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From: Deputy Director Nelson R. Leese (on behalf of Director Bonnie J. Glenn)
Office of Police Accountability 

Case Number: 2025OPA-0197

Allegations of Misconduct & Director's Findings

Named Employee #1

- 1. Allegation #1: 8.300 – Use of Force Tools, 8.300-POL-12 Pepperball launcher, 4. Sworn Employees May Use Pepperballs, Only When Such Force is Objectively Reasonable, Necessary, and Proportional**
Finding: Not Sustained - Lawful and Proper
 - 2. Allegation #2: 8.100 - De-Escalation, 8.100 1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics in Order to Reduce the Need for Force**
Finding: Not Sustained - Training Referral
 - 3. Allegation #3: 5.140 - Bias-Free Policing, 5.140-POL-2 Officers Will Not Engage in Bias-Based Policing**
Finding: Not Sustained - Unfounded
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Named Employee #2

- 1. Allegation #1: 6.010 Arrests POL 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest**
Finding: Not Sustained - Lawful and Proper (Expedited)
 - 2. Allegation #2: 5.140 - Bias-Free Policing, 5.140-POL-2 Officers Will Not Engage in Bias-Based Policing**
Finding: Not Sustained - Unfounded (Expedited)
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Named Employee #3

- 1. Allegation #1: 8.100 - De-Escalation, 8.100 1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics in Order to Reduce the Need for Force**

Finding: Not Sustained - Unfounded

- 2. Allegation #2: 8.300 – Use of Force Tools, 8.300-POL-5 OC Spray, 3. Sworn Employees Will Use OC Spray, Including in Crowd Management Events, Only When Such Force is Objectively Reasonable, Necessary, and Proportiona**

Finding: Not Sustained - Lawful and Proper

- 3. Allegation #3: 8.200 - Using Force, 1. Use of Force: When Authorized**

Finding: Not Sustained - Lawful and Proper

- 4. Allegation #4: 5.140 - Bias-Free Policing, 5.140-POL-2 Officers Will Not Engage in Bias-Based Policing**

Finding: Not Sustained - Unfounded

- 5. Allegation #4: 16.090 - In-Car and Body-Worn Video, 16.090-POL-2 Sworn Employees Recording Police Activity, 7. Recording Demonstrations**

Finding: Sustained

- **Imposed Discipline: Oral Reprimand**
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Named Employee #4

- 1. Allegation #1: 8.200 - Using Force, 1. Use of Force: When Authorized**

Finding: Not Sustained - Lawful and Proper

- 2. Allegation #2: 8.100 - De-Escalation, 8.100 1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics in Order to Reduce the Need for Force**

Finding: Not Sustained - Unfounded

- 3. Allegation #3: 5.140 - Bias-Free Policing, 5.140-POL-2 Officers Will Not Engage in Bias-Based Policing**

Finding: Not Sustained - Unfounded

This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections may be written in the first person.

Executive Summary:

On May 24, 2025, SPD officers, including the named employees (NE#1 through NE#4), responded to a crowd control incident at Cal Anderson Park, where a religious group organized a rally that was countered by protesters supporting the lesbian, gay, bisexual, trans, and queer (LGBTQ) community. Multiple complainants alleged that the named employees used unauthorized force against the counter protesters, motivated by bias against the LGBTQ community. OPA also

investigated whether Named Employee #5 (NE#5), an unknown employee, used a bicycle to strike a counter protester's head or chest area.

Administrative Note:

During its intake investigation, OPA identified NE#2 purportedly making unprofessional remarks to several counter protesters. OPA sent NE#2's potential violation of SPD Policy 5.001-POL-10 (Employees Will Strive to be Professional) to his chain of command for Supervisor Action.¹

The allegations against NE#2 and NE#5 were approved for expedited investigation. That means OPA, with the Office of Inspector General's (OIG) agreement, believed it could issue recommended findings based solely on its intake investigation without interviewing NE#2 and NE#5. As such, OPA did not interview NE#2 or NE#5 in this case. On July 28, 2025, OIG certified OPA's expedited investigation as thorough, timely, and objective.

The remaining allegations underwent a full investigation. On October 10, 2025, OIG certified OPA's full investigation as thorough, timely, and objective.

Summary of the Investigation:

OPA investigated the incident by reviewing the OPA complaints, computer-aided dispatch (CAD) call report, body-worn video (BWV), privately recorded video, media video, incident and supplement reports, use-of-force reports, and interview statements from NE#1, NE#3, and NE#4. OPA attempted to interview two counter protesters directly involved in this investigation but was unsuccessful in doing so.

A. OPA Complaints

Between May 24 and May 29, 2025, as well as on June 3, 2025, multiple complainants submitted OPA complaints, expressing their discontent with SPD's response to a protest at Cal Anderson Park. The following allegations were based on these complaints:

1. NE#1 allegedly deployed pepperballs under unauthorized circumstances, which included his failure to issue orders or warnings before deploying them at Counter Protester #4 (CP#4), who appeared to be fleeing or did not appear

¹ A Supervisor Action generally involves a minor policy violation or performance issue the employee's supervisor addresses through training, communication, or coaching. See OPA Internal Operations and Training Manual section 5.4(B)(ii).

to pose a threat to others; allegedly failed to de-escalate; and allegedly used force motivated by bias against the LGBTQ community.

