

Ordinance No. 119725

Council Bill No. 113041

The City of Seattle
Council Bill/Ordinance

CB 113041
AN ORDINANCE relating to the Police Department, abolishing the position of the Internal Investigations Auditor and replacing the Internal Investigations Auditor with an Office of Professional Accountability Review Board, and amending the Seattle Municipal Code Chapter 3.28 including Sections 3.28.600, 3.28.620, 3.28.630, 3.28.640, 3.28.650 and SMC 3.28.660.

PSHT 12/1/99 3

CF No. _____

12-13-99 Full

Date Introduced:	NOV 29 1999	
Date 1st Referred:	NOV 29 1999	To: (committee) Public Safety, Health and Technology Committee
Date Re - Referred:		To: (committee)
Date Re - Referred:		To: (committee)
Date of Final Passage:	12-13-99	Full Council Vote: 7-2
Date Presented to Mayor:	12-14-99	Date Approved: <i>(Signature)</i> <i>(see letter) Note: Mayor did not submit letter</i>
Date Returned to City Clerk:	12/22/99	Date Published: <i>page 12</i> T.O. _____ E.T. _____
Date Vetoes by Mayor:		Date Veto Published:
Date Passed Over Veto:		Veto Sustained:

This file is complete and ready

Law Department

Law Dept. Review

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: PODLODOWSKI
Councilmember

Committee Action:

PSHT 12/1/99 3-3 Div 1000 Report 3-TRP/ML/JD
3-JC/RCMD

12-13-99 Full Council: ^(E) Passed As Amended 7-2
(No: Conlun, Pagelen)

This file is complete and ready for presentation to Full Council. Committee: _____
(initial/date)

submit letter

Law Department

Law Dept. Review OMP Review City Clerk Review Electronic Copy Loaded Indexed

ORDINANCE 119825

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4 AN ORDINANCE relating to the Police Department, abolishing the position of the Internal
5 Investigations Auditor and replacing the Internal Investigations Auditor with an
6 Office of Professional Accountability Review Board, and amending the Seattle
7 Municipal Code Chapter 3.28 including Sections 3.28.600, 3.28.620, 3.28.630,
8 3.28.640, 3.28.650 and SMC 3.28.660.

9
10 WHEREAS, on August 19, 1999, a panel of citizens appointed by the Mayor issued its
11 report on employee accountability within the Seattle Police Department and the
12 process used to investigate reports of police misconduct; and

13
14 WHEREAS, after more than three months of investigation, this report concluded that
15 although Seattle has a top-rate Police Department with no evidence of widespread
16 corruption or misconduct, there is still room for improvement; and

17
18 WHEREAS, the report offered a series of recommendations to increase confidence in the
19 Police Department's ability to maintain standards of professional integrity; and

20
21 WHEREAS, the City Council intends to enact those recommendations at the request of the
22 Mayor and Chief of Police; and

23
24 WHEREAS, the City Council further desires accountability and oversight to strengthen the
25 Police Department's confidence among the public, officers and the Council;

26
27
28 **NOW THEREFORE,**

29
30 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

31
32 Section 1. Section 3.28.600 of the Seattle Municipal Code, as adopted by Ordinance
33 115975, is amended as follows:

34
35 3.28.600 ~~((Auditor))~~ Office of Professional Accountability Review Board ~~((created—~~
36 Purpose)).

37 There is created an ~~((Internal Investigations Auditor (hereinafter "Auditor")))~~ Office of
38 Professional Accountability Review Board (hereinafter "OPA Review Board") ~~((with~~
39 authority)) to establish independent review of ~~((and assess investigations conducted by))~~ the
40 Office of Professional Accountability ("OPA") ~~((and the Internal Investigations Section~~



1 ~~"IIS") of the Police Department; to establish the independent review of the Internal~~
2 ~~Investigations Section))~~ complaint handling process in a manner that will have the
3 confidence of the general public, police officers, and complainants; and to enhance the
4 credibility of the Office of Professional Accountability and the OPA investigation~~((internal~~
5 ~~investigations))~~ process. The OPA Review Board and the OPA Review Board Auditor shall
6 not participate in the management of the day-to-day functions of the Department, which are
7 the responsibility of the Chief of Police. The OPA Review Board shall consist of three (3)
8 members.

9 The OPA Review Board shall, subject to City Council consultation and confirmation, and as
10 provided by ordinance, hire a full-time Auditor ("OPA Review Board Auditor") as its staff.

11 The OPA Review Board Auditor shall: report to the OPA Review Board; audit, in
12 accordance with SMC 3.28.630 and SMC 3.28.640, the work of the Office of Professional
13 Accountability as to its handling, processing and investigation of complaints filed with that
14 office; and assist the OPA Review Board in the performance of their duties as provided in
15 this Chapter.

16
17 Section 2. Section 3.28.620 of the Seattle Municipal Code, as adopted by Ordinance
18 115975 and as amended by Ordinance 118093 is further amended as follows:

19
20 3.28.620 Appointment of the ~~((Auditor))~~ OPA Review Board.

21 A. The ~~((Mayor))~~ City Council shall appoint the three (3) members of the OPA Review
22 Board ~~((an Auditor, subject to confirmation by the City Council,))~~ to provide review and
23 assessment of the investigation of Office of Professional Accountability ~~((Internal~~
24 ~~Investigations))~~ complaints. Each member of the OPA Review Board ~~((The Auditor))~~ shall



1 serve a term of two (2) years and may be reappointed to ~~((two (2)))~~ one (1) subsequent two
2 (2) year term ~~((s by the Mayor))~~ by the City Council ~~((, subject to confirmation by the City
3 Council))~~. No individual may serve more than ~~((three (3)))~~ two (2) full two (2) year terms as
4 ~~((Auditor))~~ an OPA Review Board member. ~~((Beginning on January 1, 1998, terms shall
5 begin on January 1st of even numbered years, and run through December 31st of the
6 following odd numbered year.))~~ Should an ~~((Auditor))~~ OPA Review Board member take
7 office at any time after commencement of a regular term, the expiration of that term shall
8 remain unaffected. ~~((The Auditor))~~ An OPA Review Board member may be removed from
9 office for cause by the ~~((Mayor))~~ Council by filing a statement of reasons for removal ~~((with
10 the City Council))~~. The ~~((Auditor))~~ OPA Review Board members shall be compensated as
11 provided by ordinance or by appropriation in the City's annual budget.

12 B. The ~~((Auditor))~~ OPA Review Board members should possess the following
13 qualifications and characteristics:

14 1. At least one member of the Board shall be a graduate of an accredited law school and a
15 member in good standing of the Washington State Bar Association;

16 2. A second member of the Board shall have at least five (5) years of experience in
17 criminal justice or related fields;

18 3. The third member of the Board shall have significant experience and history in
19 community involvement, and community organizing and outreach;

20 ~~((4))~~ 4. A reputation for integrity and professionalism, as well as the ability to maintain a
21 high standard of integrity in the office;

22 ~~((2))~~ 5. A commitment to and knowledge of the need for and responsibilities of law
23 enforcement, as well as the need to protect basic constitutional rights of all affected parties;

24 ~~((3))~~ 6. A commitment to the statement of purpose and policies in this chapter;



1 ((4))7. A history of demonstrated leadership experience and ability;

2 ((5))8. The potential for gaining the respect of complainants, departmental personnel, and
3 the citizens of this City;

4 ((6))9. The ability to work effectively with the ((Mayor,)) City Council, ((City Attorney,
5 Chief of the Department,)) departmental personnel, public agencies, private organizations,
6 and citizens;

7 ((7))10. The ability, as shown by previous experience, to work with diverse groups and
8 individuals; and

9 ((8))11. The ability to work effectively under pressure.

10 ((C. In addition to the qualifications and characteristics set forth in subsection B
11 hereinabove, the Auditor shall possess the following qualification: the Auditor must be a
12 graduate of an accredited law school and member in good standing of the Washington State
13 Bar Association and, prior to appointment, have at least five (5) years of experience in the
14 practice of law or in a judicially related field.))

15 ((D))C. The Chief of Police shall cause a thorough background check of nominees for
16 ((Auditor)) OPA Review Board identified by the ((Mayor)) Council and shall report the
17 results to the ((Mayor)) Council.

