



## CLOSED CASE SUMMARY

ISSUED DATE: JANUARY 9, 2021

FROM: DIRECTOR ANDREW MYERBERG  
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0328

### Allegations of Misconduct & Director’s Findings

**Named Employee #1**

Allegation(s):		Director’s Findings
# 1	14.090 Crowd Management 9. Crowd Dispersal a. Upon Determining That There are Acts or Conduct Within a Group ...	Not Sustained (Unfounded)
# 2	14.090 Crowd Management 9. Crowd Dispersal b. The Incident Commander Shall Have Authority to Direct the Use of Blast Balls and OC Spray to Disperse the Crowd	Not Sustained (Unfounded)
# 3	14.090 Crowd Management 8. The Incident Commander Retains Ultimate Responsibility for the Decisions of Subordinates	Not Sustained (Management Action)

**Named Employee #2**

Allegation(s):		Director’s Findings
# 1	14.090 Crowd Management 9. Crowd Dispersal a. Upon Determining That There are Acts or Conduct Within a Group ...	Not Sustained (Lawful and Proper)
# 2	14.090 Crowd Management 9. Crowd Dispersal b. The Incident Commander Shall Have Authority to Direct the Use of Blast Balls and OC Spray to Disperse the Crowd	Not Sustained (Lawful and Proper)
# 3	14.090 Crowd Management 8. The Incident Commander Retains Ultimate Responsibility for the Decisions of Subordinates	Not Sustained (Management Action)

**Named Employee #3**

Allegation(s):		Director’s Findings
# 1	14.090 Crowd Management 9. Crowd Dispersal a. Upon Determining That There are Acts or Conduct Within a Group ...	Not Sustained (Lawful and Proper)
# 2	14.090 Crowd Management 9. Crowd Dispersal b. The Incident Commander Shall Have Authority to Direct the Use of Blast Balls and OC Spray to Disperse the Crowd	Not Sustained (Lawful and Proper)

**Named Employee #4**

Allegation(s):		Director’s Findings
# 1	14.090 Crowd Management 9. Crowd Dispersal a. Upon Determining That There are Acts or Conduct Within a Group ...	Not Sustained (Unfounded)



# 2	14.090 Crowd Management 9. Crowd Dispersal b. The Incident Commander Shall Have Authority to Direct the Use of Blast Balls and OC Spray to Disperse the Crowd	Not Sustained (Unfounded)
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**Named Employee #5**

Allegation(s):		Director's Findings
# 1	14.090 Crowd Management 9. Crowd Dispersal a. Upon Determining That There are Acts or Conduct Within a Group ...	Not Sustained (Lawful and Proper)
# 2	14.090 Crowd Management 9. Crowd Dispersal b. The Incident Commander Shall Have Authority to Direct the Use of Blast Balls and OC Spray to Disperse the Crowd	Not Sustained (Lawful and Proper)

**Named Employee #6**

Allegation(s):		Director's Findings
# 1	14.090 Crowd Management 9. Crowd Dispersal a. Upon Determining That There are Acts or Conduct Within a Group ...	Not Sustained (Unfounded)
# 2	14.090 Crowd Management 9. Crowd Dispersal b. The Incident Commander Shall Have Authority to Direct the Use of Blast Balls and OC Spray to Disperse the Crowd	Not Sustained (Unfounded)

**Named Employee #7**

Allegation(s):		Director's Findings
# 1	14.090 Crowd Management 9. Crowd Dispersal a. Upon Determining That There are Acts or Conduct Within a Group ...	Not Sustained (Unfounded)
# 2	14.090 Crowd Management 9. Crowd Dispersal b. The Incident Commander Shall Have Authority to Direct the Use of Blast Balls and OC Spray to Disperse the Crowd	Not Sustained (Unfounded)

**Named Employee #8**

Allegation(s):		Director's Findings
# 1	8.300-POL-10 Use of Force – Blast Balls 1. Only Officers Who Have Completed Department Blast Ball Training are Permitted to Deploy Blast Balls	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)
# 3	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 to the Crowd [...]	Not Sustained (Inconclusive)
# 4	8.300-POL-10 Use of Force – Blast Balls 5. Officers Must Justify Each Separate Blast Ball Deployment	Not Sustained (Inconclusive)
# 5	8.300-POL-10 Use of Force – Blast Balls 6. Officers Are Required to Report the Use of Blast Balls, Regardless of Whether a Subject is Struck	Not Sustained (Inconclusive)



# 6	8.300-POL-10 Use of Force – Blast Balls 7. As Soon As Reasonably Possible, Officers Will Request and/or Render Medical Aid [...]	Not Sustained (Inconclusive)
# 7	14.090 - Crowd Management 10. Officers May Make Individual Decisions to Deploy OC Spray, and Blast Balls Consistent with Title 8 - Use-of-Force a & b	Not Sustained (Inconclusive)

**Named Employee #9**

Allegation(s):		Director's Findings
# 1	14.090 Crowd Management 9. Crowd Dispersal a. Upon Determining That There are Acts or Conduct Within a Group ...	Not Sustained (Unfounded)
# 2	14.090 Crowd Management 9. Crowd Dispersal b. The Incident Commander Shall Have Authority to Direct the Use of Blast Balls and OC Spray to Disperse the Crowd	Not Sustained (Unfounded)
# 3	14.090 Crowd Management 8. The Incident Commander Retains Ultimate Responsibility for the Decisions of Subordinates	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:**

Numerous complaints alleged that, in late May and early June of 2020, SPD commanders authorized the deployment of blast balls and CS gas to disperse peaceful demonstrations, and that this constituted excessive force.

