountability, including ways to make the system more accessible and transparent to the public.
14. Consult with OPA and the OIG on the development, revision, and distribution of public and employee informational materials and on the OPA and OIG websites.
15. Collaborate with SPD, OPA, and the City Attorney's Office in improving system transparency, including improving SPD public disclosure procedures and providing for timely online posting by OPA of information about the status of investigations and their outcomes.
16. Consistent with the purposes of this **Chapter 3.29**, annually review the OIG's workplan and add specific areas for OIG investigation and evaluation, including emergent issues that arise that in the CPC's judgment are needed to support public confidence in SPD and related criminal justice practices. In adding areas to the workplan, the CPC shall take into account the budget constraints of the OIG and its need to balance a range of priorities.
17. Analyze closed OPA cases and any other SPD or OPA data to identify opportunities for systemic improvements, provided that no such analysis shall be conducted for the purpose of confirming or overturning any findings, discipline, or other remedial action recommended or imposed related to any specific OPA investigations.

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18. Convene meetings with and lead stakeholders in developing a complainant appeal process for the City to adopt that is consistent with employee due process rights. Once established, the CPC shall periodically review the fairness and effectiveness of the civilian appeal process.
19. Convene meetings with and lead stakeholders to assess the feasibility of establishing mechanisms to use investigation and review processes wholly external to SPD for cases involving serious and deadly uses of force.
20. To the extent not otherwise covered above, continue to fulfill the responsibilities of the CPC as set forth in the Settlement Agreement and Memorandum of Understanding in *United States of America v. City of Seattle*.

**B. Qualifications.**

1. Commissioners shall be respected members of Seattle's many diverse communities, and include a representative from the Seattle Police Officers Guild (SPOG) and a representative from the Seattle Police Management Association (SPMA). Commissioners shall reside or work in Seattle.
2. Collectively, Commissioners shall have a deep understanding of community interests and needs, all shall have general knowledge of police accountability matters, and some shall have extensive subject matter expertise, including in the areas of law enforcement oversight, human rights, civil rights and civil liberties, and cultural competency. Altogether, there shall be a balance that allows the CPC as a whole to benefit from the knowledge and expertise of its individual members.
3. Commissioners shall be representative of Seattle's diverse population, drawn from different racial and ethnic groups, including immigrant/refugee communities, and from the LGBTQ, youth, faith, business, and other communities reflecting the overall demographics of Seattle residents. Some shall represent or be knowledgeable of the issues of those who are limited-English speakers, homeless, or who have mental illness and substance abuse disorders, or shall be drawn from communities that have had difficulties in their interactions with SPD.
4. Individual Commissioners shall have expertise in law enforcement; police accountability; human resources; community engagement; organizational change; constitutional, criminal, or labor law; social justice; training; or other disciplines important to the CPC's work. At least two Commissioners shall be graduates of an accredited law school and members in good standing of the Washington State Bar Association, with significant experience in the fields of public defense and civil liberties law. The representatives from SPOG and SPMA shall be nominated by their respective union executive boards/boards of directors and should have background relevant to police-community relations and demonstrated connection to the membership of their respective unions.

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5. All Commissioners shall have the following qualifications and characteristics:
  - a. A reputation for integrity and professionalism, and for effectiveness in a board or commission role;
  - b. A commitment to and understanding of the need for and responsibilities of law enforcement, including enforcement and care-taking, and the need to protect the basic constitutional rights of all affected parties;
  - c. A commitment to the statements of purpose and policies in this **Chapter 3.29**;
  - d. A history of leadership experience and/or deep roots in communities represented;
  - e. The ability to relate, communicate, and engage effectively with and gain the respect of all who have a stake in policing, including, but not limited to, the general public, complainants, disenfranchised communities, SPD employees, and relevant City and other officials including the Mayor, City Council, City Attorney, Chief of Police, OPA Director, Inspector General, and other CPC members.
  - f. An understanding of the city's ethnic and socio-economic diversity, and proven experience working with and valuing the perspectives of diverse groups and individuals; and
  - g. The ability to exercise sound judgment, independence, fairness, and objectivity, and to carry out Commissioner duties in a manner that is perceived by all who have a stake in policing as exercising sound judgment, independence, fairness, and objectivity in an environment where controversy is common.

