



CLOSED CASE SUMMARY

ISSUED DATE: MARCH 30, 2021

FROM: DIRECTOR ANDREW MYERBERG
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0467

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	16.130 - Providing Medical Aid POL - 2 Officers Providing Medical Aid 1. Recognizing the Urgency of Providing Medical Aid	Not Sustained (Lawful and Proper)

Named Employee #2

Allegation(s):		Director’s Findings
# 1	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained (Lawful and Proper)

Named Employee #3

Allegation(s):		Director’s Findings
# 1	6.010 - Arrests 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest	Not Sustained (Lawful and Proper)
# 2	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained (Lawful and Proper)
# 3	16.130 - Providing Medical Aid POL - 2 Officers Providing Medical Aid 1. Recognizing the Urgency of Providing Medical Aid	Not Sustained (Lawful and Proper)

Named Employee #4

Allegation(s):		Director’s Findings
# 1	6.010 - Arrests 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest	Not Sustained (Lawful and Proper)
# 2	8.200 - Using Force 1. Use of Force: When Authorized	Not Sustained (Lawful and Proper)
# 3	16.130 - Providing Medical Aid POL - 2 Officers Providing Medical Aid 1. Recognizing the Urgency of Providing Medical Aid	Not Sustained (Lawful and Proper)
# 4	11.050 - Detainee Property 1. Officers Secure Detainee Property	Not Sustained (Training Referral)

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:



It was alleged that the Complainants were arrested for no reason, that they were subjected to excessive force, and that SPD officers intentionally failed to provide Complainant #1 medical attention. OPA further alleged that Named Employee #4 may have failed to ensure that Complainant #1's property was transported with her to the West Precinct.

SUMMARY OF INVESTIGATION:

This case stems from the demonstrations that occurred on July 25, 2020, and SPD's response thereto. The demonstrations that took place on that day were the largest since the protests began in late May/early June. As a general matter, a large crowd marched from the Central District/South Seattle to the East Precinct. Along the way, individuals within the crowd caused property damage, including shattering the windows of businesses and setting trailers and other buildings on fire in a cordoned off area in the vicinity of the Youth Service Center. SPD additionally reported that demonstrators threw at least one explosive device at the East Precinct, which caused damage to the precinct wall.

As demonstrators passed the East Precinct and walked towards Cal Anderson Park, officers emerged from the precinct and proceeded towards the crowd. SPD issued a number of dispersal orders, which were not complied with. Ultimately, both groups clashed repeatedly, resulting in numerous uses of force against demonstrators and violence towards officers over a prolonged period of time. As a result, OPA received and/or initiated multiple investigations, including this case.

The incident here occurred while SPD officers began to push the demonstrators back from the vicinity of the East Precinct. This push occurred for a sustained period of time. Throughout, demonstrators threw projectiles at officers and officers used force, including less-lethal tools. The Named Employees were all at the front of the officers trying to move the crowd. They were focused on a number of individuals – ultimately including Complainant #1 and Complainant #2 – who they perceived to be moving too slowly and purposefully delaying to allow projectiles to be thrown at officers from within the group. A number of these individuals, again including the Complainants, were arrested.

The Body Worn Video (BWV) for Named Employee #4 (NE#4) and Named Employee #3 (NE#3) showed the clearest view of the moments prior to the Complainants' arrests, the arrests themselves, and what occurred immediately afterwards. The BWV indicated that NE#4 was following the group and that the Complainants were at the rear. NE#4 yelled "move," and pushed Complainant #1 forward, making contact with her backpack. She appeared to slow down, and NE#4 again pushed her forward. She then seemed to momentarily stop altogether. NE#4 stated: "You will be arrested. You will be arrested if you don't move." Complainant #1 still remained static and NE#4 grabbed onto her and said: "Alright, you're under arrest." He pulled Complainant #1 down to the ground and pulled her to the side. Complainant #2, Complainant #1's husband, held onto to her and fell down with her. They held onto each other while on the ground and while officers attempted to separate them.

Officers, including Named Employee #2 (NE#2), struggled with Complainant #2, and NE#4 held Complainant #1 down. Complainant #2 exclaimed loudly during this time as he resisted the officers' attempts to take him into custody. NE#3 initially helped control Complainant #2, but then moved to arrest a third individual who had tried to intervene. Several officers, including NE#3, struggled with this third individual before being able to control and handcuff him.



