



CLOSED CASE SUMMARY

ISSUED DATE: APRIL 3, 2022

FROM: INTERIM DIRECTOR GRÁINNE PERKINS
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0688

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained - Lawful and Proper

Named Employee #2

Allegation(s):		Director's Findings
# 1	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained - Training Referral
# 2	8.400 - Use of Force Reporting and Investigation 1. Officers Shall Document in a Use-of-Force Report All Uses of Force Except De Minimis Force	Allegation Removed

Named Employee #3

Allegation(s):		Director's Findings
# 1	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained - Inconclusive
# 2	8.400 - Use of Force Reporting and Investigation 1. Officers Shall Document in a Use-of-Force Report All Uses of Force Except De Minimis Force	Not Sustained - Inconclusive

Named Employee #4

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

Named Employee #5

Allegation(s):		Director's Findings
# 1	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained - Training Referral
# 2	8.400 - Use of Force Reporting and Investigation 1. Officers Shall Document in a Use-of-Force Report All Uses of Force Except De Minimis Force	Allegation Removed

Named Employee #6

Allegation(s):		Director's Findings
# 1	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained - Inconclusive
# 2	8.200 - Using Force 2. Use of Force: When Prohibited	Not Sustained - Unfounded



# 3	8.200 - Using Force 7. Recognizing the Urgency of Providing Medical Aid and the Importance of Preserving Human Life, Following a Use-of-Force, Officers Will	Not Sustained - Unfounded
# 4	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional	Allegation Removed
# 5	5.160 - Observation of Officers 2. People Have the Right to Record Police Officer Enforcement Activities	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:

It is alleged that Named Employees used excessive force in the arrest of a Community Member and subsequently failed to appropriately document the force used. It was also alleged that a Named Employee was unprofessional in a comment he made after the arrest.

ADMINISTRATIVE NOTE:

This incident garnered considerable social media attention. As a result, twelve Complainants, none of whom who were present at the incident, contacted OPA about this incident. In summary, the Complainants alleged the following:

- Named Employees assaulted Community Member #1 (CM#1) during his arrest, causing a life-threatening medical episode.
- Named Employees failed to render medical aid to CM#1.
- Named Employees used baton strikes against CM#1.
- A Named Employee punched CM#1 while he was on the ground and incapacitated.
- Unknown Named Employees assaulted protesters attempting to render medical aid to CM#1
- An unknown Named Employee declared “victory” after the incident. During OPA’s investigation this Named Employee was determined to be Named Employee #4 (NE#4).
- Named Employee prevented bystanders from recording the officers’ actions.
- Named Employees “attacked” crowd members.

OPA did not interview any of the complainants who submitted complaints to OPA. The complainants either did not respond to OPA’s requests for contact or were not witnesses to the incident.

This investigation was divided into three distinct but interlinked complaints:

First, multiple Complainants alleged that Named Employee #1 (NE#1) and other assisting employees—Named Employee #2 (NE#2), Named Employee #3 (NE#3), and Named Employee #5 (NE#5)—engaged in excessive force by tackling CM#1 to the ground during his November 4, 2020, arrest, causing his head to strike the pavement. It was also alleged that officers struck CM#1 with a baton and punched CM#1 during this incident. It was further alleged that CM#1 was unconscious for “at least” 10-15 minutes before medics arrived, and that in the immediate aftermath,



Named Employees “herded protesters away from the scene and shined flashlights in their eyes and cameras to make it difficult to see or record what was happening.”

Second, it was alleged that an officer acted unprofessionally when they stated, “I declare victory” sometime after the above incident. During its preliminary investigation, OPA determined that NE#1 was the primary officer who conducted a takedown and effectuated the arrest of the CM#1. However, OPA identified NE#4 as the person who made this comment.

Third, it was alleged that NE#2, NE#3, and NE#5 may have engaged in excessive use of force when engaging with protestors near the East Precinct.

During its investigation, OPA noted some uncertainty and inconsistency concerning CM#1’s preferred pronouns due to his identification card and listed name therein. However, because legal representatives of CM#1 referred to him using he/him pronouns, OPA will do so consistently in this report, even when summarizing documents or interviews in which CM#1 was referred to with she/her pronouns.

