Seattle
Office of Police
Accountability

CLOSED CASE SUMMARY

ISSUED DATE: SEPTEMBER 20, 2024

FROM: DEPUTY DIRECTOR BONNIE GLENN ON BEHALF OF DIRECTOR GINO BETTS, JR.
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2024OPA-0144

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	8.200 - Using force, 8.200-POL 1. Use of force: When Authorized	Not Sustained - Lawful and Proper

Named Employee #2

Allegation(s):		Director's Findings
# 1	8.200 - Using force, 8.200-POL 1. Use of force: When Authorized	Not Sustained - Lawful and Proper

Named Employee #3

Allegation(s):		Director's Findings
# 1	8.200 - Using force, 8.200-POL 1. Use of force: When Authorized	Not Sustained - Lawful and Proper

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 three off duty Named Employee's (NE#1), (NE#2) and (NE#3), used excessive force against him, when officers responded to a fight disturbance at Lumen field.

ADMINISTRATIVE NOTE:

On August 28, 2024, OIG certified OPA's investigation as thorough, timely, and objective. The 180 deadline was missed due to time constraints.

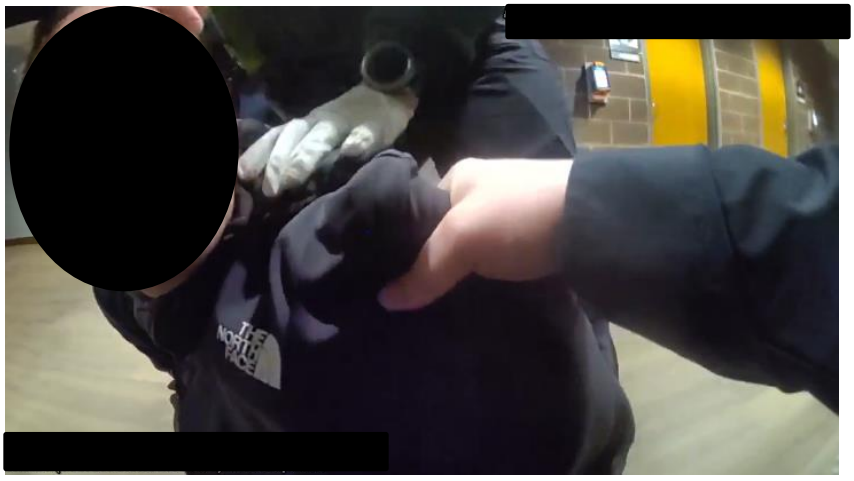
SUMMARY OF INVESTIGATION:

On March 23, 2024, NE#1, NE#2, and NE#3 were working off duty at Lumen Field when stadium staff asked the officers for assistance with a fight disturbance in the staircase adjoining section of 211 and 111 levels. Officers arrived and several community members were holding down the Complainant on the ground staircase. Upon arrival to the location of the incident, NE#1, NE#2 and NE#3 heard cheers from the crowd when they arrived to assist with the fight disturbance. Also, all three officers observed several community members holding down the Complainant on the ground. Officers then announced their presence and provided verbal commands to the Complainant not to fight. All three officers took hold of the Complainant from community members holding him down. There were several community members around the officers at this time. The Complainant began kicking his legs and grabbing for the officer's gun belts, vests, faces and hands. The Complainant resisted officers in being placed in handcuffs. The

Complainant violently thrashed his body around. The Complainant again kicked at the officers, grabbed at the handcuffs, and the officer's hands.

The Complainant kicked NE#2 in his thighs and legs. NE#1 recalled having to pry the Complainant's fingers from the open handcuffs. NE#1, NE#2, and NE#3 were eventually able to place the Complainant in handcuffs and began to walk him up the stairs to the stadium suite section. NE#1 and NE#2 each hooked an arm of the Complainant with NE#3 assisting the Complainant with his feet, as they walked up towards the suite section. When officers reached the top of the stairs, the Complainant put his right leg up on the adjacent wall, bent his knee and kicked backwards, which almost pushed him and the officers backwards down the stairs. NE#3 was able to push back against officers NE#1 and NE#2 to brace them from falling backwards. All three officers were able to move the Complainant into the hallway of the stadium suite section.

