

## EMAIL to OFFICE HOLDER/CANDIDATE

The following organizations and individuals are writing, with some urgency, to request your signature on the attached pledge. By signing the pledge, you will be committing to us and the public that you will only support a new collective bargaining agreement with the Spokane Police Guild that includes the following guarantees of independence for the Office of Police Ombudsman.

- 1) The authority to conduct investigations independent of the Spokane Police Department's Internal Affairs office.
- 2) The authority to create and distribute "closing reports" on OPO investigations into citizen complaints against police officers.
- 3) A reform of the Ombudsman selection process that removes the Police Guild's inappropriate control over the selection of candidates and, instead, gives the Mayor the unfettered authority to nominate candidates for the office directly to the City Council.

Please respond no later than 5 p.m., October 31st as we plan, on Tuesday November 1st, to make public via media release and direct reporting to public organizations/outlets the list of office holders and candidates for office who've signed/endorsed the attached pledge, and those who have not.

## PLEDGE

I \_\_\_\_\_, hereby pledge that if I am serving as Mayor or as a member of the Spokane City Council, I will only vote to approve a new contract with the Spokane Police Guild that includes the following provisions regarding the Spokane Office of Police Ombudsman (OPO).

- 1) Support/consent from the Guild for independent investigations into complaints about police conduct received by the OPO or by the Spokane Police Department.
- 2) Support/consent from the Guild for independent reporting by the OPO, including independent "closing report" into complaints received by the OPO or by the Spokane Police Department.
- 3) Reform of the Ombudsman selection process [currently contained in SMC 04.32.080] so that the Mayor is free to nominate any qualified person of his/her choice for council approval.

\*By independent investigations we mean that the Ombudsman should have access to police officers/officials during Internal Affairs investigations into citizen complaints, and have unrestricted access to the complainant and all potential third party witnesses. With the exception of police officers, the Ombudsman shall not be required to seek the police department's consent/approval to interview witnesses.

## ISSUE BACKGROUND PAPER

On Monday October 10th, the Spokane City Council took the extraordinary step--counter to ALL the citizen testimony it received at its August 22nd, September 26th and the October 10th council meetings--of voting to repeal the 2010 City ordinance that empowered the Spokane Office of Police Ombudsman to conduct independent investigations and prepare case "closing" reports on investigations into citizen complaints.

The repeal of the Ordinance (C-34609) was a devastating setback to the City's efforts—dating back nearly five years--to put in place a credible office of police oversight. Ironically, it came less than 48 hours before an as-yet undisciplined Spokane police officer, Karl F. Thompson, Jr., went on trial for charges of excessive force and lying to investigators about a March 2006 arrest that resulted in the death of an innocent man.

The Council's October 10th vote was a direct consequence of the City's inability to successfully defend the 2010 ordinance that passed the council unanimously. As Spokane attorney Breean Beggs testified on September 26th of this year, the 2010 ordinance was written with input from Beggs and the Center for Justice law firm so that it could withstand an expected unfair labor practice (ULP) complaint from the Spokane Police Guild. (The Guild has consistently opposed independent oversight of the department.)

For reasons that have yet to be publicly explained, however, the City made a decision not to defend the Guild's challenge as a ULP before the state's Public Employment Relations Commission (PERC), but to defend it, instead, as a contract dispute in a closed arbitration proceeding. The City was ultimately censured by a PERC official, David Gedrose, for misleading PERC about the nature of the dispute in order to obtain access to arbitration. In any event, the arbitration effort led to a finding in favor of the Guild and an order from the arbitrator to repeal the 2010 ordinance. Relief requested from the PERC was denied, with prejudice, given Gedrose's determination that the City had only itself to blame for not receiving a fair hearing, before the PERC, on the legal merits of the ordinance.