2. NE#2 allegedly rammed his bicycle into a crowd; allegedly lacked probable cause to arrest a counter protester; and allegedly exhibited bias against the LGBTQ community.
3. NE#3 allegedly failed to de-escalate; allegedly used unauthorized force by tackling counter protesters, spraying oleoresin capsicum (OC) at three counter protesters (CP#1 through CP#3) who were on the ground, and dragging two counter protesters (CP#1 and CP#2); allegedly used force motivated by bias against the LGBTQ community; and allegedly failed to activate his BWV upon arrival or while spraying OC.
4. NE#4 allegedly used unauthorized force by dragging CP#3 over a fence; allegedly failed to de-escalate; and allegedly used force motivated by bias against the LGBTQ community.
5. NE#5 allegedly used a bicycle to strike a counter protester's head or chest area.

B. Background

The following information was obtained from incident, supplement, and use-of-force reports:

SPD officers attended a briefing concerning a Mayday USA permitted event scheduled at Cal Anderson Park. The incident commander's intent was communicated, which included supporting the people's right to free speech and peaceably assemble without consideration to content or political affiliation, and enforcing the law equitably to preserve order, protect people, and preserve property. The incident commander also communicated, "Acts of violence and substantial property destruction will not be tolerated." The officers learned that protest groups—known for committing property damage and assaults in past protests—would be present, intending to disrupt the event. Consequently, SPD established a counter-protest zone as depicted:



SPD's Police Outreach Engagement Team (POET) was on site communicating with the event attendees and counter protesters. However, POET officers reported disturbances and disobedience within the crowd of counter protesters.

C. Body-Worn Video (BWV)

On May 24, 2025, BWV captured the following events:

A fence, erected by SPD, separated the Mayday USA event from the counter protesters.² The counter protesters toppled the fence, prompting NE#3 to move into the crowd. According to NE#3's use-of-force report, NE#3 identified CP#1 as a person who pushed the fence down, prompting him to run toward her to execute an arrest.



The image above was taken from NE#4's BWV. NE#3, indicated by the blue arrow, did not have his BWV activated at this moment. The counter protesters were on the left side of the fence, while event attendees were on the right side.

² According to incident, supplement, and use-of-force reports, SPD utilized a long-range acoustic device (LRAD) to repeatedly warn counter protesters that they would be arrested if they pushed the fence down.

NE#4 followed NE#3. As NE#3 quickly approached CP#1, CP#3 emerged from NE#3's right side and grabbed NE#3 using both hands.



The image above was taken from NE#4's BWV. The image is blurry due to NE#4's rapid movements toward NE#3. The green arrow points to CP#3.

According to NE#3's use-of-force report, NE#3 pushed CP#3, causing her to fall. Immediately afterward, NE#3 sprayed OC at CP#3, contacting the back of CP#3's head.



The image above was taken from NE#4's BWV. The orange mark on CP#3's hair indicates the OC. CP#1 and CP#2 are on the left.

NE#4 grabbed CP#3's legs and began dragging her away face down. NE#4 reached the toppled fence and continued dragging CP#3 over it. A counter protester then grabbed CP#3.



The image above was taken from NE#4's BWV. A counter protester, indicated by the orange circle, tried to pull CP#3 away from NE#4.

NE#4 released CP#3 atop the fence and pushed the other counter protester.

As NE#4 was dragging CP#3 away, CP#1 and CP#2 knelt and extended their arms toward NE#3 in what NE#3 described in his use-of-force report as "clawing and swatting [his] hand away."



The image above was taken from NE#4's BWV. CP#1, indicated by the purple circle, contacted NE#3's left arm using her right hand.

NE#3 sprayed OC at CP#1's forehead. CP#1 then fell. CP#2, still kneeling, extended her arms toward NE#3 while tucking her head between her arms.



The image above was taken from NE#4's BWV. The red arrow points to CP#2.

NE#3 sprayed OC at CP#2, but the direction of the spray was not readily visible on BWV. At one point, NE#3 sprayed OC at CP#2's left arm. CP#2 then fell.



The image above was taken from NE#4's BWV. The orange mark on CP#2's left arm indicates the OC.

NE#3 then sprayed or continued spraying at both CP#1 and CP#2.



Image from NE#4's BWV.

The following still frame photograph was posted online and was submitted or referenced by multiple OPA complainants. In the still frame photograph, NE#3 appeared to spray OC at CP#2's back while CP#2 assumed a turtling position. By comparing surrounding circumstances and background individuals, OPA determined that the two photographs on this page depict approximately the same moment in the sequence of events.



Still image posted online and submitted or referenced by multiple complainants.

After NE#4 pushed the counter protester who pulled CP#3, NE#3 moved CP#1 and CP#2 closer to the fence, but several counter protesters tried pulling CP#2 away from NE#3 by grabbing CP#2's ankles.



The image above was taken from NE#4's BWV. NE#3 is kneeling on CP#1's back while pulling CP#2 away from the counter protesters who grabbed CP#2's ankles.

