

## **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 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 a Community Police Commission (CPC) to provide community input to ensure that police services are delivered in a lawful and nondiscriminatory manner and are aligned with community values and expectations.

#### **3.29.007 Definitions**

As used in this Chapter 3.29

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

“CPC” means the Community Police Commission.

“Inconclusive” means at category of Not Sustained finding made at the conclusion of an OPA investigation that there is not sufficient evidence to determine whether or not misconduct occurred.

“Lawful and Proper” means a category of Not Sustained finding made at the conclusion of an OPA investigation that the employee’s conduct was consistent with law, policy, and training.

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

“OPA” means the Office of Police Accountability.

“OIG” means the Office of Inspector General.

“Management Action” means a separate finding made at the conclusion of an OPA investigation, whether the allegation(s) are Sustained or Not Sustained as to the employee(s), identifying improvements needed to SPD policy, practice or operations. OPA recommends to SPD actions to be taken and SPD must provide a written response as to how it will address the identified issues. OPA also communicates the recommended actions and response to the complainant and the public.

A “Not Sustained” finding means at the conclusion of an OPA investigation where the alleged misconduct was not proven to have occurred. A Not Sustained finding may be Unfounded, Lawful and

Proper, Inconclusive, or a Training Referral.

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

“SPD” means the Seattle Police Department.

“Supervisor Action” means complaints not classified by OPA for investigation and instead referred to the employee’s supervisor for appropriate follow-up, such as problem-solving, mentoring, coaching, performance review, or other communication with the employee and with the complainant to improve performance and/or to be responsive to the complainant, with a report of actions taken submitted to OPA.

A “Sustained” finding means a finding at the conclusion of an OPA investigation that the alleged misconduct was proven to have occurred.

“Training Referral” means a category of Not Sustained finding made at the conclusion of an OPA investigation that requires the employee’s chain of command to provide appropriate training or counseling of the employee to improve performance, with a report of training provided submitted to OPA.

“Type III Force” means force that causes, or is reasonably expected to cause, great bodily harm, substantial bodily harm, loss of consciousness, or death, and/or the use of neck or carotid holds, stop sticks for motorcycles, and impact weapon strikes to the head.

“Unfounded” means a category of Not Sustained finding made at the conclusion of an OPA investigation that the alleged misconduct did not occur.

## **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 Office of Police Accountability to provide oversight, and recommendations in matters related to police accountability within SPD. 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. The goal of OPA is to help ensure the actions of SPD employees are constitutional; improve SPD compliance with federal, state, local laws, and with City and SPD policies; and to promote respectful and effective policing that is conducive to the public good.
- B. There shall be a civilian OPA Director responsible for carrying out the duties set forth in this Subchapter I. There shall be a civilian OPA Deputy Director to perform such duties and have such powers as the OPA Director may prescribe and delegate to implement and efficiently and effectively manage the duties set forth in this Subchapter I.

- C. OPA shall establish and manage processes to 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.
- D. 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 OPA Manual through investigation, Supervisor Action referral, mediation, Rapid Adjudication, and/or other alternative resolution processes, as well as through Management Action findings and Training Referrals that provide effective solutions and help reduce future misconduct or policy violations.
- E. OPA policies and practices shall apply equally to all SPD employees regardless of rank or position, and shall be detailed in the OPA Manual, which shall be posted publicly online.
- F. OPA's jurisdiction shall include all types of possible misconduct, including criminal misconduct. OPA shall have responsibility to coordinate investigations of allegations of criminal misconduct with criminal investigators and prosecutors on a case-by-case basis to ensure that the most effective, thorough, and rigorous criminal and administrative investigations are conducted.
- G. 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.
- H. 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 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.
- I. OPA shall have discretion to investigate any specific SPD policy violation it chooses, regardless of the level of seriousness so that all SPD policy violations are appropriately addressed, but with supervisors generally 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.
- J. 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.

- K. OPA shall work with SPD and the City Attorney's Office to release information associated with OPA cases as quickly and with as much transparency as legally and practically possible.
- L. OPA shall collaborate with SPD and OIG 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 deemed to be organizationally in SPD in order to ensure complete and immediate access to all SPD-controlled data, evidence, and personnel necessary for thorough and timely investigations. OPA shall be housed outside any SPD facility and be operationally independent of SPD in all respects. OPA's location and communications shall reflect its independence and impartiality, and promote public access and transparency.
- B. The OPA Director shall have authority for the hiring, supervision, and discharge of all civilian staff, and for the supervision and transfer back to SPD of any sworn staff assigned to OPA.
- C. The OPA Director and OPA staff shall exercise their discretionary and investigatory responsibilities granted by this Chapter 3.29 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. City employees and agents who violate these provisions may be subject to dismissal, discipline, or censure consistent with city and state laws.
- D.
  - [An annual budget to support sufficient staffing and resources for effective OPA operations shall be based on not less than a specified percent of SPD's base budget, with the percentage to be determined by the City Council for the capacity needed, using comparable entities or other appropriate metrics. The OPA Director shall have budget, workplan, and program control of OPA operations within the scope of its budget appropriation. The OPA budget shall be submitted as a separate Budget Control Level and incorporated into the City budget separate and distinct from SPD's budget and the OPA Director shall have the authority to advocate for resources if necessary during the budget process.]
  - [A budget with sufficient staffing and resources for effective OPA operations shall be submitted to the City Council annually by the OPA Director separate and distinct from the SPD's budget.]
- E. Only the OPA Director shall comment publicly on the specifics of any ongoing OPA investigation.

### **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. Hire, supervise, and discharge OPA civilian staff, and supervise and transfer back to SPD any sworn staff assigned to OPA. OPA staff shall collectively have the requisite credentials, skills, and abilities to fulfill the duties and obligations of OPA set forth in Chapter 3.29.
  3. Manage the complaint process so that all complaints of police misconduct or policy violations are initiated, received, referred, classified, and resolved or investigated appropriately.
  4. Update the OPA Manual at least annually, and ensure OPA processes are in compliance with the OPA Manual. Such updates shall be done in accordance with a process established by the OPA Director that provides for consultation and input by OIG and CPC prior to final adoption of any revisions.
  5. Oversee and strengthen the effectiveness of OPA investigations, Supervisor Action referrals, mediation, Rapid Adjudication, and other alternative resolution processes, as well as Management Actions and Training Referrals. The OPA Director shall consult with 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.
  6. 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.
  7. Classify complaints; address any additional investigative work requested or directed by OIG; certify in writing the completion and recommended findings of all OPA investigations and convey these recommendations to the Chief of Police; participate in meetings related to recommended findings and discipline and in due process hearings; testify as needed in disciplinary appeals; and where requested, advise the Chief as to discipline and the Chief and City Attorney with regard to disciplinary appeals.
  8. Ensure that every OPA investigation has an investigation plan approved by the OPA Director or the OPA Director's designee prior to the initiation of an investigation.
  9. Consistently apply OPA deadlines, including investigation deadlines, tolling of investigation deadlines, and extensions to investigation deadlines in order to complete investigations in a timely manner which best serves the public, complainants, and SPD employees.

10. Work with OIG and SPD to make disciplinary processes as fair, impartial, objective, certain, timely, consistent, understandable, transparent, and effective as possible and report out to the public on any concerns with regard to discipline or disciplinary processes.
11. Work with 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 report to the public recommendations made by OPA to City officials based on those patterns or trends.
12. Respond to the scene of all SPD officer-involved shootings and other serious use of force incidents pursuant to its duties set forth in Section 3.29.025 or designate OPA staff member(s) to do so.
13. 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.
14. Ensure that investigators and investigative supervisors receive orientation and training when they begin working at OPA, on administrative investigation best practices, commensurate with their duties.
15. Consult with CPC regularly regarding needed OPA informational materials to ensure they are readily understandable and widely available to Seattle's diverse residents both in English and in translation.
16.
  - [Obtain information about community perspectives and concerns germane to OPA access and OPA's oversight responsibilities by means including, but not necessarily limited to, seeking support from CPC on community outreach and receiving feedback from CPC on issues surfaced as a result of its community outreach activities.]
  - [Obtain information about community perspectives and concerns germane to OPA access and OPA's oversight responsibilities by means including, but not necessarily limited to, seeking support from CPC and other community stakeholders on community outreach and receiving feedback on issues surfaced as a result of its community outreach activities.]
17.
  - [Facilitate access to the accountability system, including the use of OPA complainant navigators, community-based organizations, and other

approaches that reflect or take into account the diversity of Seattle's communities in order to provide additional channels for filing complaints and support understanding of the system and how to access it.]

