

Ordinance No. 122126

Council Bill No. 115542

Relating to Office of Professional Accountability (OPA) records reviewed by the Office of Professional Accountability Review Board (OPA Review Board); providing that the OPA Review Board will have access to unredacted OPA files; setting forth the OPA Review Board's confidentiality requirements and provisions concerning indemnity; and amending Seattle Municipal Code Section 3.28.920 accordingly.

The City of Seattle - Legislative Department  
Council Bill/Ordinance sponsored by: *Nick Lesch*  
Councilmember

**Committee Action:**

pass 3-0-1 NL, RC, PS yes Jan 2006 (CH)

5-30-06 Passed 9-0

Returned Unsigned  
by Mayor

CF No. \_\_\_\_\_

Date Introduced:	APR 10 2006	
Date 1st Referred:	APR 10 2006	
Date Re - Referred:	To: (committee) Public Safety, Civil Rights & Arts	
Date Re - Referred:	To: (committee)	
Date of Final Passage:	Full Council Vote: 9-0	
Date Presented to Mayor:	Date Approved: <del>5-30-06</del>	
Date Returned to City Clerk:	Date Published:	T.O. _____ F.T. _____
Date Vetoes by Mayor:	Date Veto Published:	
Date Passed Over Veto:	Veto Sustained:	

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

*Law Department*

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

*(Handwritten mark)*

ORDINANCE 122126

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3 AN ORDINANCE relating to Office of Professional Accountability (OPA) records reviewed by  
4 the Office of Professional Accountability Review Board (OPA Review Board); providing  
5 that the OPA Review Board will have access to unredacted OPA files; setting forth the  
6 OPA Review Board's confidentiality requirements and provisions concerning indemnity;  
7 and amending Seattle Municipal Code Section 3.28.920 accordingly.

8  
9 WHEREAS, SMC 3.28.920(A) states that the OPA Review Board shall have access to redacted  
10 complaint forms of all OPA complaints and redacted files of all closed OPA  
11 investigations; and

12  
13 WHEREAS, SMC 3.28.920(B) requires OPA Review Board members to protect the  
14 confidentiality of Police Department files and records to which they have been given  
15 access; and

16  
17 WHEREAS, in its December 2002 report the OPA Review Board observed that the process of  
18 redacting OPA files is unnecessarily labor intensive for the OPA, is unproductive, and is  
19 a practical impediment to its work, and thus limits its ability to effectively perform its  
20 duty to review the OPA complaint handling process; and

21  
22 WHEREAS, in its April 2004 report the OPA Review Board recommended to the City Council  
23 that it have access to unredacted OPA files because the time required for redaction and  
24 the difficulty of reading redacted files hamper its ability to review OPA cases and because  
25 redaction prevents it from determining patterns of complaints against particular officers  
26 or within specific precincts; and

27  
28 WHEREAS, in its April 2004 report the OPA Review Board also observed that it had honored its  
nondisclosure agreements by safeguarding identifying information it had received  
inadvertently or directly from complainants and therefore had earned the right to be  
routinely entrusted with such information; and

WHEREAS, the City Council believes the confidentiality requirement placed on the OPA  
Review Board is sufficient to protect the confidentiality of OPA files in the possession of  
the OPA Review Board; and

WHEREAS, the City Council believes the confidentiality requirement in SMC 3.28.920(B) can  
be stated more clearly; NOW, THEREFORE,

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

Section 1. Section 3.28.920 of the Seattle Municipal Code is amended as follows:



1 3.28.920 Access to and confidentiality of files and records

2 A. For the purpose of reviewing the OPA complaint handling process, the~~((The))~~ OPA  
3 Review Board shall have access to~~((, for purposes of review, redacted))~~ unredacted complaint  
4 forms of all OPA complaints and ~~((redacted))~~unredacted files of all closed OPA investigations,  
5 except for information the OPA would be required to withhold from persons not members of  
6 criminal justice agencies pursuant to the Criminal Records Privacy Act (Chapter 10.97 RCW) as  
7 it now exists and may hereafter be amended. The OPA Review Board shall have access to  
8 summary information necessary for its reporting obligations as set forth in Section 3.28.910 of  
9 this chapter.