SUMMARY OF INVESTIGATION:

Overview

On November 3, 2020, the presidential election occurred. In preparation for continuing demonstrations, the Seattle Police Department deployed additional resources to mitigate violence and significant property damage within the city limits. On November 4, 2020, Philadelphia Officials were also due to release police body camera footage related to the fatal shooting of Walter Wallace that could have sparked nationwide protests. A list of events was scheduled for Seattle on November 4, 2020, beginning at 4:00pm linked to the aforementioned events. SPD implemented an Incident Action Plan in preparation of the events on the evening. Large crowds had gathered for the events.

Complaint Concerning CM#1

Via radio, the Deputy Operations Section Chief (Witness Officer # or WO#1) ordered the arrest of anyone seen committing graffiti or property damage to the East Precinct Wall. An undercover officer (Witness Officer #2 or WO#2) identified an individual, believed to be CM#1, committing property destruction. WO#2 described the person as a white male, gray pants with knee pads, center of intersection, white respirator, gray hoodie and was putting on a helmet. The location for this individual was given as “travelling South on 12 Ave.” Surveillance video obtained from the East Precinct police station (Garage camera) also captured the individual appearing to write or spray paint on an exterior barricade wall. The individual was then seen running back into the crowd, towards the front. However, OPA was unable to locate any photographs of the alleged graffiti to the East Precinct barricade. WO#2’s statement indicated that he witnessed the individual write on the wall with a black pen.

All of the Named Employees, who were working as a bicycle team, were staged at East Precinct for deployment. NE#1 heard the description given over the radio of the individual—which matched the physical description of CM#1. With the bike squad, NE#1 left the East Precinct and cycled towards the crowd at the location given. From the description, NE#1 identified CM#1 and grabbed his backpack as CM#1 attempted to walk into the crowd.



During its investigation, OPA reviewed multiple footage which included, social media footage, BWV and surveillance footage from the East Precinct which all offered varying perspectives on the incident. NE#1's BWV depicted him grabbing CM#1 from behind by the backpack and stating, "You're under arrest." After this, however, NE#1's BWV was too close to capture any discernible actions. Officers are heard yelling at CM#1 that he was under arrest and "don't fight." Named Employees were also heard telling CM#1 to "roll over" and to "roll over on your stomach." BWV from NE#2 showed CM#1 lying on his back, squirming. NE#1 was seen with his knee to CM#1's head. Named Employees repeatedly told CM#1 to "Stop fighting," "relax," "relax your arms," and that CM#1 was under arrest. CM#1 was rolled to a prone position and handcuffed. NE#2 then rolled CM#2 into a recovery position and noted that he was unresponsive. NE#1 requested medics.

NE#1's BWV showed community members standing on the sidewalk filming. No officers were seen obstructing their efforts to monitor or film the event. Approximately four minutes after CM#1 was detained, officers noticed that CM#1 was unresponsive, and a Named Employee (Witness Officer #3 or WO#3) trained as an Emergency Medical Technician responded and evaluated CM#1. Seattle Fire Department arrived approximately seven and a half minutes after CM#1 was discovered to be in medical crisis. CM#1 was subsequently removed to the hospital from the scene. The incident was screened with a Sergeant who subsequently screened it with the Force Investigation Team.

Complaint Concerning "I declare a victory" Comment

A Twitter video was given to OPA relating to a Named Employee stating, "I declare a victory" a short time after the arrest of CM#1. The video showed a group of eight officers returning to the East Precinct. The streets were empty, and it appeared the video—which contained no date or time stamp—may have been taken at the conclusion of the protest events. A comment is heard on camera of someone saying, "I declare a victory [inaudible comments]."

OPA secured the Department access records to the precinct which identified several officers who entered the door shown in the video. OPA emailed the officers who accessed that door and attached a copy of the Twitter video. A witness officer in the video was interviewed and NE#4 was subsequently identified as the officer who made the comment. OPA interviewed NE#4.

Complaint Concerning Protesters

Complainants alleged that during the arrest of CM#1, Named Employees "attacked" crowd members and used "indiscriminate force against protestors" in the vicinity of the East Precinct. It was alleged that batons were used against individuals present. OPA identified three Named Employees with respect to this allegation, namely NE#2, NE#3, and NE#5. However, none of the Named Employees identified were found to have used or documented any use of batons during their deployment and arrest of CM#1. Moreover, Twitter footage provided to OPA showed several officers, dressed in riot gear, arriving after the arrest of CM#1 with batons visible but not drawn or directed at anyone in the area. These officers walked away from the arrest location of CM#1. OPA did not discover any other video which showed officers using batons.



ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

8.200 - Using Force 1. Use of Force: When Authorized

It was alleged that NE#1 used unauthorized force.

SPD Policy 8.200(1) requires that force used by officers be reasonable, necessary and proportional. Officers shall only use “objectively reasonable force, proportional to the threat or urgency of the situation, when necessary, to achieve a law-enforcement objective.” Whether force is reasonable depends “on the totality of the circumstances” known to the officers at the time of the force and must be balanced against “the rights of the subject, in light of the circumstances surrounding the event.” (SPD Policy 8.050.) The policy lists a number of factors that should be weighed when evaluating reasonableness. (See id.) Force is necessary where “no reasonably effective alternative to the use of force appeared to exist” and “the amount of force used was reasonable to effect the lawful purpose intended.” (Id.) Lastly, the force used must be proportional to the threat posed to the officer. (Id.)

Owing to the medical crisis experienced by CM#1, this incident was referred to FIT for investigation on the night of the arrest on November 4, 2020. During his FIT interview, NE#1 explained how he got off his bike, grabbed the backpack of CM#1, and stated “you’re under arrest.” NE#1 stated that CM#1 then tried to pull away from him. NE#1 explained that he wrapped his arms around CM#1, dropped to his knees, and fell to the ground with CM#1. NE#1 stated that CM#1 then rolled onto his back. NE#1 stated that CM#1 was turtling up, placing his arms underneath his body, and making the arrest difficult.

NE#1 stated that CM#1 was refusing to bring his arm out and other Named Employees assisted. NE#1 stated that CM#1 was lifting his head and resisting arrest. NE#1 stated that in trying to arrest CM#1, he placed his right forearm on the back of CM#1’s head and pushed it towards the ground. NE#1 also detailed how he placed his right knee on the back of CM#1’s head, to prevent him from “wiggling around and rolling back over.” This explanation is consistent with BWV reviewed by OPA, namely NE#2’s BWV. NE#1 stated that it appeared at this point CM#1 stopped resisting and he subsequently removed his knee, stood up while other assisting Named Employees—NE#2 and NE#3—handcuffed CM#1. NE#1’s interview with OPA on January 26, 2020 reflected the interview responses he gave when initially interviewed immediately after the arrest by FIT.

CM#1’s legal counsel, who made a complaint to OPA, alleged that CM#1 hit his head when he was taken to the ground and immediately knocked unconscious. This is refuted by objective East Precinct surveillance video and NE#2’s BWV. BWV depicted CM#1 kicking, rolling over, and actively resisting the officers attempting to arrest him after the officers took CM#1 to the ground. The footage also showed that CM#1 was wearing a bicycle/protective helmet at the time NE#1 took him to the ground. Finally, contemporaneous records of CM#1’s physical condition are inconsistent with his allegation.

Ultimately, the available footage established that the force used was consistent with NE#1’s statements, interviews, and SPD policy. Indeed, NE#1’s rationale for this force appears to be consistent with the video. The failure of CM#1 to stop for NE#1 and the subsequent actions of NE#1 in attempting to detain and restrain CM#1, were reasonable given the totality of the fast-paced circumstances in which they occurred. The decision to body wrap and bring CM#1 to the ground was reasonable, necessary, and proportional based on CM#1’s attempts to flee. Moreover, NE#1’s other contact with CM#1 was reasonable, necessary, and proportional to overcome CM#1’s active resistance.



Accordingly, OPA recommends that this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained - Lawful and Proper**

Named Employee #2 - Allegation #1

8.200 - Using Force 1. Use of Force: When Authorized

It was alleged that NE#2 used unauthorized force.

NE#2's BWV showed that he grabbed the protester that NE#5 took to the ground. NE#2 stated that he saw the protester in the "circle" that the bicycle officers had created to protect the arrest team. NE#2 reported that he grabbed the protester in his written report. He stated that he released his grip and looked for other protesters attempting to infiltrate the arrest circle. He denied using force on the protester at that time. He did not participate in the takedown of the protester.

NE#2's BWV depicted NE#2 approaching a protester who was standing up after NE#5 had taken the protester to the ground. BWV appeared to show NE#2 grab the protester by the upper torso or the backpack, escort them to the edge of the arrest circle, and push them outside the perimeter of the police line. The protester then fell to the ground. A Twitter video supplied to OPA also captured a small portion of this incident.