NE#3 lifted his knee off CP#1 and then knelt on CP#2's back. Although not fully captured on NE#4's BWV, NE#3 sprayed OC at the counter protesters pulling

CP#2, causing them to release CP#2 and retreat. Officers moved CP#1, CP#2, and CP#3 to the opposite side of the fence and arrested them.

Later, a counter protester threw an open umbrella at a lieutenant, prompting the lieutenant, NE#3, and other officers to move into the crowd. NE#1 trailed behind. The officers brought the counter protester to the ground, with CP#4 nearby. The officers restrained the counter protester on the ground as NE#1 quickly approached them. CP#4 began turning away from the officers.



The two images above were taken from NE#1's BWV. CP#4, indicated by the yellow arrow, appeared to be carrying an orange bag. NE#1's pepperball launcher was not aimed at CP#4 at this moment.

NE#1 aimed his pepperball launcher at CP#4 and deployed five rounds while CP#4 was running away.³



The image above was taken from NE#1's BWV. At this moment, CP#4's back was facing NE#1 while NE#1 was deploying pepperballs at him.

CP#4 fled. NE#1 then guarded the officers who were arresting the counter protester.

Throughout BWV footage, the counter protesters were verbally hostile toward the officers, as they could be heard continually insulting, shouting at, or swearing at the officers.

D. Use-of-Force Reports and OPA Interviews

Named Employee #1

NE#1 prepared a type II⁴ use-of-force report following this incident. NE#1 wrote that numerous counter protesters wore black clothing, masks, and goggles to hide their identities, carried backpacks with items intended for assaults, and staged multiple rocks, which officers had to remove to prevent the counter protesters from using them for an attack. NE#1 wrote that several counter protesters assaulted officers

³ According to BWV time stamps, approximately one second elapsed from the moment CP#4 began turning away from the officers until NE#1 deployed his first pepperball at CP#4.

⁴ Type II is force that causes, or is reasonably expected to cause, physical injury requiring medical treatment greater than basic first aid. SPD Policy 8.050 (effective September 1, 2024). Type II force includes, among other things, a less-lethal tool directed at, and contacting, a person, as well as a pepperball deployment. SPD Policy 8.400-POL-1.

and event attendees, requiring the officers to execute targeted arrests. NE#1 wrote that the fence was intended to create a barrier between the opposing groups, prevent further assaults, and establish time, distance, and shielding between the officers and the counter protesters. NE#1 wrote that the toppled fence posed an immediate safety risk due to the counter protesters' confrontational disposition. NE#1 described observing CP#4 advance toward the officers who were attempting to execute an arrest while on the ground—a position NE#1 characterized as “compromising” since the officers could be “easily assaulted” by counter protesters seeking to “de-arrest” someone. NE#1 estimated CP#4 to be about 20 feet away from the officers, a distance sufficient to throw objects at them or physically contact them. NE#1 noted that the lieutenant and NE#3 had previously been assaulted while executing arrests. NE#1 wrote, “The imminence of my deployment pushed [CP#4] away from advancing and provided time[,] distance[,] and shielding for [the lieutenant] and [NE#3].” NE#1 described his use of force as follows:

I moved into the area, raised my pepperball launcher[,] and pointed it at [CP#4] who stopped, as I deployed a pepperball, I was approximately 10-15 feet from [CP#4]. I deployed a volley of 5 balls. I aimed at [CP#4's] back and lower extremities to cause the most [e]ffect. The pepperballs once hitting [CP#4] provides an OC exposure. The act of deploying those pepperballs drove [CP#4] away from the immediate area. The intended desire was to stop the potential assaults and to force the crowd to stop advancing towards the compromised officers.

NE#1 elaborated on his tactical decision-making process as follows:

The tactical decision to maintain distance from [CP#4] and deploy the pepperball provided cover for the officers who were in a compromising position. It gave me standoff distance so I could watch over the officers and address any additional threats should they present themselves. Consistent with my training[,] I modulated my force once the desired outcome of [CP#4] no longer advancing towards my fellow officers.

On July 24, 2025, OPA interviewed NE#1, whose statements were consistent with his use-of-force report. NE#1 perceived CP#4 as a threat due to CP#4's advancement toward the compromised officers. NE#1 explained that he had already decided to deploy pepperballs at CP#4 before CP#4 began to flee. Specifically,

OPA asked NE#1 about CP#4's act of turning away before NE#1 aimed his pepperball launcher at CP#4. NE#1 offered the following response:

Yes, sir. I think I said it earlier. I think force science would dictate, I made a decision that that person was a threat. And as I raised my pepperball and was deploying the pepperball, that person changed their mind and turned around and ran away. So, in that same process that I hit them in the back, but I had already made a decision to – to deploy that those – those rounds. And so, it was already happening when the process of me and understanding of, hey, this person's fleeing, again consistent with the training, three or five rounds, I stopped, and that person continued to flee, and I did not advance, nor did I deploy on them again.

NE#1 denied allegations of bias against the LGBTQ community.