C. Appointment, removal and compensation

1. The CPC shall consist of 19 Commissioners, appointed and reappointed by the Mayor and the CPC, subject to confirmation by a majority affirmative vote of the City Council.
2. Commissioners serving at the time this ordinance is effective shall continue in office, with staggered terms consistent with the provisions outlined in this **Section 3.29.210**.
  - a. Fifteen (15) days prior to the effective date of this **Chapter 3.29**, each Commissioner of the previously existing CPC, created by the Settlement Agreement and Stipulated Order of Resolution Between the United States of America and the City of Seattle and established by Executive Order No. 02-2012 and City of Seattle Ordinance 124021, shall submit a written statement to the Mayor and the President of the City Council indicating whether that member wishes to serve on the CPC as established by **Chapter 3.29**. Public

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defender, civil liberties, SPOG and SPMA representatives on the previously existing CPC shall identify themselves as such in their written statements.

- b. No fewer than ten (10) days prior to the effective date of this **Chapter 3.29**, the City Attorney or a designee of the City Attorney shall, in a publicly noticed and open meeting, draw numbers to determine the position number for each continuing Commissioner (from Position No. 1 to Position No. 15), with the exceptions that the public defender and civil liberties representatives shall occupy Position Nos. 16 and 17, and the SPOG and SPMA representatives shall occupy Position Nos. 18 and 19, respectively, without the need to draw numbers. All position numbers not drawn shall be considered vacant positions, subject to appointment pursuant to the provisions of this **Section 3.29.210**.
  - c. Commissioners in Position Nos. 1, 4, 7, 10, 13, 16, and 19 shall serve terms on the CPC deemed to end on December 31, 2018. Commissioners in Position Nos. 2, 5, 8, 11, 14, and 17 shall serve terms deemed to end on December 31, 2017. Commissioners in Position Nos. 3, 6, 9, 12, 15, and 18 shall serve terms deemed to end on December 31, 2016.
  - d. All Commissioners shall be eligible for two (2) subsequent three-year terms following the initial terms defined in this **Section 3.29.210**.
3. The Mayor shall select seven (7) Commissioners, including the SPOG and SPMA representatives who shall be nominated by their respective unions. The CPC shall select the remaining twelve (12) Commissioners. Each appointing authority shall provide a process that allows individuals to apply and be considered for appointment, to ensure that they meet the qualifications outlined in this **Section 3.29.210** and are selected in a manner that effectuates the bylaws of the CPC with respect to its composition. The Mayor shall consult with the CPC prior to making reappointments. Commissioners shall assume office upon receiving City Council confirmation.
  4. Commissioners may be appointed for up to three, three-year staggered terms for a total of nine years, each year commencing on January 1st. The staggered terms shall be such that no more than ten (10) Commissioners' terms expire in any year. If a Commissioner assumes office mid-term due to a prior vacancy, the Commissioner may complete that term and then be reappointed for up to three, three-year subsequent terms.
  5. Each appointment and reappointment shall be made whenever possible sufficiently prior to the expiration of the latest incumbent's term of office or the effective date of an incumbent's resignation, permitting City Council action to approve or disapprove the appointment or reappointment, at least forty-five (45) days before the expiration of the present term, so as to avoid undue vacancy. All appointments to fill positions due to resignations without notice shall be made as soon as such can reasonably be done, but no later than three months after the effective date of the resignation of the latest incumbent.

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6. Removal of Commissioners from office by the appointing authority may only be for cause, with written notice, specifying the basis for the intended removal, to the involved Commissioner and the City Council. The City Council shall finalize its de novo review of the grounds for removal and by a majority vote of its members approve or not approve the removal within thirty (30) days of receiving notice of the intended removal from the appointing authority.
7. Commissioners shall be compensated, if at all, as provided by ordinance.

D. Staff

Sufficient professional staff shall be provided by the City to enable the CPC to perform the responsibilities specified and fulfill its duties under this **Chapter 3.29** initially, and on an ongoing basis.