Once the Complainant and officers were in the hallway of the stadium suite section, the Complainant continued to kick his legs out and move his upper body in attempting to get away from the officer's grip. NE#2 and NE#3 maneuvered the Complainant to the ground on his stomach with NE#1 also present to maintain control holds. The Complainant positioned himself in a way that he was near NE#1's genital region. The Complainant then bit NE#1's penis. NE#1 then pushed the Complainant away from his groin area and yelled multiple times not to bite him. The Complainant continued to attempt to bite NE#1 in the groin area. The Complainant was then placed in the recovery position by officers. The Complainant continued to kick and scratch at officers. The Complainant then began to propel himself upwards with his mouth open attempting to bite NE#1 again. NE#1 then extended his arm out to push the Complainant away to avoid being bit again. The Complainant appeared to have fell on his right shoulder when NE#1 asked if the Complainant was unconscious or knocked out. NE#3 then stood up and saw the Complainant's legs were still and then shook his right wrist while lifting his left shoulder. Blood began to drop from the Complainant's nose. Officers sat the Complainant up. The Complainant was being held up and began to yell and made statements to include, "I'm going to need a lawsuit, they're choking the shit out of me," "ow, ow, ow," when they asked him his name, he said it was "lawsuit," my name is lawsuit," "you listen, back the fuck off." WS#1 read the Complainant his Miranda rights.



BWV shows the Complainant held up right by NE#1 and WS#1 while stating, "they're choking the shit out of me." BWV does not show the Officers choking the Complainant.

BWV shows the Complainant being held upright by Officers. BWV does not show the Officers choking the Complainant.

The Seattle Fire Department arrived at the scene and placed an oxygen mask over the Complainant's face to prevent him from getting blood and spit on officers and any potential community members.[1] Witness Supervisor #1 (WS#1) and NE#3 assisted the Complainant into a wheelchair and wheeled him to a holding cell at Lumen field. The Complainant continued to kick and spit on officers while being placed in a holding cell.

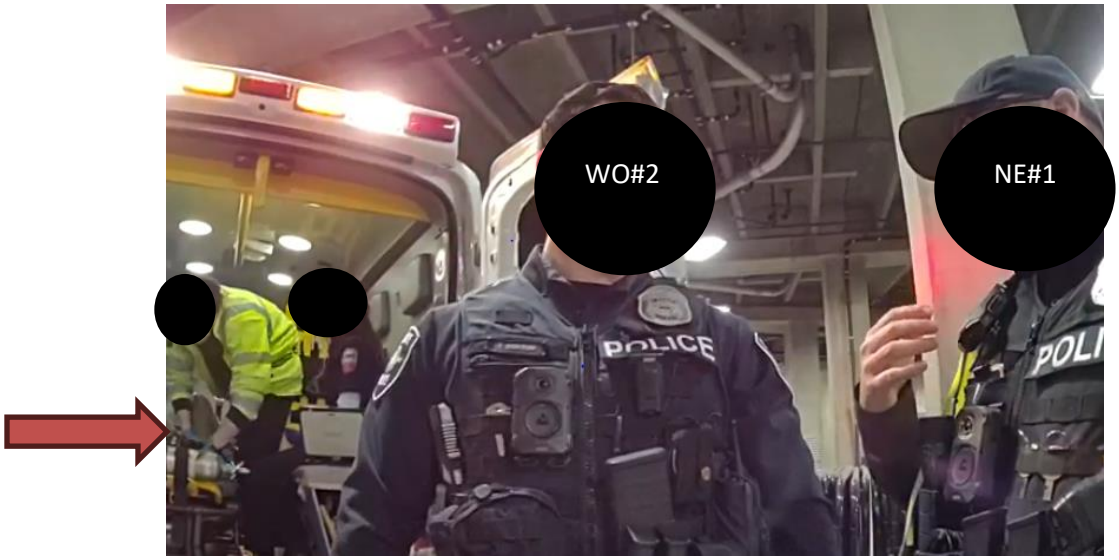
NE#3 spoke with Stadium Employee #1 (SE#1). SE#1 stated he saw the subject on the ground held down by patrons prior to the officers arriving to contact him. SE#1 then asked NE#3, "is he okay?" in reference to NE#1. SE#1 reported seeing the Complainant bite NE#1. Security Member #2 (SE#2), reported he was standing in the staircase waiting for Officers and witnessed the Complainant fighting with Officers on the staircase. SE#2 recalled seeing the Complainant kicking at officers. NE#2 then spoke with Security Member #3 (SE#3), who stated, she saw the Complainant resisting as he attempted to kick and bite officers. Also, they recalled officers giving verbal commands to stop resisting several times and to stop biting. SE#3 heard officers asking people to step back as the Complainant was spitting blood. NE#3 stated that two community members on scene were filming the incident on their cellphones. NE#3 and WS#1 completed the necessary documentation and screened the incident to FIT.

