

ORDINANCE No.

115975

COUNCIL BILL No.

108899

AN ORDINANCE related to the Police Department;
creating an independent auditor to review and
assess Internal Investigations Section
investigations of police misconduct com-
plaints; and adding a new Subchapter (VII)
to Chapter 3.28 of the Seattle Municipal
Code.

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COMPTROLLER FILE No.

Introduced: 11-18-91	By: Sibonga
Referred: 11-18-91	To: Budget
Referred:	To: Public Safety
Referred:	To:
Reported: DEC 9 1991	Second Reading: DEC 9 1991
Third Reading: DEC 9 1991	Signed: DEC 9 1991
Presented to Mayor: DEC 10 1991	Approved: DEC 17 1991
Returned to City Clerk: DEC 18 1991	Published:
Vetoed by Mayor:	Veto Published:
Passed over Veto:	Veto Sustained:

US5047

The City of

Honorable President:

Your Committee on

to which was referred the within Council Bill
report that we have considered the same

Passed

Vote

Full Council

The City of Seattle--Legislative Department

REPORT OF COMMITTEE

Date Reported
and Adopted

President:

Committee on

was referred the within Council Bill No.

that we have considered the same and respectfully recommend that the same:

PASSED PSEE Committee 12/6/91

VOTE 1-0 ; Chow, Smith Absent

Full Council vote 5-4 Chow, Donaldson, Street, Wicks

Committee Chair

ORDINANCE 115975

AN ORDINANCE relating to the Police Department; creating an independent auditor to review and assess Internal Investigations Section investigations of police misconduct complaints; and adding a new Subchapter (VII) to Chapter 3.28 of the Seattle Municipal Code.

WHEREAS, public confidence in the internal investigations process of the Seattle Police Department will be enhanced by establishing an independent review process, and the creation of an independent auditor with authority to review and assess investigations conducted by the Internal Investigations Section will enhance the credibility of the IIS process, Now, Therefore,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. There is added to Chapter 3.28 of the Seattle Municipal Code a new Subsection VII, entitled "Internal Investigations Auditor," with the following sections:

3.28.600 Auditor Created; Purpose

There is created an Internal Investigations Auditor (hereinafter "Auditor") with authority to review and assess investigations conducted by the Internal Investigations Section (or "IIS") of the Police Department; to establish the independent review of the Internal Investigations Section 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 internal investigations process. The Auditor shall not participate in the management of the day-to-day functions of the Department, which are the responsibility of the Chief of Police.

3.28.610 Definitions

As used in this Subchapter, the following definitions apply:

1
2 A. "Contact Log" is a record of a complaint or referral to
3 the Internal Investigation Section not assigned for a full IIS
4 Investigation or Line Referral Investigation.

5 B. "Internal Investigations Section" means the section, or
6 any successor section or unit, of the Department responsible
7 for investigating complaints of misconduct by Department
8 employees.

9 C. "IIS Investigation" refers to a complaint assigned to
10 Internal Investigations Section investigators for
11 investigation.

12 D. "Line Referral Investigations" refers to those complaints
13 reviewed by the Internal Investigations Lieutenant and
14 referred to the subject officer's chain of command for
15 investigation.

16 3.28.620 Appointment of the Auditor

17 A. The Mayor shall appoint an Auditor, subject to
18 confirmation by the City Council, to provide review and
19 assessment of the investigation of Internal Investigations
20 complaints. The Auditor shall serve a term of two (2) years
21 and may be reappointed to one subsequent two year term by the
22 Mayor, subject to confirmation by the City Council. No
23 individual may serve more than two terms as Auditor. The
24 Auditor may be removed from office for cause by the Mayor by
25 filing a statement of reasons for removal with the City
26 Council. The Auditor shall be compensated as provided by
27 ordinance or by appropriation in the City's annual budget.

28 B. The 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;

1
2 2. A commitment to and knowledge of the need for
3 and responsibilities of law enforcement, as well as the
4 need to protect basic constitutional rights of all
5 affected parties;

6 3. A commitment to the statement of purpose and
7 policies in this chapter;

8 4. A history of demonstrated leadership experience
9 and ability;

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

13 6. The ability to work effectively with the Mayor,
14 City Council, City Attorney, Chief of the Department,
15 departmental personnel, public agencies, private
16 organizations, and citizens;

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

19 8. The ability to work effectively under pressure.

