

City of Spokane Office of Police Ombudsman Commission (OPOC)

Special Meeting Minutes April 26, 2016

Commissioner Conklin called the meeting to order at 5:34pm, and welcomed the public. Commissioners Smith and Rose were present; Commissioners Richter and VanderPol were absent. Council Member Breean Beggs was present. She said the purpose of the meeting is to listen to the community and what they would like to see.

Breean Beggs said he is excited to have this meeting, involve everyone in the process. Thanks to the Commission for hosting. He invited people to think and dream about what they'd like civilian oversight to look like.

- One function is to monitor Internal Affairs (IA).
- Another function is to have civilian police oversight do the IA function. We don't have that, but we allow the Ombudsman to ask questions in an IA interview. We allow the Ombudsman to ask SPD to re-open an investigation. In a rare situation, with concurrence of OPOC, the Ombudsman could get an outside investigator to come in and finish an IA investigation and determine whether an Officer had committed misconduct under city policy.
- The Ombudsman can do his own investigation, and reach independent conclusion.
- The Ombudsman does mediation between the Complainant and Officer.
- The Ombudsman looks at a situation where a particular incident has gotten the community riled up, and works to help bring resolution to the whole community.

My call to the community is to imagine what it is that you want. The current City Council is open to creating the solutions.

Dom Felix: I'm with I Did the Time and the Peace and Justice Action League. The glaring absence of a permanent Ombudsman has put a damper on the whole situation. It feels like there are groups that have bogged this down with some many rules that there's no way that it can function. It almost feels like that was intentional. Hopefully, moving forward with another ordinance will allow for the process to work a lot smoother.

Deb Conklin: gave a chronological history of the Ordinance. The original ordinance created a fairly robust Office of Police Ombudsman which had the capacity to monitor IA investigations and do what we've had for the last year or so. That was passed by City Council and almost immediately challenged by the police guild, so there were several levels of legal proceedings, and in the end the decision was that having that sort of Ombudsman had to be negotiated with the police guild, and so we ended up with a second ordinance where the Ombudsman didn't have very much power. Groups in the City like Spokane Police and Reform Coalition, the Center for Justice, and the Peace and Justice Action League, said this is not what we need, and the work was done to give us Prop. 1, which changed the charter, which is like the City Constitution, which gives more robust powers. The difficulty came when it was time to write ordinances to implement the charter amendments.

Because we were in a place where it was time to negotiate the police contract, a decision seems to have been made since the ordinance drafting and the police guild contract needed to happen simultaneously, the administration would write an ordinance that reflected what they were negotiating with the guild. In the fall of 2013 that ordinance came to City Council and was rejected, based in part because of significant objections from the community saying it doesn't implement Prop. 1. That was sent back to the Administration and they came up with another ordinance in February 2014, and there was also some controversy, but City Council passed it and that is the Ordinance we are now living with. In October 2014 the first Commission was appointed and started work.

With that new Ordinance we believe there were some new powers, but before the Commission and the OPO could work together, Tim Burns resigned, and we've been without a permanent Ombudsman since then. We don't even know what

the Ordinance would look like because we've only had it working for a couple of months. We need to start the annual review of the Ordinance based on the data we have.

Tim Connor: from the Center for Justice, took on the police oversight program. I did a lot of work for the initial ordinance. That initial ordinance was presented to City Council after it had been Mayor Verner negotiated in private with the Guild in 2008. City Council was faced with the situation of take it or leave it. That Ordinance was presented in the form of a tentative agreement to the guild. The ordinance that was challenged was passed in 2010 after great public upheaval. The City Council went on record unanimously encouraging the City to negotiate for independent oversight with the guild. Mayor Verner's negotiators came back from those negotiations without independent oversight.

The City botched the defense of the Ordinance, and was forced to repeal that Ordinance and go back to the previous Ordinance, that led to Proposition One. We're talking about the collective bargaining process. One of the myths I want to dispel from the start is that it is somehow illegal under state law for Spokane's Ombudsman to exercise independent oversight. It's not. What is required, under state law, through the Public Employment Relations Commission (PERC) is for the city to collectively bargain on working conditions. It is the PERC, more so than the courts, who have construed working conditions to include officer discipline. So whenever we involved the Ombudsman in the disciplinary process, to any degree, you must assume that has to be collectively bargained with the guild. That has been a real stumbling block. We've got the Ombudsman involved in IA Ombudsman has been bargained away, leaving the Citizens in a difficult position.

