



CLOSED CASE SUMMARY

ISSUED DATE: DECEMBER 7, 2022

FROM: DIRECTOR GINO BETTS
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2022OPA-0165

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	8.500 - Reviewing Use of Force 8.500-POL-6 Use of Force – Crowd Management, Intervention, and Control 1. Any Commander Directing the Use of Type I Force is Responsible for Reporting Such Force	Not Sustained - Management Action

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:

SPD's Force Review Board (FRB) alleged a SPD commander failed to submit a Blue Team statement after a bike line movement was ordered during a crowd management incident. During its investigation, OPA identified Named Employee #1 (NE#1) as the commander responsible for submitting the Blue Team statement.

SUMMARY OF INVESTIGATION:

The scope of the complaint and OPA's investigation covered whether a commander failed to submit required Type I Force documentation in Blue Team after a bike line movement was ordered during a June 2021 demonstration (the "ZIM Ship Event.") It is undisputed that a SPD bike line collided with several demonstrators on June 17, 2021, or that a Type I Blue Team submission was omitted. Accordingly, OPA investigated who was required to submit the Blue Team entry and why it was not done.

On May 24, 2022, FRB reviewed the "ZIM Ship Event." In June 2021, SPD had a planned response for that event including an Incident Action Plan (IAP) and a roll call. During SPD's deployment to the event, there were several arrests and two Type II force incidents FRB reviewed. SPD's crowd management included an ordered bike line movement that connected with several demonstrators. Neither FRB nor OPA located a Type I Force Blue Team entry by the commander responsible for the order. Similarly, FRB nor OPA definitively identified who gave the verbal order for the bike line movement.

a. OPA Interview – Named Employee #1 (Incident Commander)

NE#1 stated he was "designated as the incident commander" for the ZIM Ship Event. NE#1 explained he was located at a command post five to seven miles from the demonstration. NE#1 stated he was focused on learning whether King County Jail would accept demonstrators arrested for obstruction and pedestrian interference. NE#1 recalled learning,



in the late afternoon, King County Jail would accept the arrestees. NE#1 told Witness Employee #3 (WE#3) to “go ahead and do what you need to do to clear the roadway. And if you need to make arrests, then you are authorized to make arrests, because those arrests will be bookable in the King County Jail.”

NE#1 denied ordering the bike line movement but accepted that, as the incident commander, he was responsible for the actions of his reports.

OPA asked why a Type I Blue Team entry was not submitted. NE#1 thought SPD’s policy was unclear about that Blue Team entry being the incident commander’s responsibility. NE#1 explained the policy states the “commander directing the use of Type I Force” is responsible for the Blue Team entry. NE#1 reiterated he did not personally direct the bike line movement and that his interpretation of the policy was that the responsibility rested with the individual who gave the order. NE#1 further stated, “If it needs to be done, if it’s an incident commander level, that’s fine, but that’s not what that policy reads . . . I don’t see where it says that.”

b. OPA Interview – Witness Employee #1 (Community Response Group Acting Lieutenant)

Witness Employee #1 (WE#1) was the permanent acting lieutenant for the Community Response Group (CRG) during the incident. WE#1 recalled he and Witness Employee #2 (WE#2) were in the front seat of a police vehicle “about 50 yards away to the east” of the incident location.

WE#1 denied ordering the bike line movement to push the crowd. WE#1 also denied knowing who ordered the bike line movement.

c. OPA Interview – Witness Employee #2 (Community Response Group Commander)

WE#2 was the CRG commander during the incident. WE#2 described himself as the “area commander” who reported to NE#1 and WE#3.

WE#2 recalled he and WE#1 gave verbal orders for the bike line movement “with the approval of the incident commander (NE#1). Um, I don’t know if the operations section chief (WE#3) weighed in on that but . . . we all had a part in, in it. And it was a coordinated effort.” WE#2 stated he nor WE#1 decided to use the bike line movement. Instead, they “sought approval” from NE#1 then directed the bike line movement after receiving that approval.

OPA asked WE#2 who was responsible for submitting a Blue Team statement about the bike line movement. WE#2 stated he, as the “commander on scene,” accepted responsibility.

WE#2 explained he thought elements of the policy were confusing because, under the facts he faced that day, the situation was no longer a crowd management situation. It “shifted from crowd management to a criminal investigation and arrest” because “for everybody in that intersection, there was probable cause for an arrest if they refused to comply.” WE#2 also explained he felt the Type I report in this situation was superfluous because he wrote the Type II



captain's review for the Type II incidents that occurred. WE#2 stated his Type II review "lay[ed] out all the rationale for the movements and the decisions that were made and why they were made." WE#2 stated the intent of the Type I crowd management policy was to "capture something that would not be captured someplace else."

d. OPA Interview – Witness Employee #3 (Operations Chief)

WE#3 stated she was the operations chief during the incident. WE#3 stated she reported to NE#1.

WE#3 denied knowing who made the decision to move the bike line or why that decision was made.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

8.500 - Reviewing Use of Force 8.500-POL-6 Use of Force – Crowd Management, Intervention, and Control 1. Any Commander Directing the Use of Type I Force is Responsible for Reporting Such Force

The Complainant alleged NE#1 failed to complete a required Type I Force Blue Team entry.

SPD Policy 8.500-POL-6(1) states "any commander directing the use of Type I Force is responsible for reporting such force." The policy elaborates "[f]or reporting purposes, use of a police line to move crowds where contact occurs will be assumed to involve at least Type I force."

As NE#1 acknowledged, the incident commander position carries significant responsibility for crowd management responses. The incident commander's responsibilities include ensuring SPD Policy sections 14.100 and 8.500 are followed with respect to "documenting a crowd management response." SPD Policy 14.090-POL-4. Further, as NE#1 acknowledged, the incident commander owns "responsibility for the actions of subordinates." SPD Policy 14.090-POL-3(2). To the extent NE#1 was aware that a Type I Blue Team entry remained outstanding, he was responsible for making sure it was completed or delegating that responsibility. See SPD Policy 14.090-POL-3(1).

Here, there was significant confusion among the involved employees—all of whom are highly experienced SPD officers—about who among them actually "directed" the bike line movement and would be responsible for completing the Type I Blue Team entry. Additionally, WE#2 described a Type I report in this instance—where a bike line movement also precipitates individual Type II uses of force—as duplicative of the Type II Blue Team Entries. There is some support in policy for WE#2's confusion about whether a Type I Force Blue Team entry needed to be completed at all. Cf. SPD Policy 8.500-POL-6(2) ("The Blue Team entry will correspond with the highest level of force used by any individual officers during the directed use of force.")

Overall, OPA found sufficient ambiguity in the policy to warrant a Management Action Recommendation.

- **Management Action Recommendation:** Consider clarifying: (1) the meaning of the words "commander" and "directing" in SPD Policy 8.500 POL 6(1), and (2) whether Type I Force Blue Team entries are required where the use of force also resulted in levels of force greater than Type I.

Recommended Finding: **Not Sustained - Management Action**