Named Employee #4

On July 24, 2025, OPA interviewed NE#4. NE#4 described the protest as chaotic, which strained police resources. NE#4 said the number of arrests increased when officers executed a targeted arrest, as counter protesters attempted to “de-arrest” the targeted arrest, leading to their own arrests. NE#4 said he followed NE#3 once NE#3 entered the crowd. NE#4 felt an assault was probable due to the chaotic scene and previous assaults on officers. NE#4 believed the safest option was to relocate CP#3 to the opposite side of the fence, where additional officers were located. NE#4 observed that while moving CP#3 backward, there was no alternative route available except over the toppled fence. NE#4 thought releasing CP#3 and moving the fence were impractical. NE#4 said a counter protester then interfered with the arrest, requiring him to push her away. NE#4 said he was unable to completely drag CP#3 over the fence but recalled another officer taking control of CP#3. NE#4 said he observed no injuries on CP#3 and did not hear complaints of pain. NE#4 insisted that he only used *de minimis* force and denied allegations of bias against the LGBTQ community.

Named Employee #3

NE#3 prepared a type II use-of-force report following this incident. NE#3 wrote that the counter protesters continually pushed the fence down to intrude upon the space designated for the permitted event, requiring officers to continually restore the

fence. NE#3 wrote that the counter protesters received a final warning via LRAD to stop this act, or they would be arrested.

NE#3 documented the circumstances surrounding his use of force as follows:

After NE#3 saw CP#1 push the fence down, he rushed into the crowd to arrest her, but “she resisted arrest by twisting and pulling away in an attempt to get away from [him], while continuing her retreat up the hill.” At this moment, CP#2 threw a paper sign at NE#3’s face and grabbed his arms to prevent CP#1’s arrest. CP#3 emerged, grabbed NE#3 from behind, and shouted, “Get off of her!” In response to CP#3’s “aggressiveness,” NE#3 pushed CP#3 and sprayed OC at her for one second to prevent her interference, although the OC contacted her hair while she turned her head. Once NE#4 removed CP#3, NE#3 redirected his attention toward CP#1 and CP#2—both of whom were under arrest for obstruction. However, CP#1 and CP#2 “were now advancing on [him], while on their knees, with their arms reached out clawing and swatting [his] hand away.” Consequently, NE#3 sprayed OC at CP#1’s eyebrow line for one second, causing her to fall. Afterward, “it appeared [CP#2] lunged forward towards [him].” Consequently, NE#3 sprayed OC at CP#2 for one second, intending to target her eyebrow line. However, the OC contacted the back of CP#2’s head because she lowered her head upon seeing NE#3 raise the OC canister. This OC deployment “caused [CP#2] to go from her knees to her stomach.” NE#3 then pulled CP#1 and CP#2 backward toward the fence for safety concerns, but six counter protesters interfered by pulling CP#1 and CP#2 in the opposite direction. NE#3 feared a tug of war could lead to further injuries. Consequently, NE#3 sprayed OC at the counter protesters’ eyebrow line for three seconds, causing them to release CP#1 and CP#2. NE#3 then moved CP#1 and CP#2 behind the fence.

NE#3 described CP#1, CP#2, CP#3, and the six counter protesters as assaultive, aggressive, actively resistant, or obstructive based on their actions. NE#3 wrote that all his OC deployments were intended to prevent further assaults and disrupt the counter protesters’ attempts at obstructing an arrest. NE#3 believed all his OC deployments were effective because he achieved his intended results. NE#3 also documented that his BWV was not activated during his OC deployments “[d]ue to the dynamic of this interaction and how quickly it evolved.”

On July 30, 2025, OPA interviewed NE#3, whose statements were consistent with his use-of-force report. NE#3 said he informed CP#1 of her arrest after she pushed the fence down. NE#3 said he then entered the crowd—intending to arrest CP#1 and relocate her behind the fence—since he did not want to lose her in the crowd. OPA showed NE#3 the photograph depicting his OC deployment at CP#1 and CP#2 while they were facing the ground and asked him to provide an explanation. NE#3 offered the following response:

So, this moment was after [CP#3] grabbed me from the right shoulder. When I pushed [CP#3] off and after I dealt with that, I turned my attention back to [CP#1 and CP#2]. [CP#1] was the primary person I wanted to arrest. [CP#2] was the lady who tried to unarrest and hit me in the face with a – with a paper sign. When I turned my attention back to them, they were both reaching up, clawing at me, grabbing at my arms. I pepper sprayed [CP#1] one second at the brow line. When I turned to [CP#2] to give her a one-second spray, she kind of, like, fell down the hill and turned her head, and I missed the brow line.

NE#3 believed his OC deployments constituted the lowest level of force that would not cause serious injury, as NE#3 described OC as merely an irritant causing transient pain. NE#3 said each OC spray was specifically targeted, not indiscriminate. NE#3 acknowledged that he should have activated his BWV sooner but noted that the situation developed rapidly. NE#3 denied allegations of bias against the LGBTQ community.

Analysis and Conclusions:

Named Employee #1 – Allegation #1

8.300 – Use of Force Tools, 8.300-POL-12 Pepperball Launcher, 4. Sworn Employees May Use Pepperballs Only When Such Force is Objectively Reasonable, Necessary, and Proportional (Effective September 1, 2024)

NE#1 allegedly deployed pepperballs under unauthorized circumstances, which included his failure to issue orders or warnings before deploying them at CP#4, who appeared to be fleeing or did not appear to pose a threat to others.