- [Facilitate access to the accountability system, which may include the use of OPA complainant navigators, community-based organizations, or other approaches that reflect or take into account the diversity of Seattle's communities in order to provide additional channels for filing complaints and support understanding of the system and how to access it.]
18. Meet with CPC pursuant to Section 3.29.225 on issues of significant public interest related to police accountability and professional conduct.
  19. Advise the Mayor, City Attorney, City Council, Chief of Police, Inspector General, and 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.
  20. Provide technical assistance to CPC, as reasonably requested and consistent with the purposes of this Chapter 3.29.
  21. Collaborate with the Chief of Police, OIG, 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.

#### B. Qualifications

The OPA Director shall be a civilian with significant legal, investigative, human resources, law enforcement oversight, or prosecutorial experience and should 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 community 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 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 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 reflects sound judgment, independence, fairness, and objectivity in an environment where controversy is common.

C. Appointment and removal

1. The OPA Director shall be appointed and reappointed by the Mayor. The Mayor shall select from up to three qualified finalists identified by a search committee through a national process using merit-based criteria. A representative of CPC shall serve as one of the search committee co-chairs. The Mayor shall either appoint from among the finalists or initiate a new search. The appointee shall be confirmed by a majority vote of the full City Council. The Mayor shall consult with CPC prior to reappointments.
2. The OPA Director may be appointed and reappointed for up to three, four-year terms for a total of twelve years. The terms shall be set to commence in years separate from the Mayor's term of office. Each term year shall commence on July 1<sup>st</sup>, except for the first term of the first OPA Director appointed pursuant to this Chapter 3.29, which will commence immediately following City Council confirmation. The first four-year term served by the first OPA Director appointed pursuant to this Chapter 3.29 shall include and not be limited by time served in office after confirmation but prior to July 1<sup>st</sup>. The first OPA Director appointed pursuant to this Chapter 3.29 may serve two subsequent four-year terms. 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, or the effective date of an incumbent's resignation, permitting City Council action to approve or disapprove the appointment or reappointment at least 45 days before the expiration of the present term or the effective date of the resignation, so as to have a seamless transition without a gap in oversight. If the Mayor does not make an appointment or reappointment or does not initiate a new search within 90 days of the first day of the expiration of a term or of a vacancy, a three-member Special Committee of the City Council assigned by the City Council President shall appoint the OPA Director subject to confirmation by a majority vote of the full City Council. If the City Council does not confirm the Mayor's appointee, the Mayor shall appoint a new OPA Director within 90 days

and such appointment shall be consistent with this Section 3.29.020, and subject to confirmation by a majority vote of the full City Council. If the City Council does not act on the Mayor's appointee within 30 days of the submittal of the nomination to the City Council, the appointee shall be deemed to have been confirmed.

4. In the event of a vacancy, the Mayor shall designate an interim OPA Director within ten days after the first day of the vacancy to serve until a new OPA Director is appointed. If the Mayor does not designate an interim OPA Director within ten days of the first day of the vacancy, the City Attorney's Office shall provide notice to the City Council President and the interim OPA Director shall be designated by the City Council President. The interim OPA Director may be either an OPA employee or an individual from outside OPA, but must meet key qualifications in this Section 3.29.020. An OPA Director whose term is ending may continue on an interim basis until a successor has been confirmed by the City Council. An interim term shall not count as a full term for the purposes of calculating term limits under this Section 3.29.020.
5. 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.
  - a. The Mayor shall give written notice, specifying the basis for the intended removal, to the OPA Director, the City Council President, the Inspector General, and the CPC Executive Director.
  - b. Within ten days after receipt of the notice, the OPA Director may file with the City Council President 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. If such request is made, the City Council shall convene a hearing on the cause for removal not sooner than 30 days and not more than 60 days following the OPA Director's request for a hearing, at which the OPA Director may appear, be represented by publicly-funded counsel, and be heard.
  - c. Following the Mayor's written notice, and any hearing held at the request of the OPA Director, the City Council shall finalize its de novo review of the grounds for removal and vote to approve or not approve the removal within 30 days of the hearing if held, or if no hearing is held, within 30 days of receiving notice of the intended removal from the Mayor, following from the Inspector General and CPC.
  - d. A majority vote of City Council members is required to approve removal.
6. 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 – Classifications and investigations**

- A. Allegations of unnecessary or excessive force, biased policing, and violations of law shall not be classified as Supervisor Action.
- B. It shall be a condition of employment for all SPD employees to fully and timely participate in an investigation whenever requested by OPA and failure to do so may result in discipline, up to and including termination. Complainants may remain anonymous and must be given the choice of an in-person interview. Unless the OPA Director determines exigent circumstances require otherwise, all SPD employee interviews shall be conducted in-person. All interviews shall be audio-recorded and transcribed, with both the recording and the transcription retained in the OPA case file.
- C. When responding to an incident scene, OPA representative(s) shall have access to the scene as necessary to observe, in order 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 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.
- D. When necessary, the OPA Director may issue a subpoena at any stage in an investigation if evidence or testimony material to the investigation is not provided to OPA voluntarily, in order to compel witnesses to produce such evidence or testimony. If the subpoenaed individual or entity does not respond to the request in a timely manner, the OPA Director may ask for the assistance of the City Attorney to pursue enforcement of the subpoena through a court of competent jurisdiction.
- E. OPA investigation 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.
- F. In cases where a Sustained finding has been recommended by the OPA Director and hearing from the complainant would help the Chief of Police better understand the significance of the concern or weigh issues of credibility, the OPA Director may recommend that the Chief meet with the complainant prior to the Chief making final findings and disciplinary decisions.

- G. As set forth in Section 3.29.110, establish in the OPA Manual a protocol for referral to OIG for classification and appropriate complaint-handling, such as Supervisor Action, investigation, or alternative resolution any complaints involving OPA staff that cannot be handled within OPA due to a potential conflict of interest.

### **3.29.026 Office of Police Accountability – Classification and investigation timelines**

- 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 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 30 day notice, these may also be addressed in the investigation.
- B. The time period in which investigations must be completed by OPA in 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.
  - 1. Failure to timely refer shall also constitute misconduct subject to complaint and investigation under this Chapter 3.29.
  - 2. 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 the failure to timely refer 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. Each time an OPA interview of a named or witness employee must be postponed due to the interviewee's schedule or that of the employee's labor representative, the additional number of days needed to accommodate the schedule of the employee or the employee's bargaining representative shall be added to the 180-day investigation period.
- E. If the OPA Director position becomes vacant due to unforeseen exigent circumstances,

the 180-day period shall toll for 60 days to permit the designation of an interim OPA Director and the initiation of the appointment process for a permanent OPA Director without prejudicing ongoing OPA investigations.

- F. In cases involving possible criminal actions, the 180-day period shall be tolled if an OPA administrative investigation is not commenced or is paused due to a criminal investigation. The OPA administrative investigation shall be paused as long as is necessary so that neither the OPA administrative nor the criminal investigation of the same incident is compromised. The 180-day clock shall resume whenever any administrative investigation steps are taken by OPA.
- G. Investigations required by OIG for review and certification shall be provided to OIG as soon as possible after the investigator submits them, to afford sufficient time for OPA to conduct additional investigation if requested or directed by OIG, or to investigate new material evidence appropriately raised by the named employee during a due process hearing. Any further investigation shall be re-submitted to OIG for review in a timely manner, so as not to lessen the quality of the investigation due to the passage of time and to meet all contractual deadlines so that additional investigation does not foreclose the possibility of discipline being imposed.
- H. 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, and if OPA offered the employee an opportunity to discuss any additional information and suggest any additional witnesses during the course of the employee's OPA interview. If at any point during the investigation the named employee or the named employee's bargaining representative becomes aware of any witness or evidence that they believe to be material, they shall disclose it as soon as is practicable to OPA, or shall otherwise be foreclosed from raising it later in a due process hearing, grievance, or appeal.
- I. If further investigation is needed because new information is brought forward in an OPA interview or a due process hearing, or because additional investigation is directed by OIG or new evidence is surfaced from such additional investigation, OPA shall have an additional 60 days for each instance that requires additional investigation, to complete that work and provide it for final review by OIG.

### **3.29.027 Office of Police Accountability – Explanations of certain complaint dispositions**

- A.
  - [Where there is a disagreement between the Chief of Police and the OPA Director as to the OPA Director's recommendation on findings, the Chief and the OPA Director may engage in a supplemental meeting to discuss the disagreement, which shall occur after the employee due process meeting has taken place. The Inspector General shall be present at this meeting.]
  - [Where there is disagreement between the Chief of Police and the OPA Director

as to the OPA Director's recommendations on findings, the Chief and the OPA Director shall engage in a supplemental meeting to discuss the disagreement, which shall occur after the employee due process meeting has taken place. The Inspector General shall be present at this meeting.]