**3.29.215 Community Police Commission – Reporting**

- A. The CPC shall post online and electronically distribute an annual report to the Mayor, City Attorney, City Council, Chief of Police, OPA Director, and Inspector General, as well as to the City Clerk for filing as a public record. This report shall describe the work of the CPC in fulfilling the responsibilities detailed in this **Chapter 3.29**, including:
  1. The extent to which the purpose, duties, and responsibilities detailed in this **Chapter 3.29** have been met;
  2. The extent to which prior recommendations for improvements to SPD and OPA policies, practices, systems, training, and the accountability system have been implemented; and, if they have not, the reasons;
  3. Any new CPC recommendations for systemic, training, engagement, policy, and practice changes; and
  4. Information about the CPC’s outreach, and about the perspectives gathered by the CPC from such outreach.

**3.29.220 Community Police Commission – Meetings**

- A. The CPC shall meet regularly with the OPA Director and the Inspector General to provide and receive information concerning SPD and the police accountability system, and the extent to which the purposes and requirements of this **Chapter 3.29** are being met.
- B. The CPC shall periodically meet with the Mayor, City Attorney, City Council, and Chief of Police, to advise on the performance and functions of OPA and SPD, and discuss its work under this **Chapter 3.29**.
- C. The CPC shall hold regular public meetings, no less than once a month, and establish

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workgroup subcommittees of its members to meet as necessary.

**Subchapter IV Mechanisms to Support Accountability**

**3.29.300 Reporting of Potential Misconduct and Police Accountability Issues**

- A. SPD shall establish and maintain clear written policies requiring that all significant matters coming to SPD's attention that involve potential police misconduct or policy violations are documented and forwarded in a timely manner to OPA, including cases originating from outside sources and from all SPD units or boards with authority to review compliance with policy or to conduct administrative investigative processes.
- B. SPD and OPA shall establish an effective system of referral to OPA for investigation of possible misconduct any concerns regarding officers whom others in the criminal justice system believe may have not acted with integrity or honesty.
- C. SPD, OPA, the City Attorney's Office, the CPC, and all other City entities shall have an affirmative obligation to report monthly to the Inspector General any problems or deficiencies related to operations, policies, programs, and practices that would reasonably be expected to adversely affect SPD effectiveness, public safety, police accountability, constitutional policing, or the public's confidence in SPD, and that would be relevant to the duties of the OIG.
- D. As appropriate, the City Attorney shall advise the OPA Director and the Chief of Police of any issues identified through litigation, grievances, or disciplinary appeals to help OPA and SPD make informed improvements to policies and procedures.

**3.29.305 Continuous Improvement**

- A. SPD shall meet and confer with the issuing agency following the issuance of any report with recommendations by the OPA Director, the Inspector General, or the CPC and shall respond in writing to the issuing agency within thirty (30) days following the release of recommendations by the OPA Director, the Inspector General, or the CPC, providing a plan for implementation of accepted recommendations, including for regular timely written reports on progress made in implementing accepted recommendations, and a rationale or other explanatory information for those recommendations not accepted or scheduled for implementation. If the lead entity responsible for the implementation is a City department or agency other than SPD, the Director of the Mayor's Office of Policy and Innovation or its successor shall coordinate providing the necessary information to SPD to include in the response. The issuing agency shall be responsible for tracking the status of its recommendations accepted and not accepted. The OPA Director and the Inspector General shall report quarterly to the CPC on the status of their recommendations to SPD and other City departments and agencies.
- B. OPA shall meet and confer with the issuing agency following the issuance of any report with recommendations by the Inspector General or the CPC and shall respond in writing to the issuing agency within thirty (30) days following the release of recommendations

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of the Inspector General or the CPC, providing a plan for implementation of accepted recommendations, including regular timely written reports on progress made in implementing accepted recommendations, and a rationale or other explanatory information for those recommendations not accepted or scheduled for implementation. The issuing agency shall be responsible for tracking the status of its recommendations accepted and not accepted. The Inspector General shall report quarterly to the CPC on the status of the OIG recommendations to OPA.