**SUMMARY OF INVESTIGATION:**

This case arises out of the demonstrations that occurred within Seattle and across the nation in the wake of the killing of George Floyd by a Minneapolis Police Officer. These protests were unprecedented in scope and were directed at law enforcement. While most demonstrators protested peacefully, some demonstrations, especially during the early days of the protests and during nighttime hours, devolved into violence, property destruction, and looting.

This investigation covers the events of May 30, 2020, June 2, 2020, and June 7, 2020. OPA received numerous complaints about the decisions by SPD commanders to disperse crowds of demonstrators on these days. Because the incidents concern the same policies, and the decisions to disperse crowds rested on essentially the same justifications in each discrete instance, OPA made the decision to investigate and reach findings on them collectively. For the sake of clarity, OPA summarizes each incident below. Where appropriate, OPA examines different crowd dispersal decisions on each date in separate sections. For the sake of clarity and concision, OPA did not summarize interviews with each of the Named Employees, but rather summarized their written and interview statements as part of the incident narrative.

**A. May 30 Dispersals (Downtown)**



On May 30, the second full day of protests in Seattle, significant crowds gathered in the downtown core. Based on SPD reports and OPA's analysis, the total number of people gathered in one location at times reached approximately 10,000 individuals. This was among the largest demonstration crowds recorded during the summer protests and, indeed, in recent Seattle history outside of the 1999 WTO protests.

On this date, SPD's Incident Action Plan (IAP) designated an SPD Captain, Named Employee #2 (NE#2), as the Incident Commander. In addition to the Captain, an Assistant Chief, Named Employee #1 (NE#1), was present in the Seattle Police Operations Center (SPOC). Several Lieutenants commanded discrete SPD units deployed throughout the City. The demonstrations at issue here centered on two main areas: the Seattle Civic Center, including SPD Headquarters on 5th and Cherry and the King County Administration Building on 4th Avenue, and the Pike/Pine Corridor between 3rd and 5th Avenue. The incident involved groups moving between these two locations as well as discrete dispersal orders at both.

### ***I. Initial Incident Response***

Demonstration activity was ongoing throughout the day. The SPD radio log indicated that by 12:20 p.m. there were approximately 1,000 people gathered at SPD headquarters. Approximately 50 SPD officers were staged in that location to manage the demonstration and were arrayed on the west side of the building. The radio log reported at least three individuals armed with firearms and a significantly escalated crowd. Over the next hour, there was significant intermixing of the Pike/Pine Corridor crowd and that at SPD headquarters. At approximately 1:14 p.m., a "large group" was reported moving south, and NE#2, the Incident Commander, directed that bikes deploy across the intersection to manage the crowd, divert it, and otherwise delay it from joining the group already at SPD headquarters. During this march, a significant number of rocks and bottles were thrown, and the SPD radio log reflected that several officers were injured. Specifically, officers reported that rocks and bottles were being thrown at approximately 2:04 p.m. in the vicinity of Madison and Cherry streets.

Named Employee #4 (NE#4), a Lieutenant, was assigned to command the bicycle units deployed downtown that day. Her units were tasked with escorting marching protesters, preventing them from marching against traffic, and attempting to direct them away from the highway. Ultimately, NE#4 and a group of foot officers formed a police line at 6th and Stewart. Bicycle officers were, at this time, operating independently and separated by groups of protesters from NE#4 and the foot officers. It appeared that at least some bicycle officers were diverted to manage the demonstration activity at SPD headquarters.

Shortly thereafter, Named Employee #5 (NE#5), another Lieutenant, arrived at 6th and Stewart. NE#5 began coordinating with NE#4 as well as with mutual aid from Washington State Patrol and other agencies. Bellevue bicycle officers arrived as well. As Bellevue bikes were arriving, an SPD officer broadcast over the air that protesters were pushing on the line at 7th and Pine.

### ***II. Crowd Dispersals in Pike/Pine Corridor***

NE#5 ordered Bellevue bikes and all bicycle units not currently engaged in crowd control to move to 7th and Pine and did so himself. As he arrived at 7th and Pine, a significant amount of debris was visible in the roadway consistent with previous property destruction and thrown objects. Once arrived, NE#5 began developing a plan with officers to control the scene. He asked officers on scene if a dispersal order had already been given, and officers confirmed that it had but that the crowd did not disperse.



On NE#5's BWV, improvised barricades were visible and on-scene supervisors were reporting rocks and bottles being thrown at the officers stationed facing the barricades. On NE#5's signal, officers deployed blast balls and NE#5 directed the bicycle squads to advance. Bicycle units advanced in a leap-frog pattern for several blocks, with NE#5 directing them to keep going because whenever they stopped, officers began taking rocks and bottles. NE#5 directed his line to hold at 9th and Pine where BWV indicated that individuals in the remaining crowd continued to throw projectiles at officers. It also showed members of the crowd breaking into a nearby construction site. NE#5 directed officers to deploy CS canisters over the crowd and push them east across I-5. The crowd largely dispersed, and bike officers held at 10th and Pine.

