



CLOSED CASE SUMMARY

ISSUED DATE: JANUARY 18, 2021

FROM: DIRECTOR ANDREW MYERBERG
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0344

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 (Unfounded)
# 4	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional	Not Sustained (Unfounded)

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 (Lawful and Proper)
# 4	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional	Not Sustained (Unfounded)

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)



# 3	14.090 Crowd Management 8. The Incident Commander Retains Ultimate Responsibility for the Decisions of Subordinates	Not Sustained (Lawful and Proper)
# 4	5.001 - Standards and Duties 10. Employees Shall Strive to be Professional	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:

Complainants alleged that SPD deliberately targeted a medical tent with blast balls during a crowd dispersal, and that the dispersal generally targeted a largely peaceful crowd.

ADMINISTRATIVE NOTE:

This case has several different 180-day timelines given that there are Named Employees belonging to different bargaining units and one Named Employee who is no longer employed by SPD. This CCS solely concerns the actions of the SPD personnel represented by the Seattle Police Management Association (SPMA), as the timeline for their case expires on January 18, 2021.

The allegations concerning whether a former SPD officer improperly deployed a blast ball and whether unknown SPD officers targeted medical tents will be evaluated in a separate findings memo to be submitted at a later date. In addition, the overall decision of the former Chief of Police to authorize the continued use of CS gas on June 8, 2020, even after temporarily banning it, is being investigated separately in 2020OPA-0345.

SUMMARY OF INVESTIGATION:

This case arises out of the demonstrations that occurred within Seattle and across the nation in the aftermath of the killing of George Floyd by a Minneapolis Police Officer. The specific case addressed here occurred on the evening of June 7, 2020, and the early morning hours of June 8. In addition to this investigation, several other OPA investigations arose out of the same set of underlying facts. Where appropriate, OPA cites its findings for those investigations to provide clarity.

On that date, an SPD assistant chief, who is Named Employee #1 (NE#1) in this investigation, was named the SPD Gold Shift Incident Commander for all demonstration activity on the afternoon and night of June 7. The Incident Action Plan (IAP) also designated Named Employee #2 (NE#2), the captain in command of the West Precinct, as the Operations Section Chief. In this capacity, NE#2 was tasked with overseeing demonstration activity as the commander on the ground. The IAP designated Named Employee #3 (NE#3), a lieutenant, as the Deputy Operations Section Chief. NE#3 was tasked with exercising direct tactical control over SPD’s demonstration management activity.

A. Incident Narrative



Earlier in the day on June 7, SPD erected a metal fence barrier near the eastern side of the intersection between Pine Street and 11th Avenue and positioned a line of officers approximately 70 feet east of the metal fence. See 2020OPA-0429 (related case analyzing SPD deployment). This appeared purposed to create space with the crowd. During daylight hours, the demonstration crowd assembled at 11th and Pine largely complied with instructions broadcast by NE#2 over a PA system not to cross the metal fence barrier and to leave it in place. The crowd, which was estimated to number at least a thousand, was verbally confrontational but largely non-violent.

During the evening, the behavior of the crowd began to escalate. See 2020OPA-0328. This began to occur at approximately 9:10 p.m. At around 9:39 p.m., the crowd disassembled the metal fence line and moved forward to within approximately 10 feet of the police line. A large number of the individuals on the front rank of the protest crowd were carrying open umbrellas and other objects. *Id.* NE#2, the captain designated as Operations Commander, broadcasted numerous warnings to the crowd with a PA system directing it not to disassemble the fence and not to advance toward the police line. These warnings were not heeded. At 10:21, NE#2 warned the crowd that if it advanced within 5 feet of the police line, less lethal tools would be used. NE#2 repeated this warning at 10:30 p.m. and told the crowd not to push objects into officers' faces. He stated that SPD would hold its present line and not advance and requested that if the crowd wanted to maintain a peaceful protest, it should "step back" and obey SPD directives. The crowd began to chant "you step back" and no movement in the crowd was apparent.

This pattern continued for the next hour and a half and was recorded by several officers' Body-worn video (BWV). By approximately 12:00 a.m. on June 8, 2020, the crowd had advanced to within 5 feet of the police line. At approximately 11:52 p.m., the log of SPD radio traffic reflected reported that someone in the crowd threw a "chemical irritant" at officers. See 2020OPA-0328. During this time, NE#3, the Deputy Operations Section Chief, directed officers to use OC spray in response to threats from the crowd. At 12:01 a.m., BWV of multiple officers that were present recorded incoming projectiles from the crowd. Based on OPA's review, it was not readily apparent what, if anything, caused individuals to begin throwing objects.

Officers deployed OC spray immediately thereafter. At 12:02 p.m., NE#2 could be heard over the PA system giving a dispersal order. Per the dispersal order, the crowd was warned that it would be unlawful to remain at the corner of 11th and Pine regardless of their conduct or purpose in doing so. NE#2 further warned that remaining would risk exposure to blast balls and CS gas. While NE#2 was giving the dispersal order, officers simultaneously deployed blast balls and the crowd began to fall back. Significantly more people in the crowd began throwing projectiles. Multiple green laser pointers and fireworks were visible on BWV as well. SPD officers continued to deploy blast balls until the crowd fell back into the 11th and Pine intersection.