20 C. In addition to the qualifications and characteristics set
21 forth in subsection B hereinabove, the Auditor shall possess
22 the following qualification: the Auditor must be a graduate
23 of an accredited law school and member in good standing of the
24 Washington State Bar Association and, prior to appointment,
25 have at least 5 years of experience in the practice of law or
26 in a judicially related field.

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

3.28.630 Audit Procedures and Standards

A. Audit of All Investigations of Complaints of Unnecessary
or Excessive Force.

1 The Auditor shall audit all completed Internal Investigations
2 case files involving complaints of unnecessary or excessive
3 force. Before a case file involving a complaint of
4 unnecessary or excessive force is referred to the subject
5 officer's chain of command for review and recommendations, and
6 no more than three (3) business days after the Internal
7 Investigations Section has completed its investigation, the
8 Department shall forward a complete copy of the file to the
9 Auditor.

10 **B. Random Audit of Investigations of Complaints Not Involving
Unnecessary or Excessive Force Allegations.**

11 Each calendar year, the Auditor shall audit on a random basis
12 approximately twenty percent (20%) of the completed Internal
13 Investigations case files involving complaints other than
14 those involving unnecessary or excessive force. The
15 Department shall notify the Auditor of the completion of case
16 files on a weekly basis. The case file shall be forwarded to
17 the subject officer's chain of command for review and
18 recommendations, if, within ~~three (3)~~ ten (10) business days
19 of notification of completion, the Auditor has not advised the
20 Department s/he will audit the investigation. The Auditor may
21 audit a completed case file after referral to the subject
22 employee's chain of command; provided, however, in such
23 instance the Auditor shall not request follow-up
24 investigation.

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

C. Auditor May Request Further Investigation.

1 The Auditor shall use best efforts to complete audits under
2 subsections A and B hereinabove without unreasonably delaying
3 review of the case file by the subject officer's chain of
4 command. After reviewing the file, the Auditor may request
5 the Internal Investigations Section, through the Chief of
6 Police, to conduct further investigation. The Auditor shall
7 provide a written statement to the Chief of Police identifying
8 the reasons for his/her request for a follow-up investigation.
9 Criteria the Auditor should consider includes but is not
10 limited to: (1) whether witnesses were contacted and evidence
11 collected; (2) whether interviews were conducted on a thorough
12 basis; and (3) whether applicable IIS procedures were
13 followed. In the event the Chief of Police disagrees with
14 this recommendation, he or she shall within 5 days provide the
15 Auditor with a written statement of the grounds for this
16 decision.

17 **D. Secure Temporary Space.**

18 The Department shall, upon request of the Auditor, provide
19 secure temporary space for the Auditor to conduct the audits
20 close to the records to be reviewed.

21 **E. Monthly Review of Contact Log and Complaint Records.**

22 The Auditor shall review the Internal Investigations Contact
23 Log and Internal Investigations Complaint Records at least
24 monthly. If, after reviewing the Internal Investigations
25 Contact Log and Internal Investigations Complaint Records, the
26 Auditor believes that a Contact Log complaint should be
27 investigated further, or that a case that has been designated
28 for a Line Referral should receive a full investigation by the
Internal Investigations Section, the Auditor may request the
Internal Investigations Section, through the Chief of Police,
to conduct a full investigation. The Auditor shall provide a
written statement to the Chief of Police identifying the

1 reasons for his/her request for a full investigation. The
2 Chief of Police, or his/her designee, shall consult with the
3 Auditor regarding the Auditor's request, and shall promptly
4 advise the Auditor of the investigative action s/he intends to
5 take.