18
19 Section 3. Section 3.28.630 of the Seattle Municipal Code, as adopted by Ordinance
20 115975 is amended as follows:

21
22 3.28.630 Audit procedures and standards.

23 A. Audit of All Investigations of Complaints of Unnecessary or Excessive Force. The OPA
24 Review Board Auditor shall audit all completed ((Internal Investigations)) OPA case files
25 involving complaints of unnecessary or excessive force. Before a case file involving a



1 complaint of unnecessary or excessive force is referred to the subject officer's chain of
2 command for review and recommendations, and no more than three (3) business days after
3 the ~~((Internal Investigations Section))~~ Office of Professional Accountability has completed
4 its investigation, the Department shall forward a complete copy of the file to the OPA
5 Review Board Auditor.

6 B. ~~((Random))~~ Audit of Investigations of Complaints Not Involving Unnecessary or
7 Excessive Force Allegations. Each calendar year, the OPA Review Board Auditor shall
8 audit ~~((on a random basis approximately twenty percent (20%)))~~ all of the completed
9 ~~((Internal Investigations))~~ OPA case files involving complaints other than those involving
10 unnecessary or excessive force. The Department shall notify the OPA Review Board
11 Auditor of the completion of case files on a weekly basis. The case file shall be forwarded to
12 the subject officer's chain of command for review and recommendations, if, within ten (10)
13 business days of notification of completion, the OPA Review Board Auditor has not advised
14 the Department s/he will audit the investigation. The OPA Review Board Auditor may audit
15 a completed case file after referral to the subject employee's chain of command; provided,
16 however, in such instance the OPA Review Board Auditor shall not request follow-up
17 investigation. The frequency of audits under this subsection shall be as determined by the
18 OPA Review Board Auditor; provided, however, audits of completed case files shall take
19 place at unscheduled intervals not to exceed ninety (90) days following initiation of the last
20 audit.

21 C. OPA Review Board Auditor May Request Further Investigation. The OPA Review Board
22 Auditor shall use his or her best efforts to complete audits under subsections A and B
23 hereinabove without unreasonably delaying review of the case file by the subject officer's
24 chain of command. After the OPA Review Board Auditor has ~~((reviewing))~~ reviewed the



1 file, the ~~((Auditor))~~OPA Review Board may request the Office of Professional
2 Accountability~~((Internal Investigations Section))~~, through the Chief of Police, to conduct
3 further investigation. The ~~((Auditor))~~OPA Review Board shall provide a written statement
4 to the Chief of Police identifying the reasons for ~~((his/her))~~ their request for a follow-up
5 investigation. Criteria the ~~((Auditor))~~OPA Review Board should consider includes but is not
6 limited to: (1) whether witnesses were contacted and evidence collected; (2) whether
7 interviews were conducted on a thorough basis; and (3) whether applicable OPA~~((HS))~~
8 procedures were followed. In the event the Chief of Police disagrees with this
9 recommendation, he or she shall within five (5) days provide ~~((the Auditor))~~OPA Review
10 Board with a written statement of the grounds for this decision.

11 D. Secure Temporary Space. The Department shall, upon request of the ~~((Auditor))~~OPA
12 Review Board, provide secure temporary space for the OPA Review Board Auditor to
13 conduct the audits close to the records to be reviewed.

14 E. Monthly Review of Contact Log and Complaint Records. The OPA Review Board
15 Auditor shall review the ~~((Internal Investigations))~~ OPA contact log and ~~((Internal~~
16 ~~Investigations))~~ OPA complaint records at least monthly. If, after reviewing the ~~((Internal~~
17 ~~Investigations))~~OPA contact log and ~~((Internal Investigations))~~ OPA complaint records, the
18 ~~((Auditor))~~OPA Review Board believes that a contact log complaint should be investigated
19 further, or that a case that has been designated for a line referral should receive a full
20 investigation by the OPA ~~((Internal Investigations Section))~~, the ~~((Auditor))~~OPA Review
21 Board may request the OPA ~~((Internal Investigations Section))~~, through the Chief of Police,
22 to conduct a full investigation. The ~~((Auditor))~~OPA Review Board shall provide a written
23 statement to the Chief of Police identifying the reasons for ~~((his/her))~~their request for a full
24 investigation. The Chief of Police, or his/her designee, shall consult with the



1 ((Auditor))OPA Review Board regarding the ((Auditor's)) OPA Review Board's request,
2 and shall promptly advise the ((Auditor))OPA Review Board of the investigative action s/he
3 intends to take.

4 F. OPA Review Board Auditor's Access to Records; Restriction on Access When Criminal
5 Investigation Pending; Return of Records.

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

18 2. ((Internal Investigations Section)) OPA files and records made available to the
19 OPA Review Board Auditor are the property of the Police Department and shall not, by
20 operation of this subchapter, become the property of the OPA Review Board or the OPA
21 Review Board Auditor. The OPA Review Board and the OPA Review Board Auditor shall
22 make every reasonable effort to maintain the security of files belonging to the Department
23 while in the OPA Review Board Auditor's possession. Any requests made to the OPA
24 Review Board or the OPA Review Board Auditor for ((HS)) OPA files or records, whether



1 through litigation discovery or pursuant to public disclosure, shall be referred to the Chief of
2 Police for response.

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

8 G. OPA Review Board Auditor Access to Caseload, Workload and Procedural Information.

9 The OPA Review Board Auditor is authorized to request any information on ~~((Internal~~
10 ~~Investigations))~~ OPA cases, workload, or procedures that s/he finds necessary in order to
11 conduct an ongoing analysis of the Department's ~~((Internal Investigations))~~ OPA process.

12 The Department shall make every reasonable effort to comply with the OPA Review Board
13 Auditor's requests.

14
15 Section 4. Section 3.28.640 of the Seattle Municipal Code, as adopted by Ordinance
16 115975 and as amended by Ordinance 117242 is further amended as follows:

17
18 3.28.640 OPA Review Board ~~((Auditor))~~ to prepare ~~((semiannual))~~ quarterly report.

19 The OPA Review Board ~~((Auditor))~~ shall prepare a ~~((semiannual))~~ quarterly report of
20 ~~((his/her))~~ the OPA Review Board Auditor's ~~((audit))~~ activities. This report shall be
21 forwarded to the ~~((Mayor,))~~ City Council, Chief of Police, City Attorney, Mayor, and City
22 Clerk for filing as a public record. The OPA Review Board's ~~((Auditor's))~~ report shall be
23 prepared in accordance with the following provisions:



1 A. The OPA Review Board shall review and report on the implementation of the Office of
2 Professional Accountability;

3 B((A)). The ((Auditor's)) OPA Review Board's report shall contain a general description of
4 the files and records reviewed, and should include, but not be limited to:

5 1. The number of cases reviewed by the OPA Review Board Auditor;

6 2. The total number of complaints received by the Office of Professional Accountability;

7 3. The number of complaints by category and nature of allegation;

8 4. The percentage of complaints sustained and not sustained;

9 5. The nature of disciplinary action taken in sustained cases;

10 6. Patterns of complaints including:

11 a. Type of complaint;

12 b. Geographic area of complaint;

13 c. Race, ethnicity, gender of complainants;

14 d. Race, ethnicity, gender, assignment, seniority of officer(s) who is/are subject of
15 complaint;

16 7. List of officers who have received three or more sustained complaints within one year;

17 ~~((2))~~8. The number of follow-up investigations requested by the ((Auditor)) OPA Review
18 Board, the number of follow-up investigations completed by the Department, and the
19 number of follow-up investigation requests denied by the Department;

20 ~~((3))~~9. The number of contact log cases and line referral cases where the OPA Review
21 Board ((Auditor)) recommended that full investigations take place, the number of such
22 investigations completed by the Department, and the number of follow-up investigation
23 requests denied by the Department;



1 ~~((4))~~10. A summary of issues, problems and trends noted by the OPA Review Board

2 ~~((Auditor))~~ as a result of their ~~((his/her))~~ review;

3 ~~((5))~~11. Any recommendations that the Department consider additional officer training,
4 including recommendations that the Department consider specialized training for ~~((HS))~~
5 investigators; ~~((and))~~

6 ~~((6))~~12. Any recommendations the Department consider policy or procedural changes; ~~((-))~~
7 and

8 13. Review of OPA Director's involvement in community outreach to inform citizens of the
9 complaint process and the OPA's role.