Sworn employees may use pepperballs only when such force is objectively reasonable, necessary, and proportional to protect against a specific imminent threat of harm to sworn employees or others, or to respond to specific violent acts or property destruction. SPD Policy

8.300-POL-12(4) (effective September 1, 2024). Where multiple people are present, sworn employees will direct pepperballs toward the person(s) posing a specific threat of harm to sworn employees or others or who are engaging in violent acts or significant property destruction. *Id.* Sworn employees deploying pepperballs will attempt to avoid or minimize incidental exposure to non-involved people. *Id.* When directed toward a subject, the preferred target area for the pepperball is the area below the waist, including the buttocks, front or sides of the legs, or thighs. *Id.* Sworn employees will not target the head, neck, or genitals. *Id.* When used for area denial purposes, preferred targets are hard surfaces like streets or walls. *Id.*

A preponderance of the evidence showed that NE#1 used objectively reasonable, necessary, and proportional force by deploying pepperballs at CP#4. The specific circumstances surrounding this incident rendered NE#1's use of force objectively reasonable. The counter protesters were physically and verbally hostile toward the police, with several having already assaulted officers or event attendees. In fact, numerous counter protesters were assaultive or obstructive toward NE#3 and NE#4 just before NE#1 entered the crowd. Thus, NE#1 had credible concerns for the safety of the officers who entered a hostile environment to execute another arrest. NE#1 identified CP#4 as a person preparing to launch an attack or obstructive act while those officers were in a "compromising position." NE#1's pepperball deployments were necessary to protect against a specific imminent threat of harm by preventing CP#4 from committing a criminal act against those "compromised officers" and deterring the crowd from advancing toward them. NE#1's pepperball deployments were also proportional, as he specifically targeted the counter protester posing a specific threat to the officers. NE#1 deployed five pepperballs at CP#4's back and lower extremities and then modulated his force upon realizing that CP#4 was fleeing the scene. NE#1 also did not indiscriminately deploy pepperballs at other nearby counter protesters. NE#1's pepperball deployments were lawful and proper under these circumstances.

Although CP#4 began turning away before NE#1 aimed his pepperball launcher at CP#4, NE#1 explained that he had already decided to deploy pepperballs at CP#4 after recognizing him as a threat. NE#1 noted the time delay between his decision to deploy and mentally processing CP#4's decision to flee. NE#1's explanation is credible when OPA considers his decision-making process and analyzes the speed at which the events unfolded. As noted above, approximately one second elapsed from the moment CP#4 began turning away from the officers until NE#1 deployed his first pepperball. At that moment, there was no indication that CP#4 would suddenly flee. In fact, CP#4 was the only counter protester who fled as NE#4 quickly approached, suggesting he may have had criminal intent to act against the compromised officers. Before CP#4 began turning away, NE#1 was running toward the officers with his pepperball launcher, identified CP#4 as a threat, and decided to deploy pepperballs at CP#4 to protect those officers. Under these circumstances, it would have been impractical for NE#1 to perceive a sudden change in CP#4's behavior, mentally process the new information, and physically stop his deployments within this one-second window. The images shown above were still photographs of a situation where OPA had the advantage of analyzing frame by frame, unlike NE#1. They did not fully capture the tense, uncertain, dynamic, and rapidly evolving circumstances of the situation at the time. Overall,

CP#4's unexpected decision to flee during that one-second window did not render NE#1's pepperball deployments excessive.

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

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

Named Employee #1 – Allegation #2

8.100 – De-Escalation, 8.100-POL-1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Sworn Employees Will Use De-Escalation Tactics to Reduce the Need for Force

NE#1, NE#3, and NE#4 allegedly failed to de-escalate.

When safe, feasible, and without compromising law enforcement priorities, sworn employees will use de-escalation tactics to reduce the need for force. SPD Policy 8.100-POL-1. Team approaches to de-escalation are encouraged and will consider sworn employee training and skill level, the number of sworn employees, and whether any sworn employee has successfully established rapport with the subject. *Id.* The totality of the circumstances should guide de-escalation options purposed for voluntary compliance through communication, time, distance, and shielding. *Id.*

SPD's overall response to the protest demonstrated communication, time, and distance. SPD established zones for the opposing groups and erected a fence to create distance between them. Officers also maintained a reasonable distance from the counter protesters while guarding the fence. POET officers attempted to communicate with the counter protesters, even though the counter protesters refused to engage them. SPD utilized the LRAD to communicate instructions, set expectations, and warn the counter protesters that they faced arrest if they pushed the fence down. Officers positioned near the fence also reiterated these warnings. Despite being given ample time to comply, the counter protesters disobeyed commands and pushed the fence down. The toppled fence posed an immediate risk for both the officers and event attendees, as the hostile crowd could invade the zone designated for the Mayday USA event. At this moment, de-escalation was no longer feasible, as the crowd willingly defied multiple police orders. Once the fence fell, NE#3 entered the crowd after establishing probable cause to arrest CP#1 for obstruction. NE#3's entry triggered a sequence of events requiring NE#1, NE#3, and NE#4 to use force. OPA finds that in every instance, de-escalation was no longer feasible, as NE#1, NE#3, and NE#4 were confronted with assaults, obstruction, or the imminent threat of such actions. Overall, a preponderance of the evidence showed NE#1, NE#3, and NE#4 de-escalating throughout their response to the protest until it became impractical.