6 **F. Auditor's Access to Records; Restriction on Access When**
7 **Criminal Investigation Pending; Return of Records.**

8 1. The Auditor shall have access to all Internal
9 Investigations Section files and records, including but not
10 limited to: Internal Investigation files, line review reports
11 and files, and Internal Investigations contact logs, provided,
12 however, the Auditor shall not have access to files designated
13 by the Internal Investigations Section as relating to an
14 active criminal investigation of an officer until such time as
15 the Department has given the subject officer written
16 notification of the investigation. The IIS Commander shall
17 provide the Auditor with quarterly status reports regarding
18 IIS cases in which criminal investigations are also being
19 undertaken. These status reports shall include the number of
20 ongoing IIS criminal investigations and the month during which
each investigation was originated, and the number of new
criminal investigations initiated that quarter.

21 2. Internal Investigations Section files and records
22 made available to the Auditor are the property of the Police
23 Department and shall not, by operation of this ordinance,
24 become the property of the Auditor. The Auditor shall make
25 every reasonable effort to maintain the security of files
26 belonging to the Department while the files are in the
27 Auditor's possession. Any requests made to the Auditor for
28 IIS files or records, whether through litigation discovery or
pursuant to public disclosure, shall be referred to the Chief
of Police for response.

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2 3. Upon completion of an audit, the Auditor shall return
3 to the Internal Investigations Section all section files,
4 reports, and records to which s/he has been provided access
5 pursuant to these audit procedures and standards. Following
6 completion of an audit, the Auditor may, however, continue to
7 have access to closed IIS files.

8 **G. Auditor Access to Caseload, Workload and Procedural**
9 **Information.**

10 The Auditor is authorized to request any information on
11 Internal Investigations cases, workload, or procedures that
12 s/he finds necessary in order to conduct an ongoing analysis
13 of the Department's Internal Investigations process. The
14 Department shall make every reasonable effort to comply with
15 the Auditor's requests.

16 3.28.640 Auditor to Prepare Semi-Annual Report.

17 The Auditor shall prepare an semi-annual report of
18 his/her audit activities. This report shall be forwarded to
19 the Mayor, City Council, Chief of Police, City Attorney, and
20 City Comptroller for filing as a public record. The Auditor's
21 report shall be prepared in accordance with the following
22 provisions:

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

- 26 1. the number of cases reviewed by the
27 Auditor;
- 28 2. the number of follow-up investigations
requested by the Auditor, and 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 Auditor recommended that full investigations take place, and 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 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; and
6. any recommendations the Department consider policy or procedural changes.

B. The 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 specific employees, police officers, or citizens.

C. The Auditor shall deliver a preliminary draft of his/her semi-annual 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 Auditor shall submit the final report within thirty (30) days after receipt of the Chief's comments. The Auditor's final report shall

1 be submitted no later than the 30th days of April and
2 October of each year.

3 D. The Chief of Police shall forward to the Mayor,
4 City Council, City Attorney, and the City Comptroller
5 within twenty (20) working days of receipt of the
6 Auditor's final report the Chief's written comments on
7 the report.

8 3.28.650 Auditor to Meet with Mayor, City Council, and
9 Chief of Police.

10 The Auditor shall meet periodically with the Mayor, City
11 Council, and the Chief of Police regarding recommendations to
12 improve the IIS investigative process within the framework of
13 applicable law and labor agreements.

14 3.28.660 Confidentiality of Files and Records.

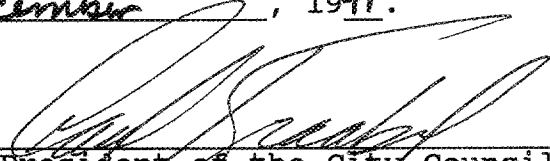
15 In discharging his or her responsibilities, the Auditor
16 shall protect the confidentiality of Department files and
17 records to which s/he has been provided access in the same
18 manner and to the same degree as s/he would be obligated to
19 protect attorney-client privileged materials under legal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

26 Section 2. Any act consistent with the authority and
27 prior to the effective date of this ordinance is hereby
28 ratified and confirmed.

Section 3. Within eighteen (18) months of its effective
date, the Mayor shall submit an evaluation of this ordinance
to the City Council.