10 C. ~~((B-))~~ ~~The~~ ~~((Auditor's))~~ OPA Review Board's report shall not contain any
11 recommendations concerning the discipline of any particular police officer, nor shall the
12 report comment upon or make any recommendation concerning potential civil or criminal
13 liability of specific employees, police officers, or citizens.

14 ~~((C- The Auditor shall deliver a preliminary draft of his/her semiannual report to the Chief~~
15 ~~of Police for review and comment. The Chief of Police shall review and comment on the~~
16 ~~preliminary report within twenty (20) days after receipt of the report. The Auditor shall~~
17 ~~submit the final report within thirty (30) days after receipt of the Chief's comments. The~~
18 ~~Auditor's final report shall be submitted no later than the thirtieth day of April and October~~
19 ~~of each year.))~~

20 D. The OPA Review Board's report shall be forwarded to the President of the City Council
21 and the Chair of the City Council's Public Safety Committee no later than the thirtieth day
22 of March, June, September and December of each year.

23 E. ~~((D-))~~ ~~The~~ ~~((Chief of Police))~~ OPA Review Board shall forward to the Mayor, ~~((City~~
24 ~~Council,))~~ City Attorney, and the City Clerk ~~((within twenty (20) working days of receipt of~~



1 ~~the Auditor's final report the Chief's written comments on the report))~~ the report no later than
2 the thirtieth day of March, June, September and December of each year.

3
4 Section 5. Section 3.28.650 of the Seattle Municipal Code, as adopted by Ordinance
5 115975 is amended as follows:

6
7 3.28.650 ~~((Auditor))~~ OPA Review Board to meet with ~~((Mayor,))~~ City Council ~~((, and~~
8 ~~Chief of Police))~~.

9 The ~~((Auditor))~~ OPA Review Board shall present their report quarterly to the City Council
10 ~~((meet periodically with the Mayor, City Council, and the Chief of Police regarding~~
11 ~~recommendations to improve the IIS investigative process within the framework of~~
12 ~~applicable law and labor agreements))~~.

13
14 Section 6. Section 3.28.660 of the Seattle Municipal Code, as adopted by Ordinance
15 115975 is amended as follows:

16
17 3.28.660 Confidentiality of files and records.

18 In discharging his or her responsibilities, the OPA Review Board members and the OPA
19 Review Board Auditor shall protect the confidentiality of Department files and records to
20 which ~~((s/he has))~~ they have been provided access in the same manner and to the same
21 degree ~~((as s/he))~~ they would be obligated to protect attorney-client privileged materials
22 under legal and ethical requirements. The OPA Review Board and the OPA Review Board
23 Auditor shall also be bound by the confidentiality provisions of the Criminal Records
24 Privacy Act (RCW Chapter 10.97) and Public Disclosure Act (RCW Section 42.17.250 et



1 seq.). The OPA Review Board and the OPA Review Board Auditor shall not identify the
2 identity of the subject of an investigation in any public report required by this chapter.

3
4 Section 7. This ordinance shall take effect and be in force thirty (30) days from and after its
5 approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days
6 after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

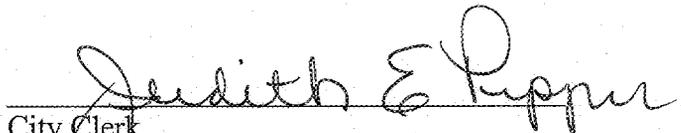
7
8 Passed by the City Council the 13th day of December, 1999, and signed by
9 me in open session in authentication of its passage this 13th day of December,
10 1999.

11
12 
13 _____
14 President of the City Council

15 The foregoing Council Bill No. 113041 was, on the 14 day of December 1999,
16 presented to the Mayor who returned the same to the City Council without his
17 approval or disapproval on the 22 day of December, 1999.

18 _____
19 Paul Schell, Mayor

20
21 Filed by me this 22nd day of December, 1999.

22
23 
24 _____
25 City Clerk
26

27 (SEAL)





Tina Podlowski
Seattle City Councilmember

MEMORANDUM

Date: December 9, 1999

To: Councilmember Podlowski, Councilmember Licata, Councilmember Drago, Councilmember Compton, Councilmember Pageler, Councilmember Conlin and other interested Councilmembers

From: Cory Curtis 

Subject: Divided Report on Office of Professional Accountability Citizen's Review Board—CB #113041

On Wednesday December 1, 1999 the Public Safety Committee discussed and voted 3-3 to pass from Committee the proposed OPA Citizen's Review Board. Those voting in favor of the proposed legislation were: Podlowski, Licata and Drago. Those voting against the legislation were Compton, Pageler and Conlin.

From the Committee meeting discussion there are two major areas of concern shared regarding the legislation. Those areas: the number of reviewers on the board; and the capturing of information to collect race, gender, ethnicity, etc. are discussed below.

It is also important to note that only by adoption of this Council Bill #113041 does the current IIS Auditor function (held by Terry Carroll) sunset. If this legislation is not adopted, the auditor function will remain as is currently provided in SMC 3.28.

1) Number of OPA Review Board Members

Current Proposal

Supported by Podlowski, Drago, Licata

Under Podlowski's proposed legislation there are three members of the Citizen's Review Board. Those three members are drawn from the community and will represent the following characteristics:

- At least one member of the Board shall be a graduate of an accredited law school and a member in good standing of the Washington State Bar Association;
- A second member of the Board shall have at least five (5) years of experience in criminal justice or related fields;
- The third member of the Board shall have significant experience and history in community involvement, and community organizing and outreach.

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(206) 684-8808, Fax: (206) 684-8587, TTY: (206) 233-0025, E-Mail Address: tina.podlowski@ci.seattle.wa.us
Internet Address: <http://www.ci.seattle.wa.us/leg/podlodow/index.htm>

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Councilmembers in support of the three member panel believe that one of the few ways to reflect diversity and opinion in the auditor's role is to expand the current position from one member to three. Further, with the OPA Review Board charged with reporting more frequently to Council (quarterly instead of semiannually), and with reviewing all IIS cases (instead of a 20% sampling), there will be a greater workload for the Auditors to complete.

Finally, Councilmember Podlodowski likened the three person board to that of the Legislative Department's own Auditor. While one Auditor is generally lead on an issue, several members of the Auditing department are involved in the overall auditing process. The OPA Review Board is meant to operate on consensus, not politicizing the role of the Review Board, but rather allowing more than one independent source to review the contents of IIS files.

Compton, Conlin, Pageler Proposal

Similar to the existing IIS Auditor position (currently held by Terry Carroll) these members feel that the audit function should remain, but that only one auditor should review the contents of IIS files.

Critics of the three member audit team cite the difficulty of recruiting and supporting three review board members. Further they share concern that a greater number of people will be exposed to confidential IIS files, thus increasing the risk of leaks and possible unethical action. It has also been argued that the three member board would politicize the audit process by forcing group consensus on the audit of information from IIS files.

2) Collecting Information on Race, Gender, Ethnicity, etc.

Current Proposal

Supported by Podlodowski, Drago, Licata

Under the proposed OPA Review Board legislation, these Councilmembers supported a provision which would collect the following information to be included in the Review Board's Quarterly Report:

- Race, ethnicity, gender of complainants;
- Race, ethnicity, gender, assignment, seniority of officer(s) who is/are subject of complaint.

Supporters of the proposal to collect and utilize this data feel that it is essential to encapsulate and gather trends in IIS complaints. No such information is currently captured.



Pageler, Conlin Proposal
Supported by Pageler, Conlin

Councilmember Pageler does not support the collection of race, ethnicity, gender, etc of both complainants and officers.

Councilmember Conlin shared concern that as people are already reluctant to file an IIS complaint, asking a series of personal demographic questions could lead to further alienation and distrust in the IIS complaint process.

Further, Councilmember Conlin feels that such major changes to the Auditor process should not be done without continuing discussion and a full public review.