NE#2 stated that that he turned around and saw the protester standing up within the arrest circle. He reported to OPA that he did not know it was the same protester that he initially had grabbed. NE#2 stated that he believed the protester, and the others, posed a threat to the arresting officers and it was his job to keep protesters out of the "protective circle." BWV showed officers attempting to create a protective circle. NE#2 stated that he grabbed the protester by the backpack, escorted them to the edge of the circle, and pushed them outside of the perimeter. During these actions, NEs can be heard shouting, "Move, Get out, Clear the area." NE#2 was aware that the protestor had fallen. He denied using sufficient force to cause the protester to fall and likened her fall to a "soccer flop," insinuating that she had caused herself to fall. NE#2 stated that the protester did not complain of any injuries to him or to anyone else that he was aware of. NE#2's BWV shows the protestor leaving the area after being pushed back by NE#2.

OPA recognizes that this situation was a fast-moving environment. The arrests of CM#1 occurred in a demonstration context where tensions were already high. OPA acknowledges that any arrest could have readily resulted in inflaming crowds and had the potential of escalating a situation where eventually more and higher-level force may have been required. However, while NE#2 pushing the protester here did not result in a significant escalation, it easily could have. On reviewing NE#2's BWV, NE#2 appeared to be overzealous in his removal of protestors from the bicycle circle and the immediate area. OPA observed that SPD bikes were strewn on the ground, and that there was little room for individuals to safely maneuver or exit the area as they were being ordered to do so by SPD.

Accordingly, OPA finds that NE#2 potentially violated SPD's force policy, but that NE#2's actions were not a willful violation amounting to misconduct. OPA desires that NE#2 reflect on his exercise of judgment, caution, and discretion during this situation to inform his future decision-making. As such OPA recommends that this allegation be recommended as Not Sustained – Training Referral.



- **Training Referral:** OPA directs NE#2's chain of command to discuss this incident with him and, specifically, review NE#2's decision to push individuals in the manner which he did. As indicated in OPA's findings, NE#2's chain of command should discuss the risk of escalation in a demonstration context, particularly when tensions are high. This counseling and retraining should be documented, and this documentation should be maintained in Blue Team.

Recommended Finding: **Not Sustained - Training Referral**

Named Employee #2 - Allegation #2

8.400 - Use of Force Reporting and Investigation 1. Officers Shall Document in a Use-of-Force Report All Uses of Force Except De Minimis Force

It was alleged that NE#2 failed to properly document his use of force.

SPD Policy 8.400-POL-1 requires that officers report all uses of force except de minimis force. This policy defines different levels of force and is intended to devote greater resources to reviewing more serious types of force. *Id.*

NE#2 did not document his use of force in a separate use of force report. However, NE#2 completed a witness officer use of force report for CM#1's incident. NE#2 noted in his report that he pushed protesters out of the area. NE#2 reported to OPA he did not report the force he used because he believed it was *de minimis*.

BWV depicts NE#2 pushing protestors to remove them from the area. This can be considered *de minimis* force in that NE#2 used his hands to push back and disperse individuals. However, as mentioned above, NE#2 needs to be cognizant of his immediate environs when such tactics are used as the close proximity of bikes and people could have resulted in an injury being sustained. OPA believes that this matter should be addressed as part of the training referral counselling for Named Employee #2, Allegation #1 above.

Accordingly, OPA is removing the allegation and believes it is best addressed under the training referral directed for Named Employee #2, Allegation #1.

Recommended Finding: **Allegation Removed**

Named Employee #3 - Allegation #1

8.200 - Using Force 1. Use of Force: When Authorized

It was alleged that NE#3 used unauthorized force.

NE#3 stated that when they cycled up to the group, NE#1 and NE#2 rode around the right side of the group as the group began to run. NE#3 stated that he saw CM#1 run toward the middle of the crowd. NE#3 stated that he saw NE#1 take CM#1 to the ground with NE#2 in close proximity. NE#3 stated that, by the time NE#3 reached CM#1 and NE#1, NE#3 was on their left-hand side.