- B. 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 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.
- C. If no discipline results from an OPA complaint because an investigation time limit as set forth in Section 3.29.026 has been exceeded, within 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.
- D. The written statements required by this Section 3.29.027 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 disclosure limitations 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.
- E. The OPA Director shall include summaries of the written statements required by this Section 3.29.027 in the OPA Director's reports required by Section 3.29.030. The summaries shall be consistent with any applicable confidentiality requirements in state or federal law.
- F.
  - [Termination is the presumed discipline for a finding of material dishonesty based on the same evidentiary standard as is used for any other allegation of misconduct.]
  - [Termination is the presumed discipline for a finding of dishonesty based upon clear and convincing evidence. Should the circumstances of a sustained finding

of dishonesty result in discipline other than termination, however, the standard of proof shall be by a preponderance of the evidence.]

- [In the case of an officer receiving a sustained complaint involving dishonesty, a presumption of termination shall apply. For purposes of this presumption of termination, the Department must prove dishonesty by clear and convincing evidence.]

### **3.29.028 Office of Police Accountability – Staffing**

- A. The OPA Director and the Deputy Director shall be civilians and within 18 months of this ordinance going into effect, all investigative supervisors shall be civilian.
- B. All OPA staff working directly with SPD supervisors to support the handling of minor violations and public access to the accountability system shall be civilians.
- C. Within 12 months of this ordinance going into effect, intake and investigator personnel shall be entirely civilian or a mix of civilian and sworn, in whatever staffing configuration best provides for continuity, flexibility, leadership opportunity, and specialized expertise, and supports public trust in the complaint-handling process.
- D. All staff shall have the requisite skills and abilities necessary for OPA to fulfill its duties and obligations as set forth in this Chapter 3.29 and for OPA’s operational effectiveness, and no civilian staff shall be required to have sworn experience.
- E. The OPA Director and the Chief of Police shall collaborate with the goal that the rotations of sworn staff into and out of OPA are done in such a way as to maintain continuity and expertise, professionalism, orderly case management, and the operational effectiveness of both OPA and SPD, pursuant to subsection 3.29.315.G.
- F. The appropriate level of civilianization of OPA intake and investigator personnel shall be evaluated by OIG pursuant to Section 3.29.110.
- G. OPA investigators and investigative supervisors shall receive training by professional instructors outside SPD in best practices in administrative and police practices investigations. OPA investigators and investigative supervisors shall also receive in-house training on current SPD and OPA policies and procedures.

### **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 request CPC’s assistance 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 shall maintain a website consistent with City Information Technology standards; and conduct community outreach to inform the public about the police accountability system and how to access it. OPA's website shall contain comprehensive, substantive, and timely information on matters of public interest concerning SPD's accountability system, including information about OIG and CPC and links to their websites.
- C. OPA shall post online, in a timely manner, summaries of completed investigations, including the allegations, analysis, and findings. Each month, OPA shall distribute, by electronic subscription, a compilation of the completed investigation summaries from the prior month, noting additionally any investigations for which discipline has been appealed.
- D. At the time they are issued, OPA shall post online and copy to OIG and CPC letters sent to SPD recommending Management Actions. OPA shall timely post online and copy to OIG and CPC updates on the outcomes of its Management Action recommendations, including SPD written responses to OPA Management Action recommendations and the status of its recommended changes to SPD policies or practices.
- E. OPA shall report quarterly to the Mayor, City Council, OIG, and 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. Each year in June and December, OPA shall provide to OIG status reports regarding a) all OPA cases which were referred by OPA for possible criminal investigations during the previous six months and b) all OPA cases which were referred by OPA for possible criminal investigations in earlier periods and for which investigations remained open at any time during the current reporting period. These status reports shall include the nature of the criminal allegation, the case number, the named employee(s), the date of complaint, the timeliness of the criminal investigation, and the current status of the case.
- G. OPA shall report to complainants and the public on the outcome of any disciplinary appeal or grievance processes that result in the modification of final findings and discipline determinations.
- H. OPA shall post online and electronically distribute an annual report to the Mayor, City Attorney, City Council, Chief of Police, Inspector General, and 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 not yet fully implemented. The annual report shall also summarize information received from community outreach that has informed its work.

- I. The OPA Director's annual report shall include the following, which may be modified in consultation with CPC to better help public understanding:
  1. The number and percentage of all complaints by classification and nature of allegation received by OPA;
  2. The number and percentage of all complaints and allegations sustained and the specific disciplinary or other remedial action taken in sustained cases;
  3. The number and percentage of cases that were not certified as thorough, timely, and objective by OIG, including actions taken by the OPA Director to reduce the number of not certified cases.
  4. The number and percentage of cases 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 categorization of 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, to the extent 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. Patterns and trends in all OPA complaints, including year-to-year comparisons of demographic data that can help identify problems, deter misconduct, and inform SPD policy and practice improvements; and
  12. The accessibility, transparency, timeliness, thoroughness, responsiveness, and effectiveness of OPA and SPD processes, including but not limited to, OPA investigations; complaints referred by OPA for Supervisor Action; complaints handled directly by frontline supervisors; Supervisor Action referrals; mediations, Rapid Adjudication, and other alternative resolution processes; and Management Actions and Training Referrals.

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

### **3.29.035 Office of Police Accountability – Meetings**

- A. The OPA Director shall meet with CPC, its committees, and/or staff four times a year, and otherwise as reasonably requested and consistent with the purposes of this Chapter 3.29, 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 yearly reports, recommendations, and the implementation status of those recommendations in these meetings with 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 shall protect the confidentiality of OPA and SPD files and records 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 the OPA Director would be obligated to protect attorney-client privileged materials under legal and ethical requirements. The OPA Director shall also be bound by the confidentiality provisions of the Criminal Records Privacy Act, chapter 10.97 RCW and disclosure limitations under state and federal law. The OPA Director shall not identify the named employee in an OPA investigation 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 a separate and independent OIG to provide 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. OIG is an essential component of the checks and balances that comprise the police oversight system.
- B.
- [There shall be a civilian Inspector General responsible for carrying out the duties set forth in this Subchapter II. There shall be a civilian Deputy Inspector General to perform such duties and to have such powers as the Inspector General may prescribe and delegate to implement and efficiently and effectively manage the duties set forth in this Subchapter II. The Deputy Inspector General shall have significant legal experience.]

- [There shall be a civilian Inspector General responsible for carrying out the duties set forth in this Subchapter II.]
- C. The work of 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 civilian authority to review all aspects of SPD and OPA systems, policies, and practices. OIG shall provide an independent perspective on the efficacy of the policies, procedures, and practices of SPD, OPA, and related City departments and agencies. OIG shall also provide additional professional review of OPA investigations.
  - D. OIG shall provide objective, third party review of misconduct complaint-handling and investigations, and other OPA activities, and report on the effectiveness, accessibility, timeliness, transparency, and responsiveness of the complaint system.
  - E. OIG shall have primary responsibility to ensure ongoing fidelity to organizational reforms implemented pursuant to the goals of the Settlement Agreement to ensure constitutional, accountable, effective, and respectful policing.
  - F. OIG shall have responsibility to oversee and audit police activities to ensure the ongoing integrity of SPD processes and operations.
  - G. 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.
  - H. 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.

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

- A. The Inspector General and OIG shall exercise their discretionary and oversight responsibilities granted by this Chapter 3.29 without interference from any person, group, or organization, including 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. City employees or agents who violate 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.
- C.
  - [An annual budget to support sufficient staffing and resources for effective OIG operations shall be based on not less than a specified percentage of SPD’s base budget, with the percentage to be determined by the City Council for the

capacity needed, using comparable agencies or other appropriate metrics. The Inspector General shall have budget, workplan, and program control of OIG operations within the scope of its budget appropriation. OIG budget shall be submitted as a separate Budget Control Level and incorporated into the City budget separate and distinct from any City department's budget and the Inspector General shall have the authority to advocate for resources if necessary during the budget process.]

- [A budget with sufficient staffing and resources for effective OIG operations shall be submitted to the City Council annually by the Inspector General separate and distinct from the budget of any other City department.]
- D. Except as prohibited by law, OIG shall have timely, full, and direct access to all relevant City employees, facilities, documents, files, records, and data in OPA, SPD, and other City departments and agencies which are necessary to perform its duties set forth in this Chapter 3.29. Should the City decline to provide OIG access to documents or data, the City shall provide the Inspector General with an itemization describing the documents or data withheld and the legal basis for withholding access to each item. OIG shall have authority to observe reviews, meetings, and trainings, such as SPD administrative investigation unit meetings, disciplinary hearings, or discussions of misconduct complaint investigations.

