



## City of Seattle Legislative Information Service

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**Council Bill Number: 114088**

**Ordinance Number: 120728**

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

**Status:** Passed

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**Vote:** 9-0

**Date filed with the City Clerk:** February 15, 2002

**Date of Mayor's signature:** February 15, 2002

[\(about the signature date\)](#)

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**Committee:** Police, Fire, Courts and Technology

**Sponsor:** COMPTON

**Index Terms:** POLICE-DEPARTMENT, INTERNAL-INVESTIGATIONS, CORRUPTION

**References/Related Documents:** Amends: Ord. 119805, 119816, 119893

**Fiscal Note:** *(No fiscal note available at this time)*

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### Text

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

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

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

WHEREAS, the City of Seattle intends to fully implement that Collective Bargaining Agreement; and

WHEREAS, in accordance with that collective bargaining agreement and so long as that agreement is in effect, the City of Seattle will not implement the reporting requirements of the OPA Review Board that

this ordinance enacts as Seattle Municipal Code subsections 3.28.910(B)(6)(c) and 3.28.910(B)(6)(d) until the current Racial Profiling Task Force has made its data collection recommendation, and until and unless the City of Seattle decides it is appropriate to gather and report these data and provides the Seattle Police Officers' Guild the opportunity to reopen negotiations on this subject; NOW THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

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

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

#### Subchapter VII Office of Professional Accountability

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

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

3.28.805 Definitions.

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

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

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

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

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

### 3.28.810 Office of Professional Accountability -- Director.

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

- A. Be a civilian with legal, investigative, or prosecutorial experience;
- B. Be appointed by the Mayor and confirmed by the City Council;
- C. Be appointed for a three (3) year term, with the possibility of being reappointed for a second three (3) year term, for a maximum of six (6) years;
- D. Report directly to the Chief of Police;
- E. Be paid at a salary consistent with the level of responsibility established in this section and as provided by ordinance;
- F. Direct the OPA investigative process, classify all complaints, certify completion and findings of all OPA cases, and make recommendations regarding disposition to the Chief of Police. The Chief of Police remains the final Police Department decisionmaker in disciplinary actions;
- G. Provide analysis to the Chief of Police regarding disciplinary action in order to promote consistency of discipline.

### 3.28.815 OPA Deputy Director.

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

### 3.28.820 OPA Procedures Manual.

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

### 3.28.825 Reports.

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

policy or areas where training bulletins are needed.

### 3.28.830 Confidentiality of Files and Records.

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

## Subchapter VIII Office of Professional Accountability Auditor

### 3.28.850 Office of Professional Accountability Auditor Established.

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

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

1. A reputation for integrity and professionalism, as well as the ability to maintain a high standard of integrity in the office;
2. A commitment to and knowledge of the need for and responsibilities of law enforcement, as well as the need to protect basic constitutional rights of all affected parties;
3. A commitment to the statement of purpose and policies in this chapter;
4. A history of demonstrated leadership experience and ability;

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

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

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

8. The ability to work effectively under pressure.

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

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

3.28.855 OPA Audit procedures and standards.

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

B. Audit of All Investigations of Complaints Not Involving Unnecessary or Excessive Force Allegations. Each calendar year, the OPA Auditor shall audit all of the completed OPA case files involving complaints other than those involving unnecessary or excessive force. The Department shall notify the OPA Auditor of the completion of case files on a weekly basis. The case file shall be forwarded to the subject officer's chain of command for review and recommendations, if, within ten (10) business days of notification of completion, the OPA Auditor has not advised the Department s/he will audit the investigation. The OPA Auditor may audit a completed case file after referral to the subject employee's chain of command; provided, however, in such instance the OPA Auditor shall not request follow-up investigation.

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

D. OPA Auditor May Request Further Investigation.

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

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

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

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

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

1. The OPA Auditor shall have access to all OPA files and records, including but not limited to: OPA files, line review reports and files, and OPA contact logs, provided, however, the OPA Auditor shall not have access to files designated by the OPA as relating to an active criminal investigation of an officer until such time as the Department has given the subject officer written notification of the investigation. The OPA Director shall provide the OPA Auditor with quarterly status reports regarding OPA cases in which criminal

investigations are also being undertaken. These status reports shall include the number of ongoing OPA criminal investigations and the month during which each investigation was originated, and the number of new criminal investigations initiated that quarter.

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

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

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

Department's OPA process. The Department shall make every reasonable effort to comply with the OPA Auditor's requests.