Complainants alleged that NE#3 punched CM#1. NE#3 assisted in the arrest of CM#1 with NE#1. A Twitter video supplied to OPA shows NE#3 raise his arm, then lower it towards CM#1 in a manner that appears consistent with a strike. This appears to have occurred as CM#1 was moving in a downward motion towards the ground. NE#2's BWV and other officers' BWV failed to provide any additional camera angles or video to confirm or deny the complainants'



allegations that NE#2 punched CM#1. In his OPA interview, NE#3 denied striking CM#1. NE#3 stated that, as he was moving to assist NE#1, he believes that he lost his balance and almost fell as he moved to the side of NE#1 who had just taken CM#1 to the ground. NE#3 stated that this is what he believed was occurring in the Twitter video provided to OPA. NE#3 stated that he “never threw a strike at [CM#1], if anything it’s me losing my balance as I try and move around [CM#1] going to the ground.” NE#3’s loss of balance is not mentioned in NE#3’s use of Force report.

NE#3 did not submit an involved officer use of force report for any force he may have used against CM#1. NE#3 submitted a witness officer statement regarding NE#1’s arrest and takedown of CM#1. The statement makes no reference to NE#3 striking CM#1. NE#3 stated that, although it did appear to be him depicted in the Twitter video—and that the Twitter video makes it appear as though he hit CM#1—that he did not punch or strike CM#1.

NE#3 completed a use of Force witness officer statement for the arrest of CM#1. He stated that CM#1 and NE#1 were already on the ground when he went to assist them. NE#3 stated that CM#1 was actively resisting arrest by placing his hands underneath him to prevent being handcuffed. NE#3 stated that he placed his left arm under CM#1’s left arm, using his arm as leverage to remove CM#1’s arm under from under his body. Once he removed CM#1’s arm from under CM#1’s body, he secured CM#1’s left hand with his right hand and moved it to the small of CM#1’s back. NE#3 noted that he observed CM#1 continually struggled to avoid being handcuffed. NE#3 recalled orders being given by assisting officers to “stop resisting.” When interviewed by OPA, NE#3 stated that CM#1 was kicking out at officers. Once CM#1 was handcuffed, NE#3 stated that CM#1 was placed in the recovery position. A decision was made to stand CM#1 up for removal to the precinct. At this juncture NE#3 noticed that CM#1 displayed symptoms of someone who was in a medical crisis. NE#3 requested the attendance of SFD to assist with the situation.

NE#3’s BWV generally aligns with the explanation given by NE#3. BWV depicts CM#1 struggling during his detention and arrest. OPA reviewed the BWV and additional social media footage for this incident but is unable to confirm or refute whether NE#3 struck CM#1. A private citizen gave a copy of the Twitter video for this incident to the FIT investigation and also provided a statement of his observations of the evening. No additional information was gathered with respect to the alleged strike in the video. However, OPA also cannot find by a preponderance of the evidence that the action depicted on the Twitter video was, in fact, NE#3 losing his balance.

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

Recommended Finding: **Not Sustained - Inconclusive**

Named Employee #3 - Allegation #2

8.400 - Use of Force Reporting and Investigation 1. Officers Shall Document in a Use-of-Force Report All Uses of Force Except De Minimis Force

It was alleged that NE#3 failed to document his use of force.

As discussed in Named Employee #3 - Allegation #1 above, NE#3 denied striking CM#1. As a result, NE#3 stated that he did not use any force that he was required to document. Had NE#3 punched CM#1, NE#3 would have been required to document that use of force. See SPD Policy 8.400-POL-1. However, OPA is unable to establish whether NE#3 struck CM#1.

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

Recommended Finding: **Not Sustained - Inconclusive**



Named Employee #4 - Allegation #1

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

It was alleged that NE#4 was unprofessional.

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.)

NE#4 was identified by a colleague, Witness Officer #4 (WO#4), as the Named Employee who made the comment, “I declare a victory.” WO#4 explained to OPA that the comment was made in jest to one of their co-workers and was not related to any SPD enforcement actions or the protests. This was restated in an interview by NE#4. NE#4 stated he and his East Anti-Crime Team co-workers joke around with another officer because this officer used to engage in a “medieval type game” in high school and went by the name, “Ballard.” NE#4 stated that he and his coworkers were walking towards the East Precinct at the conclusion of events when he said to this coworker, in an old English, medieval accent, “You fought well tonight, Ballard. I declare victory.” NE#4 stated that he was not involved in CM#1’s arrest. He stated his comment was unrelated to any force incidents he or his co-workers were involved with. BWV confirms that NE#4 had no interaction with the arrest of CM#1. However, NE#4 stated that he understood that if the comments were taken out of context, they could undermine the public’s trust in the department.