I know, Miss Rose, I saw your comments recently about your frustration that we would be looking at a proposal that didn't involve negotiating with the guild. I'd just want to ask that you understand our frustration that every time we go to negotiate with the guild, successive administrations have repeatedly abandoned all public testimony and support for independence. That independence has just been bargained away. The city could bargain for the independence, but would have to give something, either in wage or benefit concessions. The City has been completely unwilling to do that since 2008. This has left the citizens in a really difficult position. We tire of asking the city to give us things that it has to collectively bargain for because it won't.

Let's think of a way to empower the Ombudsman with independence, but do so in a way that we sever the Ombudsman from the disciplinary process. My hope was to present you with a consensus model. We've been working for months. SPARC does not have a consensus. I've brought you slides [see five page attachment]. Article 16, Proposition 1, requires that the Ombudsman be independent. The Ordinance restricts the Ombudsman's ability to conduct independent investigations. Breean is correct that there is a scenario under the existing Ordinance where the Ombudsman or private investigation can be assigned to conduct an independent investigation. That requires nine steps; there are nine things that would have to happen before you get there. The Ombudsman cannot from day one do an independent investigation. He would be acting in accordance with the city charter, but in violation of the ordinance and the collective bargaining agreement.

[Regarding page one of the attachment: Status Quo]: It does allow for a robust general oversight role. As you know, there's tremendous power in his or her ability to oversee the department, gather data and do analysis. That's really been important for those of us who are looking in any window we can find to find out how the department operates. And I believe the Council has benefited immensely from that oversight role.

[Mr. Connor described Options A, B, C and D on pages two through five of the attachment].

With all due respect to the police guild, and no disrespect to people I usually vote with, who feel very strongly about the importance of unions and are very proud of the state's collective bargaining act. I am not opposed to collective bargaining. We by and large support unions. The problem is, in this case, it's where all the good ideas about police accountability to go to die. If you look at Mayor Condon's collective bargaining. Erin Jacobsen was the city's negotiator. She was not asked to negotiate for article 16. The correct thing to do was for the Mayor to bargain for article 16 so it was consistent with the city charter. That didn't happen.

The model that I favor and I think Breean is inclined to as well is option D. See if we can advance this process by disentangling the OPO from SPD IA. It doesn't mean we're throwing away the Prop. 1 requirement. This is the path toward getting us an independent Ombudsman in this round. I'm not making an argument that having a robust Ombudsman in the disciplinary process, or subpoena power is a bad idea. I hope someday we'll eventually have that. As somebody who's been deeply involved with this, and has pulled out all my hair, in the last several years, trying to get us to an independent Ombudsman, asking the city to go in with a proposal that has to be collectively bargained with the guild, is another recipe for waiting two more years to get an independent Ombudsman. I don't think that's wise, personally. You still have a lot of ways to monitor IA without the Ombudsman sitting at the table and certifying these investigations. Thank you for giving me more than five minutes to lay this on you.

Allen McDowell: spoke in support of Bart Logue for the permanent Ombudsman. Conklin said next week at our regular meeting we are going to talk more about where we are with our current hiring process; tonight is really about amending the ordinance. He said he would talk next week.

Dave Plemons: I'd like to preface my prepared remarks by applauding the presentation that Tim just gave us. Personally, I strongly support option D. We need to disentangle.

So let me begin by reading: is it an insult to the SPD to create a civilian police ombudsman? A faction in our community believes civilian police oversight is a threat to essential authority and a threat to our security. They have their political representatives. Many of us disagree with that viewpoint. So why are we here then. Theoretically, the Ombudsman has an independent office that was the clearly stated aim of Prop. 1 passed three years ago by the overwhelming consent of our voters, by an almost 70% consensus. So why in reality do we not have an independent office? All three finalists last year for our vacant Ombudsman position, agreed that as presently constituted, the position is not independent. These 3 individuals all had extensive backgrounds in police work and accountability. They came from Coeur d'Alene, Florida, and Canada, but they all agreed that Spokane doesn't have an independent Ombudsman. Language, that's the hangup. Is or is not the Ombudsman involved in internal SPD disciplinary investigations? Arguments divide even the reformist community as Tim pointed out. One can point out to the latest language in our municipal charter, chapter 4, section 20: the OPO shall not have a role in any disciplinary matter. End of story? Hardly.