AMR and West Precinct Officers to include Witness Officers #1 and #2 (WO#1) and (WO#2) responded to the scene and assisted with AMR transporting the Complainant to Harborview Medical Center (HMC) for further medical evaluation before being transported to the King County Jail (KCJ). An AMR employee placed a spit sock on the Complainant for transfer to HMC.

[1] SFD applied an oxygen mask with the tube cut off, as they did not have a spit sock present.

AMR Staff Placing Spit Sock over the Complainant's head. (red arrow)

WO#1 was a backing officer and walked to the AMR gurney and followed the AMR to HMC and conducted hospital guard of the Complainant. WO#2 responded to assist with the Complainant's transport to HMC and stood by on hospital guard until he was relieved at 2304 hours. The Complainant was booked into KCJ for two counts of felony investigation assault three.



WO#2 assisted with transport of the Complainant on a gunnery (red arrow). Two AMR employees with Complainant in AMR vehicle prior to going to Harborview.
NE#1 talking with WO#2 prior to transport of Complainant.

CAD

On March 23, 2024, at approximately 7:48pm, the following call report was dispatched: "AS[SAU]LT AS[SAU]LT – WITH OR W/0 WEAPONS (NO SHOOTINGS)." NE#3 responded at approximately 8:17 p.m. to Lumen Field.

a. Event Services Incident Report and Statements

Security Employees (SE#1), (SE#2), and (SE#3) completed an Incident Report for the Complainant on March 23, 2024. The report listed the Complainant as the violator and the boxes marked were "arrest" and "ejection". Code of conduct boxes marked were behavior as follows (unruly, disruptive, illegal); Interference of event; Failure to follow staff instructions; and Harassment of staff and or guest. Report confirmed medics and officers were called. Location of incident was section 213 stairway for the Supercross event at Lumen Field.

The incident report stated a fan, Community Member #1 (CM#1), came to them to report another fan took his seats and his beer from him and asked him to have him move. CM#1 identified the seats in section 212. Employee services staff went there to ask him to move; however, he mumbled some words and just sat there. Again, the Complainant was asked to move. CM#1 stated, the Complainant then got up and started to shove him. CM#1 backed up and asked him to calm down and just move along. CM#1 then started to shove CM#1 with his body. CM#1 continued to back up; however, this seemed to make the Complainant more angry. The Complainant then threatened CM#1. The Complainant then shoved CM#1 and shoved him and grabbed his arm. As the Complainant grabbed CM#1 he shoved him against the railing very aggressively. Once this occurred three male fans came to defend CM#1 and took the Complainant down to the ground. The Complainant fought with them for a few minutes. CM#1 called control to report an all-out fight. After a few minutes six or seven Seattle Police Officers arrived and he started to fight with them as well. Security Employees stated, after a few minutes SPD Officers were able to detain the Complainant and handcuff him. After the Complainant was handcuffed, he was brought upstairs to the stadium suite concourse where the Complainant continued to fight them. The Complainant started trying to bite the police. Blood was on the floor; however, it was unclear if the blood was the Complainant's blood or the police. Medics arrived to tend to the Complainant and they caried him off in a wheelchair.

Afterwards, five witnesses came forward to let the captain know that they saw it all happen and they saw the Complainant push CM#1. CM#1 was sore from being pushed against the railing hard and was also sore where the Complainant grabbed his arm and held on to him.

None of the three Security Employee Officers indicated that any of the Officers used excessive force. Additionally, they recalled stadium staff tell him he was going to need to leave for being too intoxicated and starting to fight with people.

b. BWV, Stadium Video and Private Party Witness Interview.