- C. In consultation with the CPC, the OIG, and the OPA, SPD shall establish an agreed upon schedule and protocol for regular and timely review of proposed revisions to the SPD Policy Manual for the purpose of ensuring SPD policies are consistent with best practices, including incorporation of recommendations from the civilian oversight entities.
- D. If determined to be feasible following the stakeholder assessment led by the CPC described in **Section 3.29.210**, the City shall establish mechanisms to use wholly external investigation and review processes for cases involving serious and deadly uses of force.
- E. SPD shall maintain systems of critical self-analysis, including audits and reviews of critical events, lawsuits, claims, and complaints. These reviews should focus on ways to improve policies, training, and supervision so as to help prevent misconduct, policy violations, poor performance, or other adverse outcomes.
- F. SPD shall track and together with the OIG report on the efficacy of any performance mentoring or early intervention system, which is designed to proactively identify problems and trigger non-disciplinary coaching and training interventions in order to improve employee performance.
- G. The City Council shall establish a regular schedule for review of the status of implementation by OPA, SPD, and the City of all recommendations made for improving the police accountability system.
- H. At the time the Mayor's annual proposed budget is submitted to the City Council, the Mayor shall notify the City Council and the CPC in writing, with copies to the Inspector General and the OPA Director, when recommendations requiring City funding made by those responsible for implementing the purposes of this **Chapter 3.29** are not included in the budget proposal.
- I. At the time the Mayor's proposed state legislative agenda is presented to the City Council, the Mayor shall notify the City Council and the CPC in writing, with copies to the Inspector General and the OPA Director, when associated recommendations made by those responsible for implementing the purposes of this **Chapter 3.29** are not included in the proposed state legislative agenda.
- J. At the time the Mayor's proposed collective bargaining agendas with the City's police unions are presented to the Labor Relations Policy Committee, the Mayor shall notify the City Council and the CPC in writing, with copies to the Inspector General and the

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OPA Director, when associated recommendations made by those responsible for implementing the purposes of this **Chapter 3.29** are not included in any proposed collective bargaining agenda.

**3.29.310 Disciplinary, Grievance, and Appeals Policies and Processes**

- A. SPD and City disciplinary, grievance, and appeal policies and processes shall be timely, fair, consistent, and transparent.
1. SPD shall establish and use a discipline matrix to better ensure predictable, fair, consistent, and uniform application of discipline according to adopted standards and shall track all records of Chief of Police disciplinary determinations. The OPA Director and the Inspector General shall have unfettered access to this information, and SPD shall report on disciplinary patterns in such a way that the public can assess whether the Chief of Police is exercising disciplinary authority in a fair and consistent manner.
  2. To help ensure timeliness, there shall be set and enforceable timeframes for any named employee to be notified by SPD of proposed findings and discipline, for any named employee and/or the named employee's union representative to request a due process hearing, for the Chief of Police to issue a final finding and disciplinary decision, and for any named employee to file an appeal.
  3. SPD shall implement discipline when it is imposed or shortly thereafter, not upon conclusion of any disciplinary appeal process.
  4. The Chief of Police shall have the authority to place an SPD employee on leave without pay prior to the completion of an OPA administrative investigation regardless of whether the employee has been charged with a felony or misdemeanor if doing so is in the best interests of the public.
  5. Employee disciplinary appeals shall only be through a) a hearing examiner nominated as a permanent City employee by the Inspector General using merit-based criteria, who has appropriate expertise and objectivity, or b) through an arbitrator selected at random from a list of qualified arbitrators maintained by the OIG, pursuant to **Section 3.29.110**. All hearings related to disciplinary appeals shall be open to complainants and the public without limitation.
  6. After the CPC leads stakeholders in developing a complainant appeal process, described in **Section 3.29.210**, the City shall establish such a process that is consistent with employee due process rights and with the purposes of this **Chapter 3.29**.
  7. SPD employees shall not use accrued time balances to be compensated while satisfying a disciplinary penalty that includes an unpaid suspension.
  8. A grievance or disciplinary appeal shall be initiated by the named employee or the named employee's union representative by filing notice to the Chief of Police and the City Attorney concurrently.

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9. Challenges by employees to disciplinary decisions shall be handled through the appeal process described in this **Section 3.20.310**. Challenges by employees to all other administrative actions or working conditions shall be handled exclusively through a separate employee grievance process.
10. The City Attorney's Office shall determine legal representation for SPD in disciplinary challenges. The City, including SPD, shall not settle or resolve grievances or disciplinary appeals without the approval of the City Attorney's Office.
11. Each party to a named employee appeal shall have a second attorney who will be available to reduce appeal hearing scheduling delays, all appeal hearings shall be held within a set timeframe from when the Chief of Police issues final findings and discipline, and all appeal rulings shall be issued within a set timeframe from the hearing.
12. The Chief of Police shall request in writing that the WSCJTC de-certify any sworn employee terminated from employment, or who would have been terminated from employment had separation not already occurred, whenever the nature of the employee's misconduct qualifies for de-certification under State law.

