

RECOMMENDATIONS FOR POLICE OVERSIGHT: A NEW AND BALANCED APPROACH



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EXECUTIVE SUMMARY

This Report recommends that the City of Spokane disband the Citizens' Review Commission and create a new office within the executive branch to serve as an ombudsman/monitor of citizen complaints about employees of the Spokane Police Department.

The CRC, Spokane's existing mechanism for oversight of SPD, does not have the trust and confidence of the public. Moreover, it is clear from analysis of the legislation, review of expert reports, and comparison to established and emerging oversight entities across the country that the CRC does not have the attributes that most observers and experts today agree are necessary for effective oversight.

It was apparent from interviews and discussions with a variety of external and internal stakeholders in police accountability that the Spokane Police Department enjoys a solid degree of trust and support. It was equally clear that Spokane has an informed, engaged citizenry with high expectations for accountability, and a firm commitment to external oversight. The majority of the feedback revolved around three themes: independence, transparency, and professional, meaningful review. The input and review pointed definitively in a new direction: the creation of a new structure that presents a strong, but balanced approach to oversight.

It is recommended that the City of Spokane create and implement a new ombudsman/monitor office with the following key attributes:

- *Structural independence through establishment within the executive branch*
- *Led by a full-time professional appointed by the mayor and confirmed by council*
- *The ability to serve as an alternative forum for the intake of citizen complaints*
- *Authority over the classification of complaints by SPD*
- *Ability to actively monitor open investigations*
- *Advisory input into the findings, disposition, and discipline*
- *Responsibilities for policy review and recommendation*
- *Serve as resource for complainants seeking information*

- *Ability to observe and be informed of critical incidents*
- *Ability to initiate and/or conduct special inquiries*
- *Responsibility for community outreach*
- *Duty to publicly report complaint investigation statistics and its activities*
- *Duty to maintain confidentiality in the performance of its duties*

It is also recommended that, following the successful establishment of the ombudsman/monitor office, the City consider creating a Citizens' Advisory Board to the ombudsman/monitor office. This Board would be advisory to the work of the independent office, and also serve to assist the ombudsman in community education and outreach.

Successful implementation of a new ombudsman/monitor will require continued public commitment, vocal, visible support from elected officials and from the Chief of Police, and extensive, ongoing collaboration with the Spokane Police Department Internal Affairs division. All indicators point to a conclusion that, in Spokane, the necessary foundation for success is in place.

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INTRODUCTION

This report presents the assessment and recommendations of Pailca Consulting, LLC, charged with making recommendations to the City of Spokane and the Spokane Police Department regarding improvements to the system for civilian oversight of citizen complaints about the conduct of employees of the Spokane Police Department.

The report is a follow-up to the October 2006 Consultant Report of Police Practices Consulting, LLC (“Worley Report”), which contained recommendations for expansion of the role of Spokane’s Citizens’ Review Commission and a change in the make-up of that Commission. Further, the report supplements the January 2007 report of the Washington Association of Sheriffs and Police Chiefs (WASPC), which assessed internal processes, not civilian review.

Separate sections of the report address: (1) a brief history and assessment of the Citizens’ Review Commission; (2) input from the public, civic, and government groups, police representatives, and union officials; (3) attributes of an effective oversight system; and (4) recommendations for a new system of civilian oversight for the City of Spokane.

It is important to note that the City of Spokane and its representative, Chief Anne Kirkpatrick, facilitated unfettered access by the consultant to community and department stakeholders, and placed no restrictions on the scope or content of the consultant’s recommendations. Recommendations in this report were guided by input from external and internal stakeholders and informed by established and emerging best practices for comparable departments and jurisdictions.

CITIZEN OVERSIGHT IN SPOKANE

Background of Civilian Oversight of Police

Civilian or citizen oversight is a broad term referring to a procedure for providing input into the investigation of citizen complaints about police misconduct by individuals, who are not sworn officers. Though commissions and boards date from the late 50s and 60s, these early efforts were hampered by lack of resources, large backlogs of unresolved cases, and were largely ignored.

Following the videotaped Rodney King incident in 1991, communities across the country began to experiment with new forms of citizen oversight. Boards were reconstituted with broader powers and better funding. Several communities voluntarily appointed auditors. In some instances, the United States Department of Justice or state attorney general initiated litigation and investigations that led to the appointment of monitors. Other cities placed internal affairs under the supervision or monitoring of a group of attorneys.

Today, there are over 130 oversight entities operating in the United States. Approximately 80% of major cities have some form of oversight, and new systems are being formed in cities like Fresno, Boston, Atlanta, and Montgomery. The entities vary in model and type, and include boards, commissions, ombudsmen, monitors, auditors, and investigative agencies.

The Pacific Northwest boasts several respected and diverse oversight models, including Seattle, Portland, Eugene, and Boise. New civilian oversight systems are in the process of being implemented in Tacoma and King County.

The growth, prevalence, and persistence of civilian oversight over the years and across the country is a testament to its value as a tool for building community confidence in the police.

History of Citizen Review in Spokane

Spokane deserves credit for its early recognition of the value civilian oversight can bring to the review of citizen complaints about police conduct. The City formed its first citizens' review panel in 1992. A decision by the Public Employment Relations Commission adverse to the City prompted significant changes, negotiated in 1995 between the City and the Police Guild, and subsequent changes were again made in 1998. The current legislation establishing the Citizens' Review Commission (CRC) is set forth in SMC Chapter 4.26.

The Citizens' Review Commission

Under the ordinance, the CRC is composed of seven members, appointed by the Mayor and confirmed by the City Council as follows:

- A. One retired judge, retired (sic) court commissioner, or retired magistrate to bring a perspective from the legal system,
- B. One qualified member from a list of at least two names submitted by the Police Guild, neither of whom may be current City employees,
- C. One qualified member from a list of at least two names submitted by the Police Lieutenants and Captains Association, neither of whom may be current City employees, and
- D. Four citizens at large, who should represent the diversity of our community.

