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STATE OF WASHINGTON  
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No. 63024-5-I

**DIVISION I OF THE COURT OF APPEALS  
FOR THE STATE OF WASHINGTON**

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CITY OF SEATTLE, SEATTLE POLICE DEPARTMENT,

*Appellant,*

vs.

CITY OF SEATTLE PUBLIC SAFETY CIVIL SERVICE  
COMMISSION AND RICHARD ROBERSON,

*Respondents,*

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**APPELLANT'S REPLY BRIEF**

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## **I. INTRODUCTION**

The Commission's response in this matter only demonstrates how far afield the Commission is from the mission first imposed by the State code authorizing public safety civil service commissions. The Commission correctly notes that the City of Seattle, may create its own public safety civil service commission, so long as it substantially complies with state law. Yet, reliance on a tortured labor law analysis of the seven elements of "just cause" fails to acknowledge the fundamental obligation to the public encompassed within the mission of a public safety civil service commission, under state law.

The State code makes clear that the role of the commission is to ensure police officers maintain employment "only during good behavior"; and that punishment be imposed for acts or omissions "tending to injure the public service" or acts that show the officer is "unfit to be employed in the public service". RCW 41.12.080. It is impossible to square this obligation with the Commission's evaluation of Officer Roberson's acts and omissions. The Commission's opposition brief lacks any mention of this important obligation in determining whether there is cause for discipline. More troubling still, is the lack of deference to the policing professional who evaluated the evidence produced in a lengthy, detailed investigation

and concluded that Roberson's *third, fourth and fifth* instances of misconduct formed the basis for a *third*, and significant, suspension.

The Department respectfully requests that the authority to determine when police performance is deficient be left to the Chief of Police to determine and that his determination not be set aside unless the Chief is unable to establish the discipline is based on substantial evidence, reasonably believed by the Chief to be true. The Commission's willingness to analyze other factors, namely "the seven tests" not contained in its rules, city code, or state law should lead to a reversal of its decision here. Regardless of whether the commission finds these seven tests useful or helpful, the Commission acts as a reviewing body, not a final decision-maker on what constitutes police misconduct. The Chief determines what behavior is police misconduct and the Commission determines whether the Chief has proven the misconduct.

**A. State Law Requires Review Limited to Determining Just Cause Based on Fitness For Public Service, Not "Seven Tests"**

Civil Service regulation for public safety civil servants originates in state law, which provides for a two part process in regard to disciplinary action against civil servants in police departments: 1) the appointed authority (the Chief of Police) issues charges of misconduct and *proposed*

discipline<sup>1</sup>; 2) after which the officer may “file with the Commission a written demand for an investigation”. The *investigation* is confined to the issue of whether the discipline “was not made for political or religious reasons and was or was not made in good faith for cause”. RCW 41.12.090. The final decision of the Commission may then be appealed to a court, which is “confined to the determination of whether the judgment or order of removal, discharge, demotion or suspension made by the commission, was or was not made in good faith for cause”. *Id.*

Among the offenses that support discipline is: any act, or failure to act, that injures the public service. RCW 41.12.080. Washington cities are free to adopt their own version of this code, so long as it is substantially compliant with the State law provisions. RCW 41.12.010. The state code does not define just cause and the Department has been unable to locate any cases interpreting the cause provision of RCW 41.12, by reference to arbitration opinions on elements of just cause.

The Commission indicates that it may determine what decisional law is helpful to it and even use arbitration decisional law in reaching a decision on whether there is just cause for discipline imposed, under the

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<sup>1</sup> The officer may be suspended, “only upon written accusation of the appointing power”. RCW 41.12.090.

City's code and charter. Opposition, at 2, 10. While it may generally be true that the Commission can decide what authority is helpful in resolving the issues before it, that cannot be true if the authority relied upon imposes inappropriate barriers to affirming the final decision of the Chief of Police, as it does here.