There is much other language in the implementation ordinance that presently links the Ombudsman to internal disciplinary investigations. For example the ability of the Ombudsman to sit in and even ask questions as a disciplinary investigation proceeds. For example, in the city charter section 129, the OPO shall act as an observer to any administrative or civil investigation conducted by or on the behalf of the PD.

To the police guild, this kind of language potentially entangles the Ombudsman in the disciplinary process. The investigations include the disciplinary. No language in the implementing ordinance excludes the disciplinary investigation. It is a matter of interpretation. There are two sides to that interpretation, and the protective police guild interpretation has some legal basis, and more importantly it has sizeable political support. This contention over language has stymied Ombudsman independence. In the last round the contract negotiations put the Ombudsman ordinance on the table and continued the effective assimilation of the position into the SPD. And so we have agreement by impartial authoritative outsiders that the Ombudsman is not independent. Remember our 3 candidates from last year? We must address the ordinance language before negotiations start up and change it and insist that the city hall refuse to subject the ordinance to guild alteration.

Alternatively, the guild will certainly handcuff the Ombudsman himself once again. For one faction that will be just fine and dandy. Why isn't the Ombudsman independent already? Why or how is his investigatory authority subsumed in Internal Affairs to all intents and purposes? Why doesn't the Ombudsman conduct his own thorough and distinct investigation? At present the Ombudsman is only an investigations observer, barely tolerated by SPD and limited in his scope. His work is throttled back to focus on statistics gathering and reporting and to appease the disgruntled. The intention to emasculate the office has thus far succeeded. Both Bart Logue and his predecessor have experiences several

obstacles to exercising their responsibilities. Tim Burns moved the office away from the PD HQ to achieve some distance. It was a symbolic move, but unfortunately not substantive.

Why is independence such a controversial aim? Independence does not equate with criticism or antagonism, let alone hostility. The vetting process ensures occupants of the office will have the best interests of not just the community but even the community's police itself at heart. Fair and constructive criticism will be ensured, but independence would lend more confidence to citizen complaints and give the process of resolving complaints transparency and legitimacy. Independence for the office would support professional police conduct and the perception of the department's integrity.

How can aggrieved citizens, even when they are mistaken, trust the response of the SPD when IA uniformly exonerates its own? Let Independent civilian oversight make a call, find facts strive to ascertain truth. What is the crux of the issue here today? Can the OPO participate in all investigations including internal affairs investigations that are disciplinary as an attending mere observer and still gain independence going forward? Unlikely, that. The SPD argues never. Their argument has weight. In the interest of conceding to reality let us recognize that presently reform has reached an impasse. Let us gain ground to have an independent Ombudsman. Let us at least remove any language that can be interpreted to involve however peripherally the Ombudsman in the disciplinary process. Let us remove any excuses to the establishment of truly independent civilian police oversight.

Deb Conklin: I'd like to make it clear for the record that when comments get made our silence does not indicate that we agree. Remarks of the speakers in no way reflect the position of this Commission.

Joan Medina: Beyond the concerns with general foxes guarding the henhouse theme of the ordinance, and beyond the entanglement issues and disciplinary action, I went through the ordinance in the last couple of days and I see the need for some other changes. There are six general areas I identified.

- Timelines for responding to complaints. I didn't see anything timeline wise for candidate selection, and I think that needs to be addressed. Also, timelines for and the city's HR department and their responsibilities.
- The second Issue I noticed is lack of ability in ordinance language to establish patterns. The ordinance talks about how the OPO can't name names and that everything has to be confidential. I understand that. It seems there should something to identify repeat offenders, individuals and the department. I understand that the statistics the OPO keeps would help if there is a pattern linked to a specific individual in the PD. I think there needs to be a way to establish that and track that. And kind of related to that, I've read something that OPO is only able to keep information for a year and that doesn't seem long enough to me if they are going to be establishing patterns of behavior.
- The third area I noticed is that there is nothing in the ordinance to address what should happen if there is retaliation against a complainant against the police department.
- The fourth area is I didn't see anything in the ordinance that talks about the responsibility of the city's HR department. There's nothing that says they need to perform due diligence or anything to avoid the kind of situation we had this past year in the selection process. Apparently the city's HR department isn't capable of doing that on their own.
- There's also an issue that I see is a huge problem that the OPO can request but not require or compel an officer to testify or be interviewed. That's a huge problem with what this investigation right now with the PD because nobody in the city is being compelled and everyone's hands are tied.
- The last issue has to do with training for OPO. It talks about the different kinds but it completely leaves out de-escalation techniques, human rights, civil rights, appropriate interaction with people who fall under ADA or have mental health issues. It completely leaves out any proactive methods to promote inclusionary behavior instead of pre-judgment and attitudes that promote discrimination.