Subsequently a crowd began to gather on 9th, facing the rear of officers' position on the intersection of 9th and Pine. NE#5 decided to push that group south toward Pike. NE#5 ordered the use of CS gas and reported that he was pushing the crowd south and west. Officers went on air to report breaking windows and property destruction on 5th, 6th, and 7th Avenues, and NE#5 directed foot officers to push west on Pine. When he reached 5th and Pine, NE#5 called bicycle units in to assist and performed a push south on 5th. He and other officers reported "significant" property damage occurring over air including reports of a car being burned at 4th and Pike. Once SWAT and bicycle officers arrived, NE#5 directed the officers to push south and west. He continued directing officers south and westward toward the large car fire on 4th and Pike.

Over the next several minutes, NE#5 directed units by radio to clear the intersection in order to allow the Seattle Fire Department to respond to extinguish the fire. BWV showed that at least two cars were actively burning at 4th and Pike when NE#5 arrived. He continued to direct officers to keep the crowd back and to push north, noting approximately 500 people gathered in the Westlake area. Simultaneously, NE#2, the incident commander, broadcast reports of looting and property damage at the Target and Nike Town stores on 3rd and 6th Avenues, respectively.

NE#5 moved up to join SWAT, King County, and bikes at Westlake. Based on use of force statements of officers on the line, individuals in the crowd threw "rocks, chunks of concrete, fire extinguishers" and other debris, as well as frozen and glass bottles. In a statement, Named Employee #7 (NE#7), who was assigned to command a platoon of bicycle officers, stated that he observed significant violence, including the operation of devices used for launching objects at the police line, such as the fire extinguisher. NE#7 characterized the level of crowd violence at this point as greater than the WTO protests in 1999. NE#2, the Incident Commander, gave a dispersal order that was audible on NE#5's BWV. Subsequently, NE#5 gave the go order, and less lethal munitions including blast balls were deployed. He directed officers to keep pushing north to prevent the crowd from re-concentrating.

Reports came in that a vehicle had been driven into a jewelry store on 3rd and that looting was underway. NE#5 dispatched a bike squad to that location and requested other bike units to converge on Westlake. NE#2, the Incident Commander, directed bike units to combine into a mobile task force. NE#5 directed sergeants at 4th and Pine to assemble squads to patrol downtown and respond to incidents of looting. He advised SPOC and NE#2 of the decision to conduct anti-looting patrols and stated that his intention was to prevent large crowds from gathering so that no more large-scale destruction would take place. For the next several minutes, NE#5 continued to direct squads in the downtown core over radio. In large part, NE#5's directives were purposed to prevent the crowd from concentrating again and to respond to individual reports of looting.

NE#5 and NE#4 made the decision to go mobile and monitor the situation from their bicycles. He and NE#4 discussed whether they would be able to provide security for all downtown establishments, and NE#4 determined



that they could not. Shortly afterward, officers broadcasted reports of a large group of protesters at 3rd and Pike. NE#5 and NE#4 transited to that location and directed bicycle units to respond there. On arrival at 3rd and Pike, NE#5 observed the crowd and described them as “relatively static.” He warned the line of foot and bicycle officers to be prepared if they observed property destruction. Officers stood by for several minutes. A part of the crowd began to move south on 3rd, with some breaking windows as they did.

NE#5 directed bicycle officers to move south with the crowd. Elements of the crowd, estimated at approximately 100-300, began breaking windows. This activity was centered on the U.S. Post Office at 3rd and Union. A use of force statement filed by an officer who participated in this dispersal indicated that officers deployed at least one blast ball in order to prevent continued destruction and looting. Bike officers continued to push the group south until it dispersed into smaller groups. NE#5 continued directing units, but ultimately did not direct additional dispersals. Ultimately, the National Guard deployed to maintain order in concert with SPD.

### **III. SPD Headquarters/Civic Center**

During the same period of time, a crowd gathered near SPD headquarters on 5th and Cherry. At approximately 4:14 p.m. and while the earlier crowd dispersals were occurring in the Pike/Pine corridor, the crowd at SPD headquarters grew to an estimated 1,200 people, and officers present reported rocks and bottles being thrown. NE#2, the Incident Commander, went from SPOC to SPD headquarters to observe the scene. While there, at approximately 4:02 p.m., NE#2 observed what he described as the situation deteriorating. He stated that he saw rocks and bottles being thrown at the building and was receiving numerous reports of violence, as well as fires being set in the downtown core. NE#2 declared that the protest as a whole had become a riot.

At 4:22 p.m., Named Employee #6, the Lieutenant who was the SWAT commander, advised that a bearcat was on scene with the capability of deploying OC gas. NE#2 directed the units at SPD headquarters to mask up. At 4:32 p.m., then-SPD Chief Carmen Best broadcast over the radio to “do what is needed to protect HQ.” At the time, no senior officers were present at SPD headquarters, itself, although NE#2 was nearby. A Sergeant requested that an on-scene supervisor be tasked with commanding the units at SPD headquarters and provided an update that the crowd was growing unruly and dangerous. It was reported that the crowd was throwing accelerants at the building.

