



City of Seattle

Seattle Police Department

May 12, 2021

Mayor Jenny Durkan
Seattle City Hall
600 4th Avenue
Seattle, WA 98124-4769

Council President Lorena González
Seattle City Hall
600 4th Avenue
Seattle, WA 98124-4769

RE: OPA Case No. 2020-0334

Dear Mayor Durkan and Council President González:

I am writing to report on my decision to change the Director's finding in OPA 2020-0334, concerning the decision of the Named Employee¹ to direct the deployment of less-lethal force to disperse a crowd during a protest event on June 1, 2020, from Sustained to Not Sustained – Training Referral.

Let me first state that in reaching this decision, I am focusing exclusively on the policy at issue – 14.090 (Crowd Management). I am not stating a conclusion with respect to the force itself or Title 8 Use of Force policy considerations, which are not before me in this case. I am mindful that certain uses of force have been, are, and/or likely will be the subject of other OPA complaints, civil litigation, Department of Justice and Monitoring Team review, and/or the Inspector General's Sentinel Event Review; it is not my intent here to get ahead of those separate discussions.

My decision with respect to this case is grounded first and foremost in principles of fairness. Simply put, accepting as true for purposes of this review that the circumstances were not such that dispersion was warranted at the time, I believe the allegation, landing on the Named Employee, is misdirected. There is little question that the events of last summer generally posed considerable challenges to the Department and exposed flaws in our command structure as we attempted to manage the multiple events that were occurring simultaneously in different locations around the city.² Decisions were made at levels of command above the Named Employee that bore directly on the Named Employee's action and thus actions taken by officers in the field. As a simple matter of fairness, I cannot hold the Named Employee responsible for circumstances that were created at

¹ SMC 3.28.812 directs that this letter not contain the name of the subject employee or any personal information.

² The OPA Director has likewise noted the same concern, issuing a management action – which SPD has acted on – concerning strengthening a unified command structure for complex incidents.

a higher level of command authority and for carrying out decisions made at a higher rank. For that reason alone, I would change the finding.

That said, there are two realities concerning the events of this summer that I cannot sidestep here. First, the events of this past summer, occurring in the midst of a deadly pandemic where staffing and communications were already challenged, were unprecedented in their scope, duration, and in some instances, violence and intensity. As was the case in jurisdictions across the nation,³ I believe we must acknowledge that these events overwhelmed not just the Seattle Police Department's capacity, but indeed the City's capacity, at all levels of government – including planning, command, and operational levels. Certainly, as evidenced by policy revisions recently approved by the federal court, reflecting in large part tactical adaptations in the field guided by the Named Employee, lessons have been learned; I have no doubt that as reviews continue on parallel tracks, and as additional facts and circumstances become understood, there will be ongoing opportunity to question the decisions and tactics of many. With an eye towards reconciliation and ever improvement, I welcome these critical reviews and the difficult conversations they invite, but at the same time, cannot lose sight of the abjectly unprecedented and rapidly dynamic circumstances at hand.

Second, while in hindsight we can readily acknowledge that mistakes were made, I cannot overstate the complexity of incident command in such circumstances. While I appreciate the OPA Director's detailed investigation, review, and perspective, I must also weigh the reality that the Named Employee – even were the Named Employee in a position to be held responsible for the decisions of others at higher levels of command – did not have the same benefit of time, video compilations, after-the-fact reporting, and the interviews of many in making real-time decisions in the midst of the unprecedented circumstances at hand. This observation is by no means intended to downplay the seriousness or the impact of decisions made; it is simply to note that under the circumstances, based on the information and equipment available at the time, including life-safety considerations known and foreseeable, I do not believe I have a basis from the record before me to sustain the allegation that challenged decisions violated the policy provisions at issue.

For all of these reasons, I am changing the recommended Sustained finding for violation of Department Manual Policy 14.090(9) (Crowd Management) to Not Sustained – Training Referral. I do so mindful that some who may ultimately read this letter may ascribe to it a sentiment or political statement that I certainly do not intend. As my record clearly shows, I have not shied away from holding officers and commanders alike accountable and imposing discipline that is appropriate for the circumstances – in several cases, up to and including termination. It is my hope that just as reasonable minds may and often do differ in honest discourse, this letter will be understood as no more than my determination that, in this case, I do not believe it would be fair or principled to hold this Named Employee responsible for the allegation alleged.

The events of this past summer were extraordinary, not just in Seattle, but around the nation – indeed, the world. We are at a time of tremendous reckoning in terms of how we collectively engage in creating a model of public safety that centers on reconciliation, justice, and peace. SPD

³ See, e.g., <https://www.seattletimes.com/nation-world/in-city-after-city-police-completely-mishandled-black-lives-matter-protests/>

continues to work hard – internally and in partnership with many – to ensure that missteps in the past inform practices of the present; in specific regard to the allegations at question here, for example, SPD has implemented strengthened systems for unified command and stratified accountability to ensure that, particularly in complex events such as were seen last summer, there is clear understanding as to responsibility and accountability for decisions made at each rank of the department.

Let me end this letter by reiterating that I, and all members, of the Seattle Police Department, are committed both to learning from our mistakes and partnering with the community in making this vision of public safety a reality.

Please let me know if you have additional questions.

Sincerely,



Adrian Z. Diaz
Chief of Police

cc: Lisa Herbold, Councilmember
Andrew Lewis, Councilmember
Deborah Juarez, Councilmember
Tammy Morales, Councilmember
Teresa Mosqueda, Councilmember
Alex Pedersen, Councilmember
Dan Strauss, Councilmember
Kshama Sawant, Councilmember
Andrew Myerberg, OPA Director
Lisa Judge, Inspector General
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