Alfredo Llamedo: Let's talk about dreams. I have a dream that we'll have a Mayor that doesn't sell out our city to the PD in the collective bargaining process. I have a dream that we'll have an OPO Commission that will make hard decisions in

short periods of time that will represent the citizens of the city and the wishes that those citizens made very clearly in an almost 70% vote.

I have a dream that we'll have a city council that will stand with the citizens of the city and realize that at some point we have to stand together against what's right and what's wrong.

I have a dream that we'll have a police chief that is not a criminal, that is not corrupt. That doesn't take advantage of his position and of the people that he's supposed to be protecting and serving.

I have a dream that we'll have police officers that aren't breaking the laws that they're supposed to enforce. Police Officers that don't get into a cruiser and go for a ride when they're drunk and hit parked cars in the parking lot of a supermarket. That don't destroy evidence in the rape of a fellow female officer. Police officers that you're not worried when the blue lights and red lights come in behind you of oh my god what's going to happen to me now. Police officers who don't look at color and evaluate people according to their color or according to the neighborhoods they live in, that police the same way regardless if you live on the South Hill, or East Central, on the North Side, or West Central, or Qualchan or in Hillyard. Because we all know those of us who have been long enough that policing is not the same, people are singled out.

I have a dream that you will come together and give us a permanent Ombudsman. We don't need an interim Ombudsman. And to start this process over is pathetic and ridiculous because we've been there. How much longer do we have to wait? How many more excuses do the citizens of this city have to hear about why we do not have the Ombudsman that we voted to have.

My ultimate dream is that we have a PD, a city, a sheriff's department and a city government that represents the people, for the people and by the people, not for the people in power and by the people in power.

Phillip Tyler: Good evening and thank you Commission for having this forum. First and foremost the NAACP are here to listen to the concerns and the ideas of our citizens just as the Commission is. We understand that you can't un-ring the bell. The guild has been involved from the outset and they're still involved. But we can hope for a win-win moving forward. We understand there's a strong guild but we also want strong independent oversight. This can't be accomplished by a zero sum solution. One must not lose for the other one to win. We're looking for that win-win solution. Civilian oversight is fundamental to the legitimacy of law enforcement. But civilian oversight is only meaningful if it's independent, adequately staffed and funded and has full investigatory power.

Elaine Tyree: Good evening and thank you for having this forum. It's now feeling much more like a conversation. I don't think this setting adds to a peer-to-peer conversation. [Conklin explained that it is a tradeoff for video capability]. I agree with that, that the citizens should have access. The whole chamber is not set up for equality. I really appreciate the number of voices we've heard tonight. My summary follows the thread of what many have said. We are all human beings. Whether we are citizens, activists, police officers, city officials, and elected officials, it doesn't matter. If we're going to, as Mr. Tyler said, get a win-win option, it has to be with everybody's buy-in. That does mean rising above differences and distinctions that we've gotten enmeshed and entangled in order to move toward a direction, and I personally agree it needs to follow the wishes of the people and independent support of the Ombudsman. But I think that's workable and still respect the need for collective bargaining and the guild. Also the notion of serve and protect for everyone in our community. Thank you for doing the work and I hope we're going to move forward and not stutter-stop like we have for the last years.

George Taylor: I just want to thank the Commission for this Forum. I think it's a good beginning for feedback, you've done a lot of this. I realize you're doing this out of the love of your heart and not for the high bucks. This is citizen participation at its best, telling our officials how we feel. I don't want to go over territory that has already been covered. I want to thank Tim and Dave for their thorough homework and I'm just kind of making a few remarks for those who have not done their homework. Could I ask a question of you Deb? I'm not clear about the certification term; what does that mean? [Conklin explained that the OPO will help ensure that investigations are timely, fair and thorough. If it's not

timely, that's not fixable. The OPO and IA may go back and forth to answer the questions so it can be certified as thorough].