**3.29.315 Recruitment, Hiring, Assignments, Promotions, and Training**

- A. SPD shall develop and implement recruitment, hiring, testing, training, mentoring, assignment, and promotional practices that emphasize leadership and policing skills consistent with accountability, which support equity and the goals set forth in the Settlement Agreement. SPD shall evaluate and report on how effective its processes are in meeting community needs for a diverse work force, including the relevance of traditional disqualifying factors and the swiftness of decision-making, to assess if there are unfair impediments to hiring and retaining diverse and skilled officers. In developing these practices, SPD shall consult with the CPC and rely on its research and recommendations in these areas.
- B. To support operational efficiency and excellence, SPD may use civilians with specialized skills and expertise to perform any SPD management and operational functions, including, but not limited to, training, human resources, technology, budget and finance, crime analysis, recruiting, hiring, and testing, which in the judgment of the Chief of Police do not require law enforcement commissioned personnel, allowing SPD the ability to more flexibly deploy civilian and sworn resources to best meet both its administrative and law enforcement needs.
- C. SPD shall adopt through the Public Safety Civil Service Commission rule-making process, preference points in hiring sworn employees who are multi-lingual and/or have work experience or educational background providing important skills needed in modern policing, such as experience working with diverse communities, and social work, mental health or domestic violence counseling, Peace Corps, AmeriCorps, or

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other similar work or community service backgrounds.

- D. After consulting with and receiving input from the OIG, SPD shall establish an internal office, directed and staffed by civilians, to manage the secondary employment of its employees. The policies, rules, and procedures for secondary employment shall be consistent with SPD and City ethical standards, and all other SPD policies shall apply when employees perform secondary employment work.
- E. SPD shall adopt consistent standards that underscore the organizational expectations for performance and accountability as part of the application process for all specialty units, in addition to any unique expertise required by these units, such as field training, special weapons and tactics, crime scene investigation, and the sexual assault unit. In order to be considered for these assignments, the employee's performance appraisal record, OPA history and early intervention system information must meet certain standards and SPD policy must allow for removal from that assignment if certain triggering events or ongoing concerns mean the employee is no longer meeting performance or accountability standards.
- F. SPD shall ensure that its "take-home" policy for SPD vehicles, and the opportunities for assignments that provide additional financial remuneration, are consistent with values of accountability and effective use of taxpayer resources.
- G. The Chief of Police shall collaborate with the OPA Director with the goal that sworn staff assigned to OPA have requisite skills and abilities and with the goal that the rotations of sworn staff into and out of OPA are done in such a way as to maintain OPA's operational effectiveness. A memorandum of understanding between the Chief of Police and the OPA Director shall memorialize any such agreed-upon arrangements to meet these goals for sworn staffing of OPA.
- H. SPD shall collaborate with OPA in the development and delivery of SPD in-service training related to the accountability system.

**3.29.320 Data Tracking and Record Retention**

- A. SPD shall maintain a transparent, current, and searchable database that includes every stop, frisk, use of force, and disciplinary matter. The database shall protect the privacy of members of the public who are involved, while including all relevant information of each interaction, including race, gender, time, place, assignment, reason, and any other consideration that can help provide information regarding possible bias.
- B. SPD shall make available information about its policies and operations that are matters of concern to the public by posting such information online, such as the SPD Policy Manual, performance audit reports, reviews of shootings by officers, and reviews of in-custody injuries and deaths.
- C. SPD shall track and document OPA cases referred from the OPA Director to the Chief of Police in OPA and SPD data systems.

