



City of Seattle

Seattle Police Department

August 29, 2024

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City of Seattle
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Seattle City Council
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RE: OPA Case No. 2024OPA-0175

Dear Mayor Harrell and Council President Nelson:

As required under the Seattle Municipal Code, I provide this written statement to advise you of my decision not to accept OPA's recommended finding of "Sustained" with respect to one of four allegations against Named Employee #2 in OPA Case No. 24-0175. OPA investigated a number of serious allegations of misconduct against three officers, including biased policing and unauthorized use of force. The serious allegations were **not** sustained and the officers are to be commended for their excellent work on a complicated and dangerous arrest. Ultimately, OPA only recommended one sustained finding against one officer, related to NE#2's failure to advise the arrestee of his *Miranda* rights as soon as it was practical to do so. OPA took the position that an Oral Reprimand with retraining was appropriate. The employee's chain of command objected, both to the sustained finding of misconduct and to the suggested discipline. I believe this case is an example of a performance issue that in the context of this incident, would be better addressed by counseling and re-training than it would by sustaining an allegation of misconduct and issuing formal discipline. So that is what I have done.

A violation of SPD Policy 6.150-POL-1(1) – the policy requiring officers to *Mirandize* an arrestee as soon as practical – is not a “serious” policy violation.¹ It is, at most, a minor policy violation, which both SPD Policy and the Accountability Ordinance² contemplate may be appropriately addressed by the named employee’s chain of command. *See, e.g.*, SPD Policy 5.002.5.c. (“Supervisors who... receive an allegation of a minor policy violation are expected to address the violation as they deem appropriate.”) *See also* Accountability Ordinance §§ 3.29.100.I.1 and 3.29.125.I, which are quoted and discussed below.

The purpose of discipline is to correct behavior, not to punish. Imposing formal discipline for a procedural error like the one in this case is more likely to have the unintended effect of deterring officers from engaging in proactive policing because they are worried that even when they handle 98% of a complex call correctly, they still risk getting written up. Further, the detrimental impact this type of discipline has on morale, after officers have safely and successfully apprehended a dangerous criminal, reverberates inside and outside of the department, making it even harder to retain officers and recruit new and lateral officers.

I strongly believe that transparency and accountability are critical in enhancing the public trust. But accountability must be reasonable, and **timely**. Because OPA has a heavy workload and limited resources, and these types of policy violations are more efficiently and effectively addressed by supervisory action, OPA should defer resolution of these procedural errors back to SPD for supervisory action rather than discipline.

As we continue to work with our accountability partners on “institut[ing] a comprehensive and lasting police oversight system that ensures that police services are delivered to the people of Seattle in a manner that fully complies with the [law]... effectively ensures public and officer safety and promotes public confidence in SPD and the services that it delivers”³ it is important to keep prioritization in mind. The Accountability Ordinance provides:

The OPA shall have discretion to investigate any specific SPD policy violation it chooses, but with SPD supervisors generally handling minor performance issues and OPA prioritizing its investigative resources on allegations that concern public trust and maintaining systemic oversight of all SPD accountability systems.⁴

While I recognize that OPA had to investigate this case, given the serious nature of the allegations, I am concerned that even if only the one officer had been accused of only the minor violation, this case would have still taken six months to resolve.

The Accountability Ordinance makes it clear that “[a]llegations of unnecessary or excessive force, biased policing, and violations of law shall not be classified as Supervisor Action” by

¹ See SPD Policy 5.002.5.a., listing the “serious policy violations that must be referred to OPA” for investigation.

² Ordinance 125315, Council Bill 118969, passed by the Council on May 22, 2017.

³ Accountability Ordinance Section 1.K.

⁴ Accountability Ordinance § 3.29.125.I. (emphasis added)

OPA.⁵ I read that language to imply conversely that all other allegations **may** be referred by OPA to SPD for “appropriate” supervisory action – which could include not just counseling and re-training, but also reprimand, suspension, transfer or demotion if necessary.⁶

SPD refers all allegations of serious policy violations to OPA for investigation, as required.⁷ However, in my tenure as Interim Chief I have not observed OPA “[s]upport SPD supervisors and strengthen[] supervisors’ involvement in the accountability system, including supervisors’ responsibilities to mentor employees and to investigate, document, and address minor policy violations, performance, and customer service concerns at the precinct level.”⁸

Rather, OPA has assumed the unnecessary burden of addressing **every** alleged policy violation itself, whether it be a serious or a minor alleged violation.⁹ The accountability system as it currently functions is backlogged, cumbersome, inefficient, and not the one that the authors of the Accountability Ordinance intended to create. Delaying corrective supervisory action by nearly six months is counter to everything known about good leadership and building healthy culture.

The people of Seattle would be better served if OPA allowed SPD to assume responsibility for addressing procedural errors and allegations of minor misconduct. This would enable supervisors to more effectively influence culture and allow OPA to focus on addressing allegations of serious policy violations, while supporting and overseeing the Department’s investigation of at least *some* minor policy violations, going forward. This is clearly what the Council intended.

With regard to this specific case, despite the numerous serious allegations leveled against the officers on this complex call, all of the officers, including NE#2, did an excellent job. NE#2 made a minor mistake in a highly stressful situation, in which he was focused on trying to determine whether a DV suspect who fled from officers was armed with a gun (he was). It is important to me that the officer, who has served the Department for over ten years and has only one written reprimand (for entirely different behavior) on his permanent record, be supported and rehabilitated, not punished and demoralized. That is why I decided not to follow OPA’s recommendation. The employee will receive additional training on SPD Policies 6.180(1) and 5.150-POL-1(1) instead.

Sincerely,



Sue Rahr
Interim Chief of Police

⁵ Accountability Ordinance § 3.29.125.A.

⁶ See SPOG CBA Appendix E (12) at 3.29.400(A), *citing* SPD Manual 5.002(5). “Conversely, ‘minor policy violations,’ defined as those that do not rise to the level of serious, are to be investigated by the Chain of Command.”

⁷ SPD Policy Manual § 5.002.5.a.

⁸ Accountability Ordinance § 3.29.100.I.1.

⁹ OPA does send cases back to SPD for Supervisor Action, but only after OPA conducts the investigation and determines whether the allegation(s) should be sustained.

cc: Rob Saka, District 1
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