



## **CLOSED CASE SUMMARY**

ISSUED DATE:      DECEMBER 8, 2020

FROM:             DIRECTOR ANDREW MYERBERG  
                      OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER:     2020OPA-0325

**Allegations of Misconduct & Director’s Findings**

**Named Employee #1**

Allegation(s):		Director’s Findings
# 1	9.020 - Uniform 4. All Outward Facing Uniform Items Include Proper Identifying Markings	Not Sustained (Unfounded)
# 2	5.001 Standards and Duties 7. Employees Engaged in Department-Related Activities Identify Themselves When Requested	Not Sustained (Unfounded)
# 3	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional	Not Sustained (Unfounded)

***This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.***

**EXECUTIVE SUMMARY:**

The Complainants alleged that the SPD officers purposely covered up their badges during protests in order to conceal their identities.

**ANALYSIS AND CONCLUSIONS:**

**Named Employee #1 - Allegation #1**

***9.020 - Uniform 4. All Outward Facing Uniform Items Include Proper Identifying Markings***

This case stems from the early days of the protests that followed the killing of George Floyd by a Minneapolis Police Officer. Multiple Complainants alleged that they observed officers who had covered their badges with what appeared to be black tape. The Complainants collectively asserted that this was purposed to conceal the officers’ identities and was improper. This OPA investigation followed.

During the pendency of this investigation, both Mayor Jenny Durkan and then-Chief of Police Carmen Best explained that the use of black tape on badges was not meant to conceal the identities of officers but was what was referred to as a “mourning badge.” As both the Mayor and Chief Best indicated, mourning badges were purposed to memorialize law enforcement officers who had recently passed away. At the time of the demonstrations, the use of mourning badges, including by placing black tape over the badge, was permitted if authorized by the Chief of Police and communicated to officers by the Department’s Audit, Policy, and Research Section (APRS). In addition, mourning badges were not inconsistent with the provisions of SMC 3.28.130, which required officers to wear identification and



to identify themselves when requested. The SMC mandated that officers wear a name tag with last name and first initial visible, but not that the officers also display their serial numbers.

On June 3, 2020, Mayor Durkan and Chief Best met with demonstrators and committed to revisiting the policy concerning mourning badges to ensure that officers' serial numbers were viewable by the public. In addition, on June 15, 2020, the Seattle City Council passed, and Mayor Durkan signed, an ordinance that, while permitting the continued use of mourning badges, prohibited the covering of serial numbers.

Lastly, on September 1, 2020, APRS issued a directive to the entire Department informing officers that mourning badges could still be worn but clarifying that officers were now required to obtain and use an approved badge. Policy was modified accordingly, and the new policy was provided for review to all SPD employees.

As referenced above, OPA's review of policy and the SMC confirmed that the officers were permitted to use mourning badges at the time that these complaints were filed. OPA also verified that the Chief authorized mourning badges on the following dates: on April 13, 2020 to commemorate the death of a Bainbridge Island police officer; on July 15, 2020 to commemorate the death of a Bothell police officer; and on September 8, 2020 to commemorate the death of a King County Sheriff's Office deputy. As such, mourning badges were functionally authorized from April through September and during the pendency of the protests.

The Complainants made several allegations of wrongdoing in their complaints. Some alleged that, because an SPD officer did not pass away, mourning badges were impermissible. However, policy permitted the use of mourning badges for officers from other law enforcement agencies. Some other Complainants asserted that officers deliberately covered up their badges to avoid being identified. There is simply no evidence of this in the record or based on the Body Worn Video reviewed by OPA. To the contrary, OPA determined that the coverings on badges were consistent with mourning badges and not some ad hoc attempt to cover up identities. Moreover, OPA further determined that, in virtually every situation, officers wore name tags that provided the officers' last names and first initials. This was sufficient to allow for identification of officers and, to be clear, was all that was required by the law at that time.

Had SPD not revised its policy in this area, OPA would have recommended that it do so via a Management Action Recommendation. However, based on the changes outlined above, such a policy recommendation is unnecessary. As such, and when evaluating the merits of the Complainants' allegations, OPA finds no evidence of a deliberate and systemic attempt on the part of officers to hide their identities by placing black tape on their badges. OPA thus recommends that this allegation, as well as Allegations #2 and #3, be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**

**Named Employee #2 - Allegation #1**

***5.001 Standards and Duties 7. Employees Engaged in Department-Related Activities Identify Themselves When Requested***

For the same reasons as stated above (see Named Employee #1 – Allegation #1), OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**



**Named Employee #3 - Allegation #1**

***5.001 - Standards and Duties 10. Employees Shall Strive to be Professional***

For the same reasons as stated above (see Named Employee #1 – Allegation #1), OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**