Named Employee #3 (NE#3), an SPD Lieutenant, was en-route to SPD headquarters and offered to take command. An Assistant Chief who was monitoring events from SPOC placed NE#3 in command. Ultimately, NE#3 made the decision to deploy less-lethal munitions including blast balls, OC spray, and CS gas. NE#6, the SWAT commander, was tasked with actually managing the deployment at NE#3’s direction. Use of force reports from the incident scene indicated that the crowd was throwing rocks and bottles at the time of the dispersal order. NE#3 gave the dispersal order and, subsequently, officers at SPD headquarters used blast balls to disperse the crowd. SWAT also deployed CS gas canisters. Generally speaking, the blast ball deployments appeared purposed to create space between the crowd and the line of officers, who had been backed up against the wall of SPD headquarters by the presence of the crowd. Officers reported deploying additional blast balls to prevent members of the crowd from picking up CS gas canisters and throwing them back toward the line of officers. These blast ball deployments appeared successful in creating space. Based on use of force reporting, officers continued to deploy blast balls until a significant part of the crowd dispersed. After dispersing the crowd, SWAT teams were re-deployed to the Pike/Pine corridor.

## **B. June 2 Protests (East Precinct)**



On June 2, protests occurred throughout the day at multiple locations. Named Employee #1 (NE#1), an SPD Assistant Chief, was designated the Incident Commander under that day's IAP. An SPD Captain was the Operations Chief, and NE#5 was the Deputy Operations Chief. At 5:17 p.m., a crowd of approximately 1,500 people gathered near the East Precinct. NE#7, a Lieutenant, commanded bicycle units on that date. Given the SPD policies in place at the time (see 2020OPA-0326), officers generally did not activate BWV and, consequently, OPA had limited available BWV to review with respect to this incident.

NE#7, who participated in demonstration management throughout the day, stated that the groups that gathered earlier in the day were largely peaceful. He described speaking with members of the demonstration crowd and riding his bicycle with them as a gesture of solidarity. As the day continued, NE#7 stated that many of the peaceful protesters departed voluntarily and those who remained or arrived became more confrontational.

At 6:59 p.m., the Operations Commander (a Captain not a Named Employee in this investigation) broadcast over his vehicle's PA system that the crowd should not seek to push on or disrupt the line of bicycle officers commanded by NE#7. During this time, SPD received intelligence reports of violent groups or individuals seeking to join the protests. This was consistent with what NE#7 reported observing in the crowd. At 7:35 p.m., the SPD Captain addressed the crowd again telling them to get off the bicycle fence line. This continued for roughly the next three hours. At one point, an SPD Anti-Crime Team arrested a group of individuals with gas cans, but the protest log reported that the crowd remained largely non-violent. At 9:00 p.m., protesters began deploying umbrellas along the front line. At 9:36 p.m., NE#5, who was supervising the police line, reported observing "aerial mortars" going off. OPA interprets this to refer to fireworks thrown or fired into the air by the crowd.

Officers, including NE#5, reported incoming rocks and bottles being thrown at the line. NE#5 later stated that he observed a glass bottle thrown at an officer and that he believed that officer deployed OC spray as a result. In a later interview with OPA, NE#5 stated that he ordered less lethal tools used "to stop the assaults" on the line. The protest log reflects that NE#5 ordered the deployment of OC at 11:32 p.m., and, when that was not effective, authorized the allowable force to include blast balls and CS gas canisters. SWAT officers on the scene stated that they observed objects being thrown at the line officers and responded by deploying blast balls and CS gas canisters. SWAT officers described deploying blast balls at individuals or groups of people to create space.

NE#5 described an incident where a group of protesters "turtled" under umbrellas in the middle of the intersection at 11th and Pine, a tactic which he stated prevented him from moving the police line forward as planned to complete the crowd dispersal because it would then leave those officers cut off by the "turtled" group. At the time, other members of the crowd were still throwing objects at the line. Ultimately, NE#5 made the decision to disperse the entire crowd with CS gas because OC and blast balls were not effective. He stated that the CS gas caused the groups to disperse. NE#7's bicycle officers moved up to keep the crowd moving and complete the dispersal.

### **C. June 7 Protests (East Precinct)**

On June 7, 2020, a crowd of demonstrators was assembled in the intersection of 11th Avenue and Pine Street. On that day, approximately 1,000 protesters gathered in the intersection. Initially, the protesters were held approximately 75 feet from the SPD front line by a temporary metal fence erected across the street. That day's IAP named NE#1 as the citywide incident commander. The same SPD Captain as was present on June 2 was tasked with command of the East Precinct itself, and addressed the crowd using his vehicle PA system. NE#5 was again tasked with exercising operational control over the police line.



At 8:20 p.m., an incident occurred which involved a member of the public driving his car toward the protesters in the intersection. That individual assaulted a member of the crowd, shooting him, and was arrested by SPD. (See 2020OPA-0429.) SPD worked with the crowd to provide medical aid to the victim, who was taken to Harborview. Approximately a half hour after this incident was resolved, there appeared to be an escalation in the crowd. Individuals began moving the metal fence line despite being told not to do so by the SPD Captain in command of the East Precinct over the PA system. At 9:39 PM, the crowd broke down the fencing and moved toward the SPD line. At 9:51 p.m., officers were directed to don gas masks.

At 10:10 p.m., some members of the crowd began to use the dismantled metal fence as improvised weapons or barricades. NE#5, who was commanding the police line itself, directed officers to defend themselves if attacked with fencing. At 10:21 p.m., he reiterated that if the crowd got within 5 feet of the police line, it would be pushed back using less lethal tools like OC and blast balls. The crowd remained in close contact with the police line, but it appeared, despite isolated incidents, that force was not used.