10  
11 B. In discharging ~~((his or her))~~their responsibilities, OPA Review Board members shall  
12 protect the confidentiality of Department files to which they have been provided access.~~((in the~~  
13 ~~same manner and to the same degree they would be obligated to protect attorney-client privileged~~  
14 ~~materials under legal and ethical requirements . The OPA Review Board shall also be bound by~~  
15 ~~the confidentiality provisions of the Criminal Records Privacy Act (RCW Chapter 10.97) and~~  
16 ~~Public Disclosure Act (RCW Section 42.17.250 et seq.). The OPA Review Board shall not~~  
17 ~~identify the identity of the subject of an investigation in any public report required by this~~  
18 ~~chapter.))~~ OPA Review Board members shall not disclose information in these Department files  
19 and records except in the reports required by ordinance. OPA Review Board reports shall not  
20 contain identifying information about anyone involved in an OPA complaint or OPA  
21 investigation other than the OPA Director. "Identifying information" is defined as name, badge  
22 number, physical description, address, telephone number, email address, photographs or  
23 drawings, or any other unique identifying numbers such as driver's license, employee, vehicle or  
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1 social security numbers. In the event of a public disclosure request pursuant to the Public  
2 Disclosure Act (RCW 42.17.250 et seq.), the OPA Review Board shall not disclose any  
3 information contained in OPA complaint forms or in files on closed OPA investigations, and  
4 shall transmit all such requests to the OPA Director for response.

5 C. Indemnification and defense of OPA Review Board members is governed by Chapter  
6 4.64 SMC. It is outside the scope of OPA Review Board members' assignments to disclose  
7 information in Department files and records other than as allowed in subsection B of this section.

8 Section 2. 3.28.920 subsection C of the Seattle Municipal Code supersedes and preempts  
9 confidentiality agreements by OPA Review Board members that are inconsistent with that  
10 subsection.  
11

12 Section 3. This ordinance shall take effect and be in force the later of (a) or (b) as  
13 follows:  
14

15 (a) whichever of the following dates (a)(i) or (a)(ii) is the first to occur:

16 (i) March 31, 2007 (which is ninety days after the expiration of the City's  
17 Collective Bargaining Agreement with the Seattle Police Officers' Guild (SPOG) on December  
18 31, 2006), to allow an opportunity to collectively bargain the effects of any of this ordinance's  
19 provisions on the wages, hours and working conditions of SPOG members, or  
20

21 (ii) the effective date, if any, of an agreement reached between the City and SPOG  
22 concerning the effects of any of this ordinance's provisions on the wages, hours and working  
23 conditions of SPOG members; and  
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25 (b) either (b)(i) or (b)(ii) as applicable:  
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(i) if this ordinance is approved and returned by the Mayor within ten days after its presentation to him, then thirty days after the Mayor's approval, or

(ii) if this ordinance is not approved and returned by the Mayor within ten days after its presentation to him, then the effective date provided by Municipal Code Section 1.04.020 subsections B, C, or D, as applicable.

Passed by the City Council the 30<sup>th</sup> day of May, 2006, and signed by me in open session in authentication of its passage this 30<sup>th</sup> day of May, 2006.

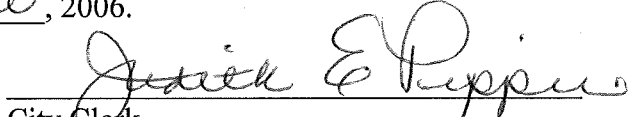
  
\_\_\_\_\_  
President \_\_\_\_\_ of the City Council

Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

**Returned Unsigned  
by Mayor**

\_\_\_\_\_  
Gregory J. Nickels, Mayor

Filed by me this 12 day of June, 2006.

  
\_\_\_\_\_  
City Clerk

(Seal)



**FISCAL NOTE FOR NON-CAPITAL PROJECTS**

<b>Department:</b>	<b>Contact Person/Phone:</b>	<b>DOF Analyst/Phone:</b>
Legislative	Peter Harris / 684-8368	n/a

**Legislation Title:**

AN ORDINANCE relating to Office of Professional Accountability (OPA) records reviewed by the Office of Professional Accountability Review Board (OPA Review Board); providing that the OPA Review Board will have access to unredacted OPA files; setting forth the OPA Review Board's confidentiality requirements and provisions concerning indemnity; and amending Seattle Municipal Code Section 3.28.920 accordingly.

• **Summary of the Legislation:**

SMC 3.28.920 concerns the OPA Review Board's access to OPA files and the confidentiality of these files when in possession of the Review Board. Currently the Review Board has access to OPA files only after information that identifies the people involved in the case has been redacted. This ordinance would remove the redaction requirement, giving the Review Board access to identifying information. It would also clarify the Review Board's confidentiality requirement and give the Review Board the same indemnification and defense status as other City employees under SMC 4.64.