ORDINANCE

AN ORDINANCE relating to the Police Department, abolishing the position of the Internal Investigations Auditor and replacing the Internal Investigations Auditor with an Office of Professional Accountability Review Board, and amending the Seattle Municipal Code Chapter 3.28 including Sections 3.28.600, 3.28.620, 3.28.630, 3.28.640, 3.28.650 and SMC 3.28.660.

WHEREAS, on August 19, 1999, a panel of citizens appointed by the Mayor issued its report on employee accountability within the Seattle Police Department and the process used to investigate reports of police misconduct; and

WHEREAS, after more than three months of investigation, this report concluded that although Seattle has a top-rate Police Department with no evidence of widespread corruption or misconduct, there is still room for improvement; and

WHEREAS, the report offered a series of recommendations to increase confidence in the Police Department's ability to maintain standards of professional integrity; and

WHEREAS, the City Council intends to enact those recommendations at the request of the Mayor and Chief of Police; and

WHEREAS, the City Council further desires accountability and oversight to strengthen the Police Department's confidence among the public, officers and the Council;

NOW THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 3.28.600 of the Seattle Municipal Code, as adopted by Ordinance 115975, is amended as follows:

3.28.600 ~~((Auditor))~~ Office of Professional Accountability Review Board created—

Purpose.

There is created an ~~((Internal Investigations Auditor (hereinafter "Auditor")))~~ Office of Professional Accountability Review Board (hereinafter "OPA Review Board") with authority to review and assess investigations conducted by the Office of Professional



1 Accountability ("OPA") and the Internal Investigations Section ((~~ø~~)) "IIS") of the Police
2 Department; to establish the independent review of the Internal Investigations Section and
3 the Office of Professional Accountability complaint handling process in a manner that will
4 have the confidence of the general public, police officers, and complainants; and to enhance
5 the credibility of the Office of Professional Accountability and the internal investigations
6 process. The ((Auditor)) OPA Review Board shall not participate in the management of the
7 day-to-day functions of the Department, which are the responsibility of the Chief of Police.
8 The OPA Review Board shall consist of three (3) members.

9
10 Section 2. Section 3.28.620 of the Seattle Municipal Code, as adopted by Ordinance
11 115975 and as amended by Ordinance 118093 is further amended as follows:

12
13 3.28.620 Appointment of the ((Auditor)) OPA Review Board.

14 A. The ((Mayor)) City Council shall appoint the three (3) members of the OPA Review
15 Board ((an Auditor, subject to confirmation by the City Council,)) to provide review and
16 assessment of the investigation of Office of Professional Accountability and Internal
17 Investigations complaints. Each member of the OPA Review Board ((The Auditor))
18 shall serve a term of ((two (2)))three (3) years and may be reappointed to ((two (2)))one (1)
19 subsequent ((two (2)))three (3) year term ((s by the Mayor))by the City Council ((, subject
20 to confirmation by the City Council)). No individual may serve more than ((three (3)))two
21 (2) full ((two (2)))three (3) year terms as ((Auditor)) an OPA Review Board member.
22 ((Beginning on January 1, 1998, terms shall begin on January 1st of even-numbered years,
23 and run through December 31st of the following odd-numbered year.))Should an ((Auditor))
24 OPA Review Board member take office at any time after commencement of a regular term,



1 the expiration of that term shall remain unaffected. (~~The Auditor~~) An OPA Review Board
2 member may be removed from office for cause by the (~~Mayor~~) Council by filing a
3 statement of reasons for removal (~~with the City Council~~). The (~~Auditor~~) OPA Review
4 Board members shall be compensated as provided by ordinance or by appropriation in the
5 City's annual budget.

6 B. The (~~Auditor~~) OPA Review Board members should possess the following
7 qualifications and characteristics:

8 1. At least one member of the Board shall be a graduate of an accredited law school and a
9 member in good standing of the Washington State Bar Association;

10 2. A second member of the Board shall have at least five (5) years of experience in
11 criminal justice or related fields;

12 3. The third member of the Board shall have significant experience and history in
13 community involvement, and community organizing and outreach;

14 ~~(4)~~ 4. A reputation for integrity and professionalism, as well as the ability to maintain a
15 high standard of integrity in the office;

16 ~~(2)~~ 5. A commitment to and knowledge of the need for and responsibilities of law
17 enforcement, as well as the need to protect basic constitutional rights of all affected parties;

18 ~~(3)~~ 6. A commitment to the statement of purpose and policies in this chapter;

19 ~~(4)~~ 7. A history of demonstrated leadership experience and ability;

20 ~~(5)~~ 8. The potential for gaining the respect of complainants, departmental personnel, and
21 the citizens of this City;

22 ~~(6)~~ 9. The ability to work effectively with the (~~Mayor,~~) City Council, (~~City Attorney,~~
23 Chief of the Department,)) departmental personnel, public agencies, private organizations,
24 and citizens;



1 ((7))10. The ability, as shown by previous experience, to work with diverse groups and
2 individuals; and

3 ((8))11. The ability to work effectively under pressure.

4 ~~((C. In addition to the qualifications and characteristics set
5 forth in subsection B hereinabove, the Auditor shall possess the
6 following qualification: the Auditor must be a graduate of an
7 accredited law school and member in good standing of the
8 Washington State Bar Association and, prior to appointment, have
9 at least five (5) years of experience in the practice of law or
10 in a judicially related field.))~~

11 ((D))C. The Chief of Police shall cause a thorough background check of nominees for
12 ~~((Auditor))~~ OPA Review Board identified by the ~~((Mayor))~~ Council and shall report the
13 results to the ~~((Mayor))~~ Council.

14
15 Section 3. Section 3.28.630 of the Seattle Municipal Code, as adopted by Ordinance
16 115975 is amended as follows:

17
18 3.28.630 Audit procedures and standards.

19 A. Audit of All Investigations of Complaints of Unnecessary or Excessive Force. The
20 ~~((Auditor))~~ OPA Review Board shall audit all completed Internal Investigations case files
21 involving complaints of unnecessary or excessive force. Before a case file involving a
22 complaint of unnecessary or excessive force is referred to the subject officer's chain of
23 command for review and recommendations, and no more than three (3) business days after



1 the Internal Investigations Section has completed its investigation, the Department shall
2 forward a complete copy of the file to the ~~((Auditor))~~ OPA Review Board.

3 B. ~~((Random))~~ Audit of Investigations of Complaints Not Involving Unnecessary or
4 Excessive Force Allegations. Each calendar year, the ~~((Auditor))~~ OPA Review Board shall
5 audit ~~((on a random basis approximately twenty percent (20%)))~~ all of the completed
6 Internal Investigations case files involving complaints other than those involving
7 unnecessary or excessive force. The Department shall notify the ~~((Auditor))~~ OPA Review
8 Board of the completion of case files on a weekly basis. The case file shall be forwarded to
9 the subject officer's chain of command for review and recommendations, if, within ten (10)
10 business days of notification of completion, the ~~((Auditor))~~ OPA Review Board has not
11 advised the Department s/he will audit the investigation. The ~~((Auditor))~~ OPA Review
12 Board may audit a completed case file after referral to the subject employee's chain of
13 command; provided, however, in such instance the ~~((Auditor))~~ OPA Review Board shall not
14 request follow-up investigation. The frequency of audits under this subsection shall be as
15 determined by the ~~((Auditor))~~ OPA Review Board; provided, however, audits of completed
16 case files shall take place at unscheduled intervals not to exceed ninety (90) days following
17 initiation of the last audit.

18 C. ~~((Auditor))~~ OPA Review Board May Request Further Investigation. The ~~((Auditor))~~ OPA
19 Review Board shall use their best efforts to complete audits under subsections A and B
20 hereinabove without unreasonably delaying review of the case file by the subject officer's
21 chain of command. After reviewing the file, the ~~((Auditor))~~ OPA Review Board may request
22 the Internal Investigations Section, through the Chief of Police, to conduct further
23 investigation. The ~~((Auditor))~~ OPA Review Board shall provide a written statement to the
24 Chief of Police identifying the reasons for his/her request for a follow-up investigation.