The SPD captain used the PA system to direct the crowd to move back at 10:53 p.m. and repeated this order at 11:18 p.m. During this time, officers reported that the crowd began throwing objects. At 11:38 p.m., the captain broadcasted a warning to the crowd to cease throwing objects. By 11:45 p.m., the crowd encroached within a foot of the officers on the line. To this point, no large-scale force was authorized or directed. At 11:52 p.m., the protest log reflected that a protester threw a “chemical irritant” at officers. Over the next several minutes, the situation deteriorated, with OC spray being deployed at 12:04 a.m., after being directed by NE#5. This appeared ineffective and the crowd continued to throw objects. Blast balls were used, which pushed the crowd back slightly but did not stop them from throwing objects. The SPD captain delivered dispersal orders to the crowd at 12:06 a.m., 12:07 a.m., and 12:09 a.m.

The crowd did not fully disperse and continued throwing items. NE#5 reported incoming projectiles on his position and, in later reports and interviews, stated that the crowd was throwing a large number of items, which he characterized as a “torrent.” Reports indicated that the SPD line either fell back on the right and left, or protesters got around it, and began throwing items from three sides. Ultimately, NE#5 requested from the Captain at East Precinct permission to use CS gas to disperse the crowd. This permission was granted. At 12:14 a.m., SWAT deployed CS gas and the crowd began to fall back. SWAT and the police line pushed forward, continuing to disperse the crowd. It appeared that the crowd did fall back but continued to be combative. Additional dispersal orders were issued at 12:32 a.m., 12:38 a.m., and 12:45 a.m., and some members of the crowd that remained were reported to be throwing explosives or Molotov cocktails. Incidents continued until approximately 2:40 a.m.

#### **ANALYSIS AND CONCLUSIONS:**

##### **Named Employee #1 - Allegation #1**

***14.090 Crowd Management 9. Crowd Dispersal a. Upon Determining That There are Acts or Conduct Within a Group of Four or More Persons That Create a Substantial Risk of Causing Injury to Any Person or Substantial Harm to Property, the Incident Commander May Order That the Crowd Be Dispersed***

SPD Policy 14.090-POL-9(a) states the conditions under which an Incident Commander may order a crowd to be dispersed. SPD Policy 14.090-POL-9(a). The policy goes on to state that prior to ordering a crowd to be dispersed, the Incident Commander: “shall consider whether less restrictive means of crowd management are available. Such





means may include strategies such as area denial and/or seeking voluntary compliance.” (*Id.*) It goes on to state that the Incident Commander must ensure there is a viable avenue of egress to allow the crowd to disperse, and that where feasible, the Incident Commander or a designee should issue a dispersal order prior to ordering officers to disperse the crowd. (*Id.*)

Based on OPA’s analysis, NE#1 served as the citywide Incident Commander on June 2 and June 7, although he had no formal role in the events of May 30. On the days where he served as Incident Commander, NE#1 was tasked primarily with monitoring ongoing events and directing police resources throughout the City. Based on OPA’s analysis, NE#1 did not direct subordinates to disperse crowds and did not make the decision to do so. For this reason, OPA recommends that this allegation be Not Sustained – Unfounded as against NE#1.

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

**Named Employee #1 - Allegation #2**

***14.090 Crowd Management 9. Crowd Dispersal b. The Incident Commander Shall Have Authority to Direct the Use of Blast Balls and OC Spray to Disperse the Crowd***

SPD Policy 14.090-POL-9(b) states that the Incident Commander has the authority to direct the use of blast balls and OC spray to disperse a crowd. SPD Policy 14.090-POL-9(b). A Lieutenant may authorize the use of blast balls and OC spray where an immediate life safety emergency exists, and there is insufficient time to obtain approval from the Incident Commander. (*Id.*) The policy defines a “life safety emergency” as “an unplanned, dynamic situation where immediate police action is necessary to protect the officers’ and/or the public’s safety.” (*Id.*) It goes on to state that when feasible, a dispersal order should be given, and the crowd afforded sufficient time to disperse prior to the use of blast balls and OC. (*Id.*) Similarly, when feasible, blast balls and OC should not be deployed in the vicinity of people who do not pose a threat to safety or property. (*Id.*)

For the same reasons as above (see Named Employee #1 – Allegation #1), OPA recommends that this allegation be Not Sustained – Unfounded as against NE#1.

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

**Named Employee #1 - Allegation #3**

***14.090 Crowd Management 8. The Incident Commander Retains Ultimate Responsibility for the Decisions of Subordinates***

SPD Policy 14.090-POL-8 states that the Incident Commander retains ultimate responsibility for the decisions of subordinates. The policy goes on to state that, to fulfill this obligation, the Incident Commander will remain available on scene for consultation. (*Id.*)

OPA finds that NE#1, the citywide Incident Commander on June 2 and June 7, largely delegated management of the demonstrations and the decisions about whether and how to disperse the crowd to commanders at the scene. This decision, which OPA notes has been a feature of SPD’s management of demonstrations in 2020, seems to have at times resulted in confusion and a lack of unity of command. For example, there were times where decisions regarding dispersals and the use of less-lethal tools were made by Lieutenants, not higher-rank commanders, who were quickly moving from location to location. This tended to create scenarios where decisions were made that



perhaps were not as well informed as they could have been with a more unified command structure. OPA notes that similar concerns were raised in the context of another large-scale dispersal discussed in 2020OPA-0334.