Private video from a witness showed NE#2 and NE#3 bending down to the Complainant in the crowd on the stairs. NE#1 walked up behind NE#3. Officers were heard stating, "Seattle Police". Officers began to take control of the Complainant from community members holding him down the stairs. A still shot of the private witness video shows the Complainant resisting Officers trying to handcuff him.

The Complainant sitting upward on stairs and he is resisting officers as they try to handcuff him. [2]

There is only BWV of Complainant upon being moved to the suite hallway inside the stadium. Stadium video shows a section of where the incident occurred and the Complainant walking around in section of location. Take down of the Complainant is off camera and the area was obstructed by people. Video shows several people in crowd were taking videos with their phones and watching the incident.

c. Officer Interviews

i. Interview of NE#1

On March 23, 2024, SPD Detective Officer #1 (DO#1) interviewed NE#1 at 10:01 hours. NE#1 stated he was working off duty at Lumen Field for the Motorcross event with his partner NE#3. NE#1 has done off duty work at the stadium for approximately fifteen years. His primary role is for counter terrorism and enforcing the law. NE#1 explained he has arresting authority but tries not to do so at stadium events. He stated, "usually when the police get there, people tend to calm down". NE#1 was in the full Seattle Police K-9 jumpsuit uniform with patches that identified him as a Seattle Police Officer and wearing the yellow reflective vest. NE#1 was working off duty inside the stadium. NE#1 is a K-9 handler assigned to patrol with a police dog but worked inside the stadium for this event. NE#1 stated the stadium has different layers of security to include guest services, alcohol enforcement,

[2] Still shot from private witness video of officers trying to handcuff the Complainant. Because officers were off duty, no BWV captured the use of force in stadium.

and an incident response team (IRT) that assists with guests that are unruly who may be drunk or belligerent. The IRT may call an off duty Officer to assist with disturbances and/or criminal activity. NE#1 stated he has only made maybe three uses of force total and three mandatory arrests since doing this job over the years. NE#1 explained he had his bodycam on that day, but per his SPOG contract they do not use bodycams for off duty work. Also, he stated there are hundreds of cameras in Lumen Field.

On the day of this incident, NE#1, NE#2 and NE#3 were working off duty on the east side of the stadium on the 100 and 200 level with stairs to the club suite level and stairs to the 300 level. Around the last race of the night services guest employee came running up stating, "hey, there's a fight." NE#1 radioed his call sign that they were flagged down about a fight on the second level around section 210 and requested to send some more people to include guest services and IRT. NE#1 and NE#3 walked up the stairs to that section on the 200 level and saw about fifty to sixty people standing up all around franticly waving at them. NE#1 said, they were yelling and everybody had their phones out. People were running and stated, "they're fighting" … "hurry up". NE#1 realized the fight was not breaking up and realized they had somebody on the ground. NE#1 could not see who was on the ground, but knew it was one individual who was a male wearing a black jacket. As NE#1 got closer he could see the Complainant laying on the steps with his head facing back down the stairs towards the field and his feet were facing going up. Also, there were people on top of him and it looked like the Complainant was trying to get up. NE#1 stated there was no actual punches or kicks occurring; however, it looked like they were holding the Complainant down. Based on NE#1's experience, usually this occurs when someone is drunk and people are holding them down, "to prevent anybody from getting hurt…" NE#1 then heard NE#2 state, "hey man, it's the police, stop." Next, he heard NE#2 state, "stop grabbing me". NE#1 witnessed the Complainant grab NE#2's either left or right arm. NE#2 then pulled his arm back. NE#1 then decided to handcuff the Complainant to figure out what was going on. NE#1 saw a couple people were holding the Complainant down and moved toward the Complainant. NE#1 recalled the crowd cheering and clapping as NE#1, NE#2 and NE#3 got closer to the Complainant to assist. NE#1 grabbed a hold of his left arm with both of his hands and grabbed his handcuffs on the right side of his vest. NE#1 applied one handcuff on his left wrist. Then the Complainant pulled his right arm away from NE#2 and held the teeth of NE#1's handcuff in his right hand. Because of this NE#1 could not click the handcuffs closed. NE#1 recalled the Complainant tried to pull his arm away with NE#1's handcuff attached to him. NE#1 then stated, "hey man, stop. Put your hands behind your back, put your hands behind your back." NE#1 ultimately was able to handcuff the Complainant, although he resisted. NE#1 stated NE#2 and himself placed the Complainant in a "tabletop" position to carry he upstairs to the stadium suite area. NE#1 described feeling a sharp pain in his penis when they made it to the top of the stairs. NE#1 stated he looked down and saw the Complainant leaning over and biting him in the groin area. NE#1 recalled stating, "He fucking bit me on my dick." After he stated that he stated he wanted to punch him in the face but did not do that. He did take his left hand and put it on the left side of his face; however, he just touched him with it. He shoved his face straight down to push him away. NE#1 recalled that had an immediate effect on him and he let go, but as he did that the Complainant fell. The officers went to the ground and while officers fell to the ground, he recalled the Complainant's face hit the ground when they fell. NE#1 observed blood dropping from his face and that his eyes were closed. NE#1 then asked if he was unconscious before the Officers sat him up in a seated recovery position. NE#1 said, prior to this