However, OPA finds that NE#1 potentially violated the de-escalation policy by failing to issue warnings prior to deploying his pepperball launcher at CP#4. See SPD Policy 8.300-POL-1(9)

(requiring verbal warnings prior to the use of any less-lethal tool when feasible) (eff. 09/01/2024). Here, OPA finds it was feasible for NE#1 to issue a verbal warning prior to deploying his pepperball launcher at CP#4 which possibly could have reduced the need for force in this situation.

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

- **Training Referral:** NE#1's chain of command should discuss OPA's findings with NE#1, review SPD Policies 8.100 and 8.300-POL-1(9) and with NE#1, and provide any further retraining and counseling that it deems appropriate. The retraining and counseling conducted should be documented in Blue Team.

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

Named Employee #1 – Allegation #3

5.140 – Bias-Free Policing, 5.140-POL-2. Officers Will Not Engage in Bias-Based Policing

NE#1, NE#3, and NE#4 allegedly used force motivated by bias against the LGBTQ community.

Biased policing means the different treatment of any person by officers motivated by any characteristic of protected classes under state, federal, and local laws, as well as other discernible personal characteristics of an individual. SPD Policy 5.140-POL. It includes different treatment based on sexual orientation or gender identity. See *id.* Officers are forbidden from making decisions or taking actions influenced by bias and expressing prejudice or derogatory comments concerning discernible personal characteristics. See SPD Policy 5.140-POL-2.

This allegation is unfounded based on a preponderance of the evidence. SPD officers, including NE#1, NE#3, and NE#4, were on site to support people's rights to free speech and peaceably assemble, enforce the law, preserve order, protect people, and preserve property, as expressed by the incident commander. However, the officers directed their focus toward the counter protesters due to their behavior, not their discernible personal characteristics. Objective BWV showed the counter protesters being confrontational, escalatory, and disobedient, while Mayday USA attendees appeared to be lawfully and peacefully exercising their First Amendment rights. The officers sought de-escalation until it became impractical, as described above. Even after exhausting de-escalation attempts, these officers did not indiscriminately take enforcement action against all counter protesters. Instead, they executed targeted arrests against those who committed criminal offenses and only resorted to using force following an assault, obstruction, or the imminent threat of such actions. Overall, OPA found no evidence of bias impacting the officers' decisions.

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

Recommended Finding: **Not Sustained – Unfounded**

Named Employee #2 – Allegation #1

14.090 – Crowd Management, Intervention, and Control, 14.090-POL-5 Use of Force, 2. Less-Lethal Tools for Crowd Control Purposes are Prohibited Unless Specific Facts and Circumstances are Occurring or About to Occur

NE#2 allegedly rammed his bicycle into a crowd.

Less-lethal tools may only be used for crowd control purposes when there are specific facts and circumstances that there is an imminent risk of physical injury to any person or significant property damage that is occurring or about to occur. SPD Policy 14.090-POL-5(2). Bicycles and batons are only considered as less-lethal tools or impact weapons when used to strike a subject, not when used to push or guide a subject. *Id.*

Privately recorded video and BWV captured NE#2 on his bicycle, approaching a counter protester, and dismounting before executing an arrest. NE#2 did not ram his bicycle into the crowd or use it to physically contact any counter protester. Thus, this allegation is unfounded. However, SPD Policy 14.090-POL-5(2) was enacted on June 12, 2025—less than a month following the incident on May 24, 2025. Since this specific policy was not in effect at the time of the incident, OPA is removing this allegation.

Recommended Finding: **Allegation Removed**

Named Employee #2 – Allegation #2

6.010 – Arrests, 6.010-POL-1. Sworn Employees Must Have Probable Cause That a Subject has Committed a Crime in Order to Effect an Arrest

NE#2 allegedly lacked probable cause to arrest a counter protester.

Sworn employees must have probable cause that a subject committed a crime before executing an arrest. SPD Policy 6.010-POL-1. Stated differently, where an arrest is not supported by probable cause, it violates law and Department policy. Probable cause exists when the facts and circumstances within a sworn employee's knowledge sufficiently support a reasonable belief that an offense has been or is being committed. *See State v. Fricks*, 91 Wash.2d 391, 588 P.2d 1328 (1979); *State v. Gluck*, 83 Wash.2d 424, 426–27, 518 P.2d 703 (1974).

According to BWV and police reports, NE#2 identified a counter protester who had used a baton to strike another person, smashed that person's phone, and thrown an exploding "fart bomb" bag that was adhered to a rock at an officer. Thus, NE#2 had probable cause to arrest this counter protester.

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

Recommended Finding: **Not Sustained – Lawful and Proper (Expedited)**

Named Employee #2 – Allegation #3

5.140 – Bias-Free Policing, 5.140-POL-2. Officers Will Not Engage in Bias-Based Policing

NE#2 allegedly exhibited bias against the LGBTQ community.

This allegation is unfounded based on a preponderance of the evidence. NE#2 treated the counter protesters with respect, conducted crowd control consistent with SPD policy, and executed arrests based solely on probable cause. There was no indication that impermissible considerations, like bias against gender identity or sexual orientation, impacted NE#2's decisions.