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

- A. The duties of the Inspector General are to:
1. Hire, supervise, and discharge OIG employees. OIG staff shall collectively have the requisite credentials, skills, and abilities to fulfill the duties and obligations of OIG set forth in Chapter 3.29.
  2. 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.
  3. 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;
- l. Assessment of the fairness, objectivity, certainty, timeliness, consistency, and the appropriate application and effectiveness of imposed discipline in sustained misconduct cases;
- 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



processes as fair, impartial, objective, certain, timely, consistent, understandable, transparent, and effective as possible and report out to the public on any concerns with regard to discipline or disciplinary processes. OIG's review of SPD's disciplinary processes shall include an assessment of the merits of models used in other jurisdictions to help ensure consistency and fairness in disciplinary decision-making.]

- [OIG shall work with the OPA Director and SPD to make disciplinary processes as fair, impartial, objective, certain, timely, consistent, understandable, transparent, and effective as possible and report out to the public on any concerns with or regard to discipline or disciplinary processes.]
10.
    - [The Inspector General shall annually evaluate the performance of OPA and its management and leadership, after soliciting public, Mayoral, City Attorney, City Council, Chief of Police, SPD employee, and CPC perspectives.]
    - [The evaluation of the functioning of accountability entities occurs through other mechanisms established in this Chapter 3.29 and elsewhere.]
  11. OIG shall review and comment on any revisions proposed by OPA to the OPA Manual in accordance with a process established by the OPA Director that provides for consultation and input prior to final adoption of any revisions.
  12. Handle complaints involving OPA staff where a potential conflict of interest precludes OPA from handling the complaint.
  13. Issue a subpoena if evidence or testimony necessary to perform the duties of OIG set forth in this Chapter 3.29 is not provided voluntarily, in order to compel witnesses to produce such evidence or testimony. If the subpoenaed individual or entity does not respond to the request in a timely manner, the Inspector General may ask for the assistance of the City Attorney to pursue enforcement of the subpoena through a court of competent jurisdiction.
  14. Perform the police intelligence auditor functions defined in Chapter 14.12.
  15. Conduct a study by the end of the first Inspector General's initial year in office to ascertain the effectiveness of OPA's mixed sworn and civilian staffing arrangements and issue recommendations as to whether further changes are warranted; and thereafter, periodically review, report, and issue recommendations on the efficacy of OPA's mixed sworn and civilian staffing complement and whether an increased or reduced number of sworn staff is recommended.
  16. Advise the Mayor, City Attorney, City Council, Chief of Police, OPA Director,

and 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.

17. Provide technical assistance to CPC, as reasonably requested and consistent with the purposes of this Chapter 3.29.
18. Maintain and promote use of a whistleblower hotline to receive anonymous reports from the public and City employees regarding issues germane to OIG's responsibilities pursuant to this Chapter 3.29.
19. Consult with CPC regularly regarding needed OIG informational materials to ensure they are readily understandable and widely available to Seattle's diverse residents both in English and in translation.
20. Obtain information about community perspectives and concerns germane to OIG's oversight responsibilities by means including, but not necessarily limited to, seeking support from CPC on community outreach and receiving feedback from CPC on issues surfaced as a result of its community outreach activities.
21. The Inspector General shall independently set OIG's workplan. However, the Inspector General shall meet with CPC annually to review a draft of OIG's workplan. At this meeting, CPC may identify additional specific areas for investigation and evaluation by OIG that in CPC's judgment are needed to ensure constitutional policing and public trust in SPD and in related criminal justice practices for inclusion in the annual OIG workplan. OIG's annual workplan shall also make provision for the investigation and evaluation of emergent issues identified by CPC and other community stakeholders during the year that may not be known at the time that the annual OIG workplan is adopted. Budget constraints of OIG and its need to balance a range of priorities shall be taken into account by OIG in adding areas to its workplan.

### **3.29.111 Office of Inspector General – Review of OPA classifications**

Each quarter, 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.

- A. The Inspector General shall make recommendations to OPA for remedying any concerns noted in the quarterly audit and report to CPC and the City Council the results of the classification audits and any of OIG's associated recommendations.
- B. If OIG determines that the classification decisions reflect a need for additional oversight, OIG may require the OPA Director to submit each proposed classification

decision to OIG for review and input prior to OPA making a final classification determination until such time OIG is satisfied that such increased involvement in classifications is no longer needed and quarterly random audits shall resume.

### **3.29.112 Office of Inspector General – Review of OPA investigations**

- A. OIG shall review certain OPA investigations as described below prior to certification by the OPA Director to determine whether the investigation was thorough, timely, objective, and in compliance with the OPA Manual.
  - 1. After OPA believes an investigation to be complete, OIG shall review all investigations involving misconduct allegations concerning violations of law; honesty; use of force; use of force reporting; bias-free policing; integrity; ethics; professionalism; use of position or authority for personal gain; conflicts of interest; gifts and gratuities; off-duty conduct; retaliation; harassment; responsibilities of employees regarding complaints of misconduct; discretion and authority; primary investigations; stops, detentions and arrests; or search and seizure.
  - 2. Additionally, OIG shall have discretion to direct at the time of classification or during the investigative process that any other investigation not including the allegations listed in subsection 3.29.112.1 be submitted by OPA for review and certification.
  - 3. Other than investigations that involve Type III Force as defined in this Chapter 3.29, if OIG determines that the quality of investigations is such that individual investigation review is no longer needed, OIG may instead require the OPA Director submit only certain investigations or certain categories of investigation for review by OIG and otherwise conduct random investigation audits. Should those audits raise concerns, OIG shall have the discretion to reinstitute individual investigation review in whatever manner and duration is needed to address the concerns.
- B. The OPA Director shall submit all required or requested initial and subsequent investigations to OIG for OIG's review sufficiently in advance of contractual deadlines in order to allow for additional investigation as requested or directed by OIG and still ensure discipline may be imposed should a sustained finding result. OIG shall complete its review of initial and subsequent investigations in a timely manner, so as to also meet contractual deadlines.
- C. If OIG determines that the investigation is thorough, timely, and objective, OIG shall certify it and the OPA Director may then proceed to issue recommended findings to the Chief of Police.
- D. If OIG finds that the investigation is not ready to be certified, OIG may request or direct further investigation. Upon completion of any additional work requested or directed by OIG, the case shall be re-submitted to OIG for certification before the OPA Director may issue proposed findings.

- E. If additional investigation is requested by the Chief of Police after a due process hearing, the case shall be re-submitted to OIG for re-certification following the additional investigation.
- F. After reviewing the investigation, OIG shall document in writing the investigation as a) certified as thorough, timely, and objective; b) not certified because the investigation is not thorough, timely, and objective but additional investigation is not requested or directed, and the reason; or c) not certified because the investigation is not thorough and objective, along with any requested or directed further investigation to be conducted by OPA or a request to meet with the OPA Director to discuss possible further investigation.
  - 1. Should additional investigation be requested or directed by OIG, upon completion of the additional investigatory work, the investigation shall be re-submitted for certification. The certification memorandum by OIG shall be included as an exhibit in the case file indicating the date of review, whether the case has been certified, whether further action is requested or directed, and if not certified, the reasons.
  - 2. Criteria OIG should consider in reviewing investigations include, but are not limited to: (a) whether witnesses were contacted, interviewed, and all other material evidence was timely collected; (b) whether interviews were thorough and unbiased and conflicting testimony was sufficiently addressed; (c) whether additional clarifying information would strengthen the investigation; (d) whether the written summary and analysis are objective and accurately reflect the evidence; and (e) whether applicable OPA procedures were followed and the intake and investigation were conducted in accordance with the OPA Manual.
- G. If within ten days after being notified that an investigation has been preliminarily completed, OIG has not advised OPA of concerns with the investigation, the OPA Director may certify the case and issue findings. In these instances, OIG is precluded from requiring further investigation.
- H. If OIG determines an investigation is not thorough, timely, or objective, and that additional investigation cannot or did not remedy the concern, the OPA Director must include this determination in the recommended findings and the Chief of Police may take OIG's non-certification into account in making a final findings determination.

### **3.29.113 Office of Inspector General – 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 and manage staff in auditing, evaluating, and conducting investigations; conducting financial and performance audits; analyzing and assessing complex aggregate data for patterns and trends; and in recommending systemic improvements to policies and practices to support constitutional policing,

ongoing system effectiveness, and police excellence. The Inspector General should also have the following additional qualifications and characteristics:

- A. A reputation for integrity and professionalism, and the ability to maintain a high standard of integrity and professionalism in the office;
- B. Knowledge of the responsibilities of law enforcement and a commitment 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;
- E. The ability to relate, communicate, and engage effectively with all who have a stake in policing, including, but not limited to, the general public, complainants, disenfranchised communities, SPD employees, and relevant City and other officials including the Mayor, City Council, City Attorney, Chief of Police, OPA Director, and CPC;
- F. An understanding of the city's ethnic and socio-economic diversity, and proven experience working with and valuing the perspectives of diverse groups and individuals; and
- G. The ability to 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.