That's helpful, because I think depending on who's in the position of Ombudsman, that determination of certification or not certification is very important because if it's not certified it will further delay the investigation so it can be done right. And we hope the investigation is done right in the first place. I think we're kind of at a juncture here. I commend Councilman Breean for wanting to make better this ordinance and getting input from citizens to construct an ordinance that is better than we have now. I wonder how long this is going to take but you asked specifically for what we hope to see in the future.

What I hope in the future is that we will have a permanent Ombudsman in a timely manner. I'm not sure whether the current interim Ombudsman should be that person, but a person that will be appointed for a permanent job, and is not going to leave after a year. And then that the Commission is fully functioning, I believe there are five Commissioners and there are only three tonight? [Conklin explained that two Commissioners weren't available tonight]. I hope we have a fully functioning commission, a permanent Ombudsman, one that citizens feel confident in, and also that we have a PD that is open to a reasonable new ordinance because if I were a police officer I would think it would be in my best self interest to have a fair and honest Ombudsman in place to protect me from outrageous complaints that have no basis.

Bart Logue (Interim Ombudsman): Good evening Commissioners, I have a couple of different thoughts. I've been in this job since February, and part of the frustrations of being in this job after there hasn't been someone in this job, is there's a gap of knowledge and processes seem to drop off. Trying to function within the current ordinance itself, we've had some successes and we've had some obstacles.

I'm kind of stuck with what the dream is supposed to be. I hear independent, and I hear ideas. As someone who might be in a position to do this job, I'm anxious to know what is the desire? I fight with the PD on an almost daily basis in order to gain ground to do this job better. I do it within the confines of the ordinance that we have. When I look at the ordinance, I say 3 months ago when I went through the first certification on this first case, in comparison to today, they are much more robust investigations. The reason that is is because I keep sending them back. If it's not good enough, it's not going to get by me. If the PD hasn't answered the citizen's concerns, it's not going to get by me. I'm trying to reach out to the community and hear from them what they want it to be, and I want to answer the citizen's questions through the investigation process.

Now part of it is where I really get stuck, because I hear a lot of real, deep-felt comments, and there are some significant issues that are current and ongoing with our PD. We don't touch that. I'm not touching the super serious side of things (criminal cases). We're missing something there. We get to touch police behavior at a very basic level. We can see there's a demeanor complaint here and a demeanor complaint here, but massive abuses, we're not involved in that oversight at all. That's a gap that should be addressed. I have to still do my research tomorrow. I'm going on a trip tomorrow to visit Eugene, Portland and Seattle to find out what are their boundaries of oversight. Because if we're going to do this in Spokane, my dream is that we are the national standard. That's my dream. It's not that we just provide oversight, we answer the citizens concern and become the national standard. That's what I have to say about it.

I have lots of minutiae in the ordinance that I'm concerned about, but we can address that in the re-write. Can I work effectively even though the parts that have already been bargained with the guild? I can. But, what I'm missing is, if the completed, thorough, timely and objective case isn't the goal, I think the ordinance needs to define what the goal is. We can say independent all day long, but what is the end product we're looking for? That's what I need, that's what I want, and that's what I'll give you as soon as we can define it.

Joan Medina: The piece I keep hearing everyone leaving out tonight on that process is it's supposed to be timely, fair and thorough. Nobody is talking about the fair part. As a citizen it seems to me a lot of the time the PD is working for the downtown partnership, for business entities, for the Mayor, but they're not really working for or representing the average joe citizen and their rights. As homeless outreach coordinator, I see a lot of abuses by the PD with the homeless community, street people, people downtown who don't look like they're shopping or supporting the economic vitality of

our downtown. They are treated very differently by the police. That's where I'm coming from. I want the Ombudsman to represent and be fair to everybody, even the little guys who don't know that they can stand up for themselves. That's who the PD should be serving and protecting.

David Plemons: Again, I just want to comment: timely, fair and thorough – exactly right. As long as the Ombudsman is entangled in the PD investigation process, I think this will continue to be questionable.

Tim Connor: I want to make one clarification on this certification issue, because it's really important. As Tim Burns explained it to me, certifying does not mean you agree with results of the investigation, and if you disagree, you can't say so. The other thing that's very important is that sometimes the PD receives a complaint and decides not to investigate it; they treat it as an inquiry. This is an issue that Tim addressed by refusing to certify the decision, but you can force an investigation, and I think that's a valuable role. To answer your question as best I can, I can see the merit of the OPO participating in that process. The problem is we have an Ombudsman. The OPO traditionally is somewhere the citizen or the person who has a complaint can go to seek an independent inquiry into the complaint. That goes back to our starting point. That's what this office should be primarily. It should first be structured to be an accessible, transparent, vigorous advocate for the rights of citizens who come to the office to file a complaint. Not the right to be proven correct but the right to have their complaint objectively investigated.