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

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

Named Employee #3 – Allegation #1

8.100 – De-Escalation, 8.100-POL-1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Sworn Employees Will Use De-Escalation Tactics to Reduce the Need for Force

For the reasons articulated in Named Employee #1 – Allegation #2, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained – Unfounded**

Named Employee #3 – Allegation #2

8.300 – Use of Force Tools, 8.300-POL-5 Oleoresin Capsicum (OC) Spray, 3. Sworn Employees Will Use OC Spray, Including in Crowd Management Events, Only When Such Force is Objectively Reasonable, Necessary, and Proportional (Effective September 1, 2024)

NE#3 allegedly used unauthorized force by spraying OC at CP#1, CP#2, and CP#3—all of whom were on the ground.

Sworn employees will use OC spray, including in crowd management events, only when such force is objectively reasonable, necessary, and proportional. SPD Policy 8.300-POL-5(3) (effective September 1, 2024). The reasonableness of a particular use of force is based on the totality of circumstances known by the sworn employee when using force and weighs the sworn employee's actions against the subject's rights. SPD Policy 8.050 (effective September 1, 2024). It must be judged from a reasonable officer's perspective on the scene rather than the 20/20 vision of

hindsight. *Id.* Force is necessary under the totality of the circumstances when there is no reasonably effective alternative to using physical or deadly force, and the type and amount of physical or deadly force used is a reasonable and proportional response to effect the legal purpose intended or to protect against the threat posed to the sworn employee or others. *Id.* A proportional use of force must reflect the totality of circumstances surrounding the situation, including the nature and immediacy of any threats posed to sworn employees and others. *Id.* Sworn employees must rely on training, experience, and assessment of the situation to decide an appropriate level of force. *Id.*

A preponderance of the evidence showed that each instance of NE#3's OC deployment was objectively reasonable, necessary, and proportional. During NE#3's attempt to arrest CP#1, CP#3 unexpectedly emerged from NE#3's blind spot and grabbed him. Consequently, NE#3 was justified in pushing and spraying OC at CP#3. Once NE#3 redirected his attention toward CP#1 and CP#2, they extended their arms toward NE#3 in what he described as a clawing or swatting motion. Consequently, NE#3 was justified in spraying OC at both CP#1 and CP#2. NE#3 first sprayed CP#1, followed by CP#2. Before CP#2 was sprayed, she continued to extend her arms toward NE#3 while lowering her head. Overall, objective BWV showed assaultive or obstructive conduct immediately preceding each OC deployment. NE#3 did not spray OC indiscriminately for no reason. Instead, he specifically targeted the counter protester who had just assaulted or obstructed him. Therefore, OPA finds that NE#3's OC deployments were objectively reasonable and necessary for his self-defense, to mitigate the threat from the counter protesters, prevent further injury, and gain control of CP#1, CP#2, and CP#3 who he had probable cause to arrest. NE#3's OC deployments were also proportional. Each spray was brief—lasting about one second, according to NE#3's estimation—and directed at the eyebrow line. NE#3 then modulated his force once he achieved his intended results.

Finally, OPA addresses the public concern regarding the photograph depicting NE#3, who was standing and spraying OC at CP#1 and CP#2—both of whom were on the ground and appeared to be in a defensive posture. This photograph captured a single moment in time but failed to capture the entire sequence of events leading to that moment. It also could not capture the rapid speed at which those events unfolded. For example, NE#3 intended to spray OC at CP#3's eyebrow line, but he ultimately sprayed the back of her head as she turned her head at that moment. Similarly, NE#3 intended to spray OC at CP#2's eyebrow line, but he ultimately sprayed the back of her head as she lowered her head and then fell onto her stomach. These events occurred within mere fractions of a second. A photograph was then taken of NE#3 while he was spraying OC at CP#2's back—the moment when NE#3 finally subdued CP#1 and CP#2 after they had just assaulted and obstructed him. In essence, the photograph captured a moment near the end of the altercation. It did not capture the entire altercation and the rapid speed at which the altercation unfolded.

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

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

Named Employee #3 – Allegation #3

8.200 – Using Force, 8.200-POL-1. Using Force: When Authorized

NE#3 allegedly used unauthorized force by tackling counter protesters and dragging CP#1 and CP#2.

Sworn employees will only use objectively reasonable, necessary, and proportional force to the threat or urgency of the situation to achieve a law enforcement objective while protecting the life and safety of all people. SPD Policy 8.200(1). Reasonableness must consider that sworn employees are often forced to make split-second decisions about the amount of force necessary in a particular situation in tense, uncertain, dynamic, and rapidly evolving circumstances. *Id.* The question is whether the sworn employee's actions were objectively reasonable considering the facts and circumstances confronting them, without regard to their underlying intent or motivation. *Id.* Several factors should be weighed when evaluating reasonableness. *See id.* Force is necessary under the totality of the circumstances when there is no reasonably effective alternative to using physical or deadly force, and the type and amount of physical or deadly force used is a reasonable and proportional response to effect the legal purpose intended or to protect against the threat posed to the sworn employee or others. SPD Policy 8.050 (effective September 1, 2024). Proportional force must reflect the totality of circumstances of the situation, including the nature and immediacy of any threats posed to sworn employees and others. *Id.* Sworn employees must rely on training, experience, and their assessment of the situation to decide an appropriate level of force. *Id.*