#### **3.29.114 Office of Inspector General – Appointment and removal**

- A. The Inspector General shall be appointed and reappointed by a three-member Special Committee of the City Council. The Special Committee shall select from up to three qualified finalists identified by a search committee through a national process using merit-based criteria. A representative of CPC shall serve as one of the search committee co-chairs. The Special Committee shall either appoint from among the finalists or initiate a new search. The appointee shall be confirmed by a majority vote of the full City Council. The City Council shall consult with CPC prior to reappointments.
- B. The Inspector General may be appointed for up to two, six-year terms for a total of 12 years. The terms shall be set to commence in years separate from the OPA Director's term of office. Each term year shall commence on July 1st, except for the first term of the first Inspector General appointed pursuant to this Chapter 3.29, which will commence immediately following City Council confirmation. To ensure that the Inspector General's term ends on a year offset from the expiration of the OPA Director's term, the first term of the first Inspector General appointed pursuant to this Chapter 3.29 shall be a five-year term, and will include and not be limited by time served in office after confirmation by prior to July 1st. The first Inspector General

appointed pursuant to this Chapter 3.29 may serve two subsequent six-year terms.

- C. 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 appoint or reappoint at least 45 days before the expiration of the present term or the effective date of the resignation, so as to have a seamless transition without a gap in oversight. If the Special Committee does not make an appointment or reappointment or does not initiate a new search within 90 days of the first day of the expiration of a term or of a vacancy, the Mayor shall appoint the Inspector General subject to confirmation by a majority vote of the full City Council. If the City Council does not confirm the Special Committee's appointee, the Special Committee shall appoint a new Inspector General within 90 days and such appointment shall be consistent with this Section 3.29.114, and subject to confirmation by a majority vote of the full City Council. If the City Council does not act on the Special Committee's appointee within 30 days of the submittal of the nomination to the City Council, the appointee shall be deemed to have been confirmed.
- D. In the event of a vacancy, the City Council President shall designate an interim Inspector General within ten days after the first day of the vacancy to serve until a new Inspector General is appointed. If the City Council President does not designate an interim Inspector General within ten days of the first day of the vacancy, the City Attorney's Office shall provide notice to the Mayor and the interim Inspector General shall be designated by the Mayor. The interim Inspector General may be either an OIG employee or an individual from outside OIG, but must meet key qualifications in this Section 3.29.114. An Inspector General whose term is ending may continue on an interim basis until a successor has been confirmed by the City Council. An interim term shall not count as a full term for the purposes of calculating term limits under this Section 3.29.114.
- E. 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.
  - 1. Upon a majority vote of the full City Council initiating removal, the City Council President shall give written notice, specifying the basis for the intended removal, to the Inspector General, the Mayor, the OPA Director, and the CPC Executive Director.
  - 2. Within ten days after receipt of the notice, the Inspector General may file with the City Council President a request for a hearing on the cause for removal. The Inspector General's request for a hearing shall be delivered at the same time to the Mayor, the OPA Director, and to the CPC Executive Director. If such request is made, the City Council shall convene a hearing on the cause for removal not sooner than 30 days and not more than 60 days following the Inspector General's request for a hearing, at which the Inspector General may appear, be represented by publicly-funded counsel, and be heard.

3. Following the City Council President's written 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 vote to approve or not approve the removal within 30 days of the hearing if held, or if no hearing is held, within 30 days of issuing notice of the intended removal, following input from CPC.
  4. A two-thirds vote of City Council members is required to approve removal.
- F. The Seattle Department of Human Resources shall obtain from an outside law enforcement agency a thorough background check of nominees for Inspector General and report the results to the appointing authority, prior to the City Council taking final action on the appointment.

### **3.29.115 Office of Inspector General – Reporting**

- A. OIG shall maintain a website, consistent with City Information Technology standards; and conduct community outreach to inform the public about OIG's role and scope of responsibilities.
- B. The Inspector General shall report quarterly to the Mayor, City Council, and 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.
- C. 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 OIG's evaluation of OPA's complaint-handling system, a summary of all cases of significant public concern, including the outcome of reviews by SPD units of officer-involved shootings and in-custody deaths and OIG's review or investigation of any other such incidents affecting public confidence and trust, 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 the mix of OPA sworn and civilian staff, 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 that has informed its work.
- D. With respect to 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:
  1. The number of investigations reviewed, a description of those cases in which OIG did not certify, those cases for which OIG requested or required further investigation, and a description of OPA's follow-up;
  2. 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;

3. A description of any concerns or trends noted in OPA complaint intake and investigations;
  4. A description of patterns and concerns identified from review of inquests and from review of claims and lawsuits alleging SPD misconduct, including judgments and settlements, units disproportionately represented as subjects of claims and lawsuits, and related training;
  5. A description of other issues, problems, and trends noted by OIG as a result of OIG's oversight;
  6. Recommendations that SPD or OPA make policy, practice, training, or procedural changes;
  7. Findings from audits of OPA records or the OPA Director's reports; and
  8. Other information, as appropriate, including information requested by CPC that would help make reporting as useful as possible to the public.
- E. 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 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 days after receipt of any comments.
- F. The Inspector General shall request CPC's assistance to make OIG reports readily understandable and deliver them through channels that are easily accessible to the broad public.
- G. OIG shall post online and electronically distribute its reports to the Mayor, City Attorney, City Council, Chief of Police, OPA Director, and 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 CPC, its committees, and/or staff, four times a year, and otherwise as reasonably requested and consistent with the purposes of this Chapter 3.29, 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 OIG's reports, recommendations, and the implementation status of those recommendations in these meetings with 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 –Files and records**

- A. The Inspector General shall protect the confidentiality of OPA and SPD files and records to which 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 the Inspector General would be obligated to protect attorney-client privileged materials under legal and ethical requirements. The Inspector General shall also be bound by the confidentiality provisions of the Criminal Records Privacy Act, chapter 10.97 RCW and disclosure limitations under state and federal law. The Inspector General shall not identify the named employee in an OIG audit in any public report required by this Chapter 3.29.
- B. OIG shall make every reasonable effort to maintain the security of files belonging to other City departments and agencies while in the Inspector General’s possession.
- C. Upon completion of an audit, the Inspector General shall return to the City department or agency all original files, reports, and records to which the Inspector General has been provided access.

## **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 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 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. 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 responsibilities of CPC under Executive Order 02-2012 and Ordinance 124021 are subsumed in this Chapter 3.29. It is the City’s intention that civilian oversight be enhanced and broadened beyond the scope set forth in the Settlement Agreement in order to better serve the public.

### **3.29.205 Office of the Community Police Commission - Established**

- A. There is created an Office of the CPC. The purpose of the Office of the CPC is to administer and manage the functions of CPC.
- B.
  - [The City shall provide sufficient professional staff to enable CPC to perform all of its duties and responsibilities specified under this Chapter 3.29.]
  - [This concept is articulated in subsection 3.29.210.A.]

### **3.29.206 Office of the Community Police Commission – Executive Director**

- A.
  - [The current CPC Executive Director appointed pursuant to Subchapter IX of Chapter 3.14 shall continue in office for a term of six years following enactment of this ordinance.]
  - [The term of the current CPC Executive Director appointed pursuant to Subchapter IX of Chapter 3.14 shall expire on December 31, 2018. The current CPC Executive Director may be reappointed to subsequent terms consistent with the requirements of this Chapter 3.29.]
- B.
  - [The CPC shall have an Executive Director who shall be appointed by CPC using merit-based criteria. Each CPC Executive Director’s initial appointment is subject to confirmation by the City Council. Reappointment of the CPC Executive Director to successive terms by CPC is not subject to City Council confirmation. If an individual who previously served as CPC Executive Director is appointed after a different individual was confirmed as CPC Executive Director by the City Council that new appointment is subject to City Council confirmation as an initial appointment. CPC shall annually evaluate the performance of the CPC Executive Director, after soliciting perspectives from City officials and community members with whom the CPC Executive Director interacts in the course of performing the CPC Executive Director’s duties.]
  - [Executive Director - Appointment
    1. There shall be an Executive Director, appointed by the Mayor. The position of Executive Director shall be exempt from the classified civil service. The term for the Executive Director is four years.
    2. Each Executive Director’s initial appointment is subject to confirmation by the City Council. Reappointment of an Executive Director to successive terms by the Mayor is not subject to Council confirmation. If an individual who previously served as Executive Director is again appointed after a different individual was confirmed by the Executive Director by the City Council, that new appointment is subject to City

Council confirmation as an initial appointment.