SMC 04.26.020

Duties proscribed by ordinance for the Commission are: (1) to monitor trends and (2) to review complaints that could involve allegations of misconduct brought forth **after** processing by the police chief. SMC 04.26.060(A).(B).

The commission cannot change any disciplinary dispositions, which the chief has made. When reviewing complaints involving alleged misconduct the function of the commission is strictly to determine whether the department's investigation of the allegation(s) was thorough and objective. SMC 04.26.060(B).

The ordinance imposes a significant additional restriction on the commission's jurisdiction: a citizen can only file a "Request for Review" with the commission if the chief's determination on the allegation was NOT adverse to the accused officer. SMC 04.26.080(B). This provision recently prevented the Commission from reviewing a controversial case – referred to the Commission by Chief Kirkpatrick – involving allegations of misuse of authority by an SPD lieutenant.

Additional sections provide for "hearings" with the complainant; however, the ordinance dictates that hearings are to be conducted in executive session, not in public. SMC 04.26.080(D). Following any hearing, the commission's primary charge is to determine whether the department's investigation was thorough and objective, and whether new information was brought forward that should be considered by the chief. SMC 04.26.080(E)(3).

Assessment of the Effectiveness of the CRC

Most observers agree that the existing Citizens' Review Commission is not serving as an effective means of civilian oversight of the Spokane Police Department. The Commission was rarely convened in the past decade, and the sporadic reviews that were attempted were thwarted by legal proceedings or inherent constraints. The public has been openly critical of the commission. Local news media has called for a new independent oversight office. The Worley Report determined that the review function of the commission is "extremely limited," preventing it from serving as an effective outside review panel. Chief Kirkpatrick's quest for meaningful review and openness was stymied by the commission's narrow jurisdiction. Even the well-intentioned and hard-working current members of the commission are frustrated by the extent to which their hands are tied by the restrictive ordinance.

In addition to the unique experience with the commission in Spokane, some of the dissatisfaction may stem from certain attributes of the review board and commission model itself. While this form of oversight is the oldest and still most prevalent in the country, and there are robust, respected commissions operating today, some participants and observers have questioned the efficacy of the board/commission model. Most often cited as the chief weakness is a board/commission's focus on individual cases, rather than systemic issues, and a corresponding tendency toward formal, legalistic proceedings. Another inherent weakness is the potential for membership and the work of the board or commission to be politicized. The understandable and laudable goal of broad representation of community and police interests frequently adds another element of controversy to the work of the board. There was some indication in Spokane that politics were beginning to detract from the appearance of the CRC's neutrality.

An extensive analysis of the strengths and weaknesses of the existing Citizens Review Commission would be superfluous. It was created without the benefit of the past decade of growth and maturity in civilian oversight experience and study across the country. Most importantly, the public does not have trust and confidence in the Commission. Maintaining the status quo is simply not a credible option for the City of Spokane.

OUTREACH TO STAKEHOLDERS

Civilian oversight has experienced tremendous growth in the past decade. No one model of accountability has been anointed as superior to another, as each is successful only to the extent it addresses the needs of the community it serves. The first and most critical step in adopting an effective citizen oversight system in the City of Spokane is therefore to listen to and assess the needs of its citizens. The production of this report began with that process, described below.

Forums Attended

The consultant was able to take significant advantage of a series of public forums on police accountability sponsored by the Spokane County Chapter of the ACLU. The December 6 forum was entitled “Police Accountability: What is it and how does it work across the country?” The panelists were Jennifer Shaw, Legislative Director, ACLU of Washington; Brooks Holland, Gonzaga University School of Law Professor; and Pierce Murphy, City of Boise Police Ombudsman and President of National Association of Citizen Oversight of Law Enforcement (NACOLE). Approximately 35-40 people attended this forum, and the questions, comments, and requests of the attendees were noted. This forum assisted with the identification of key issues and of those groups and individuals with an interest and stake in police accountability in Spokane.

The next forum in the series boasted an even better turnout than the first. In addition to the Spokane County Chapter of the ACLU, the January 30 forum was co-sponsored by the League of Women Voters Spokane Area, and the Peace, Justice, and Law Society (PJALS). Titled “Police Accountability: What’s happening in the City of Spokane?” this forum focused more on Spokane-specific issues in police oversight. The panelists were Anne Kirkpatrick, Chief, Spokane Police Department; Rick Mendoza, former chair of the Spokane Police Citizens Advisory Committee; and Tim Conner, a journalist who had written previously about use of force and access to records issues in the police department and the city.

In discussions between the panelists and the approximately 55 citizens in attendance, topics included transparency, racial profiling, discipline, training, department budget, de-policing, and police response to the mentally ill.

Direct Meetings with Citizens

The consultant had the privilege of meeting personally with individuals and groups with an obvious or identified interest in police accountability in the city of Spokane. These meetings included:

- Police Advisory Committee members: Joan Butler, Rick Mendoza, Carmella LeBlanc, George Turcin, Christy Hamilton, V Anne Smith, Bishop Andrews, Reverend Singleton, and Pastor Mitchell
- Citizens Review Commission members: Bob Ogle, Doug Puckett, Pastor Mitchell, and Bob Byrne (individual meeting)
- Bishop Walton Mize
- Bob Demotte, citizen, and Jim Sweitzer, attorney
- Jennifer Shaw, Legislative Director, ACLU of Washington
- Timothy Connor, journalist
- Center for Justice representatives: Breean Beggs, Terri Sloyer, and John Sklut