**B. The Role of the Commission in Disciplinary Action Is Limited to Review Body, Rather than Final Decision Maker on Discipline, Under City Code and Charter**

A review of the City's Charter and Code indicates a shift in the role of the Chief and Commission in regard to discipline, which makes the role of the Commission a limited one. Certainly, the code scheme does not allow for Commission application of labor law. Until 1977, the City Charter largely parroted the State Code: the Chief could remove or suspend a civil servant by giving a written *statement* for that decision and filing the *statement* with the Commission. See Appendix A, City Charter, 1971, Article 16, §12. The aggrieved employee could then demand *an investigation* by the Commission, within 10 days of the suspension/termination decision. *Id.* Under this version of the Charter, the Commission must investigate the statement and determine whether competent, substantial evidence established a violation of the specific charges. *Perry v. City of Seattle*, 62

Wn.2d 891, 893 (1963) (interpreting Art. 16, § 12 of the City Charter).<sup>2</sup> However, civil service provisions in the Charter were modified in 1977 and remain in effect today. Appendix B.

Today, the Charter provides that: “No member of the civil service may be suspended or dismissed from employment except for justifiable cause. A written statement of the reasons for suspension or dismissal shall be delivered to the employee by the head of the department and filed with the Commission. Any employee who is suspended or dismissed shall be entitled to an appeal to the Commission”. *See* Appendix B, City Charter, Art. 16, § 7. The Commission performs a quasi-judicial hearing which includes authority, “to administer oaths, issue subpoenas, receive relevant evidence, compel the production of documents, question witnesses at hearings which it conducts, and issue such remedial orders as it deems appropriate.” *Id.*, §. 6.

In 1978, the City created a separate Public Safety Civil Service Commission, which is governed by a specific section of the City Code. *See* SMC Chapter 4.08. The City Code makes clear that the Chief of Police makes the final decision concerning disciplinary action, which requires a “statement in writing of the reasons therefore, a duplicate of which shall be

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<sup>2</sup> Article 16, § 12 of the charter is attached to this brief as Appendix A. That Charter section no longer exists, but was rewritten and renumbered. In 1977 it was amended to its current version, attached as Appendix B.

served upon the employee”. Upon receiving the Chief’s decision, “[a]ny regular employee so removed, suspended, demoted, or discharged may within ten days from the date of service of such statement, file with the Commission a written demand for a hearing, whereupon, in due course, the Commission shall conduct such hearing. The hearing shall be confined to the determination of the question of whether such removal, suspension, demotion, or discharge was made in good faith for cause.” SMC 4.08.100.

The duties and obligations of the Chief are contained in the City’s Charter, including, the Chief’s authority to establish the duties of subordinate police officers. Charter, Art. 6, § 5.<sup>3</sup> It is therefore *the Chief’s* obligation to determine when those duties are being fulfilled. The Chief of Police is the person with legal authority to employ and discipline subordinates. SMC 4.08.030 (definition of “appointed authority”); SMC 4.08.100. In contrast, the PSCSC acts in appellate capacity: it is authorized “to hear and determine appeals or complaints respecting the administration of this chapter”. SMC 4.08.070(k). The transition from investigative body,

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<sup>3</sup> The Charter provides: “The duties of the subordinate police officers shall be as provided by ordinance or by rules established by the Chief, in addition to the duties hereinbefore prescribed.” Appendix B, Art. 6, § 5. The Charter further provides, “The Chief of Police *shall manage* the Police Department, and *shall prescribe rules and regulations*, consistent with law, for its government and control”. *Id.*, Art. 6, § 4 (emphasis added).

to appellate body is significant in the consideration of what the Commission can and should evaluate in determining “just cause”.

**C. The “Seven Tests” Focus on Elements Beyond the Scope of a Just Cause Determination and Fail to Acknowledge Fitness for Public Service.**

The Department contends that the Commission’s application of the “seven tests” necessarily interferes with the Chief’s authority to determine what constitutes police misconduct by imposing an almost insurmountable barrier in evaluating just cause. The Commission responds that it does not apply the “seven tests” in a conjunctive fashion that automatically results in reversal of discipline for failure to satisfy one of the seven tests by reference to another decision involving appellant *Charles*. Opposition, at 6. However, the *Mahoney* decision, also offered by the Commission, demonstrates that this is not entirely correct.