The City's egregious mishandling of the defense of the ordinance resulted in the ordinance not receiving a hearing before PERC on the central legal dispute: namely, was the City required to bargain with the Guild over the non-disciplinary changes in the 2010 ordinance, or was the City duly exercising its managerial discretion under the state's labor relations law? Rather than appeal to Superior Court, the city council voted 5-2 on October 10 to repeal the 2010 ordinance and take its chances with the Spokane Police Guild. The council did so with the majority publicly expressing the hope that the Guild would now be willing to do what it was unwilling to do in 2008 and 2009--agree to independent investigations and reporting by the Office of Police Ombudsman.

Spokane Mayor Mary Verner, according to the Spokesman-Review [<http://www.spokesman.com/stories/2011/oct/11/council-limits-police-reviews/>] indicated the Guild would not be open to negotiating changes to the Ombudsman's powers unless the city council voted to repeal the 2010 ordinance that added the powers sought by the City.

The repeal of the ordinance is a setback not just for the citizens who worked long and hard to persuade the city council to unanimously adopt the 2010 ordinance. It's also a major setback for the public and for City government itself.

In April 2007, consultant Sam Pailca's report--"Recommendations for Police Oversight: A New and Balanced Approach"--was enthusiastically received by Spokane's elected leaders and its new police chief, Anne Kirkpatrick.

[[http://www.spokesmanreview.com/tools/story\\_pf.asp?ID=186196](http://www.spokesmanreview.com/tools/story_pf.asp?ID=186196)]

As noted in her report, Pailca's recommendations for reform grew out of an extensive dialogue with stakeholders including members of the public, public interest organizations, and the Spokane Police Guild. Regrettably, her recommendations regarding the independence of the Ombudsman were substantially weakened in a privately negotiated agreement between the then-new Mayor, Mary Verner, and the Police Guild.

[<http://www.spokesmanreview.com/breaking/story.asp?ID=14477>]. No explanation was ever offered by the Mayor as to why Pailca's recommendations regarding the independence of the office were set aside. The closed-door agreement with the Guild gave the Office of Police Ombudsman no independent investigative authority on citizen complaints and, as Beggs and other critics pointed out at the time, it also replaced the selection process recommended by Pailca with one in which the Police Guild was given tight control (verging on veto authority) over the candidates eligible to be considered for the post.

As a consequence of the repeal of the 2010 ordinance, the City is back to the deeply-flawed 2008 ordinance which defies the basic expectations of Spokane citizens (as expressed in Pailca's 2007 report), and does not comply with the Code of Ethics for police oversight promulgated by the National Association for the Civilian Oversight of Law Enforcement (NACOLE).

Regarding the vote on October 10th, the explanation by the council majority for why they voted to repeal the 2010 ordinance—rather than go to court to try to defend it—is that negotiations with the Guild for a new contract are the quickest and most reliable means to secure true independence for the OPO. We are thus asking the current members of the council, and candidates running for council and mayor, to sign the attached pledge to only support and cast votes to approve a new contract with the Guild that provides clear authority for the Ombudsman to conduct independent investigations and issue independent reports on citizen complaints.

Moreover, the pledge includes a commitment to remove from the Guild contract, and remove from the 2008 OPO ordinance, the Ombudsman selection process that gives Guild representatives a disproportionate role in choosing the person who is responsible to the public for reviewing citizen complaints about alleged police misconduct. The current selection process is unfair to citizens who have every reason to expect that the police should not be in the position to select the person who will oversee police conduct, and whose duties include the unbiased mediation of complaints regarding allegations of police misconduct.

We are asking current members of the council, the Mayor, and all candidates for City elected offices to sign the pledge as soon as possible. We will announce who has signed, and who hasn't, on November 1st.

Sincerely,

Community Building Foundation  
Destinations  
Envision Spokane  
PJALS

Spokane PFLAG  
Spokane Progressive Democrats of America  
The LGBT Center  
VOICES

Amanda Hunt  
Bart Mihailovich  
Bob Rosen  
Ed Byrnes  
Ginger Kelsh  
Hollis Higgins  
Jeffrey Carroll  
Jennifer Slattery  
Kitty Klitzke  
Linda Krogh  
Liz Moore  
Marianne Torres  
Morton Alexander  
Paige Kenney  
Rick Eichstaedt  
Tim Connor