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2 Section 34. The provisions of this ordinance are
3 declared to be separate and severable. The invalidity of any
4 clause, sentence, paragraph, subdivision, section or portion
5 of this ordinance, or the invalidity of the application
6 thereof to any person or circumstance shall not affect the
7 validity of the remainder of this ordinance or the validity of
8 its application to other persons or circumstances.
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2 Passed by the City Council the 9th day of December
3 1991 and signed by me in open session in authentication of its
4 passage this 9th day of December, 1991.

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6 
President of the City Council

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8 Approved by me this 17th day of December, 1991.

9
10 
Mayor

11
12 Filed by me this 18th day of December, 1991.

13
14 ATTEST: 
City Comptroller and City Clerk

15
16 BY: 
Deputy Clerk

17
18 (SEAL)

19 Published _____

Brief Description of Legislation Creating an Auditor for Internal Investigations

Purpose of Legislation: To enhance the Police Department's internal review process, to establish an ongoing independent evaluation of the IIS process, and to ensure that fair, objective, and impartial investigations take place.

Method of Appointment: The Auditor will be appointed by the Mayor and confirmed by the Council. S/he will serve a two-year term and may be appointed for one additional term, subject to confirmation by the Council.

Qualifications of the Auditor: The Auditor must be able to work effectively with elected officials and departmental employees, the public, and complainants. The Auditor must be an attorney with five years of experience. All nominees will be subject to background checks.

Funding for the Position: Funding for the Auditor, who will be on contract through the Mayor's Office, will be included in the Mayor's 1992 proposed budget.

Responsibilities of the Auditor- The Auditor will:

- audit all completed IIS files involving complaints of unnecessary or excessive force.
- audit other completed IIS case files at his/her discretion, with no fewer than four such unscheduled reviews per year.
- have the authority to request that the Police Department conduct any necessary follow-up investigations before an audited case is forwarded to the subject officer's chain of command for recommendations for disciplinary action.
- review the IIS Contact Log (a log of all complaints referred to SPD that IIS has chosen not to investigate) and IIS Complaint Records (a log of all cases currently under investigation by IIS) monthly. The Auditor can request IIS to conduct a more in-depth investigation of a complaint that has been relegated to the Contact Log or referred to the subject officer's supervisor for a line review.
- have the authority to review any completed IIS case, but can request follow-up investigations only for those cases which s/he has reviewed before they have been forwarded through the chain of command for recommendations for disciplinary action.
- have the authority to request information regarding IIS cases, workload, or procedures that s/he finds necessary to conduct ongoing analysis of the IIS process.
- prepare an annual report of his/her audit activities. The report shall include: the number of cases s/he reviewed; the number of follow-up investigations requested and completed; the number of contact log or line referral cases where the Auditor recommended full investigations take place; any recommendations for procedural or policy changes; recommendations for ongoing training; and a summary of issues, problems, and trends noted by the Auditor.
- meet periodically with the Council, the Chief, and the Mayor regarding recommendations to improve the IIS process.

12274
City of Seattle

STATE OF WASHINGTON - KING COUNTY

—ss.

No.

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

ORD: 115975

was published on
12/30/91

The amount of the fee charged for the foregoing publication is the sum of \$ _____, which amount has been paid in full.

R. Kelly
12/30/91 Subscribed and sworn to before me on

Jennifer L. Nicholson
Notary Public for the State of Washington,
residing in Seattle

City of Seattle

ORDINANCE 115975

AN ORDINANCE relating to the Police Department; creating an independent auditor to review and assess internal investigations section investigations of police misconduct complaints; and adding a new Subchapter (VII) to Chapter 3.28 of the Seattle Municipal Code.

WHEREAS, public confidence in the internal investigations process of the Seattle Police Department will be enhanced by establishing an independent review process, and the creation of an independent auditor with authority to review and assess investigations conducted by the internal investigations section will enhance the credibility of the IIS process. Now, Therefore,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. There is added to Chapter 3.28 of the Seattle Municipal Code a new Subsection VII, entitled "Internal Investigations Auditor," with the following sections:

3.28.080 Auditor Created; Purpose

There is created an Internal Investigations Auditor (hereinafter "Auditor") with authority to review and assess investigations conducted by the Internal Investigations Section (or "IIS") of the Police Department; to establish the independent review of the Internal Investigations Section 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 internal investigations process. The Auditor shall not participate in the management of the day-to-day functions of the Department, which are the responsibility of the Chief of Police.