Meetings with City of Spokane Representatives

- Dennis Hession, Mayor, City of Spokane
- Marlene Feist, Public Affairs Officer, Office of the Mayor
- Spokane City Council Public Safety Committee members: Councilmembers Bob Apple, Joe Shogan, Jr., and Mary Verner (by telephone)
- City Attorney's Office: Rocky Treppiedi, Legal Advisor to Spokane Police Department and Mike Piccolo, Legal Advisor to Citizen Review Commission

Meetings with Spokane Police Department Members

- Chief Anne Kirkpatrick
- Sergeant Jim Faddis, Internal Affairs
- Lieutenant Dave Richards, Internal Affairs
- Lieutenant Steve Braun, Lieutenants' Association
- Sergeant Mark Griffiths, Internal Affairs

- Sergeant C.D. Reisenauer, Spokane Police Guild
- Deputy Chief Jim Nicks
- Detective J.M. Harvey, Spokane Police Guild

Media Contacts

- Bill Morlin, The Spokesman-Review
- Karen Doran Steele, The Spokesman-Review
- Kevin Taylor, The Pacific Northwest Inlander
- Two television news interviews

Community Forums Presented

All of a community's citizens are affected by the quality of their police department and the degree to which that department is held accountable to the public. The City of Spokane supported the consultant's efforts to reach a broader audience, and assisted with the presentation of two public forums. A "Speak Up!" flyer was distributed through direct mail and press release, asking for input into police accountability and citizen oversight of the police. A copy of the flyer is attached as Appendix A.

One goal of the forums was to educate citizens about the concept, promise, and limitations of citizen oversight of law enforcement. The hope was that with up-to-date and neutrally presented information about the history and types of oversight, the forums would stimulate thinking and discussion on a topic that is frequently misunderstood.

A second goal was simply to hear directly from as many as Spokane's citizens as possible.

The first forum was held February 7 in City Hall Council Chambers; the second February 13 in the Northeast Community Center. Attendance at the first was modest, numbering less than 20, while the second was well attended, with approximately 50 attendees, many of whom had not been present at the ACLU-sponsored forums.

An overview of citizen oversight of law enforcement was presented by the consultant, with question and answers and discussion following the presentation. A copy of the power point presentation is attached as Appendix B. The presentation content and format was modified for the second forum in response to feedback received from attendees at the first. Discussion at the Northeast Community Center was lively and productive.

To reach citizens who did not attend in person, both forums were also televised, and re-broadcast on the government channel. In addition, a website was created to receive additional public comment. Comments and suggestions were received from approximately 25 citizens.

Considering together the forums attended and presented, personal meetings, and comment received by telephone and e-mail, the recommendations in this report were informed by the input of roughly 235 people with interest and a stake in police accountability in Spokane.

INPUT FROM STAKEHOLDERS

Spokane has reason to be proud of its informed and engaged citizenry. A city of just about 200,000 people, it was clear that many citizens are supportive of their department and new chief, and willing to participate in making the relationship between the police and the community even stronger.

The discussion and input into the subject of citizen oversight of police was thoughtful, measured, and creative. Notably, much of the feedback from stakeholders about what they wanted to see in a civilian oversight program aligns neatly with attributes that experts in the field have identified as necessary for an effective oversight system. *The most frequently made comments and suggestions revolved around three themes: independence, transparency, and professional, meaningful review.* The comments are summarized below.

Independence

Many citizens and other stakeholders cited the need for the citizen oversight mechanism to be independent of the police department. Comments included:

- *Oversight¹ should not look like it is part of the police department*
- *Oversight must be independent*
- *Composition of oversight entity should have two from each council district and an independent jurist*
- *The reviewers should be protected*
- *Oversight would be best perceived as part of the executive branch*
- *Auditor/ombudsman model would work best in Spokane*

¹ The comments of many people were framed in reference to the Citizens' Review Commission. They have been recast as comments about citizen oversight systems in general.

- *The police shouldn't police themselves*
- *Oversight should report to executive branch*
- *Oversight entity needs to be separate from police department, and have separate funding*
- *Oversight needs its own investigative powers*
- *City council should make appointments to oversight entity*
- *Oversight should not be dependent on police department for funding, space, or equipment*

Transparency

- *Records of new system should be public*
- *Oversight should publish information on investigations and discipline*
- *Transparency is the top issue for oversight*
- *The new system should eliminate or reduce the gulf between what the oversight system gets to see and the public and press don't*
- *New ordinance should explicitly state it is constructed and should be construed consistent with public records and open meetings laws*
- *Oversight records should be separate from internal affairs records to ensure transparency*
- *If new oversight entity takes testimony, its' meetings should be open to public and media*
- *System should produce public reports with number of complaints, breakdown by race of complainants, success of complaints by race of complainant, and types of complaint*
- *Guidelines for external review should be established and available to public and police*
- *Oversight entity should have regular meetings with published agendas*
- *Spokane needs means of reporting out, communication to complainants, and access to policies, manual, and forms*

Professional, Meaningful Review

- *Oversight entity and police department need budget for training*
- *System needs professionalism*
- *Current oversight jurisdiction too restrictive*
- *Oversight entity needs to do more than simply answer a “yes” or “no” question about whether the investigation was thorough and complete*
- *There should be broader standing to bring issues to the oversight entity*
- *Oversight should be able to monitor trends and make recommendations*
- *Internal affairs cases should be audited by oversight*
- *Oversight should be able to investigate, look at trends, and do an overview of practices*
- *System should look at service quality*
- *Oversight entity needs “teeth”*
- *Oversight should be professional, not political appointees with bias*
- *Spokane should emulate the Mental Health Ombudsman model, with an informed, unbiased expert at helm*
- *Oversight entity should have the ability to do simultaneous investigation OR to direct the internal affairs investigation*
- *System should have “real time” access to investigations*
- *Subpoena power is of the utmost importance*
- *Oversight should be conducted by experts with adequate budget support*

Input by Police and Union Representatives

Employees of the Spokane Police Department were uniformly cooperative and open in discussions about civilian oversight of police conduct. All interviewees were of the opinion that there the Department was clean and solid, with the great majority of officers conducting themselves lawfully and professionally. Most understood, however, the connection between oversight and public confidence, and recognized that the days of insularity and lack of scrutiny of the police have passed.

