

# SEATTLE POLICE DEPARTMENT MEMORANDUM

TO Mayor Mike McGinn  
Councilmember Tim Burgess

FROM Kathryn Olson, Director  
Office of Professional Accountability

SUBJECT SMC 3.28.812

DATE November 14, 2011

RECEIVED

NOV 15 2011

Councilmember Tim Burgess  
Seattle City Council

SMC 3.28.812 provides that the OPA Director make a written explanation if no discipline results from an OPA complaint because an investigation time limit was exceeded, with a copy of such explanation provided to the Mayor and City Council. Pursuant to this requirement, please see the explanation below for OPA-IS 11-0022.

The OPA Investigations Section completed its investigation of OPA-IS 11-0022, which involved allegations of unnecessary use of force against two named officers, in a timely manner. OPA-IS recommended a Sustained finding on use of force by named officer #2, while recommending the complaint of force used by named officer #1 be Exonerated. Following a discipline meeting, review of the In-/Car Video, and consultation with the Training Unit, A/Chief Sanford determined that the use of force by officer #1 was unnecessary and that the allegation against him should be Sustained, while the complaint of force used by officer #2 should be Exonerated.

However, the Proposed Disciplinary Action Report (DAR) prepared by SPD Human Resources incorrectly named officer #2 as the employee to receive the Sustained finding. By the time the error was discovered, the 180 day deadline for completing an OPA investigation (measured by the date the Proposed DAR is issued by HR or the Legal Unit) had passed. Ultimately, it was determined that named officer #1, who should have received a Sustained finding, instead would receive a Supervisory Intervention. The discipline recommended for the Sustained finding was limited to training, and the officer nonetheless was counseled and trained about use of force alternatives through a Supervisory Intervention.

Please let me know if you have questions.

Cc: John Diaz, Chief of Police  
Anne Levinson, OPA Auditor  
Melissa Bartholomew, OPARB  
Claudia D'Allegri, OPARB  
George Davenport, OPARB  
Elizabeth Holohan, OPARB  
Martha Norberg, OPARB  
Patrick Sainsbury, OPARB  
Dale Tiffany, OPARB



# SEATTLE POLICE DEPARTMENT MEMORANDUM

TO Councilmember Tim Burgess  
Chair, Public Safety and Education Committee

DATE November 28, 2011

FROM Kathryn Olson, Director  
Office of Professional Accountability

**RECEIVED**

NOV 29 2011

SUBJECT SMC 3.28.812 – Follow up to November 14, 2011 Memorandum

Councilmember Tim Burgess  
Seattle City Council

Pursuant to SMC 3.28.812, I provided information on November 14, 2011 concerning an Office of Professional Accountability investigation (OPA-IS 11-0022) in which no discipline resulted because an investigation time limit was exceeded when SPD's Human Resource Unit issued notice of discipline to an incorrectly named employee. Your office asked for a summary of SMC 3.28.812 cases reported in the past.

Seattle Municipal Code 3.28.812 requires that the OPA Director provide a written explanation to the Mayor and City Council if no discipline results because an OPA investigation time limit was exceeded and provides that the Chief of Police is to make a written statement of his reasons if he does not follow an OPA complaint disposition recommendation. Pursuant to these requirements and in addition to the explanation provided on November 14, 2011, the following incidents with full explanations were reported on the dates noted to the Mayor and City Council:

1. March 20, 2009
  - a. OPA-IS 08-0036: Former Chief Kerlikowske disagreed with the OPA Director's disposition recommendation.
  - b. OPA-IS 08-0036 and OPA-IS 07-0199: No discipline resulted after SPOG filed a grievance concerning the calculation of investigation time limits when a supervisor becomes aware of potential misconduct prior to the filing of a complaint with OPA.
2. September 10, 2009
  - a. OPA-IS 08-0266 and OPA-IS 08-0400: No discipline resulted after SPOG filed grievances concerning the calculation of investigation time limits where OPA completed its investigation in a timely manner but there was a question as to whether SPD Human Resources had issued notice of the findings and proposed discipline within contractual time limits.
  - b. OPA-IS 07-0569: No discipline resulted after SPOG filed a grievance concerning the calculation of the investigation time limits when a supervisor becomes aware of potential misconduct prior to the filing of a complaint with OPA.

The following changes were made to avoid the problems that arose in these cases: (1) An MOA was entered with SPOG to address timeline issues when a supervisor is aware of misconduct but it has not been reported to OPA; (2) OPA-IS personnel have been more conservative in calculating investigation timelines; and, (3) in addition to timeline tracking systems OPA instituted in 2008, SPD Human Resources has set up separate safe-guards to ensure timelines are monitored as HR fulfills its responsibilities to provide notice of proposed discipline to named employees and SPOG.

Please let me know if you have questions.

Cc: Mayor Mike McGinn  
John Diaz, Chief of Police  
Anne Levinson, OPA Auditor  
Melissa Bartholomew, OPARB  
Claudia D'Allegri, OPARB

George Davenport, OPARB  
Elizabeth Holohan, OPARB  
Martha Norberg, OPARB  
Patrick Sainsbury, OPARB  
Dale Tiffany, OPARB