NE#4 began trying to handcuff Complainant #1 with the assistance of other officers. She screamed during this time. NE#4 started to say to her: "As soon as you stop fighting..." Complainant #1 cut him off, yelling: "Fuck you. Fuck you." Complainant #2, who was lying near Complainant #1, said: "What are you doing to my wife?" He called the officers: "Fucking cowards." Complainant #1 repeated that statement.

NE#4 went over the radio to report the arrests and to request a supervisor. Demonstrators began to yell to the Complainants to give them their names. The Complainants did so. The Complainants were placed in a seated position. Officers stood Complainant #2 up. NE#4 tried to get Complainant #1 to stand up and said: "We're going to stand you up and move you over here." However, Complainant #1 was uncooperative and reclined onto her back. Complainant #2 yelled at NE#4: "Will you fucking help her?" NE#4 replied: "No, she's not moving, I've asked her to get up..." Another officer came over to try to stand Complainant #1 up. She yelled at them: "I can't breathe, you cunt." An officer removed her mask and she referred to the officer as a "pig" and told him to "get the fuck out of" her face. Complainant #1 again reclined on her back. The officer who removed her mask asked if it was better. She responded that he should "get the fuck out of" her face. She continued to tell the officer "fuck you" and to call him a "fucking cunt."

Complainant #1 began yelling that officers "stomped" on Complainant #2's back and "kneeled" on Complainant #2's neck. NE#4 spoke with another officer and said that they needed a transport "now." At that time, a group of demonstrators began moving towards where the officers and the Complainants were situated. An officer told NE#4 that they should move Complainant #1, but he stated that they could not do so without using force. NE#4 asked for another officer to help him move Complainant. She repeatedly yelled that officers had kneeled on Complainant #2's neck. She yelled at the officers: "Where the fuck did you motherfuckers expect us to go? You motherfuckers were pushing us into the people in front of us. Where the fuck did you want us to go" She continued to yell that officers had kneeled on Complainant #2's neck.

The group of demonstrators continued to advance, and officers deployed blast balls to maintain space. NE#4 stated that they needed to get the arrestees "out." He and another officer who had since arrived on scene lifted Complainant #1 up by grabbing each of her arms and carrying her. NE#4 stated: "get up, we're moving" and "stand up and walk with your feet." Complainant #1 did not do so and remained limp. The officers continued to pull her down the sidewalk for approximately 20 seconds. She stopped yelling during that time.

The officers stopped at a driveway down the block and waited for a transport van to arrive. Complainant #1 was lying on her side not saying anything. Complainant #2 said: "What are you doing to my wife. You fucking assholes." He then stated: "She's got a medical condition." Complainant #1 remained prone on the ground for several minutes. During that time, the officers discussed calling the Seattle Fire Department (SFD) to the scene. They ultimately did so. NE#2 checked to verify whether Complainant #1 was unconscious and/or breathing normally. He tapped her and asked her if she had any medical conditions. Another officer – referred to here as Witness Officer #1 (WO#1) – began evaluating Complainant #1's condition. WO#1, who is EMT trained, checked if she was breathing and tapped her. He asked Complainant #1 if she was okay and she responded: "fuck you." WO#1 tried to sit Complainant #1 up but her head lolled to one side. He then placed her back into the recovery position. WO#1 performed a sternum rub on Complainant #1 and Complainant #2 yelled at him to stop touching his wife's breasts, which WO#1 denied doing. He performed another sternum rub and Complainant #1 stirred and said: "Jesus Christ." She began to call for help. WO#1 again tried to get her up but determined that she was too weak. He called for a Sergeant.



Just under six minutes after she had been carried to the driveway, Complainant #1 again began yelling that officers kneeled on Complainant #2's neck. She remained conscious for a period of time. Officers formed a line between where the Complainants were and other demonstrators. At one point, WO#1 stated, concerning the Complainant, "she's convulsing." Both WO#1 and Named Employee #1 (NE#1), who was also an EMT, continued to monitor Complainant #1, with WO#1 primarily doing so. NE#1 checked in with WO#1 to see whether Complainant #1 was responsive, and WO#1 responded: "very little." WO#1 tried to give Complainant #1 water. NE#1 spoke with demonstrators who were calling for medical attention for Complainant #1. He told them that SFD was on their way and needed time to get to their location.