Representatives of the Police Officers' Guild stressed the importance of having neutral, unbiased external review. They expressed common and understandable discomfort at the notion of having laymen "who know nothing about our business" judging their conduct. A related concern was that external review would discourage proactive, self-initiated policing in favor of the less effective, primarily reactive style of policing. This is sometimes referred to as "de-policing."

Another theme was that budget cuts had impacted the Department's effectiveness and its morale. It was believed that addressing salary and staffing problems should take precedence over enacting civilian oversight.

The representative of the Lieutenants' Association said that their main interests were consistent treatment for similar conduct and honesty and truthfulness in Department leaders. This interviewee did acknowledge that civilian oversight could positively influence both.

Additional Comments

Police operations: Several citizens made suggestions about the operations of the Spokane Police Department itself. These included comments about increased budget for training and to improve service quality, the need to hire and retain employees of color, more enforcement of property crimes, public access to department policy, the need for officers to explain their actions better, officer identification, supervisory complaint handling, concerns about the demeanor of officers, and some concerns about "rough treatment," described as minor force with little or no injury.

It was particularly noteworthy that there was not widespread concern about "racial profiling," more accurately described as biased policing, by the Spokane Police Department. Indeed, the president of the local chapter of the NAACP proclaimed the success of previous efforts to address racial profiling, and expressly stated that Spokane did not currently have a pervasive problem with racial profiling. Another group of leaders within the minority community likewise cited their success in coming together informally and confidentially to foster communication between the community and the department, builds trust, and control rumors. This group agreed that while there were still isolated incidents of biased policing, it was not currently a significant problem in Spokane.

Authority of Chief: Many of the citizens were familiar with Chief Kirkpatrick's public position regarding preserving the chief's authority to decide upon and impose discipline, and there appeared to be general acceptance of this position by the public. Several citizens affirmatively agreed that the Chief should have the ultimate authority to impose discipline, or that the Chief should "have the last word."

Input by civilians: Several comments stressed that oversight should be accessible to and have input from civilians, and that it should reach the multi-cultural portion of the community. Leaders within the community cited a successful tradition in Spokane of people coming to the table together to address problems. Many had confidence that a non-adversarial approach to oversight of the police would work. *Several stated simply that the “citizens need to have a voice.”*

Summary of Input of Stakeholders

In many communities, discussions about civilian oversight of police conduct have been dominated by extremists on both sides. This is fortunately not the case in Spokane. Stakeholders affirmatively cited the need for balance in the approach.

Several framed this in terms of a balance between input by civilians and the authority of the chief, i.e., stating that the citizen must be able to communicate, but can't dictate the result. Consistent with the support for the Chief's position on discipline, described above, several citizens explicitly agreed that an oversight entity should not be able to override the chief, and that in order to run the Department and enforce standards, the Chief needs to have the final authority.

The need for balance was also framed in reference to the intrusiveness of the oversight. Several stakeholders recognized that the police have a very difficult job, and can't do it well with people looking over their shoulder.

Finally, the emphasis on balance also was evident in the most fundamental way: a solid degree of trust and support for the police department, leavened by a genuine commitment to meaningful and transparent external oversight. It is a healthy and promising foundation upon which to build.

ATTRIBUTES OF EFFECTIVE CIVILIAN OVERSIGHT SYSTEMS

As set forth above, civilian oversight has evolved and matured dramatically in the past decade alone. Through both expert analysis and experience in the field, a common understanding has emerged about what it takes to make oversight work.

Below are samples of attributes compiled by academics, interest groups, and practitioners in civilian oversight.

Suggestions for Essential Elements of an Effective Police Accountability System

- Independent, professional full-time oversight staff
 - Confidential, unredacted access to all files regardless of classification
 - Access must be early in investigation process

- Ability to attend witness interviews
- Response to scene of critical incidents
- Authority to recommend policy and procedure changes
- Must publish periodic public reports
- Civilian Advisory group
 - Work with oversight staff and act as link to community
 - Assist with community outreach and education

Source: ACLU of Washington

Principles for Effective Auditor's Office

- Independence
- Clearly defined scope of responsibilities
- Adequate resources
- Unfettered access
- Full cooperation
- Sanctions for failure to cooperate
- Public reports
- No prior censorship by department
- Community involvement
- Confidentiality and anonymity
- Access to the police chief or sheriff
- No retaliation

Source: Professor Samuel Walker, New World of Police Accountability, 2005

What's Necessary for Oversight

- Adequate independence
- Sufficient scope
- Adequate authority, including *some* authority to investigate
- Ability to compel cooperation and testimony of officers
- Access to department records
- Adequate resources: budget/staff
- Transparency

Source: Pierce Murphy, Boise Ombudsman and NACOLE President

It is important to remember that no list is a substitute for a model developed to suit the unique needs of individual jurisdictions. Further, even a model with all of the identified attributes will not succeed without the strong leadership, vocal and visible political support, and community engagement.

RECOMMENDATIONS

The citizens of Spokane want a balanced system of police oversight that provides meaningful review, allows for access and input by citizens, and is open and transparent. The majority of the community accepts preservation of an internal investigation function and supports the reservation of disciplinary authority in the Chief. At the same time, it has high expectations for accountability and is prepared to critically examine progress and conduct to ensure standards are met.

The community's expectations have grown along with the city. With a population of 198,000 and rising, and a police department of 404 employees, Spokane is wise to put in place now a mechanism for flexible and responsive oversight.