That being said, this does not necessarily represent individual misconduct by Incident Commanders or SPD command as a whole. Indeed, it may be beneficial at times to place command authority in senior supervisors actually at the scene of the demonstration, rather than at SPOC or another more strategic location. However, this practice arguably contravenes the plain language of the policy.

OPA accordingly issues the below Management Action Recommendation to SPD, as well as flags this issue for consideration by the Office of Inspector General for Public Safety (OIG) during its upcoming Sentinel Event Review, which is purposed to explore systemic issues identified by these demonstrations.

- **Management Action:** OPA recommends that SPD amend and improve its policies to better ensure SPD leadership's planning, active control, and responsibility for the management of demonstration crowds and the decision to disperse them if necessary. The policy modifications should also focus on adding provisions that would serve to improve organizational and command clarity and control during demonstrations. These modifications should also focus on improving the IAPs to remedy these issues, at least in part.

Recommended Finding: **Not Sustained (Management Action)**

**Named Employee #2 - Allegation #1**

***14.090 Crowd Management 9. Crowd Dispersal a. Upon Determining That There are Acts or Conduct Within a Group ...***

OPA's investigation determined that NE#2 was the Incident Commander for the demonstration events on May 30, although he had no formal role in managing demonstrations on June 2 or June 7 under the IAP for those days. On May 30, NE#2 did exercise supervisory control of some dispersals in the downtown core, including instances where he went to the incident scene. NE#2 also reached the determination that the demonstrations downtown had become a riot and directed his subordinate officers to disperse them when necessary.

OPA finds that generally NE#2's decisions on May 30 were justified by numerous acts of violence and destruction on the part of a substantial number of people in the demonstration crowd. These acts included, but were not limited to, the destruction of SPD vehicles and the theft of high-powered rifles therefrom, intentional assaults on police officers including assaults with weapons, and the destruction and looting of numerous businesses upon which members of the Seattle community depend for their livelihoods. While OPA is aware that not every individual downtown on May 30 participated in unlawful conduct, analysis of the events suggests that those who did were so intermixed in the crowd that meaningful differentiation was not feasible or even possible. This is true even as compared to other protests this summer, in which a combination of SPD planning and different crowd behavior allowed for a clearer distinction between violent and nonviolent actors.

For these reasons, OPA recommends that this allegation be Not Sustained – Lawful and Proper.

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

**Named Employee #2 - Allegation #2**



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**14.090 Crowd Management 9. Crowd Dispersal b. The Incident Commander Shall Have Authority to Direct the Use of Blast Balls and OC Spray to Disperse the Crowd**

For the same reasons as stated above (see Named Employee #2 – Allegation #2), OPA recommends that this allegation be Not Sustained – Lawful and Proper.

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

**Named Employee #2 - Allegation #3**

**14.090 Crowd Management 8. The Incident Commander Retains Ultimate Responsibility for the Decisions of Subordinates**

In general, OPA finds that NE#2 followed this policy in making general determinations regarding the need to disperse crowds in the downtown core. However, as with NE#1, OPA had concerns with the degree to which NE#2 delegated decisions about when and how to conduct individual dispersals to subordinates. It appeared that NE#2 largely deferred to subordinates on the scene, particularly NE#5, who then made a series of decisions about when and how to move the crowd.

As noted above, OPA does not believe that this represented individual misconduct by NE#2. Rather, OPA finds that SPD faced different and larger crowds than it had at any time in recent history, and that its existing incident management protocols proved inadequate for the task. As such, OPA finds that these issues are best addressed in the context of its above Management Action Recommendation (see Named Employee #1 – Allegation #3).

Recommended Finding: **Not Sustained (Management Action)**

**Named Employee #3 - Allegation #1**

**14.090 Crowd Management 9. Crowd Dispersal a. Upon Determining That There are Acts or Conduct Within a Group ...**

OPA found that NE#3, a Lieutenant, was responsible for making the decision to disperse crowds in the immediate vicinity of SPD headquarters on May 30. Based on OPA's analysis, NE#3 did so after directly observing and hearing reports of a large number of individuals in the crowd throwing objects at the officers tasked with protecting the building. In addition, OPA finds that the situation at SPD headquarters was such that officers were, at times, physically backed against the walls of the building by the crowd, posing an additional threat to their safety. Finally, at least some individuals threw accelerants and fuel at the building itself.

Based on these incidents, OPA finds that the "substantial risk" requirement was met and, accordingly, that NE#3 did not violate policy by ordering the crowd to be dispersed.

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

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

**Named Employee #3 - Allegation #2**



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**14.090 Crowd Management 9. Crowd Dispersal b. The Incident Commander Shall Have Authority to Direct the Use of Blast Balls and OC Spray to Disperse the Crowd**

For the same reasons as stated above (see Named Employee #3 – Allegation #1), OPA recommends that this allegation be Not Sustained – Lawful and Proper.