• **Background:** *(Include brief description of the purpose and context of legislation and include record of previous legislation and funding history, if applicable):*

The OPA Review Board has frequently recommended that it have access to unredacted OPA files on the grounds that redaction is laborious for the OPA and makes it difficult to read the files. The Review Board has also frequently requested clarification of its confidentiality requirements and improvements in its indemnification requirements.

In 2004 the Police Department estimated that redacting the sample of files the OPA Review Board would review that year would take 45 hours, for a salary and benefits cost of \$1800. Although some of this was overtime that would not be required without the redaction, the total amount does not seem material in the context of a \$190 million Department budget.


• *Please check one of the following:*

**This legislation does not have any financial implications.** *(Stop here and delete the remainder of this document prior to saving and printing.)*





**Legislative Department  
Office of City Clerk  
Memorandum**

**Date:** June 15, 2006  
**To:** Councilmembers  
**From:** Judith E. Pippin, City Clerk   
**Subject:** Mayor Failed to Approve and/or Return Legislation Within 10 Days

On May 31, 2006, the Clerk presented to the Mayor the five Council Bills that were passed by Council at the May 30 Full Council meeting (see reverse of this memo for a list of CB titles). The City Charter specifies that the Mayor return legislation within 10 days after it is delivered to him, or in this case, on or before June 10.

Two of the five CBs were left unsigned by the Mayor (see chart on reverse). Three of the CBs were signed by the Mayor on June 12 (after the 10 day period). All five CBs were returned by the Mayor on June 12 (after the 10 day period).

SMC 1.04.020 (also on reverse, for your reference) describes how to determine effective dates of ordinances. Except for ordinance 122126 (CB 115542), the CBs/ordinances in question will be effective 15 days later than they would normally be effective, due to the late return by the Mayor.

Please call me (4-8361) if you have questions about this memo or the effective date process.

cc: Clerk staff

CB 115542	AN ORDINANCE relating to Office of Professional Accountability (OPA) records reviewed by the Office of Professional Accountability Review Board (OPA Review Board); providing that the OPA Review Board will have access to unredacted OPA files; setting forth the OPA Review Board's confidentiality requirements and provisions concerning indemnity; and amending Seattle Municipal Code Section 3.28.920 accordingly. <b>RETURNED UNSIGNED BY MAYOR</b>	conditional effective date - see Section 3 of CB
CB 115543	AN ORDINANCE relating to land use and zoning; amending Seattle Municipal Code Section 23.47.040 and the Official Land Use Map, Chapter 23.32 of the Seattle Municipal Code, to rezone properties to establish permanent pedestrian-designated zones in the Crown Hill Residential Urban Village by adding a Pedestrian 2 designation and by adding 15th Ave. NW and NW 85th St. to the list of principal pedestrian streets, and to amend the ordinance introduced as CB 115513.	1.04.020
CB 115573	AN ORDINANCE relating to the Office of Professional Accountability (OPA) Review Board; increasing the number of terms each OPA Review Board (OPARB) member may serve from two to three; and amending Seattle Municipal Code Section 3.28.905 accordingly. <b>RETURNED UNSIGNED BY MAYOR</b>	1.04.020
CB 115576	AN ORDINANCE accepting a quit claim deed for a portion of Pine Street and Alaskan Way previously vacated (subject to certain conditions) in Ordinance 117279 for the Port of Seattle's Central Waterfront Project, and establishing, laying off and dedicating the area for street purposes.	1.04.020
CB 115593	AN ORDINANCE appropriating money to pay certain audited claims and ordering the payment thereof.	1.04.020

**SMC 1.04.020 Effective dates of ordinances.**

Except to the extent otherwise provided in a specific ordinance, each ordinance of the City shall take effect and be in force as follows:

- A. If approved by the Mayor and returned to the City Council or the City Clerk within ten (10) days after its presentation to the Mayor, thirty(30)days after the Mayor's approval;
- B. If within ten (10) days after its presentation to the Mayor it is returned to the City Council or the City Clerk without the Mayor's approval or disapproval, thirty (30) days after its return;
- C. If not returned to the City Council or the City Clerk within ten(10) days after presentation to the Mayor, forty-five (45) days after passage by the City Council; or
- D. If disapproved by the Mayor and upon reconsideration again passed by the City Council, thirty(30)days after such reconsidered passage.