3. If an individual is reappointed to a successive term as Executive Director within 60 days prior to or 60 days after the expiration of that individual's term, the ensuing term begins on the date the prior term expired. If an individual is reappointed to a successive term as Executive Director more than 60 days prior to or 60 days after the expiration of the individual's term, the new term begins on the date of reappointment by the Mayor unless the Mayor chooses, at the time of reappointment, to make the new term begin on the date the prior term expires.
4. Each appointment and reappointment shall be made whenever possible sufficiently prior to expiration of the latest incumbent's term of office, permitting City Council action to approve or disapprove the appointment or reappointment at least 60 days before the expiration of the present term, so as to have seamless transition without a gap in leadership.
5. In the event of a vacancy, the Mayor shall designate an interim Executive Director within ten days of the first day of the vacancy. The interim Executive Director shall meet the key qualifications set forth in this Chapter 3.29.]

C.

- [CPC may remove the CPC Executive Director from office only for cause, upon a majority vote of its membership.]
- [The Mayor may remove the CPC Executive Director from office only for cause and with a majority vote of the City Council.]

D. The duties of the CPC Executive Director are as follows:

1. Oversee and manage the functions of the Office of the CPC to advance the mission of the Office and perform other duties as CPC may prescribe;
2. Hire, supervise, and discharge employees of the Office of the CPC. Employees of the Office of the CPC shall collectively have the requisite credentials, skills, and abilities to fulfill the duties and obligations of CPC set forth in Chapter 3.29;
3. Manage the preparation of CPC's proposed budget, authorize necessary expenditures, and enter into contracts for professional and other services in accordance with the adopted budget, develop and manage programs, and undertake authorized activities;

4. Execute, administer, modify, and enforce such agreements and instruments as the CPC Executive Director shall deem necessary to implement programs and carry out the responsibilities, functions, and activities of the Office; apply for grants and donations for Commission programs; and solicit and use volunteer services;
5. Represent, together with Commissioners, CPC in providing testimony and expertise to City departments and agencies, commissions, and other organizations pertaining to issues of Constitutional policing; and
6. Exercise such other and further powers and duties as prescribed by this Chapter 3.29.

### **3.29.210 Community Police Commission – Independence**

- A.
  - [CPC is self-governing and functionally independent. CPC may adopt bylaws to govern its own activities. An annual budget to support sufficient staffing and resources for effective CPC operations shall be based on not less than a specified percentage of SPD's base budget, with the percentage to be determined by the City Council for the capacity needed, using comparable entities or other appropriate metrics. CPC shall have budget, workplan, and program control of its own operations within the scope of its budget appropriation, and the CPC Executive Director shall receive programmatic direction only from CPC. CPC's budget shall be submitted as a separate Budget Control Level and incorporated into the City budget separate and distinct from the Executive Department's budget and CPC shall have the authority to advocate for resources if necessary during the budget process.]
  - [CPC is self-governing and functionally independent. CPC may adopt bylaws to govern its own activities. An annual budget to support sufficient staffing and resources for effective CPC operations shall be submitted to the Mayor and the City Council annually by the Executive Director separate and distinct from the Mayor's budget.]
- B. The CPC Executive Director shall have authority for the hiring, supervision, and discharge of all employees of the Office of the CPC.
- C. 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. CPC and employees of the Office of the CPC shall exercise their discretionary and oversight responsibilities granted by this Chapter 3.29 without interference from any person, group, or organization, including the Chief of Police, other SPD employees, or other City officials. City employees or agents who violate these provisions may be subject to dismissal, discipline, or censure consistent with city and state laws.
- D. Without the necessity of making a public disclosure request, CPC may request and shall

timely receive from other City departments and agencies, including SPD, information relevant to its duties under this Chapter 3.29 that would be disclosed if requested under the Public Records Act.

### **3.29.215 Community Police Commission – Commission**

A. The duties of CPC are to:

1. Review and provide input to OPA, 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, or SPD.
2. Review and comment on any revisions proposed by OPA to the OPA Manual, in accordance with a process established by the OPA Director that provides for consultation and input prior to final adoption of revisions.
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, 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. CPC shall provide OPA and OIG with community feedback relevant to their operations received as a result of its public outreach activities.
4. 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 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.
5. Review and provide input into SPD recruiting, hiring, and promotional practices.
6. Meet with the OPA Director and the Inspector General, no less than four times a year, to review information they wish to provide CPC concerning the effectiveness of SPD or any obstacles to the OPA Director's or the Inspector General's abilities to perform their duties.
7. Review reports required by this Chapter 3.29 and any recommendations of the OPA Director and the Inspector General.

8. Serve as a co-chair on the search committees for OPA Directors and Inspectors General, identifying qualified finalists, advising the appointing authority on these appointments, and review and provide input to the appointing authority on the reappointment or removal of OPA Directors and Inspectors General.
9.
  - [Annually evaluate the performance of OIG and its management and leadership, after soliciting public, Mayoral, City Attorney, City Council, Chief of Police, and SPD employee perspectives.]
  - [The evaluation of the functioning of accountability entities occurs through other mechanisms established in this Chapter 3.29 and elsewhere.]
10.
  - Provide input to the Inspector General each year in advance of the Inspector General's evaluation of OPA.]
  - [This function occurs through other mechanisms established in this Chapter 3.29.]
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. Identify and advocate for reforms to state laws that will enhance public trust and confidence in policing and the criminal justice system. Such advocacy may include, but is not limited to, reforms related to the referral of certain criminal cases to independent prosecutorial authorities, officer de-certification, pension benefits for employees who do not separate from SPD "in good standing," and the standards for arbitrators to override termination decisions by the Chief of Police.
13. 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.
14. 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.

15. Consult with OPA and OIG on the development, revision, and distribution of public and employee informational materials and on OPA and OIG websites.
16. 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.
17. Pursuant to Section 3.29.110, annually review OIG's workplan and identify specific areas for OIG investigation and evaluation, including emergent issues that arise that in CPC's judgment are needed to support public confidence in SPD and related criminal justice practices.
18. Review closed OPA investigations and any other SPD or OPA data to identify opportunities for systemic improvements. However, CPC shall not serve as a review board for individual investigations; shall not evaluate or opine on the sufficiency of the evidence, findings, or determinations of any specific OPA investigations; and shall not seek to influence the course or outcome of any specific OPA investigation, or the findings, discipline, or other remedial action recommended or imposed in such cases.
19. Convene meetings with and lead stakeholders in assessing the need for and developing a complainant appeal process that is consistent with employee due process rights, and provide any recommendations adopted by the stakeholder group to policymakers for consideration. If established under city ordinance or policy, CPC shall periodically review the fairness and effectiveness of such civilian appeal process.
20. To the extent not otherwise covered above, continue to fulfill the responsibilities of CPC as set forth in the Settlement Agreement and Memorandum of Understanding in *United States of America v. City of Seattle*, 12 CV 1282 (JLR) until such time as the Settlement Agreement ends.

B. Qualifications.

1. Commissioners shall be respected members of Seattle's many diverse communities. 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. Commissioners shall reside or work in Seattle as set forth in this Section 3.29.215.
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 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 socio-economic backgrounds and 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.
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 CPC's work.
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. CPC shall consist of 15 Commissioners, appointed and reappointed as set forth in this Chapter 3.29. The Mayor shall select five Commissioners, the City Council shall select five Commissioners, and CPC shall select five Commissioners, including the public defense representative and the civil liberties law representative.
2. With the exception of the Commissioners representing the Seattle Police Management Association and the Seattle Police Officers Guild, Commissioners serving at the time this ordinance is effective may continue in office, pursuant to the provisions outlined in this Section 3.29.215.
  - a. No fewer than 30 days prior to the effective date of this Chapter 3.29, each presently serving and eligible 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, who wishes to serve on CPC as established by Chapter 3.29 shall submit a written statement to the Mayor, the City Council President, and the CPC Executive Director indicating that the member wishes to serve on CPC as established by Chapter 3.29. Public defender and civil liberties law representatives shall identify themselves as such in their written statements.
  - b. No fewer than 15 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 Commissioner of the previously existing CPC who has indicated they wish to continue to serve. The position numbers to be drawn are 1-2, 4-5, and 7-13. Each Commissioner shall be timely informed of the position number that corresponds to that Commissioner.
  - c. Commissioners in Position Nos. 1, 4, 7, 10, and 13 shall be appointed, and where applicable, reappointed by the Mayor. Commissioners in Position Nos. 2, 5, 8, 11, and 14 shall be appointed, and where applicable, reappointed by the City Council. Commissioners in Position Nos. 3, 6, 9, 12, and 15 shall be appointed, and where applicable, reappointed by CPC. Position No. 3 shall be designated for the public defense representative and Position No. 6 shall be designated for the civil liberties law representative.
  - d. Continuing Commissioners who served on the previously existing CPC in Position Nos. 1 through 5 may serve terms deemed to end on

December 31, 2017; continuing Commissioners in Position Nos. 6 through 10 may serve terms deemed to end on December 31, 2018; and continuing Commissioners in Position Nos. 11 through 13 may serve terms deemed to end on December 31, 2019.