time, the Complainant had been yelling and kicking at officers. NE#1 requested SFD and the Complainant was aware seconds later and began spitting blood everywhere. NE#1 stated, SFD placed an oxygen mask on him. Also, that officers used a wheelchair to transport the Complaint to a holding cell area. NE#1 recalled he was making derogatory and racial statements to NE#3. When Officers tried to remove the Complainant from the wheelchair and place him in the holding cell, the Complainant continued to resist. NE#1 had to pry his fingers from holding on to the wheelchair. NE#1 explained he went to the bathroom to assess his injuries and observed coloring where he was bit, but not puncture Marks. NE#1 explained the incident had been screened and determined FIT would respond. NE#1 discussed his threat assessment of the incident and recalled the Complainant was aware they were the police as he continued to resist Officers. NE#1 discussed why he felt he was intoxicated and reiterated that he never complied with Officer's commands throughout the entire encounter. NE#1 stated that he was the only officer who did anything that would be considered more than De Minimis use of force, when he pushed the Complainant's face away from him after he bit him.

ii. Interview of NE#2

On March 24, 2024, at 1:22 am NE#2 was interviewed. NE#2 described the fight actively going on in the stands when he approached, announced himself, and made contact. NE#2 stated that officers attempted to handcuff the Complainant and get the situation under control. NE#2 stated the Complainant did not listen to commands by Officers and was resistive and assaultive towards Officers. NE#2 explained the Complainant grabbed onto the hook part of the handcuff and would not let go and that NE#1 pried the Complainant's hand off to place the handcuffs on. After handcuffs were placed on NE#1, NE#2, and NE#3 moved the Complainant upstairs to the club suite area. NE#2 stated that after they brought the Complainant up to that area, he would not stand up, as he was hunched over. NE#1 stated, "he just bit my dick."NE#2 stated that the officers then guided the Complainant to the ground. NE#2 stated SFD was requested. NE#2 heard NE#1 state, "is he unconscious?" Officers sat the Complainant up right. NE#2 stated the Complainant was intoxicated and saw blood drop from his nose and was not sure what caused it to bleed. NE#2 explained SFD placed an oxygen mask on the Complainant and transported him to the holding cell area with a wheelchair. While in the holding cell area, NE#1 had to pry his fingers from the wheelchair. Once out of the wheelchair, the Complainant tried to prevent officers from shutting the holding cell with his foot. NE#2 stood by and waited for FIT to arrive. NE#2 explained how hectic the situation was and how hard it was to apply handcuffs to him. Also, he described the position the Complainant was in when he bit NE#1. NE#2 heard the Complainant make a "drunk type snore" when NE#1 asked if he was unconscious. NE#2 did not hear the Complainant complain of any pain or being unconscious. NE#2 was unsure if the Complainant was ever unconscious. Furthermore, he was unaware of any action caused by any Officer that would cause the Complainant to be unconscious.