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**STATE OF WASHINGTON – KING COUNTY**

--SS.

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200532  
CITY OF SEATTLE, CLERKS OFFICE

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 12<sup>th</sup> day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

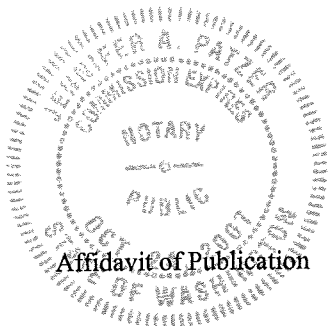
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:122126 ORDINANCE


was published on

07/18/06

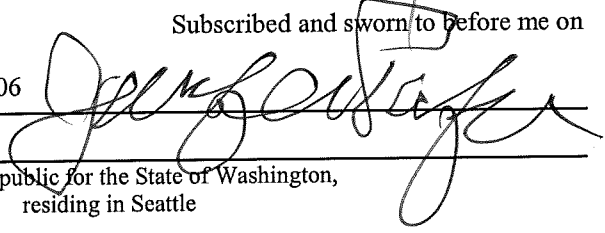
The amount of the fee charged for the foregoing publication is the sum of \$ 234.60, which amount has been paid in full.



Affidavit of Publication

  
Subscribed and sworn to before me on

07/18/06

  
Notary public for the State of Washington,  
residing in Seattle

# State of Washington, King County

## City of Seattle

### ORDINANCE 122126

AN ORDINANCE relating to Office of Professional Accountability (OPA) records reviewed by the Office of Professional Accountability Review Board (OPA Review Board); providing that the OPA Review Board will have access to unredacted OPA files; setting forth the OPA Review Board's confidentiality requirements and provisions concerning indemnity; and amending Seattle Municipal Code Section 3.28.920 accordingly.

WHEREAS, SMC 3.28.920(A) states that the OPA Review Board shall have access to redacted complaint forms of all OPA complaints and redacted files of all closed OPA investigations; and

WHEREAS, SMC 3.28.920(B) requires OPA Review Board members to protect the confidentiality of Police Department files and records to which they have been given access; and

WHEREAS, in its December 2002 report the OPA Review Board observed that the process of redacting OPA files is unnecessarily labor intensive for the OPA, is unproductive, and is a practical impediment to its work, and thus limits its ability to effectively perform its duty to review the OPA complaint handling process; and

WHEREAS, in its April 2004 report the OPA Review Board recommended to the City Council that it have access to unredacted OPA files because the time required for redaction and the difficulty of reading redacted files hamper its ability to review OPA cases and because redaction prevents it from determining patterns of complaints against particular officers or within specific precincts; and

WHEREAS, in its April 2004 report the OPA Review Board also observed that it had honored its nondisclosure agreements by safeguarding identifying information it had received inadvertently or directly from complainants and therefore had earned the right to be routinely entrusted with such information; and

WHEREAS, the City Council believes the confidentiality requirement placed on the OPA Review Board is sufficient to protect the confidentiality of OPA files in the possession of the OPA Review Board; and

WHEREAS, the City Council believes the confidentiality requirement in SMC 3.28.920(B) can be stated more clearly; NOW, THEREFORE,

### BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 3.28.920 of the Seattle Municipal Code is amended as follows:

3.28.920 Access to and confidentiality of files and records

A. For the purpose of reviewing the OPA complaint handling process, the OPA Review Board shall have access to ~~(for purposes of review, redacted)~~ unredacted complaint forms of all OPA complaints and ~~(redacted)~~ unredacted files of all closed OPA investigations, except for information the OPA would be required to withhold from persons not members of criminal justice agencies pursuant to the Criminal Records Privacy Act (Chapter 10.97 RCW) as it now exists and may hereafter be amended. The OPA Review Board shall have access to summary information necessary for its reporting obligations as set forth in Section 3.28.910 of this chapter.