1 Criteria the ~~((Auditor))~~OPA Review Board should consider includes but is not limited to:
2 (1) whether witnesses were contacted and evidence collected; (2) whether interviews were
3 conducted on a thorough basis; and (3) whether applicable IIS procedures were followed. In
4 the event the Chief of Police disagrees with this recommendation, he or she shall within five
5 (5) days provide ~~((the Auditor))~~OPA Review Board with a written statement of the grounds
6 for this decision.

7 D. Secure Temporary Space. The Department shall, upon request of the ~~((Auditor))~~OPA
8 Review Board, provide secure temporary space for the ~~((Auditor))~~OPA Review Board to
9 conduct the audits close to the records to be reviewed.

10 E. Monthly Review of Contact Log and Complaint Records. The ~~((Auditor))~~OPA Review
11 Board shall review the Internal Investigations contact log and Internal Investigations
12 complaint records at least monthly. If, after reviewing the Internal Investigations contact log
13 and Internal Investigations complaint records, the ~~((Auditor))~~OPA Review Board believes
14 that a contact log complaint should be investigated further, or that a case that has been
15 designated for a line referral should receive a full investigation by the Internal Investigations
16 Section, the ~~((Auditor))~~OPA Review Board may request the Internal Investigations Section,
17 through the Chief of Police, to conduct a full investigation. The ~~((Auditor))~~OPA Review
18 Board shall provide a written statement to the Chief of Police identifying the reasons for
19 ~~((his/her))~~their request for a full investigation. The Chief of Police, or his/her designee, shall
20 consult with the ~~((Auditor))~~OPA Review Board regarding the Auditor's OPA Review
21 Board's request, and shall promptly advise the ~~((Auditor))~~OPA Review Board of the
22 investigative action s/he intends to take.

23 F. ~~((Auditor's))~~OPA Review Board's Access to Records; Restriction on Access When
24 Criminal Investigation Pending; Return of Records.



1 1. The ~~((Auditor))~~ OPA Review Board shall have access to all Internal Investigations
2 Section files and records, including but not limited to: Internal Investigation files, line
3 review reports and files, and Internal Investigations contact logs, provided, however, the
4 ~~((Auditor))~~ OPA Review Board shall not have access to files designated by the Internal
5 Investigations Section as relating to an active criminal investigation of an officer until such
6 time as the Department has given the subject officer written notification of the investigation.
7 The IIS Commander shall provide the OPA Review Board ~~((Auditor))~~ with quarterly status
8 reports regarding IIS cases in which criminal investigations are also being undertaken.
9 These status reports shall include the number of ongoing IIS criminal investigations and the
10 month during which each investigation was originated, and the number of new criminal
11 investigations initiated that quarter.

12 2. Internal Investigations Section files and records made available to the OPA
13 Review Board ~~((Auditor))~~ are the property of the Police Department and shall not, by
14 operation of this subchapter, become the property of the OPA Review Board ~~((Auditor))~~.
15 The OPA Review Board ~~((Auditor))~~ shall make every reasonable effort to maintain the
16 security of files belonging to the Department while in the OPA Review Board's
17 ~~((Auditor's))~~ possession. Any requests made to the OPA Review Board ~~((Auditor))~~ for IIS
18 files or records, whether through litigation discovery or pursuant to public disclosure, shall
19 be referred to the Chief of Police for response.

20 3. Upon completion of an audit, the OPA Review Board ~~((Auditor))~~ shall return to
21 the Internal Investigations Section all section files, reports, and records to which ~~((s/he has))~~
22 they have been provided access pursuant to these audit procedures and standards. Following
23 completion of an audit, the OPA Review Board ~~((Auditor))~~ may, however, continue to have
24 access to closed IIS files.



1 G. OPA Review Board ((Auditor)) Access to Caseload, Workload and Procedural
2 Information. The OPA Review Board ((Auditor)) is authorized to request any information
3 on Internal Investigations cases, workload, or procedures that ((s/he)) they find((s))
4 necessary in order to conduct an ongoing analysis of the Department's Internal
5 Investigations process. The Department shall make every reasonable effort to comply with
6 the OPA Review Board's ((Auditor's)) requests.

7
8 Section 4. Section 3.28.640 of the Seattle Municipal Code, as adopted by Ordinance
9 115975 and as amended by Ordinance 117242 is further amended as follows:

10
11 3.28.640 OPA Review Board ((Auditor)) to prepare ((~~semiannual~~)) quarterly report.

12
13 The OPA Review Board ((Auditor)) shall prepare a ((~~semiannual~~)) quarterly report of
14 ((his/her))their audit activities. This report shall be forwarded to the ((~~Mayor,~~)) City Council,
15 Chief of Police, City Attorney, Mayor, and City Clerk for filing as a public record. The OPA
16 Review Board's ((Auditor's)) report shall be prepared in accordance with the following
17 provisions:

18 A. The OPA Review Board shall review and report on the implementation of the Office of
19 Professional Accountability;

20 B((A)). The ((Auditor's)) OPA Review Board's report shall contain a general description of
21 the files and records reviewed, and should include, but not be limited to:

- 22 1. The number of cases reviewed by the ((Auditor)) OPA Review Board;
- 23 2. The total number of complaints received by the Office of Professional Accountability
24 and Internal Investigations Section;



- 1 3. The number of complaints by category and nature of allegation;
- 2 4. The percentage of complaints sustained and not sustained;
- 3 5. The nature of disciplinary action taken in sustained cases;
- 4 6. Patterns of complaints including:
 - 5 a. Type of complaint;
 - 6 b. Geographic area of complaint;
 - 7 c. Race, ethnicity, gender of complainants;
 - 8 d. Race, ethnicity, gender, assignment, seniority of officer(s) who is/are subject of
9 complaint;
- 10 7. List of officers who have received three or more sustained complaints within one year;
- 11 ((2))8. The number of follow-up investigations requested by the ((Auditor)) OPA Review
12 Board, the number of follow-up investigations completed by the Department, and the
13 number of follow-up investigation requests denied by the Department;
- 14 ((3))9. The number of contact log cases and line referral cases where the OPA Review
15 Board ((Auditor)) recommended that full investigations take place, the number of such
16 investigations completed by the Department, and the number of follow-up investigation
17 requests denied by the Department;
- 18 ((4))10. A summary of issues, problems and trends noted by the OPA Review Board
19 ((Auditor)) as a result of their ((his/her)) review;
- 20 ((5))11. Any recommendations that the Department consider additional officer training,
21 including recommendations that the Department consider specialized training for IIS
22 investigators; ((and))
- 23 ((6))12. Any recommendations the Department consider policy or procedural changes;((-)
24 and



1 13. Review of OPA Director's involvement in community outreach to inform citizens of the
2 complaint process and the OPA's role.

3 C. ~~((B-))~~The ~~((Auditor's))~~OPA Review Board's report shall not contain any
4 recommendations concerning the discipline of any particular police officer, nor shall the
5 report comment upon or make any recommendation concerning potential civil or criminal
6 liability of specific employees, police officers, or citizens.

7 ~~((C. The Auditor shall deliver a preliminary draft of his/her semiannual report to the Chief~~
8 ~~of Police for review and comment. The Chief of Police shall review and comment on the~~
9 ~~preliminary report within twenty (20) days after receipt of the report. The Auditor shall~~
10 ~~submit the final report within thirty (30) days after receipt of the Chief's comments. The~~
11 ~~Auditor's final report shall be submitted no later than the thirtieth day of April and October~~
12 ~~of each year.))~~

13 D. The OPA Review Board's report shall be forwarded to the Chair of the City Council's
14 Public Safety Committee no later than the thirtieth day of March, June, September and
15 December of each year.

16 E. ~~((D-))~~The ~~((Chief of Police))~~OPA Review Board shall forward to the Mayor, ~~((City~~
17 ~~Council,))~~ City Attorney, and the City Clerk ~~((within twenty (20) working days of receipt of~~
18 ~~the Auditor's final report the Chief's written comments on the report))~~the report no later than
19 the thirtieth day of March, June, September and December of each year.