In *Mahoney*, the officer was accused of misconduct for kissing a teenage Explorer, without her consent, and lying about it during the ensuing internal investigation. Opposition, Attachment C (*Mahoney* decision), Finding No. 4, Conclusion No. 11. There were no other witnesses and the Commission was forced to decide if it believed the victim or her accused. If the Commission adopted the accusations of the victim, then Mahoney must have lied to the investigators when he claimed that none of it happened. The Commission sustained the misconduct charge for Mahoney’s inappropriate

advance on the teenage victim, but refused to sustain the lying charge. Looking to the “test” requiring notice, the Commission determined that even though the manual makes clear that lying can be a basis for discipline, this was not sufficient notice about what kind of lies would necessarily lead to discipline. *Id.*, Conclusion No. 16. This sort of contorted logic is precisely the problem with imposing the seven tests. According to the Commission, the Department must not only tell its personnel that lying is wrong, but quantify what kind of lies, even lies offered in the course of an internal investigation, will lead to discipline.

In reaching this conclusion on whether Mahoney’s lie could support discipline, the Commission does not cite to the personnel rules it notes in its opposition brief, which are more forgiving because the rules do not require actual notice.<sup>4</sup> In the case of officer Roberson, the Commission also overlooked the application of the personnel rule that allows for consideration of “any previously imposed disciplinary actions” without requiring they be for the same or similar offenses. *See* Personnel Rule 1.3.3(B)(1). Opposition, Attachment D. In fact, the Commission added an obligation that does not even exist in the City’s personnel rules, by requiring

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<sup>4</sup> Personnel Rule 1.3.3(C)(1) provides “The employee was informed of or reasonably should have known the consequences of his or her conduct”. It seems evident that an officer who chooses to lie to internal investigators “reasonably should have known” he could be disciplined for his mistruth.

that prior sustained discipline be similar enough to the recent misconduct to impose significant discipline.<sup>5</sup> The Commission does not offer any indication that it has ever adopted or relied on the Personnel Rules, nor do its published rules make any reference to City Personnel Rules. Appendix C (PSCSC Rule 1, General Provisions, Scope and Purpose). The Department submits that if the Commission did adopt these rules and enforce them as their own, it did and could meet the five part analysis.

Roberson either knew or should have known that he could be disciplined for disregarding a 911 call and for destroying evidence of a potential drug crime. Opposition Brief, Attachment D, Personnel Rule 1.3.3 (C)(1). Responding to emergency calls and taking evidence of potential crimes is clearly related to the core functions and efficient operations of the police department. *Id.* (C)(2). A fair and objective investigation produced evidence of both disregard for a 911 call and destruction of evidence. *Id.* (C)(3). There were no comparable situations of evidence destruction or disregard for emergency calls, perhaps because they are such obvious policing obligations, so there were no comparators

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<sup>5</sup> Personnel Rule 1.3.4 (B)(1) provides “In determining the level of discipline to impose, the appointing authority or designated management representative shall consider factors that he or she deems relevant to the employee and his or her offense, including but not necessarily limited to:

The employee’s employment history, including *any* previously imposed disciplinary actions;” (emphasis added).

to establish whether the penalties are evenly applied. *Id.*, (C)(4). Finally, given the number of incidents and very recent sustained evidence, one would think Officer Roberson is lucky to have retained his employment and that the total discipline of 30 days is reasonable. *Id.*, (C)(5).

The Commission argues that it is in the best position to determine what are appropriate factors for consideration and that neither state law, nor City code precludes the application of “the seven tests” in determining whether an officer is disciplined in good faith, for cause. Opposition at 8; 10-11. The fact that the Commission has been inappropriately applying arbitration decisional law to reach its conclusions in other cases does not excuse the error. Certainly, if the subject employee wants to challenge whether the discipline can withstand scrutiny under arbitration decisional law, he or she is free to invoke the terms of a collective bargaining agreement and choose that forum to challenge the discipline. Roberson did not make that choice.