iii. Interview of NE#3

On March 24, 2024, at 1:27 am NE#3 provided testimony consistent with NE#2. NE#3 added that she had to push NE#1, NE#2, and the Complainant up the stairs to get to the stadium club area because the Complainant kicked his leg off the wall pushing them backwards. NE#3 also added when they placed the Complainant on the ground

to be handcuffed, she took control of the Complainant's leg in a figure four position. NE#3 also stated she heard NE#1 state, "Don't bite me again," as he struggled with the Complainant. NE#1 then stated, "he just bit me in the dick," as he continued to try and bite NE#1 by lunging towards NE#1's genital area again. NE#3 described NE#1 pushing the Complainant with a reflex response away to prevent him from biting him. NE#3 stated NE#1 did not slap his head down or punch him, he just pushed him away. NE#3 stated she inspected the Complainant after NE#1 asked if he was unconscious. She observed blood dripping from the Complaint's nose. The officers sat up the Complainant. NE#3 explained SFD applied an oxygen mask to the Complainant's face, as they did not have a spit sock. NE#3 then talked with witness who saw the incident and WS#1 was speaking with the Complainant in the holding cell. NE#3 was informed FIT was going to respond. NE#3 recalled the Complainant yelling that officers were strangling him, and no officers were touching him other that herself standing behind him while bracing him from falling over her knee. NE#3 did not have BWV on, as she was working off duty.

iv. Other Officers

Several other Officers responded to the incident at Lumen Field, assisted with transport to Harborview and King County Jail. There statements were consistent with the above-mentioned evidence.

v. Police Reports and Fit Documentation

Police reports and FIT documentation was consistent with the afore-mentioned evidence.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1
8.200 - Using force, 8.200-POL 1. Use of force: When Authorized

The Complainant alleged that named employees used unauthorized force.

SPD Interim Policy 8.200-POL-1 requires that force used by officers be "objectively reasonable, necessary, and proportional to the threat or urgency of the situation, to achieve a law enforcement objective while protecting the life and safety of all persons." 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 subject, considering the circumstances surrounding the event." SPD Interim Policy 8.050. Reasonableness must be judged from perspective of a reasonable officer at the scene, *id.*, and allow for the fact that officers are often forced to make "split-second decisions" in tense, dynamic circumstances. SPD Interim Policy 8.200-POL-1. The policy also 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 type and amount" of force used was reasonable and proportional to effect the lawful purpose intended or to protect against the threat. *Id*. Lastly, the force used must be proportional, reflecting the totality of the circumstances, including the nature and immediacy of any threats. *Id*.

Initial Force Before Handcuffing
The force was objectively reasonable to detain and control the noncompliant Complainant, after Officers announced their presence and provided verbal commands to the Complainant not to fight. The Complainant continued kicking his legs and grabbing for the officer's gun belts, vests, faces and hands. Officers then applied control holds. The force

was necessary to prevent the Complainant from harming officers and continuing to fight community members. The force was proportional to overcome the Complainant's combative and abuse behavior to the community and officers.

Force After Handcuffing
After the Complainant was handcuffed. He appeared to have fell on his right shoulder when NE#1 pushed him away after he bit his penis and continued to attempt to bite him in the groin area. Once officer brought him to the ground, NE#1 asked if the Complainant was unconscious or knocked out. NE#3 then stood up, shook the Complainant's wrist and officers raised him to a seated position. The Complainant bled from his nose and spewed spit from his mouth. The Complainant stated he was being strangled, as officers held the Complainant in a seated position.

The force was objectively reasonable to arrest the Complainant for assault of an officer. The Complainant was combative, aggressive and non-compliant to officers' commands. The force was necessary to prevent the Complainant from further assaulting the officers. Here, the Complainant had bit the penis of NE#1 and continued to try and bite other officers, while kicking and scratching officers. The force was proportional to overcome the Complainant's aggression and violent behavior. Here, the named employees use of force was justified under the circumstances.

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

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

Named Employee #2 - Allegation #1
8.200 - Using force, 8.200-POL 1. Use of force: When Authorized

For the same reasons at Named Employee #1 – Allegation #1, OPA recommends this allegation be Not Sustained – Lawful and Proper.

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

Named Employee #3 - Allegation #1
8.200 - Using force, 8.200-POL 1. Use of force: When Authorized

For the same reasons at Named Employee #1 – Allegation #1, OPA recommends this allegation be Not Sustained – Lawful and Proper.

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