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- D. All SPD personnel and OPA case files shall be retained as long as the employee is employed by the City, plus ten (10) years or as long as any action related to that employee is ongoing, whichever is longer. SPD personnel files shall contain all associated records, including equal employment opportunity complaints, early intervention system and disciplinary records, litigation records, and decertification records; and OPA complaint files shall contain all associated records, including investigation records, Supervisor Action referrals and outcomes, rapid adjudication records, and referrals and outcomes of mediations. No employee may petition the Chief of Police for removal of records of written reprimands or other disciplinary actions from their personnel files.
- E. For sworn employees who are terminated or resign in lieu of termination as a result of an OPA investigation, such that the employee was or would have been separated from SPD for cause and at the time of separation was not “in good standing,” SPD shall include documentation in SPD personnel and OPA case files verifying a) a letter was sent by SPD to the Washington State Criminal Justice Training Commission (WSCJTC) requesting de-certification whenever appropriate; b) whether action was taken by the WSCJTC in response to such requests; c) that the Chief of Police did not and will not grant the employee authorization to serve in a Special Commission capacity, as a reserve officer or as a retired officer in a private company that provides flagging, security, or related services; and d) that the Chief did not or will not grant any request under the Law Enforcement Officers Safety Act to carry a concealed firearm. The latter two actions shall also be taken and documentation included in the SPD personnel and OPA case files whenever a sworn employee resigns or retires with a pending complaint and does not fulfill an obligation to fully participate in an OPA investigation.

### **3.29.325 Criminal Cases**

- A. The Mayor shall include in the City’s proposed state legislative agenda a provision to allow the City to refer criminal cases in which police conduct resulted in the death of a civilian to independent prosecutorial authorities. Until such State law is enacted, the City Attorney shall establish a protocol with the King County Prosecutor to refer, whenever possible, such cases to prosecutors not affiliated with the City of Seattle or King County.
- B. The City Attorney shall establish a protocol so that, whenever possible, cases referred to prosecutors for possible filing of charges against SPD employees are reviewed concurrently by city, county, and federal prosecutors so as to minimize delay and better serve both the public, the named employee, and SPD.

### **3.29.330 Collective Bargaining and Labor Agreements**

- A. The City’s collective bargaining agenda shall incorporate recommendations made by those who provide civilian oversight of the police accountability system, who shall also serve in a technical advisor capacity during the bargaining process for the purpose of ensuring such recommendations are thoughtfully prioritized and the ramifications of alternative proposals are correctly understood. Should the City not be prepared to bargain certain of these recommendations, the City shall bargain for the right to re-open

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so that recommended reforms can be implemented as soon as possible and not delayed until the next regularly scheduled negotiation period.

- B. The terms of all collective bargaining agreements for SPD employees, along with any separate agreements entered into by SPD or the City in response to an unfair labor practice complaint, settlement of grievance or appeal, or for other reasons, including those previously reached, shall be clearly and transparently provided to the public, by posting on the SPD website, along with plain language explanations of the purpose and effect of the terms of all such collective bargaining and other agreements.
- C. SMC 4.04.120(E) shall not apply to the City's collective bargaining with police unions. The City's collective bargaining with all police unions shall be conducted in an open and transparent manner to the maximum extent permitted by State law.
- D. Whenever collective bargaining occurs, any separate agreements in place which were entered into by SPD or the City in response to an unfair labor practice complaint, settlement of grievance or appeal, or for any other reasons, shall be incorporated into the new or updated collective bargaining agreement or shall be eliminated.

**3.29.335 Policy Initiatives and Updates**

- A. The Mayor shall include in the City's proposed state legislative agenda reform of State laws regarding officer de-certification, pension benefits for employees who do not separate from SPD "in good standing," and the standards for arbitrators to override termination decisions by the Chief of Police.
  - 1. The City shall seek to broaden the grounds for revoking officer certification and to allow for immediate de-certification upon termination or resignation rather than upon completion of all appeals so that officers who violate the law or engage in serious misconduct cannot be employed in a sworn capacity anywhere else in the state.
  - 2. The City shall seek authority to take back, following separation, pension benefits from future employees who have not satisfied all conditions to receive full pension benefits because they retire or resign to avoid participation in an OPA investigation or discipline, or who are terminated or resign in lieu of termination as a result of an OPA investigation.
  - 3. The City shall seek statutory change to reduce the power of arbitrators to override certain termination decisions and order the return of sworn employees who have committed misconduct to work. Such statutory change shall make clear that in the event any commissioned officer has been found by the appointing authority to have engaged in an illegal act or other misconduct warranting termination, the arbitrator shall not substitute his or her judgment for that of the appointing authority regarding the nature of the discipline and shall sustain the termination unless the arbitrator also overturns the finding of having engaged in an illegal act or other misconduct warranting termination.

