

BY THE COUNCIL:

SPONSORING COUNCIL MEMBERS:

AN ORDINANCE SUBSTITUTING SECTION 4, CHAPTER 26, TO ESTABLISH THE **INDEPENDENT OFFICE OF POLICE OVERSIGHT (IOPO)** SPECIFYING DUTIES AND RESPONSIBILITIES, AND AUTHORIZING MEDIATION, RECOMMENDATIONS, COMMUNITY OUTREACH AND REPORTING; APPROVING AN ORDINANCE SUMMARY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the professionalism and accountability of the Spokane Police Department will be enhanced by establishing an independent investigative and review process by the creation of the **Independent Office of Police Oversight** to receive, investigate and monitor citizen complaints against the police and to provide recommendations regarding improvements to police policies, practices, and training; and

WHEREAS, public confidence in the internal investigation process of the Spokane Police Department will be enhanced by establishing an independent investigative and review process that is transparent and fair.

WHEREAS, the independent review process is subject to the Washington Open Public Meetings Act (RCW 42.30) and the Washington Public Records Act (RCW 42.56), it is the intent of this ordinance that the authorized activities comply with the provisions of both laws so as to foster public confidence in the process.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY OF SPOKANE, WASHINGTON:

Section 1. that Section 4, Spokane Municipal Code, be and the same is hereby amended by the addition thereto of a new Section 4 to read as follows:

4.26.010 Creation of Independent Office of Police Oversight

There is hereby created an administrative unit of the City of Spokane to be known as the Independent Office of Police Oversight (IOPO).

4.26.020 Appointment and Removal of the Independent Auditor

- A) The Independent Auditor of the IOPO shall be appointed by the Mayor and confirmed by the City Council.

- B) Each such appointment shall be made as soon as such can reasonably be done after the expiration of the latest incumbent's term of office. Each such appointment shall be for a term ending three (3) years from and after the date of expiration of the immediately preceding term and is limited to two (2) consecutive terms; provided, that if a vacancy should occur in such office before the expiration of the former incumbent's terms, the Council shall appoint a successor to serve only for the remainder of said former incumbent's term.

- C) The Independent Auditor may not be removed from office except from misconduct, inefficiency, incompetence, inability or failure to perform duties of such office or negligence in the performance of such duties. In such cases that warrant removal from office, said removal shall be accomplished only by a resolution adopted in public hearing by either the majority of the full City Council upon recommendation of the Mayor or by a vote of not less than five (5) members of the full City Council; nothing contained herein shall prevent the Council from eliminating IOPO by the normal ordinance process which action shall not be considered a removal for cause but simply a change in policy by the City.

4.26.021 Independent Auditor; Power of Appointment

- A) The Independent Auditor may appoint and prescribe the duties of the professional and technical employees employed in the Independent Office of Police Oversight. Such appointed professional and technical employees shall serve in unclassified positions at the pleasure of the Independent Auditor. The Council shall determine whether a particular employee is a "professional" or "technical" employee who may be appointed by the Independent Auditor pursuant to these Subsections.

- B) In addition, the Independent Auditor shall appoint all clerical employees employed in the Office of the Independent Auditor, and when the Independent Auditor deems it necessary for the good of the service he or she may, subject to the above-mentioned limitations, suspend without pay, demote, discharge, remove or discipline any such employee whom he or she is empowered to appoint.

- C) Neither the Council nor any of its members nor the Mayor shall in any manner dictate the appointment or removal of any such officer or employee whom the Independent Auditor is empowered

to appoint, but the Council may express its views and fully and freely discuss with the Independent Auditor anything pertaining to the appointment and removal of such officers and employees.

4.26.030 Scope

The IOPO shall have the authority to exercise its duties and responsibilities, as outlined below, with regard to any and all law enforcement and police activities or personnel operating under the authority of the City of Spokane.

4.26.040 Duties and Responsibilities

A) Citizen Complaints

Any person may file with, the Independent Office of Police Oversight, a complaint or allegation of wrongdoing against a Spokane police officer or police department employee. Upon receipt of such complaint or allegation, the Office shall:

- i) Ensure that a timely, thorough, complete, objective and fair investigation into the complaint or allegation is conducted. This investigation may, at the discretion of the Office, be conducted by the Office, the Spokane Police Department, or any other competent investigative agency.
- ii) Provide timely updates on the progress of the investigation to the complainant and the employee who is the subject of the investigation unless the specific facts of the investigation would prohibit such notification.
- iii) Based on the results of the investigation, reach an independent finding as to the facts.
- iv) Communicate these findings on a timely basis to the complainant, the employee who is the subject of the investigation, the Chief of Police, and the City Public Safety Committee.

B) Review of Internal Investigations conducted by Police Department

The IOPO shall review internal investigations conducted by the Spokane Police Department or other Departments to determine if the investigations are complete, thorough, objective and fair.

If the agency deems the records of this provision to be exempt from public disclosure pursuant to the Washington Public Records Act, the agency will provide the public with notice of the basis for the exemption.

C) Appeals of Internal Investigation Findings

Any person may file with the Office an appeal of the findings of an internal investigation conducted by the Spokane Police Department. Upon receipt of such an appeal, the Office shall:

- i) Review the completed investigation.
- ii) Determine whether or not further investigation is warranted and, if necessary, ensure that a timely, thorough, complete, objective and fair follow-up investigation into the complaint or allegation is conducted. This follow-up investigation may, at the discretion of the Office, be conducted by the Office, the Police Department, or any other competent investigative agency.
- iii) Provide timely updates on the progress of the investigation to the complainant and the employee who is subject of the investigation unless the specific facts of the investigation would prohibit such notification.
- iv) Based on the results of the investigation, reach an independent finding as to the facts.
- v) Communicate these findings on a timely basis to the complainant, the employee who is the subject of the investigation, and the Chief of Police, and the City Public Safety Committee.

