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No Criminal Charges Filed Against BPD Assistant Chief Joseph Mullins

On July 31, 2020, the Kern County Sheriff's Office submitted reports documenting an alleged incident involving Bakersfield Police Department Assistant Chief Joseph Mullins to the Kern County District Attorney's Office for review of a potential misdemeanor charge of battery, under Penal Code 243(a). In light of the Asst. Chief Mullins' longstanding tenure in the local law enforcement community, and consistent with past practices, the District Attorney's Office sought additional supervision from the state Attorney General's office in reviewing the case and making a determination of potential charges. Ultimately, the District Attorney's Office, acting under supervision of the Attorney General's Office, has concluded that criminal charges in this incident are not warranted, and thus will not be filed.

The Bakersfield Police Department had requested the Sheriff's Office conduct the investigation into the matter, and the Sheriff's Office conducted a thorough investigation, accounting for interviews of dozens of potential witnesses to the incident. The incident centered around a briefing at the BPD headquarters in June of 2020. The briefing, attended by an estimated 30-40 police officers, included Asst. Chief Mullins in attendance and as a speaker. A complaint was made regarding the conclusion of the briefing, at which point it is alleged that Asst. Chief Mullins made what has been alternately described by differing witnesses as a single "flick" or "jab," or "tap," or "push," or "punch" motion to another BPD officer's chest, making contact and taking the affected officer by surprise. As a result of the contact, the affected officer, who was standing near a wall, reported being pushed back 4 to 6 inches such that his back made contact with the wall he was standing next to. The officer that was struck was reportedly wearing soft body armor under his shirt at the time of the incident.

Based on the totality of the investigation, the District Attorney's Office has concluded that there is insufficient evidence to prove beyond a reasonable doubt that Asst. Chief Mullins' alleged contact with the affected officer was malicious or done with any criminal intent. There was indication in the reporting that the contact made by Asst. Chief Mullins may have been a misguided attempt to determine if the affected officer was actually wearing body armor.

The event occurred in the presence of dozens of police officers, and the Sheriff's Office conducted interviews with them. Though many officers present did not notice the quick interaction, those who did generally described the incident as 'horseplay,' 'playful,' 'joking,' or in similar terms.

In order for a criminal offense to be supported for battery, there must be proof beyond any doubt that the willful contact made was made unlawfully and in a "harmful or offensive manner." Whether an action is done in a harmful or offensive manner is judged on whether an objectively reasonable person would conclude that the action was done in a harmful or offensive manner – not solely upon whether the affected person found the conduct offensive.

A consideration in whether criminal charges are appropriate in any case often includes whether alternative remedies short of criminal prosecution are available to aggrieved parties and more appropriate for the conduct alleged. In this instance, there are civil and administrative options available to the affected officer, including within the Bakersfield Police Department, as well as through the City of Bakersfield's Human Resources Department to address workplace disputes that do not rise to a level warranting criminal prosecution. Based on the totality of the circumstances, the District Attorney's Office has concluded that there is insufficient evidence to prove that the alleged contact made by Asst. Chief Mullins rose to the "harmful or offensive manner" requirement for a criminal violation. Additionally, the relatively minor nature of the contact was determined more befitting of administrative or human resources intervention, rather than criminal prosecution.

Assistant District Attorney Joseph Kinzel, who participated in the determination not to file charges in the case, stated "The involvement of several independent agencies in the investigation and filing decision is evidence of the lengths that Kern County departments will take to ensure transparency and fair treatment to all parties involved, even when allegations are of a relatively minor nature. A full investigation of the incident was conducted that revealed that the alleged conduct, while perhaps best avoided in the workplace, does not rise to a level meriting criminal prosecution."