Unfortunately we have to make these really difficult choices between the role of the Ombudsman and the role of the monitor that's watching IA. It is a unification that has to transcend the collective bargaining process to get to where there is, as Phillip said, a win-win situation. Ideally the guild would agree that this works for both ends, but it hasn't so far, and maybe because they haven't been asked in the right way, I don't know. The way I would answer the question is let's get the Ombudsman correct for what an Ombudsman does. I think that role, if given the right powers, can serve the dual purpose. But yeah, ultimately you want to have it bargained so you can continue doing this monitoring while at the same time and primarily serving the person that comes in off the street with a complaint.

Deb Conklin: I just want to make sure in his comments that you caught the statement that the Ombudsman does not have the ability to say so when he disagrees with the result of an investigation.

Breean Beggs: With my City Council hat, I just really want to thank everyone for participating. This is exactly what I wanted to hear. Now I want to take off my cap and say a couple of things. First of all when I was outlining before some of the functions, I left out the sixth one that's really important: the Ombudsman can suggest changes in policies and training. Our Ombudsman's office has done that effectively and I hope will continue to do that.

Secondly, I want to talk about this issue that Tim raised to make clear. Currently we are not certifying that the Ombudsman agrees with the outcome of the investigation – only that it happened in a timely manner, that they looked at all the evidence and that it was reasonable objective and fair, but doesn't comment on the outcome.

Over the years, what most citizens have told me, and what I've often thought personally, is for the Ombudsman to tell me what actually happened that night. What were the facts and who is more credible, in terms of the witnesses? Did the officers involved do everything that we'd want them to do, or is there improvement? That's very different from an IA investigation: is that officer still fit for duty? Are they going to follow policy? If there was any misconduct was it proven by clear and convincing evidence? That's in there because what can happen to an officer if they violated policy is that they can lose their job, they can have their pay reduced, it can affect their career.

The IA process is not the civilian Ombudsman process that many of us want. It's great for the Ombudsman to comment on the overall IA process, but I think what most people want is a perspective from an independent person. What actually happened that night? Could it be improved? Can we avoid that death again? Always in the Otto Zehm case the question for the family was always: will the police acknowledge what they did wrong so the next person is Otto Zehm's situation will not die? It wasn't about were the police wrong, should they be punished.

The idea of an Ombudsman in my mind is sunshine coming in, what really happened, and what can we do next time so it doesn't happen again. Which doesn't have much to do with discipline, with lawsuits, it just has to do with a positive feedback loop of how it changes. Simply certifying doesn't get it; we want those independent investigations that say what happened and what can be done differently. To put my Council hat back on: I'm really concerned with everyone else: what do they want. I hope we've started that process. Next Thursday at 6pm in this same chamber there will be a panel discussion on the Ombudsman and people can call in with questions. Deb, Dave and Justin Lundgren who's the head of IA will be on my panel. I'm really excited because I don't think this conversation is complete unless we have IA and the police union's input in it so that we can maybe one day get the grand solution to it. But in the mean time, let's at least hear from everyone.

Alfredo Llamedo: As a social worker that works in fair housing, the word 'fair' has a lot of negative connotations. It doesn't mean what we all think it means, and I've learned that the hard way in fair housing. I'd much rather see the words equal and equitable. I'm sure any female that has gone to a sporting event and sees an equal amount of women's bathrooms to men's bathrooms, will be the first to tell you that it's not equitable. Because you have a line of 50 women standing to get into the bathroom and there's nobody waiting to get into the men's bathroom. So what I want to see is investigations are equal and equitable, that regardless of who they're investigating, that person gets the same investigation that the previous person got. I think we need to can the word fair, and get a little more specific about what we're looking for so there is not a grey area that people can use to circumvent the law.

Conklin adjourned the meeting at 7:04pm.