OPA has no evidence to disprove this explanation of why the statement was made by NE#4. From BWV, OPA is satisfied that although NE#4 was in the vicinity where CM#1 was arrested, he was not actively involved in the arrest of CM#1. As such, the possibility of NE#4’s statement being linked to the arrest is unlikely. OPA does also not believe this statement was uttered with any deliberate intent to undermine trust in the department. However, while NE#4’s explanation of *why* the statement came to be said is credible, NE#4’s exercise of judgment in making this statement remains a question. The context in which NE#4 chose to make this statement is questionable regardless of whether it was in reference to the arrest of CM#1. While OPA has concerns about the context NE#4’s commentary, OPA does not believe that his comments rose to the level of a willful violation of policy constituting misconduct. Moreover, OPA notes NE#4’s candor and his appreciation that his comments, if taken out of context—as they appear to have been here—could undermine public trust in the department.

Accordingly, OPA concludes that this conduct is best addressed by retraining and counseling and issues the below Training Referral.

- **Training Referral:** NE#4’s chain of command should review with him the video of his statement and discuss it relative to the context of the night’s events. The chain of command should review SPD Policy 5.001(10) with NE#4, and provide any further retraining and counseling that it deems appropriate. This retraining and counseling should be documented, and this documentation should be maintained in Blue Team.

Recommended Finding: **Not Sustained - Training Referral**



Named Employee #5 – Allegation #1

8.200 - Using Force 1. Use of Force: When Authorized

It was alleged that NE#5 used unauthorized force.

NE#5 stated that he was instructed by the Sergeant to arrest CM#1 for property destruction. NE#5's BWV shows he arrived at the crowd, approached a woman who was moving toward CM#1's arrest location, grabbed her, and pulled her to the ground. NE#5 stated that he arrived as the last person of the bicycle squad. He saw a person dressed in all black, with a backpack. Based on his experience, he recognized the person as part of "Black Bloc" or "Antifa." The person was in their police line, where the person should not be. He decided, based on that information, to move them away from the officers. NE#5 stated that he grabbed the person by the backpack and sweater and pushed them forward. The person began to fall forward, so he pulled them out of the way. NE#5 stated to OPA that the person went "limp" when he touched them and referred to the person's actions like a "soccer flop." NE#5 stated that he pulled the person, turned them around, and spun them away from him to get the person away from the officers, establish a circle of bikes, and effect CM#1's arrest.

NE#5 explained his maneuver as a push forward. NE#5 stated that the person was unlikely to have sustained any injuries. He reported the person got up and ran away. BWV depicted how the woman attempted to stand up from the ground and it appeared that NE#5 used his hands to push the woman, who fell back to the ground. NE#5 stated that he did not want the person to stand up between him and the officers and wanted to ensure the person was outside the police line. He also reported that, often, protesters will deliberately move slowly to impede officers' actions. NE#5 believed that his pushes were reasonable, necessary, and proportional.

This allegation tracks with the analysis outlined for Named Employee #2 - Allegation #1, above. This was a fast-moving situation where Named Employees were attempting to arrest a fleeing community member. In NE#5's attempt to disperse a crowd he appeared overzealous in his exertion of pushing people out of the area. This resulted in at least one individual being pushed to the ground, but apparently without injury.

Accordingly, OPA finds that NE#5 potentially violated SPD's force policy, but that NE#5's actions were not a willful violation amounting to misconduct. OPA desires that NE#5 reflect on his exercise of judgment, caution, and discretion during this situation to inform his future decision-making. As such OPA recommends that this allegation be recommended as Not Sustained – Training Referral.

- **Training Referral:** OPA directs NE#5's chain of command to discuss this incident with him and, specifically, review NE#5's decision to push individuals in the manner which he did. As indicated in OPA's findings, NE#5's chain of command should discuss the risk of escalation in a demonstration context, particularly when tensions are high. This counseling and retraining should be documented, and this documentation should be maintained in Blue Team.

Recommended Finding: **Not Sustained - Training Referral**

Named Employee #5 – Allegation #2

8.400 - Use of Force Reporting and Investigation 1. Officers Shall Document in a Use-of-Force Report All Uses of Force Except De Minimis Force

It was alleged that NE#5 failed to document reportable force.