3.28.860 OPA Auditor to prepare semiannual report.

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

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

1. The number of cases reviewed by the OPA Auditor;
2. The number of follow-up investigations requested by the OPA Auditor, the number of follow-up investigations completed by the Department, and the number of follow-up investigation requests denied by the Department;
3. The number of contact log cases and line referral cases where the OPA Auditor recommended that full investigations take place, the number of such investigations completed by the Department, and the number of follow-up investigation requests denied by the Department;
4. A summary of issues, problems and trends noted by the OPA Auditor as a result of his/her review;
5. Any recommendations that the Department consider additional officer training, including recommendations that the Department

consider specialized training for IIS investigators;

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

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

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

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

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

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

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

3.28.870 Confidentiality of files and records.

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

Subchapter IX Office of Professional Accountability Board

3.28.900 Office of Professional Accountability Board Established.

There is created an Office of Professional Accountability Review Board (hereinafter "OPA Review Board") to establish independent review of the Office of Professional Accountability ("OPA") complaint



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

### 3.28.905 Appointment of the OPA Review Board.

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

B. Each OPA Review Board member shall:

1. Have a reputation for integrity and professionalism, as well as the ability to maintain a high standard of integrity in the office;
2. Have a commitment to and knowledge of the need for and responsibilities of law enforcement, as well as the need to protect basic constitutional rights of all affected parties;
3. Have a commitment to the statement of purpose and policies in this chapter;
4. Have a history of demonstrated leadership experience and ability;
5. Have the potential for gaining the respect of complainants, departmental personnel, and the citizens of this City;
6. Be able to work effectively with the City Council, departmental personnel, public agencies, private organizations, and citizens;
7. Be able to work with diverse groups and individuals, as shown by previous experience;
8. Be able to work effectively under pressure;
9. Be a high school graduate or recipient of a general equivalency diploma;
10. Be a United States citizen or lawfully authorized for employment

in the United States;

11. Be at least 21 years of age;

12. Not have been convicted of or plead guilty to a felony, crime of violence, or offense involving moral turpitude, or any plea thereto; and

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

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

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

3.28.910 OPA Review Board to prepare quarterly report.

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

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

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

1. The number of closed, completed cases reviewed;

2. The total number of complaints received by the Office of Professional Accountability;

3. The number of complaints by category and nature of allegation;

4. The percentage of complaints sustained and not sustained;

5. The nature of disciplinary action taken in sustained cases;

6. Patterns of complaints including:

a. Type of complaint,

b. Geographic area of complaint,

- c. Race, ethnicity, gender of complainants,
  - d. Race, ethnicity, gender, assignment, seniority of officer(s) who is/are subject of complaint;
7. The number of officers who have received three (3) or more sustained complaints within one (1) year;
  8. The number of follow-up investigations requested by the OPA Auditor, the number of follow-up investigations completed by the Department, and the number of follow-up investigation requests denied by the Department;
  9. The number of contact log cases and line referral cases where the OPA Auditor recommended that full investigations take place, the number of such investigations completed by the Department, and the number of follow-up investigation requests denied by the Department;
  10. A summary of issues, problems and trends noted by the OPA Review Board as a result of their review;
  11. Any recommendations that the Department consider additional officer training, including recommendations that the Department consider specialized training for investigators;
  12. Any recommendations the Department consider policy or procedural changes; and
  13. A Review of the OPA Director's involvement in community outreach to inform citizens of the complaint process and the role of the Office of Professional Accountability.
- C. The OPA Review Board's report shall not contain any recommendations concerning the discipline of any particular police officer, nor shall the report comment upon or make any recommendation concerning potential civil or criminal liability of specific employees, police officers, or citizens.
  - D. The OPA Review Board's report shall forward its report to the President of the City Council, the Chair of the City Council's Public Safety Committee, Mayor, City Attorney and City Clerk no later than the thirtieth day of March, June, September and December of each year.

3.28.915 OPA Review Board to meet with City Council.

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

3.28.920 Access to and Confidentiality of files and records.

A. The OPA Review Board shall have access to, for purposes of review, redacted complaint forms of all OPA complaints and redacted files of all closed OPA investigations. The OPA Review Board shall have access to summary information necessary for its reporting

obligations as set forth in section 3.28.910 of this chapter.

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

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

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

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

Approved by me this \_\_\_\_ day of \_\_\_\_\_, 2002.

\_\_\_\_\_  
Mayor

Filed by me this \_\_\_\_ day of \_\_\_\_\_, 2002.

\_\_\_\_\_  
City Clerk

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