The authority to hear appeals and preside over disputes on discipline does not equate to unfettered authority in all matters related to discipline. The Department proposes that this Court consider the strong policy obligation contained in the statute enabling local public safety civil service commissions, as well as the Charter obligations, and determine whether the articulated right to rely on a “seven tests” analysis produces a result that is consistent. The Department contends that substantial evidence of

misconduct, reasonably relied upon by the Chief, is a standard that strikes the appropriate balance for a review body like the Commission.

The Commissioners should not be determining whether the Chief's review of the dispatcher exchange is the same as their own. They should be considering whether the Chief reasonably concluded that Roberson thumbed his nose at the dispatcher by giving himself the break the dispatcher refused to approve because of a 911 dispatch. They should be considering whether it was reasonable for the Chief to conclude that Roberson threw away a crack pipe and failed to test possible crack in the backpack of a library patron. Instead, the Commission read the Department's manual to allow for, but not require that Roberson book this potential drug evidence into the record. Finding of Fact,<sup>6</sup> Nos., 34-43, CP 320-322. As in the *Mahoney* decision, the Commission holds the department to a nearly impossible standard of notice.

Obviously, the Department cannot fashion a mandatory obligation for every sort of misdeed an officer might commit in the scope of his duties. However, it seems obvious that our policing public servants have an obligation to try to investigate potential crimes. Could an officer at the scene of a stabbing toss away a knife because he determines that it is an unlikely

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<sup>6</sup> This is a reference to the findings of fact in the Commission's written decision, in regard to the library incident.

weapon? While the Department manual on evidence gives him the *authority* to take the evidence into custody and does not *require* that it be tested for trace amounts of blood consistent with the victim, what sort of public safety officer would fail to test the potential weapon? What sort of officer fails to check a crack pipe for residue of drugs or test the potential crack? Apparently, the Commission is not troubled by the fact that Roberson's story about softening wax is uncorroborated and that his destruction of the evidence precludes any ability to challenge his alleged observation.

The Chief should be allowed to find this sort of substandard performance is deserving of discipline without having to prove it violates a specific prohibition in the SPD manual. The Commission's application of the seven tests prevents him from doing that. The Commission's application of the notice provision in this manner, on these facts, is also inconsistent with the state code which allows for discipline for acts or omissions "tending to injure the public service" or acts that show the officer is "unfit to be employed in the public service". RCW 41.12.080.

The same kind of analysis was employed by the majority of the Commission in regard to the 911 incident. The Commission acknowledges that the manual notifies all that the dispatcher speaks with the voice and *authority* of the Chief of Police. Finding of Fact No. 48., CP 322. By interpreting the dispatcher's communication as something other than an

order, the Commission again excused Roberson's obvious disregard for authority. The commission concluded that although the dispatcher did not approve the break Roberson ultimately approved for himself, she did not "dispatch" an *order*. Finding of Fact No 50, CP 322. Again, it is not consistent with the obligation to ensure fitness for public service, of a police officer, to conclude that this sequence of events is acceptable. No citizen would want to live in a precinct where this lax approach to policing would be condoned. Indeed, the citizens Roberson is employed to protect and serve might be surprised to learn that a police officer can destroy evidence and put himself on a break instead of responding to their 911 hang up call, all without consequence, because the manual is not specific enough to inform Roberson of the Department's expectations.

## **II. CONCLUSION**

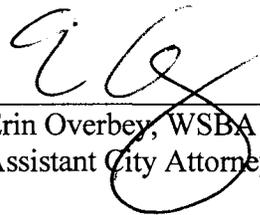
This decision by the Commission must not be allowed to stand. The Chief of Police should reasonably expect investigation of potential crimes and responsive action when his officers are notified of a 911 call. He should be able to expect this and discipline the officer who is well beyond rookie status and failing to take his policing obligations seriously, even if the exact sequence of events is not contained in a written manual. If it is truly confusing to police professionals what they should do with potential evidence or how much of a rush they should employ when the dispatcher

tells them they have a 911 hang up call that needs investigation, then perhaps they should be seeking employment elsewhere. The obligations of police professionals are actually confused by the analytical tools employed by the majority of a public safety civil service commission that insists on employing an arbitration evaluation of “just cause” over common sense.