20
21 Section 5. Section 3.28.650 of the Seattle Municipal Code, as adopted by Ordinance
22 115975 is amended as follows:

23
24 3.28.650 ~~((Auditor))~~OPA Review Board to meet with ~~((Mayor,))~~City Council, ~~((, and~~



1 Chief of Police:))

2 The ((Auditor)) OPA Review Board shall present their report quarterly to the City Council.
3 ~~((meet periodically with the Mayor, City Council, and the Chief of Police regarding~~
4 ~~recommendations to improve the IIS investigative process within the framework of~~
5 ~~applicable law and labor agreements.))~~

6
7 Section 6. Section 3.28.660 of the Seattle Municipal Code, as adopted by Ordinance
8 115975 is amended as follows:

9
10 3.28.660 Confidentiality of files and records.

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



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Section 7. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the _____ day of _____, 1999, and signed by me in open session in authentication of its passage this _____ day of _____, 1999.

President of the City Council

Approved by me this _____ day of _____, 1999.

Paul Schell, Mayor

Filed by me this _____ day of _____, 19____.

City Clerk

(SEAL)



ORDINANCE _____

1
2
3
4 AN ORDINANCE relating to the Police Department, abolishing the position of the Internal
5 Investigations Auditor and replacing the Internal Investigations Auditor with an
6 Office of Professional Accountability Review Board, and amending the Seattle
7 Municipal Code Chapter 3.28 including Sections 3.28.600, 3.28.620, 3.28.630,
8 3.28.640, 3.28.650 and SMC 3.28.660.

9
10 WHEREAS, on August 19, 1999, a panel of citizens appointed by the Mayor issued its
11 report on employee accountability within the Seattle Police Department and the
12 process used to investigate reports of police misconduct; and

13
14 WHEREAS, after more than three months of investigation, this report concluded that
15 although Seattle has a top-rate Police Department with no evidence of widespread
16 corruption or misconduct, there is still room for improvement; and

17
18 WHEREAS, the report offered a series of recommendations to increase confidence in the
19 Police Department's ability to maintain standards of professional integrity; and

20
21 WHEREAS, the City Council intends to enact those recommendations at the request of the
22 Mayor and Chief of Police; and

23
24 WHEREAS, the City Council further desires accountability and oversight to strengthen the
25 Police Department's confidence among the public, officers and the Council;

26
27
28 **NOW THEREFORE,**

29
30 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

31
32 Section 1. Section 3.28.600 of the Seattle Municipal Code, as adopted by Ordinance
33 115975, is amended as follows:

34
35 3.28.600 Auditor-Office of Professional Accountability Review Board created—Purpose.

36
37 There is created an Internal Investigations Auditor (hereinafter "Auditor")-Office of
38 Professional Accountability Review Board (hereinafter "OPA Review Board") with
39 authority; to review and assess investigations conducted by the Office of Professional
40 Accountability ("OPA") and the Internal Investigations Section (or "IIS") of the Police

1 Department; to establish the independent review of the Internal Investigations Section and
2 the Office of Professional Accountability complaint handling process in a manner that will
3 have the confidence of the general public, police officers, and complainants; and to enhance
4 the credibility of the Office of Professional Accountability and the internal investigations
5 process. The ~~Auditor~~ OPA Review Board shall not participate in the management of the
6 day-to-day functions of the Department, which are the responsibility of the Chief of Police.
7 The OPA Review Board shall consist of three (3) members.

8
9 Section 2. Section 3.28.620 of the Seattle Municipal Code, as adopted by Ordinance
10 115975 and as amended by Ordinance 118093 is further amended as follows:

11
12 3.28.620 Appointment of the ~~Auditor~~ OPA Review Board.

13 A. The ~~Mayor~~ City Council shall appoint the three (3) members of the OPA Review
14 Board ~~an Auditor~~, subject to confirmation by the ~~City Council~~, to provide review and
15 assessment of the investigation of Office of Professional Accountability and Internal
16 Investigations complaints. Each member of the OPA Review Board ~~The Auditor~~
17 shall serve a term of ~~two (2)~~ three (3) years and may be reappointed to ~~two (2)~~ one (1)
18 subsequent ~~two (2)~~ three (3) year term ~~s by the Mayor~~ by the City Council, subject to
19 ~~confirmation by the City Council~~. No individual may serve more than ~~three (3)~~ two (2) full
20 ~~two (2)~~ three (3) year terms as ~~Auditor~~ an OPA Review Board member. ~~Beginning on~~
21 ~~January 1, 1998, terms shall begin on January 1st of even-numbered years, and run through~~
22 ~~December 31st of the following odd-numbered year.~~ Should an Auditor OPA Review Board
23 member take office at any time after commencement of a regular term, the expiration of that

1 term shall remain unaffected. ~~The Auditor~~An OPA Review Board member may be removed
2 from office
3 for cause by the ~~Mayor-Council~~ by filing a statement of reasons for removal with the City
4 Council. ~~The Auditor~~OPA Review Board members shall be compensated as provided by
5 ordinance or by appropriation in the City's annual budget.

6 B. ~~The Auditor~~OPA Review Board members should possess the following
7 qualifications and characteristics:

8 1. At least one member of the Board shall be a graduate of an accredited law school and a
9 member in good standing of the Washington State Bar Association;

10 2. A second member of the Board shall have at least five (5) years of experience in
11 criminal justice or related fields;

12 3. The third member of the Board shall have significant experience and history in
13 community involvement, and community organizing and outreach;

14 4. A reputation for integrity and professionalism, as well as the ability to maintain a high
15 standard of integrity in the office;

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

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

19 7. A history of demonstrated leadership experience and ability;

20 8. The potential for gaining the respect of complainants, departmental personnel, and the
21 citizens of this City;

22 9. The ability to work effectively with the Mayor, City Council, City Attorney, Chief of
23 the Department, departmental personnel, public agencies, private organizations, and
24 citizens;

1 710. The ability, as shown by previous experience, to work with diverse groups and
2 individuals; and

3 811. The ability to work effectively under pressure.

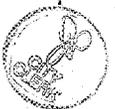
4 ~~C. In addition to the qualifications and characteristics set~~
5 ~~forth in subsection B hereinabove, the Auditor shall possess the~~
6 ~~following qualification: the Auditor must be a graduate of an~~
7 ~~accredited law school and member in good standing of the~~
8 ~~Washington State Bar Association and, prior to appointment, have~~
9 ~~at least five (5) years of experience in the practice of law or~~
10 ~~in a judicially related field.~~

11 ~~DC.~~ The Chief of Police shall cause a thorough background check
12 of nominees for Auditor-OPA Review Board identified by the Mayor-Council and shall
13 report the results to the Mayor-Council.

14
15 Section 3. Section 3.28.630 of the Seattle Municipal Code, as adopted by Ordinance
16 115975 is amended as follows:

17
18 3.28.630 Audit procedures and standards.

19 A. Audit of All Investigations of Complaints of Unnecessary or Excessive Force. The
20 Auditor-OPA Review Board shall audit all completed Internal Investigations case files
21 involving complaints of unnecessary or excessive force. Before a case file involving a
22 complaint of unnecessary or excessive force is referred to the subject officer's chain of
23 command for review and recommendations, and no more than three (3) business days after



1 the Internal Investigations Section has completed its investigation, the Department shall
2 forward a complete copy of the file to the ~~Auditor~~ OPA Review Board.

3 B. ~~Random~~ Audit of Investigations of Complaints Not Involving Unnecessary or Excessive
4 Force Allegations. Each calendar year, the ~~Auditor~~ OPA Review Board shall audit ~~on a~~
5 ~~random basis approximately twenty percent (20%)~~ all of the completed Internal
6 Investigations case files involving complaints other than those involving unnecessary or
7 excessive force. The Department shall notify the ~~Auditor~~ OPA Review Board of the
8 completion of case files on a weekly basis. The case file shall be forwarded to the subject
9 officer's chain of command for review and recommendations, if, within ten (10) business
10 days of notification of completion, the ~~Auditor~~ OPA Review Board has not advised the
11 Department s/he will audit the investigation. The ~~Auditor~~ OPA Review Board may audit a
12 completed case file after referral to the subject employee's chain of command; provided,
13 however, in such instance the ~~Auditor~~ OPA Review Board shall not request follow-up
14 investigation. The frequency of audits under this subsection shall be as determined by the
15 ~~Auditor~~ OPA Review Board; provided, however, audits of completed case files shall take
16 place at unscheduled intervals not to exceed ninety (90) days following initiation of the last
17 audit.