NE#5 completed a witness use of force statement pertaining to CM#1's arrest. NE#5 did not complete a use of force report/statement for his interactions with the unknown person discussed in Named Employee #5, Allegation #1. NE#5 reported he did not complete a use of force statement because he believed that the force he used against the unknown person was *de minimis* force that did not require reporting. He believed his actions could not have reasonably been expected to cause injury and he had no reports that his actions caused the person injury.

BWV depicts NE#5 pushing protestors. This can be considered *de minimis* force in that NE#5 used his hands to push back and disperse individuals. Both individuals who were pushed to the ground were then seen running away. However, as mentioned above, NE#5 needs to be cognizant of his immediate environs when such tactics are used as the close proximity of bike and people could have resulted in an injury being sustained. OPA believes that this matter should be addressed as part of the training referral for Named Employee #5, Allegation #1 above.

Accordingly, OPA is removing the allegation and believes it is best addressed under the training referral for Named Employee #5, Allegation #1.

Recommended Finding: **Allegation Removed**

Unknown Employee #6 – Allegation #1

8.200 - Using Force 1. Use of Force: When Authorized

Multiple complainants alleged unnamed officers “attacked” peaceful protesters and “medics” who attempted to assist CM#1 or provide him medical aid. Private video, Precinct Video, and BWV shows officers pushed or escorted crowd members in various directions along 12th Avenue. No witnesses or complainants made themselves available for an OPA interview.

In the absence of any additional evidence, OPA recommends that this allegation be Not Sustained – Inconclusive.

Recommended Finding: **Not Sustained - Inconclusive**

Unknown Employee #6 – Allegation #2

8.200 - Using Force 2. Use of Force: When Prohibited

It was alleged that unnamed officers engaged in prohibited force.

SPD Policy 8.200-POL-2 states that Officers are prohibited from using neck and carotid restraints in all circumstances, including any action that involves kneeling on a subject's neck. Officers are further prohibited from intentionally placing a knee on a prone subject's neck while taking them into custody. The policy further directs that Officers will not use force to punish or retaliate, nor will Officers will not use force on restrained persons except where reasonable, necessary and proportional to protect an officer, the subject, or member of the public from physical injury. *Id.*

One of the complainants, CM#1's legal counsel, alleged that CM#1 “stopped moving” after officers took him to the ground and he allegedly struck his head. Precinct video and BWV show CM#1 was conscious and actively moving during his arrest. CM#1 rolled from his stomach to his back, was seen kicking his legs, and was refusing to give the arresting officers control of his hands/arms. CM#1 appeared conscious in the videos until after he was handcuffed.



Another complainant alleged that officers struck CM#1 with batons. OPA was unable to locate any video suggesting this allegation. No officer reported in any use of force statement that they used a baton to strike on CM#1. The arresting officers appear to all be SPD bicycle officers and none of them were seen carrying batons prior to interacting with CM#1 or during CM#1 arrest. None of the Named Employees interviewed witnessed any bicycle officers with batons out or drawn. The arresting officer of CM#1, NE#1, stated that he did not punch CM#1 nor did he witness other officers punch CM#1.

The precinct video does not support allegations that officers attacked protesters; shined their lights in the eyes/cameras of protesters attempting to film the incident and CM#1's medical treatment; "punched" CM#1 while he lay incapacitated; or used baton strikes against CM#1 during his arrest. Accordingly, in the absence of any additional or supporting evidence, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**

Unknown Employee #6 – Allegation #3

8.200 - Using Force 7. Recognizing the Urgency of Providing Medical Aid and the Importance of Preserving Human Life, Following a Use-of-Force, Officers Will

It was alleged that unnamed employees failed to urgently request medical aid following a use of force.

SPD Policy 8.200(7) required that officers recognize the urgency of providing medical aid and the importance of preserving human life, following a use of force. The policy further directs officers to evaluate the subject for injuries, request needed medical aid, and render medical aid within their training as soon as reasonably possible. *Id.*

CM#1's legal counsel alleged that CM#1 was unconscious for "at least ten to fifteen minutes" before fire department medics arrived. BWV, radio communications, and precinct video showed that the Named Employees recognized that CM#1 was unresponsive/unconscious about 42-seconds after handcuffing him and rolling him onto his side into a recovery position. NE#1 called for Seattle Fire assistance immediately upon noticing CM#1's medical distress. Video showed officers monitored CM#1 pulse and breathing while awaiting medical aid. BWV showed WO#3, a trained/certified Emergency Medical Technician, arrived at CM#1's side a little over four minutes from the time officers recognized he was in medical distress and SFD personnel arrived within approximately 7 ½-minutes of the onset of CM#1's medical distress.