It is strongly recommended that Spokane shift from the commission model to an ombudsman or monitor model. While the current members of the CRC are committed and well-informed, the board/commission model does not meet Spokane's interests and needs for these main reasons:

- (1) It goes to work only after internal affairs is done. As the city has seen in the past year, significant police events unfold quickly. A professional presence would help to ensure a quality investigation in real time, and a visible, independent one would help to inform and reassure the public. The CRC has

no meaningful role in emerging events and is relegated to waiting in the wings.

- (2) It can't look at the Department as a whole and search for patterns and practices. Even if the standing and jurisdiction problems were addressed legislatively, the Commission's function would still revolve around the review of individual cases. Every agency will periodically experience individual acts of misconduct, but standing alone, each incident may reveal little about Department policy, training, supervision, or culture. By contrast, ongoing scrutiny of complaints over time can yield the observations, insights, and recommendations that lead to organizational change and improved policing.
- (3) It doesn't offer an avenue for, service to, or response back to citizens. Again, the CRC is reactive, and even then only in extremely limited circumstances. It doesn't offer Spokane citizens a forum, and what work it does is done behind closed doors. The model is not a good match for the engaged citizenry of Spokane.
- (4) It has little access to elected officials. The CRC has languished because no one has been answerable for its viability, much less a stakeholder in its success. The CRC had no means of asserting itself into the controversies awhirl in Spokane, and no leader to advocate for a CRC voice.

The ombudsman/monitor model proposed is designed to cure these fundamental deficiencies, and offer additional value in professionalism, access, and transparency.

KEY FEATURES OF RECOMMENDED MODEL

Structure of Office

For structure, the key considerations are ensuring professionalism and independence. It is also important to provide legislatively for access of the office to elected officials.

It is recommended that:

- Spokane create an ombudsman/monitor² office within the executive branch
- Spokane IPO have a dedicated budget separate from the Spokane Police Department
- The ombudsman meet regularly with the chief of the Spokane Police Department, and report regularly to the Mayor and to the City Council

² For ease of reference, the office will be referred to herein as the Office of Independent Police Ombudsman for the City of Spokane, Spokane IPO.

- Spokane IPO be located within or with close proximity to City Hall
- Spokane IPO include: (1) a full-time professional with a background in law, criminal justice, civil rights, compliance, or investigative program management, and (2) one full-time support staff
- Appointment of the ombudsman be by the Mayor, subject to confirmation by the City Council
- The ombudsman serve an initial three-year term, subject to reappointment and reconfirmation for additional three-year terms
- The ombudsman may be removed for cause – including poor performance – upon approval of a majority of the city council

Intake of Complaints: Responsibilities and Authority

Intake is an often overlooked, but critical point in the complaint process, and one where an oversight office can add significant value. For many citizens, reporting complaints about police to the police is intimidating, and a real barrier. Creating reciprocal authority for the intake of complaints gives citizens a choice in forums. It also ensures direct, regular communication between internal affairs and the oversight office.

It is recommended that:

- IPO has authority to accept complaints about police conduct and performance from citizens, including city employees
- For complaints made directly to IPO, IPO may conduct initial intake sufficient to understand the nature of the complaint
- IPO notify SPD Internal Affairs of all complaints made to IPO and provide any and all supporting documentation
- IPO be notified of all complaints about police conduct and performance lodged with or referred to SPD Internal Affairs
- IPO maintain records of all complaints received through IPO and IA, whether or not those complaints were investigated, and provide appropriate communication to complainants
- IPO develop and distribute information regarding how to make complaints about police conduct

- IPO evaluate and report on the effectiveness of its intake program and procedures

Classification of Complaints: Responsibilities and Authority

Whether or not a complaint will be investigated, and if so, at what level, is another critical step in the investigative process. Though resolution at the lowest level possible is to be encouraged, it is important to ensure that serious allegations are treated accordingly. The input of external oversight into this decision-making process is an important step in advancing accountability.

It is recommended that:

- IPO review and comment on the system used by the Spokane Police Department to classify complaints
- IPO review and approve the classification of all complaints, whether the complaint was made to IPO or made or referred to SPD Internal Affairs
- SPD IA may classify a complaint at a higher level than that approved by IPO
- SPD IA may not classify a complaint at a lower level than that approved by IPO; however, if new information supports a lower classification, IA may ask IPO to approve a revised classification
- IPO establish alternatives to formal investigation, i.e., mediation
- IPO establish policies and procedures for the review and/or audit of the complaint resolution process at the line level within SPD, i.e., of complaints that are not made nor referred to SPD Internal Affairs
- IPO maintain records of classification decisions
- IPO develop and distribute information regarding how complaints are classified by Spokane IA and by IPO
- IPO evaluate and report on the effectiveness of the classification process

Investigation of Complaints: Responsibilities and Authority

The ability to actively monitor investigations, from the very beginning and continuing through the entire process, allows the opportunity to cure any deficiencies identified in specific investigations or in the process itself. In addition, by real-time involvement, monitoring brings more daylight into a traditionally closed process.

It is recommended that:

- Spokane IPO will actively monitor all SPD Internal Affairs investigations of incidents where the allegations, if sustained, could result in termination and/or referral to prosecuting authorities for consideration of criminal charges
- IPO may exercise discretionary authority to monitor any Spokane Internal Affairs investigation
- IPO will, prior to final findings and closure, review all completed internal investigations for thoroughness, fairness, compliance with policy, and for timeliness
- IPO may request additional follow-up or investigation, and may direct additional investigation on issues deemed material to the outcome
- If IPO cannot certify that an internal investigation is thorough, fair, and objective, IPO may conduct additional investigation and present its findings and any recommendations for discipline to the Chief of Police. In such cases, IPO will advise the Chief and Mayor of the reasons that the IPO could not certify the case and conducted its own investigation.
- Spokane IPO have unimpeded access to unredacted case information and all information related to investigations
- IPO may attend interviews of subject employees, witness employees, and other witnesses, and may ask the investigator to pursue lines of inquiry and/or specific questions
- IPO will maintain records of its monitoring and review of investigations
- IPO will develop and distribute information regarding how investigations are monitored and reviewed
- IPO will evaluate and report on the effectiveness of its monitor and review function

Adjudication of Complaints: Responsibilities and Authority

Citizens and officers are understandably focused on the outcome of their complaints. External review opens up the process and allows a non-police professional to look at situations and evidence with a different set of eyes. When that review is in real time, not after the fact, it makes a difference in the outcome of actual cases.

