



CLOSED CASE SUMMARY

ISSUED DATE: JUNE 3, 2021

FROM: DIRECTOR ANDREW MYERBERG
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0761

Allegations of Misconduct & Director's Findings

Named Employee #1

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

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:

An anonymous Complainant alleged that the Named Employee kneeled on a demonstrator's neck.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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

OPA received an anonymous complaint in which the Complainant asserted that an officer kneeled on the neck of a demonstrator. The Complainant asserted that this occurred on December 18, 2020 in Cal Anderson Park. The Complainant provided a photograph that purportedly showed this conduct as it occurred.

During its investigation, OPA determined that, on the date in question, SPD officers were assisting Parks Department employees in clearing out Cal Anderson Park. When individuals within did not vacate the premises, a Lieutenant issued multiple dispersal orders over the span of 15 minutes. When individuals within still did not leave, officers entered the park and began taking those individuals into custody.

An officer – referred to here as Witness Officer #1 (WO#1) – contacted an individual who had not left the vicinity. WO#1 stated to the individual – referred to here as the Subject: "Keep moving, keep moving." WO#1 moved his left hand as if to place it on the Subject's back to guide them away and the Subject stated: "Bitch, don't touch me." WO#1 responded: "Then keep moving." The Subject turned to face WO#1 and said: "Bitch, I'm in the middle of the street. Bitch, don't touch me man." WO#1 took hold of the Subject's vest and began to pull them away from the area, while continuing to say: "Keep moving." The Subject shrugged WO#1 off and said: "Bitch, don't touch me, I'll knock you the fuck out." At that point, the decision was made to arrest the Subject.

WO#1, Named Employee #1 (NE#1), and Witness Officer #2 (WO#2) all assisted in arresting the Subject. WO#2 later documented that he pulled the Subject down to the ground. The officers secured the Subject on their chest in order to handcuff them in the prone position. At this time, NE#1 was kneeling above the Subject with one knee on the



Subject's body. As such, OPA was able to identify NE#1 as the officer depicted in the photograph provided by the Complainant.

SPD Policy 8.200-POL-2 governs when force used by officers is prohibited. As discussed in previous cases (*see, e.g.*, 2020OPA-0324), an officer violates policy by kneeling on the neck of an individual during an arrest. Accordingly, if NE#1 was shown to have done so here, he would similarly have acted contrary to SPD policy.

However, based on OPA's assessment of both the photograph and other Body Worn Video (BWV), OPA believes that the evidence is clear that NE#1 did not do so during this incident. To the contrary, from OPA's review of the visual evidence, it appears that NE#1's knee was located between the Subject's shoulder blades, not on their neck. This is particularly evident when reviewing the BWV, which provides a different vantage point than shown in the photograph. The positioning of NE#1's knee was thus consistent with both policy and his training.

For these reasons, OPA recommends that this allegation be Not Sustained – Unfounded.

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