A Sergeant tried to speak with Complainant. The Sergeant introduced himself and asked Complainant #1 whether she had medical conditions that SFD should be aware of. Complainant #1, who was no longer convulsing, responded by saying "fuck you" and calling the Sergeant a cunt. After a period of not saying anything, Complainant #1 began yelling again. She told nearby demonstrators: "an officer punched me in the back of the head, and I woke up like this." SFD personnel proceeded down the street towards Complainant #1. She yelled out: "I have epilepsy." WO#1 remained near Complainant #1 and tried to give her water. She repeatedly used profanity towards him. She again accused officers of punching her in the head. SFD personnel arrived and began assessing her. WO#1 tried to tell SFD what he had observed but Complainant #1 spoke over him and swore at him. WO#1 eventually walked away and SFD continued to treat Complainant #1. After Complainant #1 received medical treatment, she was asked whether she wanted to be transported to the hospital. She declined. Complainant #1 was then transported to the West Precinct. She and Complainant #2 had no further interactions with the Named Employees.

NE#4 later documented that he arrested Complainant #1 because he believed that she was deliberately slowing down and preventing officers from dispersing the crowd from the area. He stated that Complainant #1, Complainant #2, and the other demonstrators at the back of the line purposefully slowed down to allow for demonstrators further within the crowd to throw projectiles at officers. He noted that, every time the group slowed, projectiles were thrown. NE#1 asserted that the conduct of Complainant #1, coupled with her refusal to move out of the area despite repeated commands and dispersal orders, formed probable cause to arrest her. In addition, Complainant #2 was arrested for his similar conduct, as well as for his continuing to hold onto Complainant #1 as officers tried to arrest her. Lastly, the third individual was arrested for trying to de-arrest the Complainants.

OPA later received a number of complaints concerning this incident. As a general matter, the complaints asserted that the Complainants were arrested for no reason, that they were subjected to excessive force, and that SPD officers intentionally failed to provide Complainant #1 medical attention. During its review of the BWV, OPA further determined that NE#4 may have failed to ensure that Complainant #1's property was transported with her to the West Precinct. Lastly, it was alleged that unknown SPD officers mocked Complainant #1 while she was being held at West Precinct and failed to provide her with medical treatment while there, including refusing to give her medication. The investigation into the allegations against the unknown SPD employees remains ongoing and will be addressed in a separate DCM.

As part of its investigation, OPA extensively reviewed BWV, as well as reviewed the documentation completed by the Named Employees and other officers. OPA interviewed all of the Named Employees. OPA attempted to interview the Complainants, including by reaching out to their attorneys to schedule the interviews. However, the Complainants declined to participate.



ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

16.130 - Providing Medical Aid POL - 2 Officers Providing Medical Aid 1. Recognizing the Urgency of Providing Medical Aid

SPD Policy 16.130-POL-2(1) concerns the provision of medical aid by officers. The policy specifically provides the following instruction: "Recognizing the urgency of providing medical aid and the importance of preserving human life, officers will request medical aid, if needed, and render appropriate medical aid within their training as soon as reasonably possible."

The Complainants and other community members alleged that the Named Employees – specifically NE#1, NE#3, and NE#4 – failed to provide medical treatment to the Complainant. They alleged that the officers did not assist her even though she was convulsing and, at time, unconscious. Lastly, it was also alleged that the officers actively prevented SFD from timely responding to the scene.

All of these allegations are conclusively disproved by the BWV. First, the video showed that multiple officers, including NE#1, NE#2, and WO#1 repeatedly checked on Complainant #1 and tried to provide her with medical assistance. This was particularly the case with WO#1, a trained EMT, who remained by Complainant #1 virtually the entire time she was unconscious and when she was convulsing. He performed a sternum rub, made sure that she was in the recovery position, tried to communicate with her to continually gauge her condition, and took steps to get her water.

Second, none of the officers were deliberately indifferent to Complainant #1's medical conditions. At the time they carried her over to the driveway, Complainant #1 was not yet unconscious or exhibiting any signs of medical distress. To the contrary she was physically resisting against the officers, yelling at them and to other demonstrators, and deliberately refusing to stand up and walk from that location. In hindsight, it appeared that she lost consciousness while being carried; however, the BWV clearly showed that none of the officers were aware of that during those 20 seconds. Moreover, after she lost consciousness and then began to wake, multiple officers tried to determine whether she had any preexisting conditions in order to better assess her; however, she responded to them with profanity. The officers believed that she could have been suffering from heat stroke and had no idea that she had epilepsy until she yelled it out virtually at the end of the incident.