- e. Continuing Commissioners are eligible to serve one subsequent three-year term after the expiration of their existing term as set forth in this Section 3.29.215.
  - f. The term of any presently serving Commissioner who chooses not to serve on CPC as established by Chapter 3.29 shall terminate on the date this ordinance becomes effective.
3. Continuing Commissioners shall retain the position numbers established by this Section 3.29.215 and each subsequent Commissioner corresponding to such position number shall be appointed and, where applicable, reappointed by the appointing authority designated for that position.
- 4.
- [Each appointing authority shall provide a process that allows individuals to apply and be considered for appointment, and shall ensure appointees meet the qualifications outlined in this Section 3.29.215 and are selected in a manner that effectuates the bylaws of CPC with respect to its composition and achieves a strong majority of Commissioners who reside in Seattle. The appointing authorities shall consult with one another prior to making their respective appointments and reappointments. All Commissioners appointed or reappointed by each of the appointing authorities shall be confirmed by a majority vote of the full City Council and shall assume office upon receiving City Council confirmation.]
  - [Each appointing authority shall provide a process that allows individuals to apply and be considered for appointment, and shall ensure appointees meet the qualifications outlined in this Section 3.29.215 and are selected in a manner that effectuates the bylaws of CPC with respect to its composition. Twelve of the 15 Commissioners must live within the City of Seattle and three of the 15 Commissioners may work within but are not required to live within the City. Each appointing authority may appoint one of the three Commissioners who works within but does not reside within the City. Where a Commissioner resides in City of Seattle at the time of appointment but no longer resides in the City during any 60 day period of a term that Commissioner will not be eligible for reappointment at the expiration of the term unless proof of current residency in the City can be established. A change in residency to outside of the City of Seattle will not affect the Commissioner's ability to serve the remainder of any pending term. The appointing authorities shall

consult with one another prior to making their respective appointments and reappointments. All Commissioners appointed or reappointed by each of the appointing authorities shall be confirmed by a majority vote of the full City Council and shall assume office upon receiving City Council confirmation.]

5. All Commissioners appointed to serve on CPC enacted by this Chapter 3.29 shall be eligible to serve three, three-year terms for a total of nine years, each term commencing on January 1. All terms shall be staggered so that no more than six 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.
6. 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 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 90 days after the effective date of the resignation of the latest incumbent. A Commissioner whose term is ending may continue on an interim basis until a successor has been confirmed by the City Council.
7. To strengthen the independence of CPC, Commissioners may be removed from office by the appointing authority only for cause. By a three-quarters vote of its membership, CPC may approve removal of Commissioners appointed by CPC. A majority vote of City Council members is required to approve the removal of Commissioners.
8. Commissioners shall be compensated, if at all, as provided by ordinance.

### **3.29.220 Community Police Commission – Reporting**

- A. 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 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 CPC's outreach to SPD employees and the public, and about the perspectives gathered by CPC from such outreach.

### **3.29.225 Community Police Commission – Meetings**

- A. Four times a year, and otherwise as reasonably requested and consistent with the purposes of this Chapter 3.29, CPC shall meet 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. 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. CPC shall hold regular public meetings, no less than once a month, and establish 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. The procedures of any SPD board, unit, or process created to review performance must be approved by the Chief of Police and set forth in the SPD Policy Manual. SPD administrative investigation units shall not make determinations of misconduct or recommend discipline.
- C. Where cases are referred by OPA to the named employee's supervisors for follow through, including training, SPD shall ensure follow through is timely and substantive.
- D. 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.
- E. SPD, OPA, the City Attorney's Office, CPC, and all other City entities shall timely report to the Inspector General, in a manner established by OIG, any new problems or deficiencies not previously reported to OIG related to operations, policies, programs, and practices that would reasonably be expected to adversely affect SPD effectiveness, public safety, police accountability, constitutional policing, or the public's confidence

in SPD, and that would be relevant to the duties of OIG.

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

### **3.29.305 Continuous Improvement**

- A. Following the issuance of any written report with recommendations by the OPA Director, the Inspector General, or CPC issued pursuant to this Chapter 3.29, SPD shall meet and confer with and respond in writing to the issuing agency within 30 days following the release of the recommendations. SPD shall provide a plan for implementation of accepted recommendations, including for regular timely written reports on progress made in implementing accepted recommendations, and an explanation for those recommendations not accepted or not 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 CPC on the status of SPD's response to their recommendations regarding SPD and other City departments and agencies.
- B. OPA shall meet and confer with the issuing agency following the issuance of any written report with recommendations by the Inspector General or CPC issued pursuant to this Chapter 3.29 and shall respond in writing to the issuing agency within 30 days following the release of recommendations of the Inspector General or 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 CPC on the status of OPA's response to OIG's recommendations regarding OPA.
- C. In consultation with CPC, OIG, and 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 recommendations from the civilian oversight entities.
- D. SPD shall maintain systems of critical self-analysis, including audits and reviews of critical events, lawsuits, claims, and complaints. These reviews should focus on ways to improve policies, training, and supervision so as to help prevent misconduct, policy

violations, poor performance, or other adverse outcomes.

- E. SPD shall track and together with 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.
- F. 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.
- G. At the time the Mayor's annual proposed budget is submitted to the City Council, the Mayor shall notify the City Council and CPC in writing, with copies to the Inspector General and the OPA Director, when recommendations requiring City funding issued in reports made in the prior year consistent with the reporting requirements set forth in this Chapter 3.29 by those responsible for implementing the purposes of this Chapter 3.29 are not included for funding in the budget proposal.
- H. At the time the Mayor's proposed state legislative agenda is presented to the City Council, the Mayor shall notify the City Council and CPC in writing, with copies to the Inspector General and the OPA Director, when associated recommendations made by those responsible for implementing the purposes of this Chapter 3.29 are not included in the proposed state legislative agenda.
- I. The City's Office of Intergovernmental Relations shall consult with OPA, the Inspector General, and CPC during the development of the City's state legislative agenda.
- J. Each year in June and December the City Attorney's Office shall provide the OPA Director and Inspector General status reports regarding a) all OPA cases in which the findings or discipline have been appealed during the previous six months and b) all OPA cases in which the findings or discipline have been appealed in earlier periods and that remained open at any time during the current reporting period. These status reports shall include all OPA cases not yet closed due to appeal, the case number, the named employee(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.

### **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 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.]
  - [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 where the employee has been charged with a felony.]
5.
  - [Discipline shall not be imposed for minor misconduct as defined in SPD policy at the time of the alleged incident if the alleged incident occurred more than three years prior to the complaint being made or SPD or OPA becoming aware of the alleged misconduct. For all other misconduct, there shall be no time limitation on the imposition of discipline.]
  - [No disciplinary action will result from a complaint of misconduct where the complaint is made to OPA more than three years after the date of the incident which gave rise to the complaint, except: allegations of any criminal conduct, or that the named employee has concealed acts of conduct.]
6. The Disciplinary Review Board is abolished.
7. Public Safety Civil Service Commission
  - a.
    - [The Public Safety Civil Service Commission (PSCSC) shall be the only avenue for SPD employee disciplinary appeals, whether brought by the employee or by the labor union on the employee's behalf.]
    - [The Public Safety Civil Service Commission (PSCSC) shall be the only avenue for SPD employee disciplinary when brought by the employee. Disciplinary appeals when brought by a law

enforcement labor union on the employee's behalf are heard pursuant to the procedure set forth in subsection 3.29.310.A.8.]

- b. The PSCSC shall be comprised of three members, none of whom shall be City employees. Two members shall be appointed by the Mayor and one member shall be appointed by the City Council. Members shall be selected using merit-based criteria and shall have appropriate expertise and objectivity regarding disciplinary and promotional decisions. Members may serve up to three, three-year terms, and their terms shall be staggered. The PSCSC may delegate its authority to hear appeals to a City hearing examiner with appropriate subject matter expertise. Employees must provide written notification of their intent to appeal to the Chief of Police, City Attorney, and the PSCSC within 10 days of receiving the Chief's final disciplinary determination. All hearings related to disciplinary appeals shall be open to complainants and the public without limitation.

8.

- [In the event any of the requirements related to the PSCSC set forth in this Section 3.29.310 are not mandated and/or an arbitrator is allowed to hear disciplinary appeals, an arbitrator shall be used consistent with subsection 3.29.310.A.9.]
- [Where a Seattle law enforcement union challenges the imposition of discipline based on an alleged violation of the terms and conditions of a collective bargaining agreement, such challenge shall be heard through an arbitrator consistent with subsection 3.29.310.A.9.]
- [Where a Seattle law enforcement union challenges the imposition of discipline based on an alleged violation of the terms and conditions of a collective bargaining agreement, such challenge shall be heard through the City Hearing Examiner.]