The Chief’s well-supported basis for discipline should be evaluated under applicable *Washington* case law. Just cause means “a fair and honest cause or reason, regulated by good faith on the part of the party exercising the power” (1) supported by substantial evidence and (2) reasonably believed by the employer to be true. *Baldwin v. Sisters of Providence in Washington, Inc.*, 112 Wn.2d 127, 139 (1989). Substantial evidence is evidence of a sufficient quantity “to persuade a fair-minded, rational person of the truth of the finding.” *Hilltop Terrace Ass’n. v. Island Cy.*, 126 Wn.2d 22, 29, 891 P.2d 29 (1995), quoting *State v. Maxfield*, 125 Wn.2d 378, 385, 886 P.2d 123 (1994). Under this standard, the Chief’s basis for discipline should stand.

DATED this 3rd day of September, 2009.

THOMAS A. CARR  
Seattle City Attorney

By:   
Erin Overbey, WSBA #21907  
Assistant City Attorney  
Attorney for Appellant

**CERTIFICATE OF SERVICE**

I certify that on this date I caused a true and correct copy of the foregoing, along with the supporting declaration of Erin Overbey to be served on the following in the manner indicated:

Richard Roberson  
24914 38th Ave. S.  
Kent, WA 98032  
*Respondent Pro Se*

U.S. Mail, postage prepaid

Gary Keese  
Seattle City Attorney's Office  
600 Fourth Ave., 4th Floor  
Seattle, WA 98104  
*Counsel for PSCSC*

Hand-delivered

DATED this 3rd day of September, 2009.

  
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KIM FABEL

# **APPENDIX A**

*Amendments*

*to the*

**CHARTER**

*of the*

**CITY**

**OF SEATTLE**

**November 2, 1971 Election**

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**NOTE—Comprehensive index in back of book.**

health department, the park commissioners, the library commissioners and the employees of the library department, the private secretary and also an administrative assistant to the mayor, the chief deputy comptroller, the assistant city treasurer, the civil service commissioners and the members of the planning commission.\*

(As amended March 14, 1950.)

Sec. 12. TENURE IN CLASSIFIED SERVICE; REMOVAL FOR CAUSE; INVESTIGATION; REINSTATEMENT; SUSPENSION; OATHS AND EVIDENCE: Every officer or employee in the classified civil service shall hold office until removed or retired. Any officer or employee whose appointment is complete may be removed by the appointing power only upon the filing with the commission of a statement in writing of the reasons therefor. Any officer or employee so removed may within ten days after his removal demand an investigation. The commission shall forthwith make such investigation and its finding and decision shall be certified to the appointing officer, and if the removal is not sustained thereby, the officer or employee so removed shall at once be re-instated. Nothing in this article shall limit the power of any officer to suspend without pay a subordinate for a period not exceeding thirty days. In the course of any investigation each member of the commission or their designated agents shall have power to administer oaths, and shall have the power to require the attendance of any officer or employee or other person and the production of books and papers relevant to such investigation.

Sec. 13. NOTICE AND RECORD OF APPOINTMENTS, TRANSFER, PROMOTION, RESIGNATION; DISMISSALS, VACANCIES AND CREATION OR ABOLISHMENT OF POSITIONS: Immediate notice in writing shall be given by the legislative power to the commission of the creation or abolishment of positions and by the appointing power to the commission of all appointments made in the classified civil service and of all such other changes in employee status and of the date thereof. The commission shall keep a record thereof, and of all findings made by it under Section 12 of this article.

Sec. 14. INVESTIGATIONS: The commission shall investigate the administration of this article and of its rules and the action of the examiners herein provided for, and the conduct and action of the appointees in the classified service, and may inquire as to the nature, tenure, and compensation of all offices and places in the public service. In the course of such investigations each commissioner or the commission's designated agents shall have the power to administer oaths, and the commission shall have the power to require the attendance and testimony of any city

\*(See Article XI, Section 3, Re park superintendent.)

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officer or employee or other person, and the production of books and papers relevant to such investigation.