BWV did not show NE#3 tackling counter protesters as alleged. It showed NE#3 dragging CP#1 and CP#2 toward the toppled fence. Moreover, NE#3 admitted to pushing CP#3. These actions would have likely constituted *de minimis* force,⁵ not reportable force. To the extent that NE#3 used *de minimis* force to push CP#3 and drag CP#1 and CP#2, such uses of force were objectively reasonable, necessary, and proportional for the same reasons articulated in Named Employee #3 – Allegation #2. It was also a lawful and proper use of force to move CP#1 and CP#2 away from the hostile environment where further assaults or obstructive acts were likely to continue. Thus, NE#3 reasonably concluded that the safest option was to relocate CP#1 and CP#2 to the opposite side of the fence where more officers were available. Overall, OPA finds that NE#3's uses of force were lawful and proper under these circumstances.

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

⁵ *De minimis* force is an action meant to separate, guide, and/or control without using control techniques that are intended to, or are reasonably likely to, cause pain or injury. Examples include, but are not limited to, using hands or equipment to stop, push back, separate, or escort, and using compliance holds without using sufficient force to cause pain. SPD Policy 8.050 (effective September 1, 2024).

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

Named Employee #3 – Allegation #4

5.140 – Bias-Free Policing, 5.140-POL-2. Officers Will Not Engage in Bias-Based Policing

For the reasons articulated in Named Employee #1 – Allegation #3, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained – Unfounded**

Named Employee #3 – Allegation #5

16.090 – In-Car and Body-Worn Video, 16.090-POL-2 Sworn Employees Recording Police Activity, 7. Recording Demonstrations

NE#3 allegedly failed to activate his BWV upon arrival or while spraying OC.

Sworn employees who have been issued BWV cameras and who have been assigned to work demonstrations will record with BWV activated during demonstrations when they are facing and/or in contact with the public. SPD Policy 16.090-POL-2(7) (eff. 01/12/2024).

NE#3 acknowledged that he failed to timely activate his BWV—an oversight he attributed to the rapidly evolving and dynamic circumstances. However, it is because demonstration events are, by their nature, rapidly evolving and dynamic, that SPD’s policy requires BWV activation whenever an officer is in contact with a crowd. OPA expects NE#3 will learn from this incident.

Recommended Finding: **Sustained**

Named Employee #4 – Allegation #1

8.200 – Using Force, 8.200-POL-1. Using Force: When Authorized

NE#4 allegedly used unauthorized force by dragging CP#3 over a fence.

NE#4’s act of dragging CP#3 likely constituted *de minimis* force, even as he dragged her over the fence. The slow and steady speed at which NE#4 dragged CP#3 over the fence would not be reasonably likely to cause pain or injury. Indeed, NE#4 indicated that CP#3 did not express pain or sustain any injury. Overall, NE#4 did not use any reportable force throughout his encounter with CP#3. To the extent that NE#4 used *de minimis*—or, at most, Type I—force to drag CP#3 on the ground and over the fence, such force was objectively reasonable, necessary, and proportional. CP#3 had just assaulted NE#3 and attempted to obstruct a lawful arrest, but arresting CP#3 in a hostile environment where further assaults or obstructive acts were likely to occur posed a safety risk. Therefore, NE#4 reasonably concluded that the safest option was to relocate CP#3 to the opposite side of the fence. As NE#4 moved CP#3 backward, BWV showed no alternative route

available except over the toppled fence, as no gaps were visible between the fences. Although dragging CP#3 over the fence was not necessarily ideal, NE#4 did not do so carelessly. Rather, NE#4 slowly and steadily moved CP#3 over the fence until he was obstructed by a counter protester. Overall, OPA finds that NE#4's use of force was lawful and proper under these circumstances.

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

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

Named Employee #4 – Allegation #2

8.100 – De-Escalation, 8.100-POL-1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Sworn Employees Will Use De-Escalation Tactics to Reduce the Need for Force

For the reasons articulated in Named Employee #1 – Allegation #2, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained – Unfounded**

Named Employee #4 – Allegation #3

5.140 – Bias-Free Policing, 5.140-POL-2. Officers Will Not Engage in Bias-Based Policing

For the reasons articulated in Named Employee #1 – Allegation #3, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained – Unfounded**

Named Employee #5 – Allegation #1

14.090 – Crowd Management, Intervention, and Control, 14.090-POL-5 Use of Force, 2. Less-Lethal Tools for Crowd Control Purposes are Prohibited Unless Specific Facts and Circumstances are Occurring or About to Occur

NE#5 allegedly used a bicycle to strike a counter protester's head or chest area.

For the reasons articulated in Named Employee #2 – Allegation #1, OPA is removing this allegation. Even if SPD Policy 14.090-POL-5(2) had been in effect at the time of the incident, this allegation would be unfounded. OPA reviewed BWV, privately recorded video, and media video, but found no evidence of any officer striking counter protesters with a bicycle. Rather, officers used their bicycles to push or guide the counter protesters—a tactic that did not trigger the requirements of SPD Policy 14.090-POL-5(2) ("Bicycles and batons are only considered as less

lethal tools/impact weapons when used to strike a subject and not when used to push or guide a subject”).

Recommended Finding: **Allegation Removed**