18 C. ~~Auditor~~ OPA Review Board May Request Further Investigation. The ~~Auditor~~ OPA
19 Review Board shall use their best efforts to complete audits under subsections A and B
20 hereinabove without unreasonably delaying review of the case file by the subject officer's
21 chain of command. After reviewing the file, the ~~Auditor~~ OPA Review Board may request
22 the Internal Investigations Section, through the Chief of Police, to conduct further
23 investigation. The ~~Auditor~~ OPA Review Board shall provide a written statement to the Chief
24 of Police identifying the reasons for his/her request for a follow-up investigation. Criteria

1 the ~~Auditor~~ OPA Review Board should consider includes but is not limited to: (1) whether
2 witnesses were contacted and evidence collected; (2) whether interviews were conducted on
3 a thorough basis; and (3) whether applicable IIS procedures were followed. In the event the
4 Chief of Police disagrees with this recommendation, he or she shall within five (5) days
5 provide the ~~Auditor~~ OPA Review Board with a written statement of the grounds for this
6 decision.

7 D. Secure Temporary Space. The Department shall, upon request of the ~~Auditor~~ OPA
8 Review Board, provide secure temporary space for the ~~Auditor~~ OPA Review Board to
9 conduct the audits close to the records to be reviewed.

10 E. Monthly Review of Contact Log and Complaint Records. The ~~Auditor~~ OPA Review
11 Board shall review the Internal Investigations contact log and Internal Investigations
12 complaint records at least monthly. If, after reviewing the Internal Investigations contact log
13 and Internal Investigations complaint records, the ~~Auditor~~ OPA Review Board believes
14 that a contact log complaint should be investigated further, or that a case that has been
15 designated for a line referral should receive a full investigation by the Internal Investigations
16 Section, the ~~Auditor~~ OPA Review Board may request the Internal Investigations Section,
17 through the Chief of Police, to conduct a full investigation. The ~~Auditor~~ OPA Review Board
18 shall provide a written statement to the Chief of Police identifying the reasons for ~~his/her~~
19 their request for a full investigation. The Chief of Police, or his/her designee, shall consult
20 with the ~~Auditor~~ OPA Review Board regarding the ~~Auditor's~~ OPA Review Board's request,
21 and shall promptly advise the ~~Auditor~~ OPA Review Board of the investigative action s/he
22 intends to take.

23 F. ~~Auditor's~~ OPA Review Board's Access to Records; Restriction on Access When
24 Criminal Investigation Pending; Return of Records.

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

12 2. Internal Investigations Section files and records made available to the OPA
13 Review Board~~Auditor~~ are the property of the Police Department and shall not, by operation
14 of this subchapter, become the property of the OPA Review Board~~Auditor~~. The OPA
15 Review Board~~Auditor~~ shall make every reasonable effort to maintain the security of files
16 belonging to the Department while in the OPA Review Board's~~Auditor's~~ possession. Any
17 requests made to the OPA Review Board~~Auditor~~ for IIS files or records, whether through
18 litigation discovery or pursuant to public disclosure, shall be referred to the Chief of Police
19 for response.

20 3. Upon completion of an audit, the OPA Review Board~~Auditor~~ shall return to
21 the Internal Investigations Section all section files, reports, and records to which s/he has
22 been provided access pursuant to these audit procedures and standards. Following
23 completion of an audit, the OPA Review Board~~Auditor~~ may, however, continue to have
24 access to closed IIS files.

1 G. OPA Review Board~~Auditor~~ Access to Caseload, Workload and Procedural Information.

2 The OPA Review Board~~Auditor~~ is authorized to request any information on Internal
3 Investigations cases, workload, or procedures that s/he finds necessary in order to conduct
4 an ongoing analysis of the Department's Internal Investigations process. The Department
5 shall make every reasonable effort to comply with the OPA Review Board's~~Auditor's~~
6 requests.

7
8 Section 4. Section 3.28.640 of the Seattle Municipal Code, as adopted by Ordinance
9 115975 and as amended by Ordinance 117242 is further amended as follows:

10
11 3.28.640 OPA Review Board~~Auditor~~ to prepare ~~semiannual~~quarterly report.

12
13 The OPA Review Board~~Auditor~~ shall prepare a ~~semiannual~~quarterly report of his/~~her~~their
14 audit activities. This report shall be forwarded to the ~~Mayor, City Council, Chief of Police,~~
15 City Attorney, Mayor, and City Clerk for filing as a public record. The OPA Review
16 Board's~~Auditor's~~ report shall be prepared in accordance with the following provisions:

17 A. The OPA Review Board shall review and report on the implementation of the Office of
18 Professional Accountability;

19 BA. The Auditor's report shall contain a general description of the files and records
20 reviewed, and should include, but not be limited to:

- 21 1. The number of cases reviewed by the Auditor;
22 2. The total number of complaints received by the Office of Professional Accountability
23 and Internal Investigations Section;
24 3. The number of complaints by category and nature of allegation;

1 4. The percentage of complaints sustained and not sustained:

2 5. The nature of disciplinary action taken in sustained cases:

3 6. Patterns of complaints including:

4 a. Type of complaint:

5 b. Geographic area of complaint:

6 c. Race, ethnicity, gender of complainants:

7 d. Race, ethnicity, gender, assignment, seniority of officer(s) who is/are subject of
8 complaint:

9 7. List of officers who have received four or more complaints within one year:

10 28. The number of follow-up investigations requested by the ~~Auditor~~ OPA Review Board,
11 the number of follow-up investigations completed by the Department, and the number of
12 follow-up investigation requests denied by the Department;

13 39. The number of contact log cases and line referral cases where the OPA Review
14 Board ~~Auditor~~ recommended that full investigations take place, the number of such
15 investigations completed by the Department, and the number of follow-up investigation
16 requests denied by the Department;

17 410. A summary of issues, problems and trends noted by the OPA Review Board ~~Auditor~~
18 as a result of their ~~his/her~~ review;

19 511. Any recommendations that the Department consider additional officer training,
20 including recommendations that the Department consider specialized training for IIS
21 investigators; ~~and~~

22 612. Any recommendations the Department consider policy or procedural changes; and

23 13. Review of OPA Director's involvement in community outreach to inform citizens of the
24 complaint process and the OPA's role.

1 ~~C. B.~~ The Auditor's OPA Review Board's report shall not contain any recommendations
2 concerning the discipline of any particular police officer, nor shall the report comment upon
3 or make any recommendation concerning potential civil or criminal liability of specific
4 employees, police officers, or citizens.

5 ~~C.~~ The Auditor shall deliver a preliminary draft of his/hersemiannual report to the Chief of
6 Police for review and comment. The Chief of Police shall review and comment on the
7 preliminary report within twenty (20) days after receipt of the report. The Auditor shall
8 submit the final report within thirty (30) days after receipt of the Chief's comments. The
9 Auditor's final report shall be submitted no later than the thirtieth day of April and October
10 of each year.

11 D. The OPA Review Board's report shall be forwarded to the Chair of the City Council's
12 Public Safety Committee no later than the thirtieth day of March, June, September and
13 December of each year.

14 ~~E. D.~~ The Chief of Police-OPA Review Board shall forward to the Mayor, City Council,
15 City Attorney, and the City Clerk within twenty (20) working days of receipt of the
16 Auditor's final report the Chief's written comments on the report the report no later than the
17 thirtieth day of March, June, September and December of each year.

18
19 Section 5. Section 3.28.650 of the Seattle Municipal Code, as adopted by Ordinance
20 115975 is amended as follows:

21
22 3.28.650 ~~Auditor~~ OPA Review Board to meet with Mayor, City Council, and
23 Chief of Police.

1 ~~The Auditor-OPA Review Board shall present their report quarterly to the City Council, meet~~
2 ~~periodically with the Mayor, City Council, and the Chief of Police regarding~~
3 ~~recommendations to improve the IIS investigative process within the framework of~~
4 ~~applicable law and labor agreements.~~

5
6 Section 6. Section 3.28.660 of the Seattle Municipal Code, as adopted by Ordinance
7 115975 is amended as follows:

8
9 3.28.660 Confidentiality of files and records.