Sec. 15. CHIEF EXAMINER; SECRETARY: The commission shall employ a chief examiner to superintend any examination held under this article. He shall be secretary of the commission, and as such shall keep the minutes of its proceedings, preserve all reports made to it and keep a record of all examinations held under its direction and perform such other duties as the commission may prescribe.

Sec. 16. SALARY AND EXPENSES OF COMMISSIONERS: The compensation of the civil service commissioners shall be fixed by ordinance.

Sec. 17. FRAUDS IN EXAMINATIONS, APPOINTMENTS AND PROMOTIONS: It shall be unlawful for anyone to willfully or corruptly by himself or in collusion with another to deceive or obstruct any person in respect to his or her right of examination, or corruptly or falsely mark, grade, estimate or report upon the examination or proper standing of any person examined hereunder, or aid in doing so, or willfully or corruptly make any false representation concerning the same or concerning the person examined, or willfully or corruptly furnish to any person any special or secret information for the purpose of either improving or injuring the prospect or chances of any person so examined, or to be examined, to be appointed, employed or promoted.

Sec. 18. RECEIVING OR SOLICITING POLITICAL CONTRIBUTIONS: No officer or employee of the city shall solicit orally or otherwise, or receive any assessment, subscription or contribution for any party or political purpose whatever and no person shall in any room or building occupied for the discharge of official duties by any officer or employee of the city, solicit, or in any other manner or place solicit or receive from any officer or employee of the city, appointed under civil service rules, any contribution or money or other thing of value for any party or political purpose whatever. No officer or employee of the city who may have charge or control of any building, office or room occupied by persons in the employ of the city, shall permit any person to enter the same for the purpose of therein soliciting or delivering written solicitations or receiving or giving notice of any political assessment.

Sec. 19. PUNISHMENT OR REWARD OF SUBORDINATES ON ACCOUNT OF POLITICS: No officer or employee of the city shall degrade, discharge or promote, or in any manner change the official rank or compensation of any other officer or employee, or promise or threaten to do so, for giving or withholding, or neglecting to make any contribution of money or any valuable thing for any party or political purpose, or for refusal or neglect to render any party or political service.

# **APPENDIX B**

# Charter of the City of Seattle

*Text as last amended by the voters  
November 6, 2007*

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### **PREAMBLE**

Under authority conferred by the Constitution of the State of Washington, the People of the City of Seattle enact this Charter as the Law of the City for the purpose of protecting and enhancing the health, safety, environment, and general welfare of the people; to enable municipal government to provide services and meet the needs of the people efficiently; to allow fair and equitable participation of all persons in the affairs of the City; to provide for transparency, accountability, and ethics in governance and civil service; to foster fiscal responsibility; to promote prosperity and to meet the broad needs for a healthy, growing City.

(As amended at November 6, 2007 election.)

**ARTICLE XVI. Personnel System and Civil Service**  
**Sec. 5. CIVIL SERVICE COMMISSION**

There shall be an independent three-member Civil Service Commission to hear appeals involving the administration of the personnel system. The Commission may also submit to the Mayor and the City Council such recommendations concerning the personnel system as it deems appropriate. The members of the Civil Service Commission shall serve staggered three-year terms. One member shall be selected by the Mayor, one by the City Council, and one member shall be elected by the civil service employees; all members shall be removed only for cause by their selecting authority. The manner of election and removal of the member representing the civil service employees shall be as provided by ordinance. Should a member of the Commission be unable for any reason to perform any of his or her Commission duties, then the Commission may select a temporary member in a manner to be established by ordinance. (As amended at November 8, 1977 election, and November 2, 1999 election.)

