

## Attachment to Tim Connor's June 25th letter

Coalition's proposed Changes/Amendments to Council OPO Ordinance 6/21/10 version.

[The proposed changes are underscored in blue type. Explanations for the proposed changes are in italics/brown type.]

### Section (1) SMC 4.32.020, Definitions

B. "Complainant" means any person who files a complaint against any employee of the Spokane Police Department, including the Office of the Chief, the command staff, and line officers.

*Reasoning: This clarifies that the conduct of all police personnel come under the purview of the OPO's duties and responsibilities.*

### Section (2) SMC 4.32.030, Functions and Duties

B. [The OPO's Duties to Independently Address Complaints]

The OPO shall receive complaints from any complaining party, including without limitation citizens or employees of the police department. Upon receipt of the complaint the OPO shall review the documented account of the complaint with the complainant and confirm its accuracy by signature prior to the OPO proceeding with an inquiry and prior to sharing a copy of the complaint with the Spokane Police Department's Internal Affairs unit (IA). After the complaint is formally registered, the OPO shall take as much time as required to interview the complainant and any non-member witnesses and determine facts and circumstances as necessary to create a closing report, subject to section N of this ordinance. The OPO will forward all registered complaints to the police department's IA unit within three days for processing and, when appropriate, investigation. The OPO will not conduct independent disciplinary or criminal investigations, but shall participate in interviews as provided herein. Except for the purposes described in section O of this ordinance, the OPO will not receive or act upon complaints related to events that would have occurred more than two years prior to the filing of the complaint.

**Reasoning:** *The coalition very much appreciates the intent of this section, in that it creates the path forward toward a credible and truly independent Ombudsman office that is capable of earning and sustaining public trust. It squares nicely with Sam Pailca's 2007 recommendations and fulfills a major public policy goal that our coalition has embraced.*

- *The rationale for having a complainant sign off on the substantive record of his/her complaint should be obvious.*

- *While we don't think it was the council's intent to limit the OPO's interviewing and fact gathering process to the three days prior to forwarding the complaint to SPD-IA, there's a clear benefit it making that clear.*

- *Especially given the delays in adopting those features of this ordinance that accord the OPO genuine independence from the SPD, we would prefer a two-year window rather than a one year limitation for the filing of complaints.*

#### D. [The OPO and Mediation]

After the complaint is received and classified by SPD Internal Affairs, the OPO will have the opportunity to make a recommendation to the Chief of Police prior to investigation. In the event the department, the complainant, and the officer all agree to mediation, that process will be utilized rather than sending the matter on for investigation, provided:

a) The complainant is fully briefed on the provisions of this paragraph, including but not limited to the provisions affecting officer discipline, and the complainant signs a letter of informed consent describing the mediation process, including but not limited to a description of how mediation affects officer discipline.

b) Consistent with definition 4.32.020 (K) complaints involving "a serious matter," such as the alleged use of inappropriate force, will not be subject to mediation.

c Mediation will not be considered in instances where the officer(s) have a history of founded complaints involving inappropriate use of force.

d) The Ombudsman will not serve as the mediator.

[No additional changes to this section]

**Reasoning:** *The coalition is concerned that complainants seeking police accountability not be pressured into submitting serious complaints of officer misconduct to mediation. When mediation is appropriate, a qualified, professional mediator should be used.*

E. [OPO's Role in Selecting Complaints for IA investigation]

Once any complaint is received by the internal affairs unit, either directly from a citizen or forwarded by the OPO to IA, it shall be submitted to the chain of command for review per existing police department policy. When either the chief or the chief's designee or the OPO determines that the allegations warrant investigation, such investigation shall be approved, and the IA will initiate the investigative process.

**Reasoning:** *While the coalition does not have a resolute position on how deeply the OPO should be involved in the IA process, the practical problem is that (absent changes in state law or the collective bargaining agreement with the police guild) the IA investigation is the **only** opportunity via which the OPO can have access to SPD officers named in complaints. It's in the community's best interests and the SPD's best interests, to allow the OPO access to officer accounts of the events at issue in complaints. To remove the OPO's power to compel an IA investigation into a complaint results in a default condition--which we don't think the council intends-- wherein the SPD controls whether or not the OPO has access to police officers' interviews about the events in question. For this reason, we strongly recommend this language be restored.*

F. [OPO Role in Officer Interviews]

Internal Affairs shall notify the OPO in a timely manner of all interviews on all complaints of a serious matter (complaints that could lead to suspension, demotion, or discharge).[\[It is not necessary to include the clause: "and all complaints originating at the OPO.\]](#) The OPO shall attend and observe interviews and shall be given the opportunity to ask questions after the completion of questioning by the department.

***Reasoning:*** *The coalition strongly recommends that the OPO be required to attend officer interviews regarding complaints.*

R. [Process on OPO rules and procedures.]

[The OPO shall propose to the city council rules and procedures necessary for the timely and effective discharge of the OPO's duties....](#)

***Reasoning:*** *The coalition simply believes the city council should consider and take public testimony on these rules prior to their adoption by the city council.*