



August 25, 2021

Interim Chief Adrian Diaz  
Seattle Police Department  
PO Box 34986  
Seattle, WA 98124-4986

Dear Chief Diaz:

Please see the below Management Action Recommendation.

**Case Number**

- 2020OPA-0766 / 2021COMP-0040

**Topic**

- Use of Force Definitions

**Summary**

- OPA alleged that the named employee's (NE) baton push against a demonstrator may have constituted Type I force and was not properly documented.

**Analysis**

- The NE used a baton three times to push a demonstrator, telling the individual to "move back." On the third push, the demonstrator tripped over a hedge and fell. The demonstrator did not complain of injury from the fall; however, OPA investigated whether the third push constituted Type I force and not *de minimis* force.
- [SPD Policy 8.400-POL-1](#) requires officers to complete a Use of Force (UOF) Report for all force except *de minimis* force.
- The NE did not complete a UOF Report for the baton pushes. In a different UOF Report, the NE added that he and other officers used riot batons to push demonstrators on that date, and it was reported to a supervisor and labeled as *de minimis* force.
- OPA believes a baton push that causes someone to fall to the ground constitutes Type I force and should be reported as such.
- [SPD Policy 8.050](#) defines *de minimis* force as "Physical interaction meant to separate, guide, and/or control without the use of control techniques that are intended to or are reasonably likely to cause any pain or injury. Type I force is defined as: "Force that causes transitory pain or the complaint of transitory pain."

**Recommendation(s)**

- Expand the definition of Type I force to read as follows: "Force that causes transitory pain or the complaint of transitory pain *or is reasonably likely to do so under the circumstances.*"
- Consider whether to a less expansive definition of Type I force is warranted in the context of demonstrations, given the significant amount of low-level force used by officers to move crowds.
- Alternately, as recommended in a [previous MAR](#), set force reporting standards and procedures in the demonstration context that do not unnecessarily burden officers and supervisors while ensuring that force is fully and transparently documented.



Thank you for your consideration of this matter. I look forward to your response.

Sincerely,

*AM*

Andrew Myerberg  
Director, Office of Police Accountability