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

**Named Employee #4 - Allegation #1**

**14.090 Crowd Management 9. Crowd Dispersal a. Upon Determining That There are Acts or Conduct Within a Group ...**

OPA did not identify any incidents at issue in this investigation in which NE#4 independently ordered crowds to be dispersed. Rather, she appeared to supervise her bicycle units largely at NE#5's direction. Given the lack of any evidence that NE#4 herself ordered any dispersals or other uses of force, OPA recommends that this allegation be Not Sustained – Unfounded as against her.

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

**Named Employee #4 - Allegation #2**

**14.090 Crowd Management 9. Crowd Dispersal b. The Incident Commander Shall Have Authority to Direct the Use of Blast Balls and OC Spray to Disperse the Crowd**

For the same reason as stated above (see Named Employee #4 – Allegation #1), OPA recommends that this allegation be Not Sustained – Unfounded.

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

**Named Employee #5 – Allegation #1**

**14.090 Crowd Management 9. Crowd Dispersal a. Upon Determining That There are Acts or Conduct Within a Group ...**

OPA's investigation determined that NE#5 participated in and largely directed crowd dispersals on May 30, June 2, and June 7. OPA examines each of these incidents separately.

On May 30, despite not having a formal role in the incident plan, NE#5 ultimately directed most of SPD's operations in the Downtown core. At times, he appeared to be the only officer exercising operational control over multiple units and independently made decisions about when crowds would be dispersed, as well as in what direction. OPA finds that, at times, NE#5's decisions to disperse the crowd appeared to be reactive and based on less than ideal planning. For instance, at one point during the demonstration, NE#5 directed bicycle and SWAT officers to push a crowd east for several blocks, which caused other parts of the crowd to engage officers at his rear. NE#5 then performed a second push west for several blocks along the same street he had just cleared. However, in light of the fact that NE#5 stepped into the role of operational commander to remedy overall failures of planning and control, OPA does not believe that deficiencies in SPD's protest management on May 30 were traceable to him and are best remedied by the Management Action Recommendation referenced above. Additionally, OPA finds that NE#5



appeared to have adequate basis to determine that the downtown crowds posed a substantial threat to safety at the time he ordered dispersals.

On June 2, NE#5 was the Deputy Operations Commander and was tasked with supervising the police line. OPA's analysis of radio traffic indicated that, based on reports and observations of thrown objects, NE#5 directed the line to respond with a continuum of force that began with OC spray and ultimately escalated to blast balls and CS gas. It appeared that NE#5's decisions were based on the fact that lower levels of force were not effective in stopping ongoing violent behavior. In OPA's assessment, the behavior was severe enough that it posed a significant threat to officer safety. As such, OPA finds that the decision to disperse the crowd did not violate policy.

On June 7, NE#5 served in the same capacity as he did on June 2. NE#5 gave the initial order to deploy less lethal tools following repeated orders for the crowd to disperse and multiple instances of individuals throwing items or wielding fencing. As a result, OPA finds that significant parts of the crowd posed a substantial risk of harm. Perhaps in part because of the violent incident that occurred earlier that day and the belief held by some that SPD shared a portion of the blame for it, the level of violence and resistance appeared greater than usual, and based on its analysis of the incident OPA concludes that NE#5 used a reasonable amount of force to accomplish the dispersal. OPA notes that the decision to use CS gas was approved by SPD command staff on that date, not NE#5. This decision, and its propriety, is being evaluated separately in 2020OPA-0345.

For the above reasons, OPA recommends that this allegation be Not Sustained – Lawful and Proper.

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

**Named Employee #5 – Allegation #2**

***14.090 Crowd Management 9. Crowd Dispersal b. The Incident Commander Shall Have Authority to Direct the Use of Blast Balls and OC Spray to Disperse the Crowd***

For the same reasons as above (*see* Named Employee #5 – Allegation #5), OPA recommends that this allegation be Not Sustained – Lawful and Proper.

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

**Named Employee #6 – Allegation #1**

***14.090 Crowd Management 9. Crowd Dispersal a. Upon Determining That There are Acts or Conduct Within a Group ...***

OPA finds that NE#6, the SWAT commander, deployed blast balls and directed his subordinates to do so only when directed by others serving as incident or operational commanders. As such, OPA recommends that this allegation be Not Sustained – Unfounded as against him.

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

**Named Employee #6 – Allegation #2**

***14.090 Crowd Management 9. Crowd Dispersal b. The Incident Commander Shall Have Authority to Direct the Use of Blast Balls and OC Spray to Disperse the Crowd***



For the same reasons as stated above (see Named Employee #6 – Allegation #1), OPA recommends that this allegation be Not Sustained – Unfounded.

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

**Named Employee #7 – Allegation #1**

***14.090 Crowd Management 9. Crowd Dispersal a. Upon Determining That There are Acts or Conduct Within a Group ...***

As was the case for NE#4 and NE#6, OPA found that NE#7 did not generally exercise independent incident command and, consequently, recommends that this allegation be Not Sustained – Unfounded.

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

**Named Employee #7 – Allegation #2**

***14.090 Crowd Management 9. Crowd Dispersal b. The Incident Commander Shall Have Authority to Direct the Use of Blast Balls and OC Spray to Disperse the Crowd***

For the same reasons as stated above (see Named Employee #7 – Allegation #1), OPA recommends that this allegation be Not Sustained – Unfounded.