B. In discharging ~~(his or her)~~ their responsibilities, OPA Review Board members shall protect the confidentiality of Department files to which they have been provided access, ~~(in the same manner and to the same degree they would be obligated to protect attorney-client privileged materials under legal and ethical requirements. The OPA Review Board shall also be bound by the confidentiality provisions of the Criminal Records Privacy Act (RCW Chapter 10.97)~~

~~and Public Disclosure Act (RCW Section 42.17.250 et seq.) The OPA Review Board shall not identify the identity of the subject of an investigation in any public report required by this chapter. OPA Review Board members shall not disclose information in these Department files and records except in the reports required by ordinance. OPA Review Board reports shall not contain identifying information about anyone involved in an OPA complaint or OPA investigation other than the OPA Director. "Identifying information" is defined as name, badge number, physical description, address, telephone number, email address, photographs or drawings, or any other unique identifying numbers such as driver's license, employee, vehicle or social security numbers. In the event of a public disclosure request pursuant to the Public Disclosure Act (RCW 42.17.250 et seq.) the OPA Review Board shall not disclose any information contained in OPA complaint forms or in files on closed OPA investigations, and shall transmit all such requests to the OPA Director for response.~~

C. Indemnification and defense of OPA Review Board members is governed by Chapter 4.64 SMC. It is outside the scope of OPA Review Board members' assignments to disclose information in Department files and records other than as allowed in subsection B of this section.

Section 2. 3.28.920 subsection C of the Seattle Municipal Code supersedes and preempts confidentiality agreements by OPA Review Board members that are inconsistent with that subsection.

Section 3. This ordinance shall take effect and be in force the later of (a) or (b) as follows:

(a) whichever of the following dates (a)(i) or (a)(ii) is the first to occur:

(i) March 31, 2007 (which is ninety days after the expiration of the City's Collective Bargaining Agreement with the Seattle Police Officers' Guild (SPOG) on December 31, 2006), to allow an opportunity to collectively bargain the effects of any of this ordinance's provisions on the wages, hours and working conditions of SPOG members; or

(ii) the effective date, if any, of an agreement reached between the City and SPOG concerning the effects of any of this ordinance's provisions on the wages, hours and working conditions of SPOG members; and

(b) either (b)(i) or (b)(ii) as applicable:

(i) if this ordinance is approved and returned by the Mayor within ten days after its presentation to him, then thirty days after the Mayor's approval; or

(ii) if this ordinance is not approved and returned by the Mayor within ten days after its presentation to him, then the effective date provided by Municipal Code Section 1.04.020

OPA Review Board members to protect the confidentiality of Police Department files and records to which they have been given access; and

WHEREAS, in its December 2002 report the OPA Review Board observed that the process of redacting OPA files is unnecessarily labor intensive for the OPA, is unproductive, and is a practical impediment to its work, and thus limits its ability to effectively perform its duty to review the OPA complaint handling process; and

WHEREAS, in its April 2004 report the OPA Review Board recommended to the City Council that it have access to unredacted OPA files because the time required for redaction and the difficulty of reading redacted files hamper its ability to review OPA cases and because redaction prevents it from determining patterns of complaints against particular officers or within specific precincts; and

WHEREAS, in its April 2004 report the OPA Review Board also observed that it had honored its nondisclosure agreements by safeguarding identifying information it had received inadvertently or directly from complainants and therefore had earned the right to be routinely entrusted with such information; and

WHEREAS, the City Council believes the confidentiality requirement placed on the OPA Review Board is sufficient to protect the confidentiality of OPA files in the possession of the OPA Review Board; and

WHEREAS, the City Council believes the confidentiality requirement in SMC 3.28.920(B) can be stated more clearly; NOW, THEREFORE,

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

Section 1. Section 3.28.920 of the Seattle Municipal Code is amended as follows:

3.28.920 Access to and confidentiality of files and records

A. For the purpose of reviewing the OPA complaint handling process, the OPA Review Board shall have access to (for purposes of review, redacted) unredacted complaint forms of all OPA complaints and (redacted) unredacted files of all closed OPA investigations, except for information the OPA would be required to withhold from persons not members of criminal justice agencies pursuant to the Criminal Records Privacy Act (Chapter 10.97 RCW) as it now exists and may hereafter be amended. The OPA Review Board shall have access to summary information necessary for its reporting obligations as set forth in Section 3.28.910 of this chapter.

B. In discharging ((his or her)) their responsibilities, OPA Review Board members shall protect the confidentiality of Department files to which they have been provided access, ((in the same manner and to the same degree they would be obligated to protect attorney-client privileged materials under legal and ethical requirements. The OPA Review Board shall also be bound by the confidentiality provisions of the Criminal Records Privacy Act (RCW Chapter 10.97)

and Public Disclosure Act (RCW Section 42.17.250 et seq.). The OPA Review Board shall not identify the identity of the subject of an investigation in any public report required by this chapter.)) OPA Review Board members shall not disclose information in these Department files and records except in the reports required by ordinance. OPA Review Board reports shall not contain identifying information about anyone involved in an OPA complaint or OPA investigation other than the OPA Director. "Identifying information" is defined as name, badge number, physical description, address, telephone number, email address, photographs or drawings, or any other unique identifying numbers such as driver's license, employee, vehicle or social security numbers. In the event of a public disclosure request pursuant to the Public Disclosure Act (RCW 42.17.250 et seq.), the OPA Review Board shall not disclose any information contained in OPA complaint forms or in files on closed OPA investigations, and shall transmit all such requests to the OPA Director for response.

