



City of Seattle

Seattle Police Department

February 21, 2014

Council President Tim Burgess
600 4th Avenue
Seattle, WA 98104

Dear Council President Burgess:

In responding to your email, I think it might be helpful to begin by outlining the disciplinary process at the Seattle Police Department, and putting the cases you reference in that context.

After a complaint of misconduct is investigated by the Office of Professional Accountability (OPA), the OPA Director makes a recommendation for the finding (e.g., unfounded, lawful and proper, inconclusive, training referral, or sustained). If the OPA Director recommends a finding of sustained, a meeting is scheduled with the employee's captain and assistant chief, along with the SPD Legal Advisor, to review the case file and answer questions. The OPA Director, OPA Captain and/or Lieutenant, and the assigned OPA Investigator also attend. The assistant chief and OPA Director make separate recommendations to the Chief about whether to sustain the allegation, and if so, what the appropriate discipline should be. If the Chief accepts the OPA Director's recommended finding of sustained, the employee and his or her union representative are notified of the proposed finding and disciplinary action. If it involves a suspension, demotion, or termination, the employee is given an opportunity to meet with the Chief to provide any additional information he or she believes the Chief should consider before making a final recommendation (the Loudermill hearing).

After this meeting, the Chief makes a final decision, and the Legal Advisor notifies the employee and union in writing. Represented employees may appeal any disciplinary decision involving suspension, demotion, or termination to either the Public Safety Civil Service Commission (PSCSC) or as provided in the collective bargaining agreement (usually some form of arbitration). Prior to a hearing before the PSCSC or arbitration, there are often settlement proposals and counterproposals from the employee and the city. The negotiations about these proposals may involve the Chief, the SPD Legal Advisor, the union, and/or the Law Department. At this stage, the OPA Director may be consulted as a subject matter expert (e.g., about the investigation itself, or about discipline resulting from other, similar cases) but not about the settlement proposal itself. After weighing the proposals and counterproposals against the relative strength of the evidence as well as a comparison of the case at issue with previous disciplinary decisions of a similar nature, the parties attempt to reach a settlement of the case which will resolve it short of the appeals process. If the parties cannot agree on a settlement, then the case proceeds to the PSCSC or arbitration.

Harry Bailey
February 21, 2014

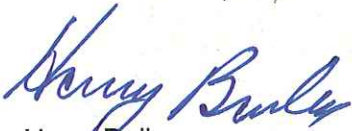
It is at this last stage (settlement negotiations of the appeals) that the cases you reference in your email are being resolved: they are at the appeals stage, and I am participating in settlement talks to determine whether the appeals can or should be resolved. It is only after careful consideration and—as I discussed above—weighing the strength of the evidence and comparing the case with similar cases are any changes made to any finalized discipline decisions.

I am not overruling the decisions of other chiefs; instead, I am reacting to settlement proposals (and counterproposals) made by employees and the city in an attempt to resolve litigation (appeals of discipline), and I am trying to do so in a fair and thoughtful manner: I look at the quality and quantity of the evidence, I compare the case—and the discipline meted out—with other similar cases, and I listen to opinions from the SPD Legal Advisor and/or the Law Department about the city's likelihood of success on appeal. It is only after I consider all of those factors do I make a decision about whether—and how—to settle a case. It is in this context that the case involving the Stranger writer was resolved. After discussing this case with the SPD Legal Advisor, I made the decision to resolve the case by changing the disposition to a training referral, to have the involved officer re-trained in best practices for working with the public, and then instructing other officers in those best practices. It is my belief that this resolution is in the best interests of both the officer and the Department.

I want to make clear that just because an employee or a union appeals the imposition of discipline does not automatically mean that the appeal will result in a settlement. Whether or not I will entertain a settlement proposal is dependent upon a number of factors, including the evidence in the case, the likelihood of prevailing, the expense of further litigation, and the value (to both the city and the employee) of finality in disciplinary actions.

Thank you for allowing me the opportunity to explain this process. If you have further questions, please feel free to contact me. In addition, I would be happy to come to a Council briefing to discuss these issues, so long as representatives from the Law Department and Labor Relations are invited as well.

Sincerely,



Harry Bailey
Interim Chief of Police

cc:

Mayor's Office
City Council
Tina Podlodowski
Susan Coskey
David Bracilano
Peter Holmes
Jean Boler