Next Regular OPOC Meeting on May 3, 2016 at 5:30pm in City Council Chambers

Status Quo (existing ordinance SMC 04.32)

- After intake interview, Ombudsman refers citizen complaints to SPD-Internal Affairs.
- Ombudsman sits in on SPD-IA investigation and is allowed to question of SPD officers as part of the SPD-IA investigation. The Ombudsman is not permitted to prepare an independent report on the complaint, or the SPD-IA investigation, or the OPO's determination of the validity of the complaint based upon the OPO's participation in the SPD-IA investigation.
- Ombudsman may request additional investigation by SPD-IA if he/she cannot certify investigation as "timely, thorough, and objective."
- Further disagreements on adequacy of SPD-IA investigation are referred to the OPO Commission, which can also request further investigation by SPD-IA.
- If impasse over the adequacy of the SPD-IA investigation, OPO Commission may pursue independent investigation by Ombudsman or private investigator, but only after SPD makes final disciplinary decision. All told, there are at least **nine** steps in the process that the OPO and OPO Commission must take just to initiate an independent, post-disciplinary investigation into a citizen complaint.

Strengths: Allows for robust general oversight role of SPD policies, practices, and patterns of behavior.

Weaknesses: Does not comply with Article 16 requirement for OPO independence in the investigation of citizen complaints. Selection of Ombudsman is constrained by a screening committee that can be controlled by police unions.

Option A: add independent investigations

- Amend existing ordinance.
- Secure unrestricted, independent investigatory authority for OPO in the investigation of citizen complaints and reporting on outcome of investigations.
- Retain OPO's and OPOC's participation and certification role in SPD-IA investigations.
- Add Assistant Ombudsman to provide a ready and qualified interim, and assist Ombudsman in investigations and oversight.
- Transfer existing screening function for Ombudsman selection (and Asst. Ombudsman) to the OPOC.

Strengths: Adds Article 16 required independence while retaining OPO existing participatory role in SPD-IA investigations.

Weaknesses: OPO involvement in SPD-IA investigations requires the role of the Ombudsman be part of collective bargaining process with police bargaining units. Cannot be imposed by ordinance without risking successful legal action by Spokane Police Guild.

Option B: Independent Ombudsman with enhanced Internal Affairs role.

- Amend existing ordinance.
- Secure unrestricted, independent investigatory authority for OPO in the investigation of citizen complaints and reporting on outcome of investigations.
- Broaden the OPO's participation in SPD-IA investigations to require SPD officer cooperation with OPO inquiries, and allow for the OPO to concurrently and publicly dissent from SPD investigation findings and disciplinary actions in instances where the OPO has substantial disagreements with SPD investigation findings, methods, and disciplinary decisions.
- Add Assistant Ombudsman to provide ready interim, and assist Ombudsman in investigations and oversight.

Strengths: Fulfills independence requirements of Article 16. Provides a vigorous presence and check on the SPD-IA and disciplinary process.

Weaknesses: OPO involvement in SPD-IA investigations triggers mandatory collective bargaining with police bargaining units. Cannot be imposed by ordinance without risking successful legal action by Spokane Police Guild.

Option C: Independent Ombudsman with subpoena power.

- Amend existing ordinance.
- Secure unrestricted, independent investigatory authority for OPO in the investigation of citizen complaints and reporting on outcome of investigations.
- Add subpoena power to OPO's investigatory authority and extend Garrity protections for SPD officers as necessary and appropriate.
- Retain existing OPO participation and certification process in SPD-IA investigations.
- Add Assistant Ombudsman to provide ready interim, and assist Ombudsman in investigations and oversight.

Strengths: Fulfills independence requirements of Article 16, including mandatory cooperation of SPD officers in Ombudsman investigations.

Weaknesses: Mandatory participation by SPD officers in OPO triggers mandatory collective bargaining with police bargaining units. Cannot be imposed by ordinance without collective bargaining with police bargaining units.

Option D: Disentangle OPO from SPD-IA

- Replace existing ordinance.
- Secure unrestricted, independent investigatory authority for OPO in the investigation of citizen complaints and reporting on outcome of investigations.
- Eliminate direct Ombudsman involvement in SPD-IA investigation process.
- Require SPD-IA promptly share all reports, transcripts, recordings of interviews of its investigatory work into alleged officer misconduct at request of OPO.
- Participation of SPD officers in interviews is limited to requests for voluntary cooperation. Garrity procedures not applicable.
- Add Assistant Ombudsman to provide ready interim, and assist Ombudsman in investigations and oversight.

Strengths: Fulfills independence requirements of Article 16. Does not require collective bargaining with Guild, other than removing OPO from collective bargaining agreement rollover.

Weaknesses: Removes OPO access to SPD internal affairs interviews.