It is recommended that:

- Spokane IPO will be notified of the proposed disposition of all internal affairs investigations
- For cases with any proposed sustained findings, IPO will also be notified of the proposed discipline or other corrective action
- IPO will, prior to final disposition and closure, advise the Chief of any disagreement with the proposed disposition and/or the proposed discipline
- IPO will maintain records on and report concurrence or non-concurrence activity

Policy Review: Responsibilities and Authority

A too-narrow focus on investigation of complaints severely restricts the effectiveness of external review. Strong emphasis on policy review is necessary to improve the quality of policing. Routine review of all complaints and investigations positions the external reviewer to note recurring issues or trends that may be addressed through improvements in training, supervision, or policy.

It is recommended that:

- Spokane IPO reviews each investigation, regardless of finding, with an eye toward identifying issues of policy, training, or supervision.
- IPO keep statistics about complaints and investigations in a manner that permits identification, analysis, and reporting of recurring issues or trends.
- IPO forward substantive policy questions, issues, and recommendations to the Chief of Police.
- IPO maintain records of and report its policy recommendations.

Communication with Parties to the Complaint: Responsibilities and Authority

Being part of a complaint investigation process is stressful to both the complainant and the subject employee. Regular communication about the process and the status of the complaint is crucial. In fact, studies of complaint processes have shown that communication was a stronger indicator of satisfaction than a favorable outcome.

It is recommended that:

- Spokane IPO work with SPD to develop procedures for communication with complainants and subject employees about the status of their complaint.
- IPO ensure that complainants receive an explanation about how their complaint was classified, options available for alternatives to formal investigation, and a closing letter that describes the investigation, the findings, and the reasons therefore.
- IPO serve as a resource for complainants seeking information about the process of complaint investigation and/or about the status or outcome of their complaint.

Outreach: Responsibilities and Authority

“The starting point for an open and accessible complaint procedure involves a sincere effort to publicize the process and inform citizens about how to file a complaint.”³ Community outreach is a great way to educate the public about the existence of the oversight office, the complaint process, and about police policies and procedures. As, if not more, importantly, however, through dialogue the oversight office can learn from the community about its issues, concerns, and ideas for improving police-community relations.

It is recommended that:

- Spokane IPO conduct regular community outreach, i.e., via website, brochure distribution, presentations to organizations, community forums, media, and public reports
- IPO’s outreach program includes outreach to its internal stakeholders, SPD employees
- IPO evaluate and report on the effectiveness of its outreach program

³ Walker, New World of Police Accountability, p.75.

Other Duties: Responsibilities and Authority

Oversight maximizes its contribution to the community when it can demonstrate flexibility and responsiveness to emerging issues and events. Oversight should have sufficient latitude to request information, initiate inquiries, and serve as a resource to the community in significant incidents.

It is recommended that:

- Spokane IPO be timely advised by SPD of critical incidents⁴ and other significant events that impact police accountability and public perception thereof
- IPO respond to the scene of critical incidents to observe
- IPO may initiate inquiries and/or reviews of incidents, events, policies, and practices upon a showing of need and reasonable notice to the Department, and have unimpeded access to necessary records

Transparency and Confidentiality: Responsibilities and Authority

Review of complaints about police conduct has for too long been a closed, insular process. External oversight opens the door on that process by establishing a link with complainants, monitoring open complaint investigations, and regularly reporting all complaint activity to the public.

It is recommended that:

- Spokane IPO issue regular public reports, at least annually, on the complaint process, complaint and investigation statistics, and on its policy review and community outreach functions
- IPO also issue, at least once annually, a topical report(s) on current or emerging issues
- IPO establish policies for disclosure of IPO records and activities that is consistent with the public policy in favor of public disclosure, provided:
- IPO maintain strict confidentiality and protection from release of information that may identify complainants, witnesses, and employees

⁴ Critical incidents should include, at a minimum: officer-involved shootings; use of force resulting in death or serious bodily injury; in-custody deaths; and pursuits resulting in death or serious bodily injury.

OPTIONAL RECOMMENDATION

Citizen Advisory Panel

The priority need is to establish an independent police ombudsman office to put in place professional, meaningful and transparent review. A possible follow-up component, a citizens' advisory board, would be aimed at maximizing the role of citizen input.

Spokane may wish to create, fund, implement and operationalize the ombudsman office before moving forward with creation of an advisory board. However, in anticipation of an established office, the City should consider a second phase oversight enhancement.

The Citizens' Advisory Board would:

- Be composed of volunteer citizens appointed by council districts and who represent the diversity of the SPD service area
- Advise the Spokane IPO ombudsman
- Make recommendations to the IPO ombudsman regarding complaint investigation procedures and policies, procedures, and practices of the SPD; provided, that the Board would **not** review or advise on individual complaints, investigations, or disciplinary actions
- Request review, monitoring, or inquiry into specific incidents or issues
- Assist the ombudsman in community outreach and community education

APPENDIX A

COMMUNITY FORUM FLYER



SPOKANE POLICE DEPARTMENT

City Hall Council Chambers,
02/07/07 at 6 p.m.

Northeast Community Center
4001 N. Cook St.
02/13/07 at 6 p.m.

SPEAK UP!