C. Indemnification and defense of OPA Review Board members is governed by Chapter 4.64 SMC. It is outside the scope of OPA Review Board members' assignments to disclose information in Department files and records other than as allowed in subsection B of this section.

Section 2. 3.28.920 subsection C of the Seattle Municipal Code supersedes and preempts confidentiality agreements by OPA Review Board members that are inconsistent with that subsection.

Section 3. This ordinance shall take effect and be in force the later of (a) or (b) as follows:

(a) whichever of the following dates (a)(i) or (a)(ii) is the first to occur:

(i) March 31, 2007 (which is ninety days after the expiration of the City's Collective Bargaining Agreement with the Seattle Police Officers' Guild (SPOG) on December 31, 2006), to allow an opportunity to collectively bargain the effects of any of this ordinance's provisions on the wages, hours and working conditions of SPOG members; or

(ii) the effective date, if any, of an agreement reached between the City and SPOG concerning the effects of any of this ordinance's provisions on the wages, hours and working conditions of SPOG members; and

(b) either (b)(i) or (b)(ii) as applicable:

(i) if this ordinance is approved and returned by the Mayor within ten days after its presentation to him, then thirty days after the Mayor's approval; or

(ii) if this ordinance is not approved and returned by the Mayor within ten days after its presentation to him, then the effective date provided by Municipal Code Section 1.04.020 subsections B, C, or D, as applicable.

Passed by the City Council the 30th day of May, 2006, and signed by me in open session in authentication of its passage this 30th day of May, 2006.

NICK LICATA,  
President of the City Council.

Approved by me this 12th day of June, 2006.

GREGORY J. NICKELS,  
Mayor.

Filed by me this 12th day of June, 2006.

(Seal) JUDITH PIPPIN,  
City Clerk.

This ordinance was submitted to the Mayor on May 31 and returned on June 12, 2006, and is therefore effective pursuant to SMC 1.04.020.

Publication order by JUDITH PIPPIN,  
City Clerk.

Date of publication in the Seattle Daily Journal of Commerce, July 18, 2006.

7/18(200532)

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**STATE OF WASHINGTON – KING COUNTY**

--SS.

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200454  
CITY OF SEATTLE, CLERKS OFFICE

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 12<sup>th</sup> day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

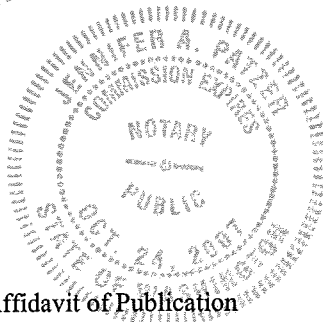
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:ORD# 122126

was published on

07/14/06

The amount of the fee charged for the foregoing publication is the sum of \$ 241.50, which amount has been paid in full.



Affidavit of Publication

*Samela Oglesky*

Subscribed and sworn to before me on

07/14/06

Notary public for the State of Washington,  
residing in Seattle

# State of Washington, King County

## State of Washington

### ORDINANCE 122126

AN ORDINANCE relating to Office of Professional Accountability (OPA) records reviewed by the Office of Professional Accountability Review Board (OPA Review Board); providing that the OPA Review Board will have access to unredacted OPA files; setting forth the OPA Review Board's confidentiality requirements and provisions concerning indemnity; and amending Seattle Municipal Code Section 3.28.920 accordingly.