Third, officers called for SFD within minutes of determining that Complainant #1 was suffering from a medical event. NE#1 remained on the radio to determine SFD's arrival time and tried to explain to demonstrators – unsuccessfully – that medical assistance had been called for but was delayed. While it took SFD around 15 minutes to arrive on scene and begin treating Complainant #1, this delay was based on the extensive demonstration activity that was ongoing and the difficulty of SFD accessing the location. It was not due to malfeasance on the officers' part. Lastly, Complainant #1 did receive medical treatment from SFD. However, she declined to go the hospital where she could have received more specialized treatment and was, instead, transported to the West Precinct.

Ultimately, OPA finds that the officers took sufficient steps to assess Complainant #1's medical condition and to treat her. Moreover, they promptly called for SFD and ensued that she received medical care. Accordingly, OPA finds that they complied with the terms of this policy and recommends that this allegation be Not Sustained – Lawful and Proper as against NE1, NE#3, and NE#4.



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

Named Employee #2 - Allegation #1

8.200 - Using Force 1. Use of Force: When Authorized

SPD Policy 8.200(1) requires that force used by officers be reasonable, necessary and proportional. Officers shall only use “objectively reasonable force, proportional to the threat or urgency of the situation, when necessary, to achieve a law-enforcement objective.” Whether force is reasonable depends “on the totality of the circumstances” known to the officers at the time of the force and must be balanced against “the rights of the Complainant, in light of the circumstances surrounding the event.” (SPD Policy 8.050.) The policy lists a number of factors that should be weighed when evaluating reasonableness. (*See id.*) Force is necessary where “no reasonably effective alternative to the use of force appeared to exist” and “the amount of force used was reasonable to effect the lawful purpose intended.” (*Id.*) Lastly, the force used must be proportional to the threat posed to the officer. (*Id.*)

NE#2 used force to pull Complainant #2 away from Complainant #1, to secure his body, and to place him into handcuffs. Both of the Complainants alleged that, at this time, NE#2 put his knee on Complainant #2’s neck.

As a threshold matter, from NE#2’s vantage point, Complainant #2 was interfering in the arrest of Complainant #1 by holding onto her as NE#4 tried to take her into custody. Accordingly, NE#2 had probable cause to arrest Complainant #2 for obstruction and, to do so, was allowed to use appropriate force. Here, NE#2 used control holds and body weight to pull Complainant #2 away from Complainant #1, and to get him onto his stomach. Once Complainant #2 was on his stomach, NE#2 placed his knee near top of Complainant #2’s back to keep him from continuing to resist and move around. From a review of the BWV, there was no evidence that NE#2’s knee ever made contact with Complainant #2’s neck. OPA also found no evidence indicating that NE#2 ever “stomped” on Complainant #2’s back.

Ultimately, the force NE#2 did use was reasonable, necessary, and proportional. It was intended to prevent Complainant #2 from further resisting and to control his body so that he could be handcuffed. NE#2 used only that force needed to do so. He did not strike Complainant #2 at any time and, as discussed above, did not make contact with Complainant #2’s neck.

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

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

Named Employee #3 - Allegation #1

6.010-POL - Arrests 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest

SPD Policy 6.010-POL-1 requires that officers have probable cause to believe that a suspect committed a crime when effectuating an arrest. 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 an officer’s knowledge are sufficient in themselves to support a reasonable belief that an offense has been or is being committed.



NE#3 reported that he arrested the third individual because he observed that individual trying to de-arrest the Complainants. He believed that this gave him sufficient facts to form probable cause for obstruction.

OPA's review of the BWV confirmed that, at the time officers were attempting to take the Complainants into custody, the third individual (and others) moved towards the Complainants and in an apparent attempt try to pull them from the police. NE#3 immediately responded and took hold of the third individual, taking him to the ground. Given this, it is clear that probable cause existed for the arrest.

