

Police Oversight Ordinance Clarifying Duty of Independent Investigation that Does Not Infringe on Collective Bargaining Rights.

Whereas, the City of Spokane Chief of Police commissioned an expert report on police oversight to prepare written recommendations for a new model of Police Oversight in Spokane Washington. This model, developed by Sam Pailca, was released in April 2007 and recommended that the City create an Office of Police Ombudsman that had non-disciplinary independent investigatory authority;

Whereas, the City of Spokane's Chief of Police and Mayor endorsed the new model for police oversight in a written press release on April 23, 2007;

Whereas, the Washington Supreme Court in *IAFF Local 1052 V. PERC*, **113 Wn.2d 197, 200 (1989)**, clearly recognized that the scope of mandatory bargaining under Washington law is "limited to matters of direct concern to employees" **such as wages, hours, and working conditions**, and does not include managerial activities or decisions "that only remotely affect 'personnel matters.'"

Whereas, no Washington Court has **held** that non-disciplinary independent investigatory police oversight is subject to collective bargaining;

Whereas, the Washington's Public Employee Relations Commission has never ruled that non-disciplinary independent investigatory police oversight is subject to collective bargaining;

"Whereas, the Washington Public Employment Relations Commission recently ruled that because Seattle's Office of Professional Accountability Review Board (OPARB) lacks disciplinary authority, OPARB's review powers do not impact any term or condition of law enforcement officers' employment that would require collective bargaining."

Whereas, the Spokane Office of Police Ombudsman lacks the authority to discipline or recommend that any officer be disciplined;

Whereas, City of Spokane's current Ordinance authorizing police oversight does not preclude independent investigations;

Whereas, the power of independent investigation has been shown to increase the effectiveness of police oversight, including fewer and lower claims paid and improved relations between the police and the citizens that employ them in other cities, including Boise, Idaho;

Whereas, the Spokane City Council unanimously approved a resolution requesting that the Mayor seek inclusion of independent investigation for the Office of Police Ombudsman in negotiations for an upcoming labor agreement;

applicable legal standards, City of Spokane policies and/or best law enforcement practices as determined by the Office of Police Ombudsman.

The Office of Police Ombudsman's recommendations in each final report shall include specific recommendations for changes, if applicable, in employee conduct, city ordinances, law enforcement policies, procedures and/or training. Recommendations that are likely to prevent or minimize future complaints shall be included in every Final Report even when the facts alleged in a complaint have not been sufficiently proven to establish a departure from applicable legal standards, City of Spokane policies or best law enforcement practices.

Each Final Report from the Office of Police Ombudsman shall be considered a public record except that in regards to all persons referenced in the Final Report, their names, contact information, addresses, telephone numbers, employee identification numbers and similar identifying information shall be redacted unless the individual has provided written permission or the redacted information is considered a public record under otherwise applicable federal or state law. The inclusion of dates, locations other than street or mailing addresses, and/or description of the events shall not be considered identifying information subject to redaction.

The sole purpose of the Final Reports issued by the Office of Police Ombudsman is to provide information to the City of Spokane and its citizens that can be used to improve the delivery of law enforcement services in Spokane. Any Final Report or portion of a Final Report issued by the Office of Police Ombudsman shall not be used in any disciplinary, criminal, or civil legal proceeding either to prove or defend against any allegation made in that proceeding. Nothing in this provision shall be used to prohibit the use of evidence or testimony in any other proceeding that was obtained independently of the Office of Police Ombudsman.

The Office of Police Ombudsman may engage in any investigatory activities necessary to prepare a Final Report that is not precluded by city, state or federal law. However, the Office of Police Ombudsman may not compel testimony of City of Spokane employees who are subject to a collective bargaining agreement without a provision in the collective bargaining agreement authorizing such compulsion or an order by a court of competent jurisdiction.