3.28.010 Definitions

As used in this Subchapter, the following definitions apply:

- "Contact Log" is a record of a complaint or referral to the Internal Investigation Section not assigned for a full IIS investigation or Line Referral Investigation.
- "Internal Investigations Section" means the section, or any successor section or unit, of the Department responsible for investigating complaints of misconduct by Department employees.
- "IIS" means the Internal Investigations Section and its staff.
- "Line Referral Investigations" refers to those complaints reviewed by the Internal Investigations Lieutenant and referred to the subject officer's chain of command for investigation.

3.28.020 Appointment of the Auditor

- The Mayor shall appoint an Auditor, subject to confirmation by the City Council, to provide review and assessment of the investigation of Internal Investigations complaints. The Auditor shall serve a term of two (2) years and may be reappointed to one subsequent two year term by the Mayor, subject to confirmation by the City Council. No individual may serve more than two terms as Auditor. The Auditor may be removed from office for cause by the Mayor by filing a statement of reasons for removal with the City Council. The Auditor shall be compensated as provided by ordinance or by appropriation in the City's annual budget.

Washington State Auditor, or the Washington State Judicial Conduct Commission; as to police misconduct, the Police Department's Internal Investigations Section, and as to a violation of the Code of Ethics, and/or the Fair Campaign Practices Ordinance, the ((Election-Administrator)) Executive Director of the Seattle Ethics and Elections Commission; and any authorized assistant or representative of any of them.

Section 13. The Commission shall assume care, custody and control of all of the property, records, books, papers, equipment, offices, rights and responsibilities of the Fair Campaign Practices Commission, the Office of Election Administration, and the Board of Ethics in existence immediately prior to the effective date of this ordinance. The initial staff of the Commission shall be provided in the 1992 City Budget. The incumbent Staff Assistant of the Board of Ethics may be continued as interim Administrative Assistant - Ethics and Elections Commission, in an exempt status, without interruption of service or loss of pay, pending appointment of the Executive Director and the appointment and confirmation of a successor Administrative Assistant.

Section 14. The following Seattle Municipal Code sections and subsections are each hereby repealed:

- Code Section 2.04.050 (Ordinance 106653, Section 15)
- Subsection A of Code Section 2.04.060 A (Subsection A of Ordinance 106653, Section 16, as amended)
- Subsection B 1 of Code Section 2.04.060 (Subsection B 1 of Ordinance 106653, Section 16, part B 1)
- Code Section 2.04.080 (Ordinance 106653, Section 18)
- Subsection C of Code Section 2.04.150 (Subsection C of Ordinance 106653, Section 1)
- Code Section 4.16.040 (Ordinance 108882 Section 4.16.040)
- Code Section 4.16.050 (Ordinance 108882, Section 4.16.050, last as amended by Ordinance 105501, Section 1 part 1)

PAUL KRUMHOLTZ, Mayor
NORMAN RICE, President of the City Council
Approved by me this 11th day of December, 1991.
Filed by me this 18th day of December, 1991.
Attest: NORMAN RICE, Mayor
PAUL KRUMHOLTZ, President of the City Council
Approved by me this 11th day of December, 1991.
Filed by me this 18th day of December, 1991.
Date of official publication in Daily Journal of Commerce, Seattle, December 20, 1991.
Publication ordered by NORMAN RICE, Mayor and City Clerk
Attest: MARGARET CARRER, Deputy Clerk
City Controller and City Clerk

Section 15. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance shall not affect the validity of the remainder of this ordinance or the validity of its application to other persons or circumstances.

Section 16. The Mayor shall submit an evaluation of this ordinance to the City Council.

Section 17. Within eighteen (18) months of the effective date, the Mayor shall submit an evaluation of this ordinance to the City Council.

Section 18. Any act consistent with the authority and subject of an investigation in any public report required by the Auditor shall not identify the identity of the subject of an investigation in any public report required by this chapter.