The City of Spokane and the Spokane Police Department want your input into police accountability and citizen oversight of the police.

You are invited to attend one of two community forums:

- Wednesday, February 7 at 6 p.m. at the City Hall Council Chambers
- Tuesday, February 13 at 6 p.m. at the Northeast Community Center, 4001 N. Cook St.

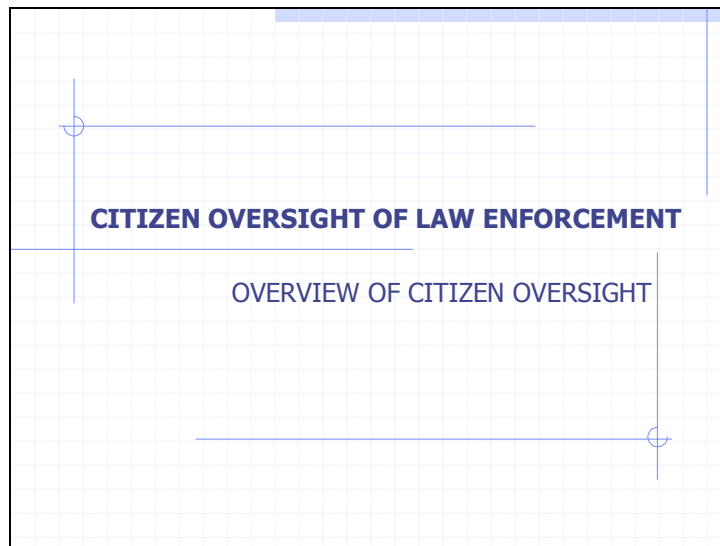
Presented by: Chief Kirkpatrick and Sam Pailca, Director of the Office of Professional Accountability for the Seattle Police Department



APPENDIX B

COMMUNITY FORUM PRESENTATION

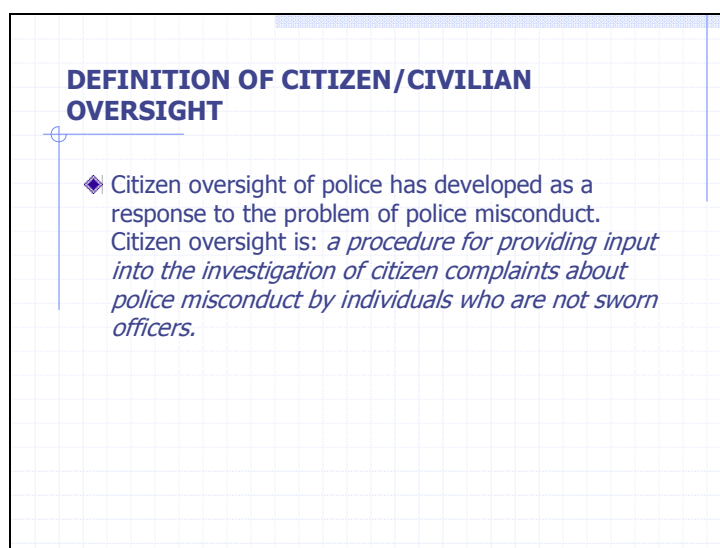
Slide 1



CITIZEN OVERSIGHT OF LAW ENFORCEMENT

OVERVIEW OF CITIZEN OVERSIGHT

Slide 2



DEFINITION OF CITIZEN/CIVILIAN OVERSIGHT

- ◆ Citizen oversight of police has developed as a response to the problem of police misconduct. Citizen oversight is: *a procedure for providing input into the investigation of citizen complaints about police misconduct by individuals who are not sworn officers.*

Slide 3

PREVALENCE OF CITIZEN OVERSIGHT

- ◆ In the past decade, the citizen oversight movement has achieved considerable success. Today, over 100 different citizen oversight agencies exist, covering law enforcement agencies that serve nearly one-third of the American population. About 80% of the nation's large cities have some form of citizen oversight.

Slide 4

FORMS OF CITIZEN OVERSIGHT

Review Boards or Commissions

- ◆ Most common type of oversight
- ◆ Investigates complaints, makes findings & recommendations to agency
- ◆ Prominent examples: San Francisco; New York; Washington D.C.

Slide 5

FORMS OF CITIZEN OVERSIGHT

Auditor/Monitor

- ◆ More recent development
- ◆ Typically does not investigate, instead monitors the department's internal processes
- ◆ Prominent examples: San Jose; Portland; Eugene

Slide 6

FORMS OF CITIZEN OVERSIGHT

Hybrid Models

- ◆ Characteristics include: ongoing monitor role; special topic audits; and regularly constituted advisory or review board
- ◆ Prominent examples: Seattle; Denver; Los Angeles County

Slide 7

FORMS OF CITIZEN OVERSIGHT

Common Issues

- ◆ IA function preserved
- ◆ Final authority of Chief preserved
- ◆ State and local laws affect bargaining obligations & access to public records

Slide 8

CITIZEN OVERSIGHT IN WASHINGTON STATE

King County

- ◆ King County Office of Citizen Complaints – Ombudsman
- ◆ Blue Ribbon Panel commissioned
- ◆ Council passed legislation creating a hybrid model, a monitor/auditor and civilian board
- ◆ County bargaining with KCPOG

Slide 9

CITIZEN OVERSIGHT IN WASHINGTON STATE

City of Tacoma

- ◆ Tacoma Human Rights Commission Proposal for Independent Auditor and Citizen Review Panel adopted by City Council and Mayor
- ◆ Implementation of new office halted
- ◆ City Manager set up website and internal review mechanism

Slide 10

CITIZEN OVERSIGHT IN WASHINGTON STATE

City of Seattle

- ◆ Office of Professional Accountability
- ◆ Created by council legislation passed in 1999
- ◆ Preserved an internal citizen complaint investigation function
- ◆ Multi-tier system of oversight:
 - Civilian Director
 - Part-time Auditor
 - Citizen Review Board

