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August 31, 2017

Director Jacqui MacConnell
Spokane Police Division
1100 W. Mallon Avenue
Spokane, Washington 99260

RE: R17-07 – Policy for complaints generated through a Public Records Request

Dear Director MacConnell,

My office has seen an increase in citizen complaints generated after a citizen receives documents or Body Worn Camera ("BWC") footage through a Public Records Request ("PRR"). Specifically, C17-034 / OPO #17-17 and C17-037 / OPO #17-18. In these cases, while IA did receive the cases, they considered concerns over the officer's demeanor to be *de minimis* due to the second-hand nature of the concern.

A review of Spokane Police Department's ("SPD") Policy §1020 does not specifically provide how SPD shall address these second hand complaints. However, §1020.2.2(d) does provide, "anonymous and third party complaints should be accepted and investigated to the extent that sufficient information is provided." Historically, "third party" has been interpreted to mean a person who witnessed the incident first-hand but is neither the complainant nor the aggrieved party. Under the current practice, it is unclear whether SPD should accept complaints based on BWC footage viewed through a PRR. At that point, the complainant is no longer a first-hand witness but a second-hand witness making a third party complaint.

Considering Washington State's liberal public disclosure laws, this could set a precedence for increased PRRs made as well as complaints based on intensive review of BWC footage. I recommend SPD consider amending its Personnel Complaints Policy to include a provision for how to respond to second-hand complaints received from materials received from a PRR.

Sincerely,

Bart Logue
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