



Seattle Office of
Inspector General

Biannual Review of SPD Compliance with Chapter 14.12 of Seattle Municipal Code

August, 2024

Objective and Scope

The objective of this review is to determine whether the Seattle Police Department (SPD) complied with applicable regulations for the collection of private sexual information and restricted information, per the requirements in Seattle Municipal Code Chapter 14.12 for the 2-year period from July 1, 2022 to June 30, 2024.¹

Introduction

OIG conducted this review pursuant to Seattle Municipal Code 14.12 – ‘Collection of Information for Law Enforcement Purposes’.² OIG previously issued two audits of Chapter 14.12 in 2019 and 2023. Both of these audits found that while SPD was generally compliance with Chapter 14.12, the Chapter itself was significantly outdated and rarely applicable in the context of modern policing. OIG made recommendations to City Council to revise Chapter 14.12 and those recommendations are open at this time.³

Chapter 14.12 Overview

Origin of Chapter 14.12

In 1979, the Seattle City Council unanimously passed Ordinance 10833, restricting how the Seattle Police Department could collect, receive, transmit, and use information related to sexual orientation, politics, and religion. The ordinance became Chapter 14.12 of Seattle Municipal Code, Collection of Information for Law Enforcement Purposes. When it was passed, Ordinance 10833 was recognized as one of the first local ordinances to restrict certain information collected by police departments. Chapter 14.12 has not been substantially altered since 1982.

Information protected by Chapter 14.12

Chapter 14.12 covers two main categories of information: private sexual information and restricted information. Private sexual information includes information on an individual’s sexual orientation or sexual practices. Restricted information covers a wide range of information on the political and religious beliefs of individuals and organizations (see figure 1 below). This report uses the term “protected information” to refer to all information covered by the Chapter.

1 The scope of the 2023 review ended June 30, 2022.

2 This report will refer to the SMC as “Chapter 14.12” or “the Chapter”.

3 See Recommendations 1 and 2 in OIG’s 2023 audit: https://www.seattle.gov/documents/Departments/OIG/Audits/2023_Chapter_14.12_Audit.pdf

Figure 1: Categories of Information Protected by Chapter 14.12

Information protected under Chapter 14.12	
Private sexual information	Information about an individual’s sexual practices or orientation.
Restricted information	Information about: <ol style="list-style-type: none"> 1. An individual's political or religious associations, activities, beliefs, or opinions 2. The political or religious activities, beliefs or opinions and the membership, mailing, subscription, or contributor lists of certain types of organizations, including political and religious organizations; or 3. An individual's membership or participation in such an organization, in a political or religious demonstration, or in a demonstration for community purposes.

Source: Seattle Municipal Code Ch. 14.12.030.

SPD Created Three Authorizations Within the Period of Review but Did Not Notify OIG

Chapter 14.12 requires that SPD notify OIG of each authorization for the collection of protected information, and that OIG review these authorizations along with any related investigative files.⁴ Because SPD’s practice is to purge all documentation related to an authorization at the expiration of the authorization, OIG must review an authorization while it is active.⁵

In 2023 and 2024, the Criminal Intelligence Unit reported creating three authorizations for the collection of restricted information. According to the unit, all three authorizations were purged at 90 days, as required by Chapter 14.12. However, OIG was not notified of the creation of the authorizations or their purging, and consequently did not have an opportunity to conduct the required review.

SPD’s Criminal Intelligence Unit uses a standardized authorization form to document compliance with Chapter 14.12. The form contains fields for documenting communication between SPD and OIG about both the creation of an authorization and the planned purge.

Changes in personnel within the Criminal Intelligence Unit likely contributed to a lapse in this procedure. The Lieutenant in charge of the unit had not been involved in prior conversations with OIG about authorization notification, and was unaware of the reporting requirements. The Lieutenant noted they were guided by the requirements of SPD policy 6.060 ‘Collection of Information for Law Enforcement Purposes’ in acquiring the authorization. However, current policy does not mention the requirement to notify OIG of an authorization.

4 SMC 14.12.150(E) and SMC 14.12.330(B)(1)(A). The responsibilities of ‘the Auditor’ identified in the Chapter 14.12 were transferred to OIG in the 2017 Accountability Ordinance (Ordinance 125315).

5 The 2023 audit noted that due to turnover and lapse in communication between relevant OIG and SPD staff, OIG had been unable to review some authorizations within the scope of that review. The audit report recommended that SPD retain authorization documents to better facilitate future review, however SPD contended that the practice of purging authorizations was consistent with state records retention guidelines.

After OIG notified Criminal Intelligence Unit staff of the requirement, the unit recognized having made a mistake and provided OIG with an oral description of the authorizations. While this description provides OIG with an understanding of the reasons why authorizations were sought, OIG was unable to conduct the review according to the requirements of Chapter 14.12 for this period. Criminal Intelligence Unit staff have committed to notifying OIG of all future authorizations in accordance with their written procedures. In addition, OIG recommends this procedure be enshrined in policy to ensure compliance.

Recommendation 1

Update SPD Policy to Notify OIG of Authorizations

SPD should amend Policy 6.060 to include a requirement that OIG be notified of all authorizations created at least 30 days prior to all purges of documentation to allow for OIG review.

Review of Photo/Video Log Found No Violations of SMC 14.12

SPD Policy requires the Criminal Intelligence Section to manage all videos and photographs taken by Department of demonstrations protected by Chapter 14.12. This includes receiving original copies, determining whether to retain or purge in accordance with the Chapter, and maintaining a log of all materials.⁶

OIG reviewed the log and found that SPD did not improperly retain any photographs or videos of demonstrations on SPD's digital evidence management system.⁷

Sample of Department Files Found No Violations of SMC 14.12

Chapter 14.12 requires that OIG conduct a random check of department files as part of its review. OIG reviewed more than 200 incident reports and did not find any violations of Chapter 14.12.⁸

6 SPD Policy 6.060.10 and 6.060.11

7 OIG is unable to determine whether any photographs or videos were maintained outside of the digital evidence management system, such as on a personal device or a separate shared drive.

8 The 2023 audit noted that such a random check was highly unlikely to discover any willful violations of Chapter 14.12.

Appendix A Recommendations and Department Response

Recommendation 1

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SPD Response

- Concur Do Not Concur

Estimated Date of Implementation: Q4 2024

Proposed Implementation Plan: The Seattle Police Department's Policy Unit will revise Manual Section 6.060 to include the requirement that OIG be notified of all authorizations created at least 30 days prior to all purges of documentation.

Non-Audit Statement This review was not conducted under Generally Accepted Government Auditing Standards (GAGAS); however, OIG has followed GAGAS standards regarding the sufficiency and appropriateness of evidence.