WHEREAS, SMC 3.28.920(A) states that the OPA Review Board shall have access to redacted complaint forms of all OPA complaints and redacted files of all closed OPA investigations; and

WHEREAS, SMC 3.28.920(B) requires OPA Review Board members to protect the confidentiality of Police Department files and records to which they have been given access; and

WHEREAS, in its December 2002 report the OPA Review Board observed that the process of redacting OPA files is unnecessarily labor intensive for the OPA, is unproductive, and is a practical impediment to its work, and thus limits its ability to effectively perform its duty to review the OPA complaint handling process; and

WHEREAS, in its April 2004 report the OPA Review Board recommended to the City Council that it have access to unredacted OPA files because the time required for redaction and the difficulty of reading redacted files hamper its ability to review OPA cases and because redaction prevents it from determining patterns of complaints against particular officers or within specific precincts; and

WHEREAS, in its April 2004 report the OPA Review Board also observed that it had honored its nondisclosure agreements by safeguarding identifying information it had received inadvertently or directly from complainants and therefore had earned the right to be routinely entrusted with such information; and

WHEREAS, the City Council believes the confidentiality requirement placed on the OPA Review Board is sufficient to protect the confidentiality of OPA files in the possession of the OPA Review Board; and

WHEREAS, the City Council believes the confidentiality requirement in SMC 3.28.920(B) can be stated more clearly; NOW, THEREFORE,

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3.28.920 Access to and confidentiality of files and records

A. For the purpose of reviewing the OPA complaint handling process, the OPA Review Board shall have access to (for purposes of review, redacted) unredacted complaint forms of all OPA complaints and (redacted) unredacted files of all closed OPA investigations, except for information the OPA would be required to withhold from persons not members of criminal justice agencies pursuant to the Criminal Records Privacy Act (Chapter 10.97 RCW) as it now exists and may hereafter be amended. The OPA Review Board shall have access to summary information necessary for its reporting obligations as set forth in Section 3.28.910 of this chapter.

B. In discharging ((his or her)) their responsibilities, OPA Review Board members shall protect the confidentiality of Department files to which they have been provided access, ((in the same manner and to the same degree they would be obligated to protect attorney-client privileged material under legal and ethical requirements. The OPA Review Board shall also be bound by the confidentiality provisions of the Criminal Records Privacy Act (RCW Chapter 10.97) and Public Disclosure Act (RCW Section 42.17.250 et seq.). The OPA Review Board

shall not identify the identity of the subject of an investigation in any public report required by this chapter.) OPA Review Board members shall not disclose information in these Department files and records except in the reports required by ordinance. OPA Review Board reports shall not contain identifying information about anyone involved in an OPA complaint or OPA investigation other than the OPA Director. "Identifying information" is defined as name, badge number, physical description, address, telephone number, email address, photographs or drawings, or any other unique identifying numbers such as driver's license, employee, vehicle or social security numbers. In the event of a public disclosure request pursuant to the Public Disclosure Act (RCW 42.17.250 et seq.), the OPA Review Board shall not disclose any information contained in OPA complaint forms or in files on closed OPA investigations, and shall transmit all such requests to the OPA Director for response.

C. Indemnification and defense of OPA Review Board members is governed by Chapter 4.64 SMC. It is outside the scope of OPA Review Board members' assignments to disclose information in Department files and records other than as allowed in subsection B of this section.

Section 2. 3.28.920 subsection C of the Seattle Municipal Code supersedes and preempts confidentiality agreements by OPA Review Board members that are inconsistent with that subsection.

Section 3. This ordinance shall take effect and be in force the later of (a) or (b) as follows:

(a) whichever of the following dates (a)(i) or (a)(ii) is the first to occur:

(i) March 31, 2007 (which is ninety days after the expiration of the City's Collective Bargaining Agreement with the Seattle Police Officers' Guild (SPOG) on December 31, 2006), to allow an opportunity to collectively bargain the effects of any of this ordinance's provisions on the wages, hours and working conditions of SPOG members; or

(ii) the effective date, if any, of an agreement reached between the City and SPOG concerning the effects of any of this ordinance's provisions on the wages, hours and working conditions of SPOG members; and

(b) either (b)(i) or (b)(ii) as applicable:

(i) if this ordinance is approved and returned by the Mayor within ten days after its presentation to him, then thirty days after the Mayor's approval; or

(ii) if this ordinance is not approved and returned by the Mayor within ten days after its presentation to him, then the effective date provided by Municipal Code Section 1.04.020 subsections B, C, or D, as applicable.