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- B. SPD administrative investigation units, including the Force Review Board, shall maintain a schedule of review that limits the duration of each incident review to ninety (90) days.
  
- C. After consulting with and receiving input from the OPA Director, the OIG, and the CPC, SPD shall revise its body-worn camera and in-car video recording policies, as appropriate, to ensure their consistency and that they reflect best practices in support of police accountability. Such policies shall:
  - 1. Clarify when body-worn camera recordings are allowed in private residences when consent for recording is not given by all persons present.
  - 2. Clarify when body-worn camera recordings are allowed involving victims of certain types of crimes or individuals in crisis.
  - 3. Clarify when officers are allowed to turn-off body-worn cameras when engaged with an individual who may wish to provide witness information or act as a confidential informant but would not do so if a camera was on.
  - 4. Clearly articulate when officers are allowed or not allowed to review their in-car and body-worn camera recordings, including whether it is permissible a) before writing a report, b) before any OPA or SPD administrative investigation, and/or c) before any litigation or hearing.
  - 5. Require in-car and body-worn camera video recording use for premise, as well as person and vehicle, searches.
  - 6. Determine whether anti-crime team and special weapons and tactics actions are to be recorded.
  - 7. Determine whether all SPD vehicles used for any law enforcement action, other than undercover action, including all vans, command, and supervisor vehicles, must be equipped with in-car video recording capability and, if so, establish the requirements for employees who would not have routinely done a system check before using the vehicle.
  - 8. Determine whether SPD personnel may participate in law enforcement action with officers from a different agency using that agency's vehicle that is not equipped with in-car video recording capability.
  - 9. Clarify when those in the chain of command who arrive at a scene to provide oversight and review of use of force are engaged in police activity and must have in-car video and body-worn cameras on.
  - 10. Require in-car and body-worn camera video recordings, in accord with SPD policy, for all secondary employment work when officers are acting with law enforcement authority and are in uniform.

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11. Allow supervisors the authority to review in-car and body-worn camera video recordings on a day-to-day basis and discuss these with officers under their command improve their performance, without such review and discussions being part of a formal performance appraisal.

**3.29.340 Public Statements**

- A. While any incident of public concern is under any form of City review, including an OPA investigation, or an SPD Force Review Board or other review, neither the Chief of Police nor any SPD or other City employee shall comment in a way that suggests that any factual, policy or legal conclusions have been reached about the incident. These provisions shall not restrict the ability of a union representative to comment in their representative capacity.

**3.29.345 Protection of Civilian Oversight Entities**

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

**Subchapter V Construction and Implementation**

**3.29.400 Construction**

- A. The collective bargaining agreements with the City's police unions shall be updated to conform and be consistent with the provisions and obligations of this **Chapter 3.29**.
- B. Any provision of this ordinance that requires collective bargaining shall not become effective until the City satisfies its collective bargaining obligations under the Public Employees' Collective Bargaining Act, **RCW Ch. 41.56** or the City and the affected police union(s) mutually agree that the provision may be implemented.
- C. In the event of a conflict between the provisions of this **Chapter 3.29** and any other City ordinance, the provisions of this **Chapter 3.29** shall govern.

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- D. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance, or the invalidity of its application to any person or circumstance, does not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstance.
- E. This ordinance shall take effect and be in force [xxxxx] days after the effective date of the ordinance introduced as Council Bill [xxxx]. The terms and provisions of this ordinance are not retroactive and shall apply only to those rules, orders, actions or proceedings that occur, or have been initiated, on or after [xxxxx].

**3.29.401 Implementation**

- A. Accountability System Pending Judicial Review

Until such time as the legislation takes effect, the current accountability system shall remain in place, consistent with provisions of the Settlement Agreement. The City shall provide sufficient budgetary support and fill any OPA Director and OPA Auditor vacancies with interim office holders so as to ensure there is no gap in oversight and fulfilling the responsibilities of those offices.

- B. OPA Auditor-Inspector General Transition

The Inspector General shall have the authority to retain the services of past OPA Auditors to assist in the transition and in fulfilling the OIG's obligations as set forth in this **Chapter 3.29**.