



CLOSED CASE SUMMARY

ISSUED DATE: DECEMBER 27, 2020

FROM: DIRECTOR ANDREW MYERBERG
 OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0571

Allegations of Misconduct and the Director’s Findings

Named Employee #1		Director’s Findings
Allegation(s):		
# 1	5.001 – Standards and Duties 10. Employees Shall Strive to be Professional	Not Sustained (Training Referral)

EXECUTIVE SUMMARY:

It is alleged that the Named Employee acted unprofessionally in cutting the straps to the Complainant’s backpack following her arrest.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

On May 31, 2020, a chaotic scene broke out during a protest march in the 1100 block of 4th Avenue, during which time the Complainant was arrested by Seattle Police for assaulting an officer. At the time of her arrest, the Complainant was wearing a backpack, which remained on her shoulders during the course of her arrest and handcuffing. After the scene settled down, officers escorted the handcuffed Complainant to a police vehicle, located in a secure location away from protestors. Prior to placing the Complainant into the vehicle, Named Employee #1 (NE#1) advised the Complainant that he would need to remove the Complainant’s backpack, then attempted to take the bag off from the Complainant’s shoulders.

Due to the Complainant being in handcuffs, the backpack did not come off, at which point NE#1 stated that he would have to cut the bag straps. When NE#1 produced a knife to cut the straps, the Complainant asked NE#1 to remove the handcuffs in order to take the backpack, then stated “really quick, please, it’s brand new.” NE#1 proceeded to cut the straps, then responded “that’s what you get for fighting with us.” As he removed the cut backpack, he further stated: “Unfortunately if you fight with police, you don’t get unhandcuffed.” At the time of the strap cutting, the protest crowd was entirely removed from the area, and the Complainant was surrounded by several officers in her immediate proximity.

This conduct was identified as potentially in violation of policy during a chain of command review of force from this incident. The reviewing Lieutenant referred the cutting of the backpack to OPA and this investigation ensued.

SPD Policy 5.001-POL-10 requires that SPD employees “strive to be professional.” The policy further instructs that “employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers” whether on or off duty. (SPD Policy 5.001-POL-10.) The policy further states the following: “Any time



employees represent the Department or identify themselves as police officers or Department employees, they will not use profanity directed as an insult or any language that is derogatory, contemptuous, or disrespectful toward any person.” (*Id.*) Lastly, the policy instructs Department employees to “avoid unnecessary escalation of events even if those events do not end in reportable uses of force.” (*Id.*)

In OPA’s estimation, whether NE#1’s cutting of the backpack straps violated SPD’s professionalism policy is a close call. Certainly, it would not have been unreasonable for NE#1 to cut the straps during a chaotic situation and where there was not the time or the ability to remove the backpack prior to handcuffing. However, at the time he did so here, the exigency appeared to have faded. There was no indication from the video that the officers were under an imminent threat of harm from protestors and the Complainant was surrounded by officers. Moreover, the Complainant was calm, was not resisting, and did not appear to pose any significant threat to the multiple officers in her near vicinity, including NE#1. However, OPA notes that, shortly before this time, the Complainant had physically resisted officers, including grabbing onto an officer’s vest and pulling, and had tried to unarrest someone.

From OPA’s perspective, NE#1 could have chosen to remove the handcuffs and then taken the backpack off without cutting the strap and while the Complainant continued to be secured by other officers. OPA believes that he should have done so here. However, in NE#1’s opinion, his decision to not do so was consistent with his training and past practice. He told OPA that he did not uncuff a detainee unless they were being released from custody. This was not the case here. He further stated that, at the time, demonstrations were ongoing just a block away. That, coupled with the Complainant’s prior resistive behavior, informed his conclusion that the handcuffs should not and could not be removed.

Even if OPA disagrees with NE#1, OPA cannot say that his actions were so unreasonable to constitute a clear violation of the Department’s professionalism policy. Instead, OPA recommends that NE#1 receive retraining and counseling. OPA further notes that the Complainant had the right to seek compensation for her backpack through the City claims process. This is likely the better remedy for her here.

- **Training Referral:** NE#1’s chain of command should review this incident with him and should provide him with additional training concerning when he may remove a backpack instead of cutting it. NE#1’s chain of command should counsel him concerning his decision to cut the backpack here and should discuss what, if anything, would have constituted a better course of action. This retraining and associated counseling should be documented, and this documentation should be maintained in an appropriate database.

Recommended Finding: **Not Sustained (Training Referral)**