



CLOSED CASE SUMMARY

ISSUED DATE: JANUARY 10, 2022

FROM: DIRECTOR ANDREW MYERBERG
 OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0441

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	8.300 – POL – 10 Use of Force – Blast Balls 4. When Feasible, Officers Will Not Deploy Blast Balls Until a Dispersal Order Has Been Issued...	Not Sustained (Inconclusive)
# 2	8.300 – POL – 10 Use of Force – Blast Balls 3. Officers May Use Blast Balls Only When Such Force is Objectively Reasonable, Necessary, and Proportional	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:

The Complainant alleged that she was subjected to excessive force when unknown SPD employees deployed “flash bombs” at her, causing her to suffer injuries.

ADMINISTRATIVE NOTE:

As OPA was unable to identify the Named Employee(s), the 180-day deadline set forth in the collective bargaining agreements with the City’s police unions are inapplicable. Given this, OPA sets the date of this DCM as the 180-day deadline for administrative purposes.

SUMMARY OF INVESTIGATION:

The Complainant alleged that she was present at a demonstration on June 7, 2020, and was peacefully protesting. She stated that she was in the vicinity of 11th Avenue and Pine. She wrote that, at around 11 p.m., she and other demonstrators were dispersed from the area by officers. The officers used pepper spray and “flash bombs” (OPA believes that the Complainant is referring to blast balls). The Complainant said that she was struck three times by “flash bombs” while trying to leave the demonstration. She said that this caused her to suffer “severe bruising and wounds.” Lastly, she contended that these actions constituted excessive force.

In her complaint, the Complainant identified herself as a White female. However, she did not describe what she was wearing during the demonstration. She also did not describe specifically where she was located at the time of the use of force.



OPA attempted to interview the Complainant on six separate occasions through email, phone, and letter. All of these attempts were unsuccessful.

SPD documentation indicated that demonstrators were present at the East Precinct for much of the day and into the evening. At around 10:36 p.m., demonstrators gave officers flowers. This is consistent with information provided by the Complainant in her complaint. The SPD documentation further noted that, during the course of the evening, demonstrators moved closer to the officers' line and the officers continued to back up. SPD documented that multiple orders were given to demonstrators to move back and these orders were not complied with. The log indicated that OC spray was dispersed at 12:00 a.m., and that OC spray and OC blast balls were dispersed at 12:04 a.m. The documentation stated that dispersal orders were given at 12:06 a.m., 12:07 a.m., and 12:09 a.m., after individuals in the crowd threw fireworks and bottles at officers. After the last dispersal order, multiple blast balls were used to disperse the crowd and clear the area. In addition, CS gas was deployed beginning at 12:14 a.m.

OPA did not locate any use of force reports or video from the OC spray and blast ball deployments that could be definitively determined to involve the Complainant. However, the time she listed in her complaint was around the time that these deployments occurred.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

8.300 – POL – 10 Use of Force – Blast Balls 4. When Feasible, Officers Will Not Deploy Blast Balls Until a Dispersal Order Has Been Issued...

SPD Policy 8.300-POL-10(4) directs that, when feasible, officers will not deploy blast balls until a dispersal order has been issued and demonstrators have been given a reasonable amount of time to comply.

It appears that blast balls were used both before and after formal dispersal orders were given. First, OC blast balls were used at 12:04 a.m. and then blast balls were used again at 12:09 a.m., after the orders had been issued.

Without being able to speak with the Complainant and to identify the circumstances of when she was struck by the blast balls, OPA cannot verify whether it occurred before or after the dispersal orders. This prevents OPA from reaching a definitive conclusion on the question of whether she was struck with blast balls without a dispersal order being first provided. Accordingly, OPA recommends that this allegation be Not Sustained – Inconclusive.

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

Named Employee #1 - Allegation #2

8.300 – POL – 10 Use of Force – Blast Balls 3. Officers May Use Blast Balls Only When Such Force is Objectively Reasonable, Necessary, and Proportional

OPA has insufficient evidence to determine when, how, and why blast balls and OC spray were used on the Complainant. This is primarily due to the fact that OPA did not have a description of what the Complainant was wearing and did not have an opportunity to speak with her. This lack of information made it impossible for OPA to determine where she was and what was happening at the time of the force and, as such, whether the force violated policy.



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

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