Council the 30th day

redacted complaints and redacted files of all closed OPA investigations; and

WHEREAS, SMC 3.28.920(B) requires OPA Review Board members to protect the confidentiality of Police Department files and records to which they have been given access; and

WHEREAS, in its December 2002 report the OPA Review Board observed that the process of redacting OPA files is unnecessarily labor intensive for the OPA, is unproductive, and is a practical impediment to its work, and thus limits its ability to effectively perform its duty to review the OPA complaint handling process; and

WHEREAS, in its April 2004 report the OPA Review Board recommended to the City Council that it have access to unredacted OPA files because the time required for redaction and the difficulty of reading redacted files hamper its ability to review OPA cases and because redaction prevents it from determining patterns of complaints against particular officers or within specific precincts; and

WHEREAS, in its April 2004 report the OPA Review Board also observed that it had honored its nondisclosure agreements by safeguarding identifying information it had received inadvertently or directly from complainants and therefore had earned the right to be routinely entrusted with such information; and

WHEREAS, the City Council believes the confidentiality requirement placed on the OPA Review Board is sufficient to protect the confidentiality of OPA files in the possession of the OPA Review Board; and

WHEREAS, the City Council believes the confidentiality requirement in SMC 3.28.920(B) can be stated more clearly; NOW, THEREFORE,

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

Section 1. Section 3.28.920 of the Seattle Municipal Code is amended as follows:

3.28.920 Access to and confidentiality of files and records

A. For the purpose of reviewing the OPA complaint handling process, the OPA Review Board shall have access to ~~(for purposes of review, redacted)~~ unredacted complaint forms of all OPA complaints and ~~(redacted)~~ unredacted files of all closed OPA investigations, except for information the OPA would be required to withhold from persons not members of criminal justice agencies pursuant to the Criminal Records Privacy Act (Chapter 10.97 RCW) as it now exists and may hereafter be amended. The OPA Review Board shall have access to summary information necessary for its reporting obligations as set forth in Section 3.28.910 of this chapter.

B. In discharging ~~(his or her)~~ their responsibilities, OPA Review Board members shall protect the confidentiality of Department files to which they have been provided access, ~~(in the same manner and to the same degree they would be obligated to protect attorney-client privileged materials under legal and ethical requirements. The OPA Review Board shall also be bound by the confidentiality provisions of the Criminal Records Privacy Act (RCW Chapter 10.97) and Public Disclosure Act (RCW Section 42.17.250 et seq.).~~ The OPA Review Board

shall not identify the identity of the subject of an investigation in any public report required by this chapter. OPA Review Board members shall not disclose information in these Department files and records except in the reports required by ordinance. OPA Review Board reports shall not contain identifying information about anyone involved in an OPA complaint or OPA investigation other than the OPA Director. "Identifying information" is defined as name, badge number, physical description, address, telephone number, email address, photographs or drawings, or any other unique identifying number such as driver's license, employee, vehicle or social security numbers. In the event of a public disclosure request pursuant to the Public Disclosure Act (RCW 42.17.250 et seq.), the OPA Review Board shall not disclose any information contained in OPA complaint forms or in files on closed OPA investigations, and shall transmit all such requests to the OPA Director for response.

C. Indemnification and defense of OPA Review Board members is governed by Chapter 4.84 SMC. It is outside the scope of OPA Review Board members' assignments to disclose information in Department files and records other than as allowed in subsection B of this section.

Section 2. 3.28.920 subsection C of the Seattle Municipal Code supersedes and preempts confidentiality agreements by OPA Review Board members that are inconsistent with that subsection.

Section 3. This ordinance shall take effect and be in force the later of (a) or (b) as follows:

(a) whichever of the following dates (a)(i) or (a)(ii) is the first to occur:

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(ii) the effective date, if any, of an agreement reached between the City and SPOG concerning the effects of any of this ordinance's provisions on the wages, hours and working conditions of SPOG members; and

(b) either (b)(i) or (b)(ii) as applicable:

(i) if this ordinance is approved and returned by the Mayor within ten days after its presentation to him, then thirty days after the Mayor's approval; or

(ii) if this ordinance is not approved and returned by the Mayor within ten days after its presentation to him, then the effective date provided by Municipal Code Section 1.04.020 subsections B, C, or D, as applicable.

Passed by the City Council the 30th day of May, 2006, and signed by me in open session in authentication of its passage this 30th day of May, 2006.

NICK LICATA,  
President of the City Council.

Approved by me this 12th day of June, 2006.

GREGORY J. NICKELS,  
Mayor.

Filed by me this 12th day of June, 2006.

(Seal) JUDITH PIPPIN,  
City Clerk.

This ordinance was submitted to the Mayor on May 31 and returned on June 12, 2006, and is therefore effective pursuant to SMC 1.04.020.

Publication ordered by JUDITH PIPPIN,  
City Clerk.

Date of publication in the Seattle Daily Journal of Commerce, July 14, 2006.

7/14(200454)