9. Where permitted by this Chapter 3.29, if an arbitrator is used to hear a challenge to discipline, the following shall apply: the City shall 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 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, OIG shall establish qualifications, conduct a hiring process, and nominate a hearing examiner, subject to City Council confirmation.

10. SPD employees shall not use accrued time balances to be compensated while satisfying a disciplinary penalty that includes an unpaid suspension.
11. Challenges by SPD employees to disciplinary decisions shall be handled through the appeal process described in this subsection 3.20.310. Challenges by employees to all other administrative actions or working conditions shall be handled exclusively through a separate employee grievance process as determined by collective bargaining.
12. 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.
13. Each party to a named employee appeal shall have an alternative attorney who will be available in order 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.
14. The Chief of Police shall notify in writing the WSCJTC when any sworn employee is terminated from employment, or who would have been terminated from employment had separation not already occurred, whenever the nature of the employee's misconduct qualifies for de-certification under state law. The notification shall include the facts and circumstances of the termination and any other information necessary to provide the evidentiary basis for the Chief's disciplinary decision so as to allow the WSCJTC to have a full and complete record when deciding whether de-certification is appropriate.

### **3.29.315 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.
- B. In developing and implementing the recruitment, hiring, testing, training, mentoring, assignment, and promotional practices referenced in subsection 3.29.315.A, SPD shall consult with CPC and may obtain guidance from other community stakeholders.

- C. 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.
- D. SPD shall use preference points in hiring sworn employees who are multi-lingual and/or have work experience or educational background providing important skills needed in modern policing, such as experience working with diverse communities, and social work, mental health or domestic violence counseling, Peace Corps, AmeriCorps, or other similar work or community service backgrounds.
- E. After consulting with and receiving input from 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.
- F. SPD shall adopt consistent standards that underscore the organizational expectations for performance and accountability as part of the application process for all specialty units, in addition to any unique expertise required by these units, such as field training, special weapons and tactics, crime scene investigation, and the sexual assault unit. In order to be considered for these assignments, the employee's performance appraisal record and OPA history must meet certain standards and SPD policy must allow for removal from that assignment if certain triggering events or ongoing concerns mean the employee is no longer meeting performance or accountability standards.
- G. 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.
- H. 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. To fill such a sworn staff vacancy, the Chief of Police and the OPA Director should solicit volunteers to be assigned to OPA for two-year periods. If there are no volunteers or the OPA Director does not select from those who volunteer, the Chief of Police shall provide the OPA Director with a list of 10 acting sergeants or sergeants from which the OPA Director may select OPA personnel to fill intake and investigator positions. Should the OPA Director initially decline to select personnel from this list, the Chief of Police shall provide the OPA Director with a second list of 10 additional acting sergeants or sergeants for consideration. If a second list is provided, the OPA Director may select personnel from either list, or from among volunteers.

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

### **3.29.320 Public Disclosure, Data Tracking, and Record Retention**

- A. SPD and the City Attorney's Office shall work with OPA to release information associated with OPA cases as quickly and with as much transparency as legally and practically possible.
- B. SPD shall maintain current and searchable public databases, to the extent technologically feasible, that include every stop, frisk, use of force, and disciplinary matter. The databases shall protect the privacy of members of the public and City employees who are involved to the extent allowed by law, while including all relevant information of each interaction, including race, gender, time, place, assignment, reason, and any other consideration that can help provide information regarding possible bias.
- C. SPD shall make available information about its policies and operations that are matters of concern to the public by posting such information online, such as the SPD Policy Manual, performance audit reports, reviews of shootings by officers, and reviews of in-custody injuries and deaths.
- D. SPD shall track and document OPA cases referred from the OPA Director to the Chief of Police in OPA and SPD data systems.
- E. All SPD personnel and OPA case files shall be retained as long as the employee is employed by the City, plus ten years or as long as any action related to that employee is ongoing, whichever is longer. SPD personnel files shall contain all associated records, including equal employment opportunity complaints, and disciplinary records, litigation records, and decertification records; and OPA complaint files shall contain all associated records, including investigation records, Supervisor Action referrals and outcomes, Rapid Adjudication records, and referrals and outcomes of mediations. Records of written reprimands or other disciplinary actions shall not be removed from employee personnel files.
- F. For sworn employees who are terminated or resign in lieu of termination 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) regarding de-certification and consistent with the requirements set forth in subsection 3.29.310.A.12; b) whether action was taken by the WSCJTC in response to that letter; 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 City Attorney shall establish a protocol with the King County Prosecutor to refer, whenever possible, criminal cases in which police misconduct resulted in the death of a civilian to prosecutors not affiliated with the City or King County.
- B. The City Attorney shall maintain a protocol so that, whenever possible, cases referred to prosecutors for possible filing of charges against SPD employees are reviewed concurrently by city, county, and federal prosecutors so as to minimize delay and better serve the public, the named employee, and SPD.

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

- A.
  - [Those who provide civilian oversight of the police accountability system shall be consulted in the formation of the City’s collective bargaining agenda and during the bargaining process with the City’s police unions for the purpose of ensuring their recommendations with collective bargaining implications are thoughtfully considered and the ramifications of alternative proposals are understood. These individuals shall be subject to the same confidentiality provisions as any member of the Labor Relations Policy Committee.]
  - [Those who provide civilian oversight of the police accountability system shall be consulted in the formation of the City’s collective bargaining agenda for the purpose of ensuring their recommendations with collective bargaining implications are thoughtfully considered and the ramifications of alternative proposals are understood. These individuals shall be subject to the same confidentiality provisions as any member of the Labor Relations Policy Committee.]
- B. The terms of all collective bargaining agreements for SPD employees, along with any separate agreements entered into by SPD or the City in response to an unfair labor practice complaint, settlement of grievance or appeal, or for other reasons, including those previously reached, shall be clearly and transparently provided to the public, by posting on the SPD website.
- C. Whenever collective bargaining occurs, any separate agreements in place affecting ongoing practices or processes which were entered into by SPD or the City in response to an unfair labor practice complaint, settlement of grievance or appeal, or for any other reasons, shall be incorporated into the new or updated collective bargaining agreement or shall be eliminated.

### 3.29.335 Policy Initiatives and Updates

- A. SPD administrative investigation units, including the Force Review Board, shall maintain a schedule of review that limits the duration of each incident review to 90 days.
- B.
- [After consulting with and receiving input from the OPA Director, OIG, and 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. Prohibit officers from reviewing their in-car and body-worn camera recordings before writing a report, and should a report be amended after reviewing the video, require retention of both the original and amended reports.
    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.
  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.]
- [A policy setting the requirements for Body Worn Cameras will be developed consistent with the Fourth Year Monitoring Plan submitted in the matter of *United States of America v. City of Seattle*, 12 CV 1282 (JLR), and in consultation with the United States of America, the Monitor and community stakeholders, and will be submitted to the United States District Court for its consideration and approval.]

### **3.29.340 Public Statements**

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

### **3.29.345 Protection of Civilian Oversight Entities**

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

of the Office of the CPC. Any City employee or official who violates this provision is subject to dismissal, discipline, or censure consistent with applicable law. The lawful invocation of the Fifth Amendment right against self-discrimination is not interference.

## **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 Chapter 3.29 of the Seattle Municipal Code.
- 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, chapter 41.56 RCW 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.
- D. It is the express intent of the City Council that, in the event a subsequent ordinance refers to a position or office that was abolished by this ordinance, that reference shall be deemed to be the new position or office created by this ordinance, and shall not be construed to resurrect the old position or office unless it expressly so provides by reference to this ordinance.
- E. It is the express intent of the City Council that, in the event a subsequent ordinance refers to or amends a section or subsection of the Seattle Municipal Code or a previously enacted ordinance that is amended or recodified in this ordinance, but the later ordinance fails to account for the change made by this ordinance, the two sets of amendments should be given effect together if at all possible. The code reviser may publish the section or subsection in the official code with all amendments incorporated therein.
- F. 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 the effective date of this ordinance.
- G. Nothing in this ordinance creates or is intended to create a basis for any private cause of action.
- H. 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.

### **3.29.401 Implementation**

- A. Until this ordinance takes effect, the current accountability system shall remain in place, consistent with provisions of the Consent Decree in the matter of *United States of America v. City of Seattle*, 12 Civ. 1282 (JLR).
  
- B. This ordinance shall take effect and be in force within 30 days of the last of the following taking place: (1) review and approval of the ordinance by the United States District Court for the Western District of Washington presiding over the Consent Decree in the matter of *United States of America v. City of Seattle*, 12 Civ. 1282 (JLR); (2) passage by the City Council; (3) if applicable, resubmittal to and reapproval by the United States District Court of adopted legislation containing terms previously disapproved by the Court or new terms not yet reviewed; and (4) ultimate approval by the Mayor. If not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.