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

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

Named Employee #3 - Allegation #2

8.200 - Using Force 1. Use of Force: When Authorized

NE#2's force was comprised with control holds to try to get the third individual under control and a dispersal of pepper spray at the third individual. With regard to the control holds, as discussed above, NE#3 had probable cause to arrest the Complainant and, in doing so, was allowed to control his body and handcuff him. The BWV established that the third individual physically resisted, including trying to prevent multiple officers from getting him onto the ground. Accordingly, physical compulsion was permitted to effectuate the arrest.

For the same reasons, the use of pepper spray was appropriate. Again, the third individual was struggling with multiple officers in order to prevent them from arresting him. NE#2 believed, and OPA concurs, that a brief deployment of pepper spray was permissible to stop the third individual from doing so and to end the physical conflict. The use of pepper spray was effective and, soon thereafter, the officers were able to handcuff the third individual. Notably, at the time of the pepper spray application, the third individual was wearing a respirator and it did not appear that it caused him any ill effects.

For these reasons, OPA finds that NE#3's force was reasonable, necessary, and proportional. As such, OPA recommends that this allegation be Not Sustained – Lawful and Proper.

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

Named Employee #3 - Allegation #3

16.130 - Providing Medical Aid POL - 2 Officers Providing Medical Aid 1. Recognizing the Urgency of Providing Medical Aid

For the same reasons as stated above (see Named Employee #1 – 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

6.010-POL - Arrests 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest

The Complainants and the officers present different accounts concerning whether there was probable cause to arrest Complainant #1. The Complainants said that they were simply part of the crowd and were moving as fast as they could go when they were grabbed by NE#4 and other officers and pulled to the ground. The Complainants denied being involved in criminal activity or acting as a shield for bad actors in the crowd.

For his part, NE#4 asserted that a lawful dispersal order had been given to the crowd and demonstrators, including the Complainants, had not left the vicinity. He stated that a pattern began to evolve where the demonstrators in the rear of the crowd, directly in front of the officers, would slow down substantially in the path of the officers. At those moments, projectiles would be thrown from within the crowd directly at officers. NE#4 explained that this was why it was so important to keep the crowd moving at a brisk pace and to prevent these slowdowns and the resultant danger posed to officers. NE#4 said that Complainant #1 repeatedly slowed down, even after being told to speed up and being pushed forward. He warned her that if she did not keep moving and if she stopped again, she would be arrested. When she did so, NE#4 made the decision to effectuate the arrest and pull Complainant #1 to the ground. When Complainant #2, who fell down with her, tried to prevent Complainant #1 from being handcuffed, he was also arrested.

OPA examined the BWV from multiple officers who were involved in the pushing of the group forward. It did appear that officers periodically took projectiles, including large rocks, that were thrown from within the crowd. The BWV also verified that, on several occasions, Complainant #1, who was directly in front of the line of officers, slowed down and, at one point, stopped and seemed to push back against NE#4. What OPA cannot conclusively establish is that Complainant #1 was purposefully doing so to facilitate a slowdown that would allow the throwing of projectiles. However, this is not required to meet the probable cause standard.

As indicated above, probable cause only requires that an officer have facts that form a reasonable belief that a crime was being committed. The facts available to NE#4 were the failure of the crowd to disperse, the repeated oncoming projectiles, and Complainant #1 slowing down and stopping. After considering the totality of these facts, NE#4 felt that there was a reasonable basis to conclude that NE#4 was engaging in criminal activity and could be arrested.

In assessing this determination, it is important to note that probable cause is not a high standard of proof. As articulated by the Ninth Circuit:

For information to amount to probable cause, it does not have to be conclusive of guilt, and it does not have to exclude the possibility of innocence...police are not required "to believe to an absolute certainty, or by clear and convincing evidence, or even by a preponderance of the available evidence" that a suspect has committed a crime. All that is required is a "fair probability," given the totality of the evidence, that such is the case.

Garcia v. County of Merced, 639 F.3d 1206, 1209 (9th Cir. 2011) (citations omitted). In addition, when considering whether probable cause existed, OPA must consider the question using a reasonable officer analysis. This means that OPA must determine whether an officer with NE#4's same training and experience would have also deemed



there to be a legal basis to make the arrest. *See United States v. Ortiz*, 422 U.S. 891, 897–98, 95 S. Ct. 2585, 45 L. Ed. 2d 623 (1975).