D. Disclosure of Records

- vi) Investigation reports prepared pursuant to Section 4.26.040, A, (i) and Section 4.26.040, D, (ii) do not constitute internal police investigations and, thus, are not exempt from disclosure under the Washington Public Records Act as internal investigative records.
- vii) The Office has the sole responsibility and authority, on behalf of the agency, to determine for the agency whether any other exemption of the Washington Public Records Act

applies to the investigative report(s) filed pursuant to Sec. 4.26.040, A, (i), or Sec. 4.26.040, D, (ii).

- viii) If the IOPO deems that any portion of any record obtained from the Police Department is exempt from disclosure pursuant to the Washington Public Records Act, the IOPO will provide the public with notice of the basis for the exemption.
- ix) Findings of the Office are matters of public record.

E. Mediation

The IOPO shall develop an alternative dispute resolution process for resolving those citizen complaints which involve conduct which may most appropriately be corrected or modified through less formal means.

F. Policy Recommendations

The IOPO shall develop specific recommendations as to the policies, procedures, practices and training of Spokane City Police and law enforcement employees. Such recommendations should have as their goal to improve

- 1) professionalism
- 2) safety,
- 3) effectiveness and
- 4) accountability

of the Spokane City Police and law enforcement employees. The IOPO may make recommendations to the Chief of Police, Department Heads, the Mayor and/or City Council as appropriate.

G. Community Outreach

The IOPO shall develop and maintain a regular program of community outreach and communication for the purpose of listening to and communicating with the citizens of City of Spokane.

H. Reporting

The IOPO shall file semi-annual public reports with the City Clerk for transmittal to the City Council and Mayor which shall:

- i) include a statistical analysis documenting the number of complaints by category, their disposition and any actions taken;
- ii) analyze trends and patterns;
- iii) make recommendations, as appropriate.

The reports shall include all complaints received by the IOPO and City of Spokane Police Department and other law enforcement activities of the City.

I. Critical Incidents

In the event an employee of the Spokane City Police Department is involved as a principal, victim, witness or custodial officer, where death or bodily injury results, the Independent Auditor for the Independent Office of Police Oversight shall be notified immediately and shall act as an observer to any criminal, administrative or civil investigation conducted by or on behalf of the Departments. The IOPO may also conduct an independent administrative investigation into such a critical incident. Critical incidents include but are not limited to situations involving the following:

- i) Use of force or any other Department action that results in death or serious bodily injury. (Serious bodily injury is an injury that results in the subject being admitted to a hospital.)
- ii) Use of Deadly Force where only minor bodily injury occurs;
- iii) Intentional Use of Deadly Force but no injury occurs;
- iv) Vehicle pursuits, roadblocks or intercepts resulting in death or serious bodily injury;
- v) Police employee involved in a traffic accident resulting in death or serious bodily injury, while operating a city vehicle or private vehicle while on City business.

4.26.050 Disclosure of Records and Information

The IOPO shall comply with all state and federal laws regarding the management and disclosure of public records. Records created as a

result of actions taken by the office are presumed to be disclosable public records. [In determining whether or not records are exempt to protect the privacy rights of police officers or other public officials, the IOPO shall be the sole arbiter for the agency as to what constitutes highly offensive material of no legitimate concern to the public.]

4.26.060 Relationship Between the Office, the Spokane Police Department and Other Departments

- A) The Chief of Police and all Department Heads with employees who perform law enforcement duties shall each, jointly with the Independent Auditor, develop standard operating procedures to govern the relationship between the Independent Office of Police Oversight and each of their respective departments.
- B) The Independent Office of Police Oversight is to be given full, unrestricted and complete access to any and all information, files, evidence or other materials which the Independent Auditor shall deem necessary in the performance of the duties specified and responsibilities set forth in this chapter.
- C) The Independent Office of Police Oversight is to provide the appropriate Chief or Department Head with timely information and cooperation as is appropriate and necessary.

4.26.070 Cooperation with the Independent Office of Police Oversight

- A) All City employees shall be required as a condition of their employment to cooperate fully and truthfully with the Independent Office of Police Oversight operating within the course and scope of this chapter, by providing the Independent Auditor with any and all information, evidence, interviews, or other material as requested.
- B) No person shall directly or indirectly force, or by any threats to person or property, or in any manner willfully intimidate, influence, impede, deter, threaten, harass, obstruct, or prevent, another person, including a child, from freely, fully and truthfully cooperating with the Independent Office of Police Oversight.

4.26.080 Autonomy of the Independent Office of Police Oversight

- A) The Independent Auditor and any employee of the Independent Office of Police Oversight shall, at all times, be totally independent. Any investigations, findings, recommendations and requests made by the Independent Office of Police Oversight shall reflect the views of the Independent Office of Police Oversight alone.

- B) No person shall attempt to unduly influence or undermine the independence of the Independent Auditor or any employee of the Independent Office of Police Oversight in the performance of the duties and responsibilities set forth in this chapter.

4.26.090 False Reports

The Independent Office of Police Oversight shall have the discretion to decline further action on a complaint filed with the IOPO, if it is found that there is a reasonable belief that the alleged acts of misconduct in the complaint are false and that the person(s) filing the complaint knew them to be false at the time the complaint was filed.

Section 2. That the summary of this Ordinance, attached hereto as Exhibit “A” is approved as to both form and content.

Section 3. This Ordinance shall be in full force and effect from and after its passage, approval and publication.

PASSED by the Council of the City of Spokane, Washington this _____ day of _____, 2007.

APPROVED by the Mayor of the City of Spokane, Washington, this _____ day of _____, 2007.

ATTEST:

APPROVED:

CITY CLERK

MAYOR