**ARTICLE XVI. Personnel System and Civil Service**  
**Sec. 6. CIVIL SERVICE APPEALS PROCESS**

The Commission shall establish rules for its own operation. The Commission shall have the power to administer oaths, issue subpoenas, receive relevant evidence, compel the production of documents, question witnesses at hearings which it conducts, and issue such remedial orders as it deems appropriate. In any appeal involving a disciplinary action, the employee shall have the right to cross-examine witnesses, and to ask for the attendance of witnesses and production of relevant evidence. In all cases the appellant or the official whose action is challenged shall have the right to a public hearing and to be represented by a person of his or her choice. The Commission may delegate to one or more Hearing Examiners any of its powers, but a decision by a Hearing Examiner may be appealed to the Commission by either party. A record of the proceedings shall be made. Neither the Personnel Director, nor his or her staff, shall serve as Hearing Examiner or staff for the Commission. Hearings shall be conducted on a timely basis and decisions rendered within ninety days after the hearing is completed. If the Commission fails to decide an appeal within ninety days, unless the appellant consents to an extension, the decision, if any, of the Hearing Examiner shall be sustained. No person shall be entitled to appeal to the Civil Service Commission if the subject of the appeal has previously been the subject of binding arbitration under a labor contract. (As amended at November 8, 1977 election, and November 2, 1999 election.)

**ARTICLE XVI. Personnel System and Civil Service**  
**Sec. 7. SUSPENSION OR DISMISSAL**

No member of the civil service may be suspended or dismissed from employment except for justifiable cause. A written statement of the reasons for suspension or dismissal shall be delivered to the employee by the head of the department and filed with the Commission. Any employee who is suspended or dismissed shall be entitled to an appeal to the Commission except as provided in Section 6. (As amended at November 8, 1977 election.)

# **APPENDIX C**



**CITY OF SEATTLE**

**PUBLIC SAFETY  
CIVIL SERVICE COMMISSION**

**RULES OF PRACTICE AND  
PROCEDURE**

THE CITY OF SEATTLE

PUBLIC SAFETY CIVIL SERVICE COMMISSION

RULES OF PRACTICE AND PROCEDURE

Adopted November 12, 1980

Commissioners

David W. Grayson, Chairman  
David D. Garcia  
Donald D. Haley

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## **1. GENERAL PROVISIONS**

- 1.01 **AUTHORITY AND APPLICATION.** These rules are promulgated pursuant to the authority granted by the Charter of The City of Seattle, the 1978 City of Seattle Public Safety Civil Service Ordinance (Ordinance 107791, as amended) and the Administrative Code of The City of Seattle (Ordinance 102228, as amended). These rules are applicable to proceedings before the Public Safety Civil Service Commission and should be read in conjunction with the specific provisions of the City Charter and the Public Safety Civil Service Ordinance.
- 1.03 **SCOPE AND PURPOSE.** These rules govern the continuing administration of the public safety personnel system of The City of Seattle. The purpose of these rules is to assure that the public safety personnel system in The City of Seattle is administered in accordance with the Charter and ordinances of The City of Seattle, and that all proceedings before the Commission are conducted in an orderly, fair and timely manner.

## **2. ADMINISTRATION AND OPERATIONS**

- 2.01 **COMMISSION – MEETINGS – QUORUM.** In the necessary conduct of its work, the Commission shall meet on the second and fourth Wednesday of each month, at 2:00 p.m., in the Commission offices unless there is no pending business requiring Commission action. Notice of special meetings shall be provided as required by the Open Public Meetings Act (Chapter 42.30 RCW, as amended). The Commission shall conduct hearings as required. Notice of hearings shall be provided as required by the City's Administrative Code. Two members of the Commission shall constitute a quorum. No action of the Commission shall be effective unless two members concur therein.
- 2.02 **OPEN PUBLIC MEETINGS.** All Commission meetings or hearings, regular or as required. Shall be open and public. An employee or official whose action is challenged may request that a meeting or hearing, or portions of a meeting or hearing, be closed. In considering a request for a closed proceeding, the Commission will consider the following factors:
- a. The showing of likelihood of jeopardy to a right or interest of the party requesting closure;
  - b. The demonstration by the party requesting closure that there are no available or practical alternatives to closure;
  - c. The balance between the competing interests of the public and the party requesting closure.

The Commission will provide a reasonable opportunity to anyone present, at the time of the request for closure, to object to closure. Closure if granted, will be no broader in application or duration than is necessary to serve its purpose.

The above rule shall not be construed to otherwise limit the Commission's discretionary authority to determine the manner and method of its proceedings in a particular case, including whether a proceeding will be open or closed.