It was further alleged by CM#1's legal counsel that "Protesters were located on three different street corners around 12th and Pine. They were prevented from coming to CM#1's aid by the Named Employees." However, CM#1's legal counsel declined to provide OPA with evidence or witnesses to support these allegations.

Multiple Named Employees reported to OPA that they would not permit a protester to enter the scene of an arrest to provide medical treatment because an arrestee is their responsibility, and they would not know what level of medical training such a protester would have. Relatedly, NE#1 reported to OPA that he did not remember seeing or hearing protesters attempting to provide medical aid to CM#1 or officers denying those attempts.

From available evidence available, including but not limited to BWV, Twitter videos, East Precinct footage and reports made, OPA finds that medical aid was rendered to CM#1 as soon as the medical crisis was noted. OPA found no evidence to support this allegation.



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

Recommended Finding: **Not Sustained - Unfounded**

Unknown Employee #6 – Allegation #4

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

OPA identified the unknown employee who allegedly made the unprofessional comments as Named Employee #4.

Accordingly, this allegation is removed.

Recommended Finding: **Allegation Removed**

Unknown Employee #6 – Allegation #5

5.160 - Observation of Officers 2. People Have the Right to Record Police Officer Enforcement Activities

It was alleged that unnamed employees prevented protesters from recording.

SPD Policy 5.160(2) directs that people have the right to record police officer enforcement activities. SPD Policy elaborates that: [A] person not involved in an incident may remain in the vicinity of any stop, detention, arrest, or other incident occurring in a public place, and observe or record activity and express themselves, including making comments critical of an officer's actions, so long as the person's conduct and presence are otherwise lawful.

CM#1's legal counsel alleged that Named Employees "herded protesters away from the scene and shined flashlights in their eyes and cameras to make it difficult to see or record what was happening." It was further alleged that "[CM#1] remained on the ground motionless while the protesters yelled at the police to call an ambulance. Officers pushed protesters away and shone lights in their eyes so that their view of [CM#1] was obscured. This made it difficult for protesters to film what was occurring, although some video was captured."

SPD radio communications showed that the Deputy Operations Section Chief (Witness Officer #1, WO#1) ordered officers to move the crowd away from the arresting officers. BWV showed WO#1 broadcast crowd dispersal orders over a department issued public address system. Precinct video showed after the arrest, officers split the crowd and a portion of the crowd was dispersed south on 12th Avenue. Officers at the scene were, at times, seen illuminating the crowd with flashlights. Precinct video and BWV showed groups of people standing on the sidewalks of the intersection of 12th Avenue and Pine Street. The officers appeared to allow the crowd to film them and did not appear to be obstructing the crowd's ability to monitor the arrest, or CM#1's treatment.

NE#1 stated in interview that many bicycle officers use helmet mounted flashlights to illuminate their paths, when necessary. Precinct video did not support allegations that officers attacked protesters; shined their lights in the eyes/cameras of protesters attempting to film the incident and CM#1's medical treatment; "punched" CM#1 while he lay incapacitated; or used baton strikes against CM#1 during his arrest. CM#1's lawyer declined to provide the OPA with evidence or witnesses to support allegations made. NE#5 said it was accurate that he pushed protesters away from the crowd. NE#5 also stated that officers wear helmet mounted lights to obscure the visibility of police actions and to see the crowd. However, NE#5 stated that any lights that obscured a protester's attempt to record the incident



would be coincidental. NE#5 did not recall seeing any officer deliberately attempt to keep protesters from filming. NE#2 stated in interview that he did not see any officers, nor did he, attempt to prevent officers from recording them.

On the preponderance of evidence standard, OPA finds that the evidence does not demonstrate that this allegation, while possible, has been established. Accordingly, in the absence of any additional evidence, OPA recommends that this allegation be Not Sustained - Inconclusive.

Recommended Finding: **Not Sustained - Inconclusive**