



December 10, 2015

Chief Kathleen M. O'Toole
Seattle Police Department
PO Box 34986
Seattle, WA 98124-4986

RE: MANAGEMENT ACTION RECOMMENDATION (2015OPA-0643)

Dear Chief O'Toole:

Since I began my assignment as OPA director in July of 2013, I have had the opportunity to review both chain of command and OPA use-of-force investigations relating to protests and demonstrations. The following recommendations are informed by this wide-range of experience, but are most directly a result of my review of the use of force by SPD officers during a protest and demonstration march that began on the campus of Seattle Central Community College on the evening of May 1, 2015.

1. Use of Rubber Blast Ball Grenades (blast-balls): OPA recommends that SPD re-evaluate how and under what circumstances officers use blast-balls as a means of moving or dispersing crowds of people. The evidence from May Day 2015 indicates that, while highly effective in getting people to move, the ball-blasts create fear and panic when detonated. Additionally, blast-balls deployed by SPD officers exploded in extremely close proximity to people, not all of whom were engaged in destruction of property or posed a threat to public safety. This is contrary to our understanding of how officers have been trained to deploy blast-balls, specifically so that they detonate in open areas to create greater distance between the police and a crowd. Of particular concern, some SPD officers tossed blast-balls over the heads of those immediately in front of them so the explosive devices landed in the middle of a crowd. Because the initial detonation of a blast-ball separates a hard metal fuse device from its rubber base, there is a possibility of the metal fuse acting as shrapnel and causing serious injury to someone in close proximity when it separates. In addition, deployment of blast-balls at the feet of people or into a crowd can cause burns from the second and larger detonation, as well as blunt force trauma from the rubber base as the flash powder inside explodes and the two halves of the base fly apart. The product safety warning included in the literature provided by the manufacturer: "may cause serious injury or death to you or others." We particularly encourage SPD to ensure that its officers' use of blast-balls is consistent with the care due explosive devices.

2. Inventory and Control of Blast-balls: OPA recommends that SPD make immediate changes to its control and tracking of blast-balls. These devices are munitions and must be treated as such. For purposes of both safety and accountability, strict inventory control by serial number must be maintained over these devices. In particular, each device should be tracked by serial number whenever it is issued to an officer and accounted for after each incident, either with a use-of-force statement by the officer who deployed it or by serial number when it is returned by the officer to whom it was issued.
3. Use of Less-lethal Projectiles: OPA recommends that SPD review its policy and training with respect to the use of less-lethal projectiles in crowd management situations to reduce the chances of them striking the wrong person or causing serious bodily injury. Although these projectiles are specifically designed to prevent penetration and, instead, stun the target with blunt-force trauma, the fact remains they can and do cause injury. In rare, but tragic cases, less-lethal projectiles have even resulted in death. We are particularly concerned with the possibility that, due to the sometimes chaotic and confusing nature of protests or demonstrations, these projectiles may strike and injure people lawfully exercising their constitutional rights.
4. Role, Training and Expectations for Officers From Mutual Aid Agencies: OPA recommends that SPD curtail its use of officers from mutual aid agencies in direct crowd management assignments. Specifically, OPA recommends that, should SPD choose to enlist the assistance of mutual aid officers, they be assigned to support positions which will significantly reduce the likelihood they will be required to use force, e.g., building security at precincts or headquarters, prisoner transport and processing, etc. If SPD wants to use mutual aid officers in a role that places them in direct contact with crowds or protesters, OPA strongly recommends that these officers be trained by SPD and required to comply with all SPD policies with regard to the use and reporting of force. In addition, OPA recommends that mutual aid officers be permitted to carry and use only those force options (weapons, chemical agents, munitions and less-lethal tools) authorized by SPD for use by its own officers.
5. Documentation and Investigation of Force Used During Protests, Marches, Demonstrations and Other Crowd Control Operations: OPA recommends that SPD study how it documents and investigates the use of force by officers during crowd management situations and demonstrations or protests. OPA recognizes and applauds SPD for the significant improvements made in this regard over the past 18 months. The documentation and post-event analysis of SPD use of force during May Day 2015 was more detailed and significantly better than May Day 2014 and/or Ferguson-related protests in late 2014 and early 2015. Nonetheless, we believe that additional improvements can and should be made. In particular, OPA recommends that SPD consider the use of video and other technology to increase its in-progress documentation of officers' use of force. This suggestion is different from and not meant to be a replacement for body-cameras placed on officers, which will primarily record the actions of demonstrators and protesters, not the officer wearing them. Instead, we encourage SPD to consider ways in which it can lawfully, reliably and safely video record the actions of its officers during these events.

In addition, given the number of protests, marches and demonstrations that occur every year in Seattle, OPA recommends that SPD consider establishing a cadre of detectives and supervisors who are specifically trained in investigating and analyzing the use of force in these situations. Those staffing such a unit should possess many of the skills utilized by SPD's Force Investigations Team. In addition, the members of this unit should be thoroughly schooled in the policies, tactics and training relating to providing police services during demonstrations or other events with large crowds of people. Successfully implementing this recommendation will provide for stable, high-quality force investigations that are completed in a shorter timeframe, thus enabling police management, the Force Review Board, OPA and the public with timely and complete information needed to understand and evaluate the performance of SPD during these events and apply valuable lessons.

6. More Visible Names and/or Serial Numbers for Officers: OPA recommends that SPD find an appropriate means to affix the name and/or the serial number of each officer on the front and back of the outermost garment or body armor, along with the helmet. This should be done in a large and highly visible manner. Because of the nature and similarity of uniforms, protective gear and helmets used by SPD officers while providing police services at demonstrations and protests, OPA has found it difficult and time-consuming to identify officers shown in photographs and videos taken during these events. In addition, complainants frequently are unable to give OPA the name or serial number of the officer alleged to have used excessive force. Finding a practical and highly visible means to display names or numbers will make accountability more possible and send an important message of transparency to the public.

7. Policing Operations In Protests, Marches, Demonstrations and Other Crowd Control Situations: OPA recommends that SPD rethink its approach to planning and providing policing services in relation to protests and demonstrations. We are aware that SPD has assembled a highly regarded group of national experts to examine and make recommendations on this topic. OPA encourages SPD, in collaboration with these experts, to look beyond the confines and thinking of the American law enforcement establishment. We note that law enforcement agencies in the United States have relied on the military and those with military experience for many of the tactics, equipment, weapons and training used in dealing with protests, demonstrations and crowd control scenarios. While these traditional approaches have much to offer, we believe that SPD would benefit from employing an intentionally wide lens in its search for best practices in this field, including what other countries and regions have found successful in supporting the free expression of public protests while limiting the use of force necessary to promote public safety. Also, we encourage SPD to seek out academics and others outside the mainstream of current law enforcement thinking who may have innovative and evidence-based recommendations in this area. Finally, OPA strongly recommends that SPD seek an effective means by which Seattle's many diverse peoples and neighborhoods can actively participate in this process and communicate to SPD how they want their police service to handle protests and demonstrations in their city.

Thank you very much for your prompt attention to this matter of public trust and confidence in the professional conduct of the SPD and its employees. Please inform me of your response to these recommendations and, should you decide to take action as a result, the progress of this action.

Sincerely,

A handwritten signature in blue ink that reads "Pierce Murphy". The signature is written in a cursive style with a large initial "P" and a long, sweeping underline.

Pierce Murphy
Director, Office of Professional Accountability