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CITIZEN OVERSIGHT IN WASHINGTON STATE

City of Spokane

◆ Members:

- Seven members (one retired judge; one selected by Guild; one selected by Lieutenants' & Captains'; four at large)
- Nominated by Mayor, appointed by Council; serve four year terms
- 16-hour training program in police & commission procedures plus one ride-along

Slide 12

CITIZEN OVERSIGHT IN WASHINGTON STATE

City of Spokane

◆ Duties:

- Monitor trends based on data based on instructions from public safety committee
- Review complaints alleging misconduct "brought forth" after processing by Chief
- Hold hearing in executive session
- Objective is to determine whether the Department's investigation was thorough and objective and/or whether new information was brought forward that should be considered by Chief

Slide 13

CITIZEN OVERSIGHT IN WASHINGTON STATE

City of Spokane

- ◆ Commission may not:
 - Be involved in disciplinary process nor change any disciplinary dispositions
 - Hear complaints regarding police procedure
 - Review complaints where Chief's determination was adverse to the officer

Slide 14

EVALUATING THE EFFECTIVENESS OF CITIZEN OVERSIGHT

Sustain Rate

- ◆ Least useful measure
- ◆ Difficult to compare across jurisdictions and over time
- ◆ Watch for high % of "unfounded" complaints

**EVALUATING THE EFFECTIVENESS OF
CITIZEN OVERSIGHT**

Independence

- ◆ External versus internal
- ◆ Structural
- ◆ Review of reports
- ◆ Insulation from political pressure/change
- ◆ Law enforcement participation

**EVALUATING THE EFFECTIVENESS OF
CITIZEN OVERSIGHT**

Authority

- ◆ Extent of authority and powers
- ◆ Access to chief
- ◆ Intake
- ◆ Classification
- ◆ Investigation
- ◆ Findings/Recommendations
- ◆ Response to Critical Incidents
- ◆ Special inquiries/reviews

Slide 17

**EVALUATING THE EFFECTIVENESS OF
CITIZEN OVERSIGHT**

Active Policy Review Function

- ◆ Of citizen complaint process
- ◆ Of professional standards, policies and procedures
- ◆ Of training and supervision

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**EVALUATING THE EFFECTIVENESS OF
CITIZEN OVERSIGHT**

Community Outreach

- ◆ Comprehensive outreach program, including outreach to communities of color and communities with limited-English proficiency
- ◆ Regular outreach to department

Slide 19

**EVALUATING THE EFFECTIVENESS OF
CITIZEN OVERSIGHT**

**Alternatives to Traditional Complaint
Investigation**

- ◆ Triage
- ◆ Supervisory resolution
- ◆ Mediation

Slide 20

**EVALUATING THE EFFECTIVENESS OF
CITIZEN OVERSIGHT**

Transparency

- ◆ Regular reports
- ◆ Information gathering and analysis
- ◆ Reports identify issues and trends, not just statistics

Slide 21

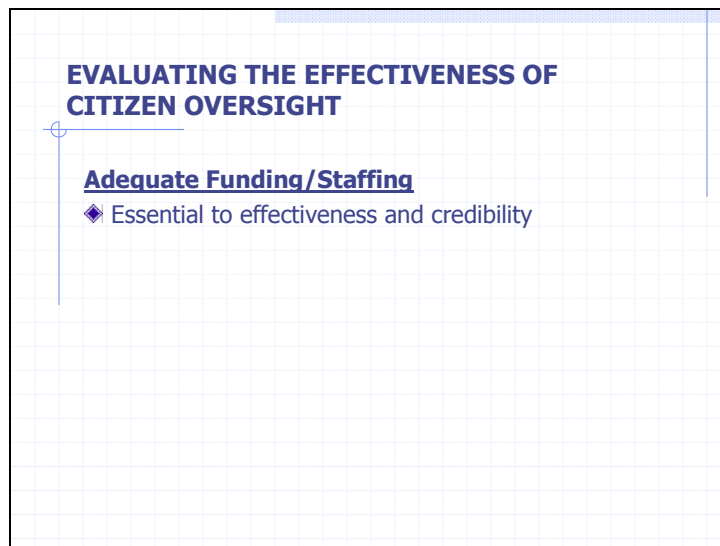
A rectangular box with a black border and a light blue grid background. The text is in dark blue. At the top, the title 'EVALUATING THE EFFECTIVENESS OF CITIZEN OVERSIGHT' is centered. Below it, the sub-header 'Political Support' is underlined. Two bullet points, each with a diamond icon, follow: 'Regular briefings' and 'Vocal, visible support'.

**EVALUATING THE EFFECTIVENESS OF
CITIZEN OVERSIGHT**

Political Support

- ◆ Regular briefings
- ◆ Vocal, visible support

Slide 22

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**EVALUATING THE EFFECTIVENESS OF
CITIZEN OVERSIGHT**

Adequate Funding/Staffing

- ◆ Essential to effectiveness and credibility

THE PROMISE AND LIMITATIONS OF CITIZEN OVERSIGHT

What Citizen Oversight CAN do

- ◆ Provide a fresh perspective
- ◆ Serve as a deterrent to misconduct
- ◆ Hold department and officers accountable
- ◆ Identify patterns and problems in policies, supervision, or training
- ◆ Keep a record
- ◆ Help build public trust through outreach and transparency
- ◆ Offer alternatives to complaint investigation
- ◆ Minimize risk exposure of department

THE PROMISE AND LIMITATIONS OF CITIZEN OVERSIGHT

What Citizen Oversight CANNOT Do

- ◆ Solve the “proof” problem
- ◆ Circumvent due process for police officers
- ◆ Limit officer discretion
- ◆ Substitute for the judicial system