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

**Named Employee #8 – Allegation #1**

***8.300-POL-10 Use of Force – Blast Balls 1. Only Officers Who Have Completed Department Blast Ball Training are Permitted to Deploy Blast Balls***

OPA classified allegations against unknown SPD employees who may have engaged in out of policy blast ball deployments on the dates in question. While a number of specific deployments were analyzed in other investigations (for example, see 2020OPA-0344), this case provided a broader view. This decision was made, in part, due to OPA's practical limitations. OPA does not have the capacity, resources, or staff to investigate the potentially hundreds of individual uses of force that occurred on these dates, while also meeting the 180-day timeline and completing the more than 125 other investigations stemming from the protests.

As a general matter, OPA's review of incidents from these dates revealed a series of chaotic and violent occurrences where officers were subjected to significant threats of harm. In most cases, the force observed by OPA was used in response to projectiles being repeatedly thrown from individuals in the crowd and, at times, massive and aggressive crowds being controlled by relatively small numbers of officers, placing those officers in difficult if not impossible positions. This being said, OPA deems it likely (and found in other cases) that there were multiple occasions where individual deployments did not conform to policy and may have, in turn, improperly escalated demonstrators. However, given the limitations articulated above, OPA was simply unable to identify and individually investigate each of those occurrences.



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As discussed in its report on less-lethal tools submitted to the City Council this summer, OPA preliminarily identified a number of tactical concerns with SPD's approach. These concerns, which included setting up lines where it did not appear to be beneficial and thus creating unnecessary direct contact with demonstrators focused on police, inadequate communication, and lack of clarity and organization in command, were observed throughout the dates in question. In addition, OPA continued to see issues surrounding the potential that too much discretion was placed in the hands of individual officers to use less-lethal tools, including CS gas, particularly in situations where the predominant concern was damage to property rather than harm to persons. OPA's observations and findings in this case will influence the prospective modifications to SPD's policies concerning demonstration management and less-lethal tools. OPA also anticipates that its findings will assist the OIG during its Sentinel Event Review, which will take another, deeper look at the specific incidents that occurred during the dates discussed herein.

Ultimately, and with the caveats listed above, with regard to the specific question of whether the uses of force engaged in by unidentified SPD officers during these dates were within or outside of policy, OPA recommends that this allegation and Allegations #2 through #8 be Not Sustained - Inconclusive.

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

**Named Employee #8 – 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***

For the same reasons as stated above (see Named Employee #8 – Allegation #1), OPA recommends that this allegation be Not Sustained – Inconclusive.

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

**Named Employee #8 – Allegation #3**

***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 to the Crowd [...]***

For the same reasons as stated above (see Named Employee #8 – Allegation #1), OPA recommends that this allegation be Not Sustained – Inconclusive.

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

**Named Employee #8 – Allegation #4**

***8.300-POL-10 Use of Force – Blast Balls 5. Officers Must Justify Each Separate Blast Ball Deployment***

For the same reasons as stated above (see Named Employee #8 – Allegation #1), OPA recommends that this allegation be Not Sustained – Inconclusive.

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

**Named Employee #8 – Allegation #5**



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***8.300-POL-10 Use of Force – Blast Balls 6. Officers Are Required to Report the Use of Blast Balls, Regardless of Whether a Subject is Struck***

For the same reasons as stated above (see Named Employee #8 – Allegation #1), OPA recommends that this allegation be Not Sustained – Inconclusive.

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

**Named Employee #8 – Allegation #6**

***8.300-POL-10 Use of Force – Blast Balls 7. As Soon As Reasonably Possible, Officers Will Request and/or Render Medical Aid for Subjects Who Appear to Have Been Injured by a Blast Ball Deployment or Who Complain of Pain or Injury Resulting From a Blast Ball Deployment***

For the same reasons as stated above (see Named Employee #8 – Allegation #1), OPA recommends that this allegation be Not Sustained – Inconclusive.

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

**Named Employee #8 – Allegation #7**

***14.090 - Crowd Management 10. Officers May Make Individual Decisions to Deploy OC Spray, and Blast Balls Consistent with Title 8 - Use-of-Force a & b***

For the same reasons as stated above (see Named Employee #8 – Allegation #1), OPA recommends that this allegation be Not Sustained – Inconclusive.

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

**Named Employee #9 - Allegation #1**

***14.090 Crowd Management 9. Crowd Dispersal a. Upon Determining That There are Acts or Conduct Within a Group ...***

OPA did not identify any instances on May 30, June 2, or June 7 where a dispersal order was given or carried out absent the orders of an officer of Lieutenant-rank or higher. Consequently, OPA was not able to identify any unknown SPD officer who made the decision to disperse a crowd outside of policy or deployed non-lethal tools which produced that outcome absent sufficient justification. Consequently, OPA recommends that this allegation be Not Sustained – Unfounded.

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

**Named Employee #9 - Allegation #2**

***14.090 Crowd Management 9. Crowd Dispersal b. The Incident Commander Shall Have Authority to Direct the Use of Blast Balls and OC Spray to Disperse the Crowd***

For the same reasons as stated above (see Named Employee #9 – Allegation #1), OPA recommends that this allegation be Not Sustained – Unfounded.





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

**Named Employee #9 - Allegation #3**

***14.090 Crowd Management 8. The Incident Commander Retains Ultimate Responsibility for the Decisions of Subordinates***

For the same reasons as stated above (see Named Employee #9 – Allegation #1), OPA recommends that this allegation be Not Sustained – Unfounded.

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