



## CLOSED CASE SUMMARY

ISSUED DATE: JANUARY 20, 2022

FROM: DIRECTOR ANDREW MYERBERG  
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0617

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

Named Employee #1

Allegation(s):		Director’s Findings
# 1	14.090 - Crowd Management 9. Crowd Dispersal a & B	Not Sustained (Inconclusive)
# 2	14.090 - Crowd Management 10. a & b Officers May Make Individual Decisions to Deploy OC Spray, and Blast Balls Consistent with Title 8 – Use-of-Force	Not Sustained (Inconclusive)

***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 anonymous Complainant alleged that unidentified SPD employees used “munitions and tactics” in violation of SPD policy, causing injury to the Complainant.

### **ADMINISTRATIVE NOTE:**

OPA was not able to identify the unknown SPD employee(s) involved in this case. For this reason, the 180-day timeline set forth in the collective bargaining agreements was inapplicable to this matter. As such, OPA sets the 180-day deadline as the date of this DCM.

### **SUMMARY OF INVESTIGATION:**

This case arises out of the demonstrations that occurred within Seattle and across the nation in the wake of the killing of George Floyd by a Minneapolis Police Officer. These protests were unprecedented in scope and were directed at law enforcement. While most demonstrators protested peacefully, some demonstrations, especially during the early days of the protests and during nighttime hours, devolved into violence, property destruction, and looting.

The anonymous Complainant filed an online Complaint with OPA on September 26, 2020. The Complainant alleged that, on September 23, 2020, she was attempting to find her friends “on Broadway near the Rite Aide” when she was “forced” by unidentified officers to join a group of protesters who were being pushed south. The Complainant alleged that she attempted to break away to find her friends, but was met with “loud explosions, heavy smoke and demands to move back.” The Complainant stated that she was funneled down Harvard Avenue to Pine Street and then attempted to move east, when she stopped to help someone who had fallen. The Complainant alleged that, at this point, she heard an explosion and felt an impact on her right leg from a black piece of rubber. The Complainant stated that she then was forced south “on Olive by officers.” The Complainant described feeling “forceful pushing from



behind and yelling by officers” but that she was unable to move. The Complainant alleged that she had bruising on her legs from the rubber that hit her and that she experienced the effects of chemical agents for about two hours.

OPA commenced an investigation. OPA attempted to contact the anonymous Complainant through the only method of communication that she provided, an email address. The Complainant did not respond to two emails sent to her email address requesting an interview. The Complainant did not describe any of the officers against whom she made allegations, nor did she provide any video evidence (despite mentioning video evidence in her complaint). OPA attempted unsuccessfully to locate relevant video for this incident on both Google and social media.

OPA located only one CAD event related to demonstration activity around the date and timeframe provided by the Complainant. The CAD event was related to a rally for Breonna Taylor at Cal Anderson Park, which is in the general vicinity of the area described by the Complainant. The CAD event described explosions and fireworks occurring, as well as noted that an order was given for SPD members to prepare to use blast balls. The CAD updates generally described that SPD was attempting to prevent a crowd from moving eastbound along Pine Street. According to the CAD, instructions were given for the crowd to move west on Pine Street or north along Broadway. The CAD also described SPD efforts to move the crowd southbound on Harvard Avenue and westbound on Olive at different points.

OPA reviewed a significant amount of BWV in an attempt to identify the Complainant’s allegations. Although multiple BWV depicted officers engaging with a crowd of protestors at various points in the area, OPA did not observe any situations matching that described by the Complainant—namely, an incident where SPD officers used blast balls on a group of protestors that were trapped in an area without any routes to leave the area.

### **ANALYSIS AND CONCLUSIONS:**

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

#### **14.090 - Crowd Management 9. Crowd Dispersal a & B**

The Complainant alleged that unidentified SPD employees used “munitions and tactics” in violation of SPD crowd management policy.

SPD Policy 14.090-POL-9(a)&(b) states that upon determining that there are acts or conduct within a group of four or more persons posing a “substantial risk” of injury to any person or “substantial harm” to property, an incident commander (IC) may order that the crowd be dispersed. SPD Policy 14.090-POL-9(a). The policy goes on to state that the IC “shall consider whether less restrictive means” such as “area denial and/or seeking voluntary compliance” are available. *Id.* It further requires the IC to determine a safe path of egress for the crowd and, where possible, broadcast a dispersal order prior to dispersing the crowd. *Id.* When ordering dispersal, the IC has the authority to direct the use of less-lethal tools including blast balls and OC spray. SPD Policy 14.090-POL-9(b). A lieutenant who is not the IC may direct the use of less lethal when a “life safety emergency” exists. *Id.* The policy defines a “life safety emergency” as “an unplanned, dynamic situation where immediate police action is necessary to protect the officers’ and/or the public’s safety.” *Id.* It goes on to state that when feasible, a dispersal order should be given sufficiently prior to the use of less lethal to allow the crowd to disperse peacefully, and that OC and blast balls should not be deployed in the vicinity of people who do not pose a threat. *Id.*

In this instance, the CAD demonstrates that an order was given to use less-lethal tools to disperse the crowd if the protestors began throwing items at the police. The CAD also shows that multiple items—including fireworks and



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rocks—were thrown at officers and dispersal orders were given. BWV also shows that blast balls were used to move the crowd of protesters and that the protesters had safe paths of egress.

However, OPA was unable to identify the specific incident alleged by the Complainant. The Complainant also did not respond to OPA’s requests for an interview or video evidence. Therefore, OPA was unable to clarify the specifics of the Complainant’s allegation and could not evaluate whether crowd management “munitions and tactics” in her complaint complied with SPD policy. Moreover, given the use of fireworks and explosives by non-SPD members during this incident, it is similarly impossible for OPA to determine if the Complainant was hit by an SPD blast ball or some other item.

Accordingly, OPA recommends that this allegation be Not Sustained – Inconclusive.

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

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

***14.090 - Crowd Management 10. a & b Officers May Make Individual Decisions to Deploy OC Spray, and Blast Balls Consistent with Title 8 – Use-of-Force***

The Complainant alleged that unidentified SPD employees used “munitions and tactics” in violation of SPD crowd management policy.

SPD Policy 14.090-POL-10 states that deployment of OC spray or blast balls shall have the primary objective of defending the officer, defending another, or preventing significant destruction of property. SPD Policy 14.090-POL-10. It further states that individual officers may deploy OC spray or blast balls “at the specific suspect(s) who are posing a threat” and that if feasible, officers must provide a verbal warning prior to deployment. *Id.* Finally, the policy states that when feasible, officers will provide aid to subjects exposed to OC and/or blast balls and will request medical assistance when subjects complain of continued effects from OC or blast balls. Officers will request medical assistance when a subject appears to have been injured. *Id.* An officer’s decision to deploy OC or blast balls must be consistent with Title 8 – Use of Force. *Id.*

For the same reasons as set forth in Allegation #1, OPA recommends that this allegation be Not Sustained – Inconclusive.

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