Here, NE#4 articulated that, in his experience – both past and immediate – demonstrators in the rear of the crowd slowed down to allow projectiles to be thrown at officers. The video showed projectiles being thrown and Complainant #1 and others at the rear of the crowd slowing down. Moreover, other officers who were in the same place as NE#4 also articulated those same concerns. Given this and when applying Ninth Circuit and U.S. Supreme Court caselaw, OPA finds that he met probable cause standard. Again, as indicated above, this does not mean that OPA concludes that Complainant #1 was actually guilty or acted with criminal intent. That is a matter to be resolved in court, whether criminal or civil. OPA's sole focus is law and policy and OPA finds that neither was violated here.

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

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

Named Employee #4 - Allegation #2

8.200 - Using Force 1. Use of Force: When Authorized

OPA's conclusion that NE#4 had probable cause informs the decision that his force did not violate policy.

NE#4 used force to push Complainant #1 forward several times and then to take her down to the ground and arrest her. As discussed above, at the time of the pushes, NE#4 reasonably believed that Complainant #1 was deliberately slowing down to allow demonstrators in the crowd an opportunity to throw projectiles at officers. The throwing of projectiles was established by the video, as was the fact that Complainant #1 slowed down and stopped. Given this, force in the form of pushes was appropriate to move Complainant #1 forward and was consistent with policy.

At the time he used force for the second time, he had established probable cause to arrest Complainant #1. He pulled her sideways and down towards the ground. He did not slam her to the ground and some of her momentum appeared to be caused by Complainant #2 holding onto her. Pulling Complainant #1 down to the ground was not an unreasonable use of force under the circumstances. Complainant #1 was proceeding away from NE#4 at the time and NE#4 believed, based on her prior conduct, that she was going to be non-compliant. As such, he chose to pull her down to stop her and arrest her. This was consistent with policy under the circumstances.

While perhaps not rising to uses of force, NE#4 used physical compulsion on Complainant #1 on two additional occasions. First, he did so to stop her from moving when she was on the ground and to handcuff her. This consisted of him holding her down and then putting her hands behind her back. This was not excessive. Second, he and another officer carried the Complainant down the street when she refused to stand up and walk and as protestors were moving towards them. OPA finds that the officers had a legitimate law enforcement interest in moving Complainant #1 and she refused to walk on her own volition. Moreover, at the time they started carrying her, she was not unconscious and was yelling.

Lastly, Complainant #1 stated several times after her arrest that an unknown officer punched her in the back of the head causing her to lose consciousness. This allegation was clearly disproved by the video.

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



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

Named Employee #4 - Allegation #3

16.130 - Providing Medical Aid POL - 2 Officers Providing Medical Aid 1. Recognizing the Urgency of Providing Medical Aid

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

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

Named Employee #4 - Allegation #4

11.050 - Detainee Property 1. Officers Secure Detainee Property

SPD Policy 11.050-POL-1 requires that officers secure detainee property. OPA alleged that NE#4 may have violated this policy when he failed to ensure that Complainant #1's bag and other personal property was transported with her to the West Precinct.

BWV showed that NE#4 removed Complainant #1's backpack from her. Another officer also removed her helmet and mask. Those items remained at the scene of her initial arrest when she was carried from that location down the block to the driveway. BWV further indicated that NE#4 responded back to the initial arrest location and gathered two helmets and a bag. Those items were later entered into evidence. However, when Complainant #1 tried to pick up her items, it was determined that the property that NE#4 gathered did not belong to her.

NE#4 told OPA that he later reviewed his BWV and determined that he could not see Complainant #1's property at the initial arrest location as he carried her from the scene. He indicated, however, that he was concerned at the time with transporting her from the scene prior to the other demonstrators arriving and was not focused on her property.

OPA finds that, once NE#1 took Complainant #1 into his custody, he was responsible for her property. However, OPA recognizes that this was a quick moving situation and that NE#4 reasonably believed that he exigently needed to move Complainant #1 to another location. OPA also notes that NE#4 did return to the scene and collect property that he believed belonged to Complainant. While this was incorrect, he acted in good faith when he did so. For these reasons and under the circumstances, OPA concludes that a Training Referral is the appropriate result.

- **Training Referral:** NE#4 should be counseled concerning his failure to collect Complainant #1's property after her arrest was effectuated. NE#4 should be reminded of how important it is to preserve arrestee property and should be instructed to more closely comply with this policy in the future. This retraining and counseling should be documented, and this documentation should be maintained in an appropriate database.

Recommended Finding: **Not Sustained (Training Referral)**