10 In discharging his or her responsibilities, the Auditor-OPA Review Board members shall
11 protect the confidentiality of Department files and records to which s/he has they have been
12 provided access in the same manner and to the same degree as s/he they would be obligated
13 to protect attorney-client privileged materials under legal and ethical requirements. The
14 Auditor-OPA Review Board shall also be bound by the confidentiality provisions of the
15 Criminal Records Privacy Act (RCW Chapter 10.97) and Public Disclosure Act (RCW
16 Section 42.17.250 et seq.). The Auditor-OPA Review Board shall not identify the identity of
17 the subject of an investigation in any public report required by this chapter.



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Section 7. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the _____ day of _____, 1999, and signed by me in open session in authentication of its passage this _____ day of _____, 1999.

President of the City Council

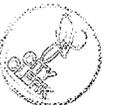
Approved by me this _____ day of _____, 1999.

Paul Schell, Mayor

Filed by me this _____ day of _____, 19____.

City Clerk

(SEAL)



STATE OF WASHINGTON - KING COUNTY

113671

City of Seattle, City Clerk

—ss.

No. ORDINANCE IN

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

CT:119825/ORD IN FUL

was published on

01/12/00 & 01/14/00

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

[Signature]

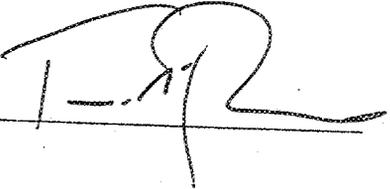
Subscribed and sworn to before me on 01/12/00 [Signature]

Notary Public for the State of Washington, residing in Seattle

TIME AND DATE STAMP

SPONSORSHIP

THE ATTACHED DOCUMENT IS SPONSORED FOR FILING WITH THE CITY COUNCIL BY
THE MEMBER(S) OF THE CITY COUNCIL WHOSE SIGNATURE(S) ARE SHOWN BELOW:



FOR CITY COUNCIL PRESIDENT USE ONLY

COMMITTEE(S) REFERRED TO: _____

PRESIDENT'S SIGNATURE

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Dec
Paul

ISSUE NO:
ISSUE DATE:
ISSUED BY:

MODIFIED PUBLICATION

City of Seattle

ORDINANCE 118928

AN ORDINANCE relating to the Police Department, abolishing the position of the Internal Investigations Auditor and replacing the Internal Investigations Auditor with an Office of Professional Accountability Review Board, and amending the Seattle Municipal Code Chapter 3.28 including Sections 3.28.600, 3.28.620, 3.28.630, 3.28.640, 3.28.650 and SMC 3.28.660.

WHEREAS, on August 19, 1999, a panel of citizens appointed by the Mayor issued its report on employee accountability within the Seattle Police Department and the process used to investigate reports of police misconduct; and

WHEREAS, after more than three months of investigation, this report concluded that although Seattle has a top-rate Police Department with no evidence of widespread corruption or misconduct, there is still room for improvement; and

WHEREAS, the report offered a series of recommendations to increase confidence in the Police Department's ability to maintain standards of professional integrity; and

WHEREAS, the City Council intends to enact those recommendations at the request of the Mayor and Chief of Police; and

WHEREAS, the City Council further desires accountability and oversight to strengthen the Police Department's confidence among the public, officers and the Council;

NOW THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 3.28.600 of the Seattle Municipal Code, as adopted by Ordinance 115975, is amended as follows:

3.28.600 ~~((Auditor)) Office of Professional Accountability Review Board~~ ~~((created— Purpose)).~~

There is created an ~~((Internal Investigations Auditor (hereinafter "Auditor")))~~ ~~Office of Professional Accountability Review Board (hereinafter "OPA Review Board")~~ ~~((with authority))~~ to establish independent review of ~~((and assess investigations conducted by))~~ the ~~Office of Professional Accountability ("OPA")~~ ~~((and the Internal Investigations Section—"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 ~~Office of Professional Accountability and the OPA investigation~~ ~~((internal investigations))~~ process. The ~~OPA Review Board and the OPA Review Board 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. ~~The OPA Review Board shall consist of three (3) members.~~

~~The OPA Review Board shall, subject to City Council consultation and confirmation, and as provided by ordinance, hire a full-time Auditor ("OPA Review Board Auditor") as its staff. The OPA Review Board Auditor shall report to the OPA Review Board, audit, in accordance with SMC 3.28.630 and SMC 3.28.640, the work of the Office of Professional Accountability as to its handling, processing and investigation of complaints filed with that office; and assist the OPA Review Board in the performance of their duties as provided in this Chapter.~~

Section 2. Section 3.28.620 of the Seattle Municipal Code, as adopted by Ordinance

~~((Auditor)) OPA Review Board~~ filed by the ~~((Mayor)) Council~~ and report the results to the ~~((Mayor)) Council~~.

Section 3. Section 3.28.630 of the Seattle Municipal Code, as adopted by Ordinance 115975 is amended as follows:

3.28.630 Audit procedures and standards.

A. Audit of All Investigations of Complaints of Unnecessary or Excessive Force. The ~~OPA Review Board Auditor~~ shall audit all completed ~~((Internal Investigations))~~ OPA case files involving complaints of unnecessary or excessive force. Before a case file involving a complaint of unnecessary or excessive force is referred to the subject officer's chain of command for review and recommendations, and no more than three (3) business days after the ~~((Internal Investigations Section)) Office of Professional Accountability~~ has completed its investigation, the Department shall forward a complete copy of the file to the ~~OPA Review Board Auditor~~.

B. ~~((Random))~~ Audit of Investigations of Complaints Not Involving Unnecessary or Excessive Force Allegations. Each calendar year, the ~~OPA Review Board Auditor~~ shall audit ~~((on a random basis approximately twenty percent (20%))~~ all of the completed ~~((Internal Investigations))~~ OPA case files involving complaints other than those involving unnecessary or excessive force. The Department shall notify the ~~OPA Review Board Auditor~~ of the completion of case files on a weekly basis. The case file shall be forwarded to the subject officer's chain of command for review and recommendations, if, within ten (10) business days of notification of completion, the ~~OPA Review Board Auditor~~ has not advised the Department s/he will audit the investigation. The ~~OPA Review Board Auditor~~ may audit a completed case file after referral to the subject employee's chain of command; provided, however, in such instance the ~~OPA Review Board Auditor~~ shall not request follow-up investigation. The frequency of audits under this subsection shall be as determined by the ~~OPA Review Board Auditor~~; provided, however, audits of completed case files shall take place at unscheduled intervals not to exceed ninety (90) days following initiation of the last audit.

C. ~~OPA Review Board Auditor~~ May Request Further Investigation. The ~~OPA Review Board Auditor~~ shall use his or her best efforts to complete audits under subsections A and B hereinabove without unreasonably delaying review of the case file by the subject officer's chain of command. After the ~~OPA Review Board Auditor~~ has ~~((reviewing))~~ reviewed the file, the ~~((Auditor)) OPA Review Board~~ may request the ~~Office of Professional Accountability~~ ~~((Internal Investigations Section))~~, through the Chief of Police, to conduct further investigation. The ~~((Auditor)) OPA Review Board~~ shall provide a written statement to the Chief of Police identifying the reasons for ~~((his/her))~~ their request for a follow-up investigation. Criteria the ~~((Auditor)) OPA Review Board~~ should consider includes but is not limited to: (1) whether witnesses were contacted and evidence collected; (2) whether interviews were conducted on a thorough basis; and (3) whether applicable ~~OPA~~ ~~((HS))~~ procedures were followed. In the event the Chief of Police disagrees with this recommendation, he or she shall within five (5) days provide ~~((the Auditor)) OPA Review Board~~ with a written statement of the grounds for this decision.

D. Secure Temporary Space. The Department shall, upon request of the ~~((Auditor)) OPA Review Board~~, provide secure temporary space for the ~~OPA Review Board Auditor~~ to conduct the audits close to the records to be reviewed.

E. Monthly Review of Contact Log and Complaint Records. The ~~OPA Review Board~~

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