At that point, at approximately 12:07 a.m., the SPD line moved forward. Officers shouted to the crowd to "move back" and continued to deploy blast balls as they advanced. The crowd fell back to the center of the intersection and the police line stopped on the west side. While in this location, several individuals from the crowd, including the subject of 2020OPA-0344, stood in the open intersection between the police line and the crowd. It was during this time that she was struck with a blast ball and removed from the intersection by members of the crowd. See 2020OPA-0344.

Several individuals remained in the intersection while the remainder of the crowd formed on all three sides of the open intersection. NE#2, the Operations Chief, gave multiple dispersal warnings. BWV showed that rocks and glass bottles were being thrown and, at this time, SWAT officers began deploying CS gas.



The CS gas caused members of the crowd to fall back, and SPD advanced to the corners of the 11th and Pine intersection to form lines facing west on Pine and north and south on 11th. Officers held the positions on 11th while bicycle officers moved west on Pine in a “leapfrog” deployment, backed by SWAT officers deploying CS gas. As the line moved westward, BWV continued to record incoming projectiles and the sound of shattering glass, as well as green laser lights and, in some cases, fireworks.

This push, which moved west on Pine Street, passed by what OPA’s investigation ultimately determined were medical tents erected in the courtyard of the Rancho Bravo Restaurant on the corner of 10th Avenue and Pine Street. In sworn declarations submitted to OPA, several individuals who were present as volunteer medics asserted that “flash bangs” and chemical irritants were deployed in or around the tents. An attorney for the declarants stated that there were signs posted indicating that the tents were medical in nature.

BWV of the incident showed that during the push, SWAT continuously deployed CS gas canisters. At no point during the push did OPA determine that NE#2, the Operations Chief, or NE#3, the Deputy, designate specific targets to the officers making the push. SPD radio log traffic indicated that NE#2 and NE#3 directed the police line to advance, but did not personally direct officers to target tents, individuals, or any other discrete locations with CS canisters or blast balls. However, BWV did show CS canisters offgassing in a manner that would almost certainly affect persons inside the tents. OPA notes that, at the time NE#2 gave dispersal warnings at 12:07 p.m. and NE#3 directed officers to advance, the medical tents would not have been visible from the SPD position because they were blocked by the protest crowd and the Rancho Bravo restaurant building itself. Based on BWV, the tents appeared to be blue, as described by declarants. Signs appeared to be taped to the railing around the tent area, but the signs were not possible to read on BWV and, in OPA’s assessment, would not have been legible at more than a few feet’s distance given the size and conditions. OPA was unable to confirm whether the tents bore obvious insignia, such as a red cross.

By approximately 12:19, the SPD line re-formed on the east side of the Pine street and Broadway Avenue intersection. The crowd appeared to fall back into the Seattle Central Community College campus. Officers remained in that location for several minutes but ultimately returned to a position on the west side of 11th Avenue and Pine Street.

B. Named Employee Interviews

OPA interviewed the Named Employees in this case. These interviews are summarized below.

I. Named Employee #1

NE#1, the Incident Commander, was not present at the scene. He explained that policy allows the incident commander to delegate crowd management decisions to a designee, and that in this case he delegated those decisions to NE#2, the Operations Section Chief, who was at the incident location on 11th and Pine. NE#1 monitored the incident from the Seattle Police Operations Center at the West Precinct but did not give any directives.

Prior to the incident, NE#1 discussed with NE#2 the circumstances under which CS gas would be used, and stated that per his orders it would be used only in situations that posed a threat to life safety, which he defined as instances where a person was “armed or could...pose a significant threat of bodily injury to anybody else.” NE#1 stated that based on reports he received from NE#2, SPD radio, social media feeds, and others, it was his



understanding that at the time of the dispersal orders, officers were being exposed to rocks, bottles, fireworks, and that at least one person with a firearm was seen in the crowd. NE#1 stated that based on his understanding of the situation, he did not believe that NE#2 and others violated SPD policy by ordering the crowd dispersed.

With respect to allegations that medical tents were targeted, NE#1 stated that he was aware only that individuals in the crowd were acting as medics. He was not aware of any medical tents during the incident.

II. Named Employee #2

OPA interviewed NE#2, the captain designated as Operations Chief. NE#2 stated that as Operations Chief, his primary objective was to ensure that the East Precinct remained open and operational. NE#2 stated that he developed a plan under which SPD would deploy as few officers as possible while maintaining a visual presence outside the East Precinct on 12th and Pine. He deployed officers set back from a metal barrier as a form of de-escalation, and sought to prevent situations where officers were placed in a static position just feet from a crowd where they would be exposed to any hostile conduct, as had occurred on prior nights. NE#2 stated that he was the officer who addressed the crowd on a PA system throughout the night. He based his statements to the crowd on reports he was receiving as well as his own decisions. He did not have a prepared script or formal training in negotiation.

Initially, NE#2 reported that he used the PA system to urge the crowd to remain on the west side of the metal fence. He explained that this was successful until a surge of people came forward and dismantled the metal fencing before advancing on the police line. NE#2 stated that at approximately 10:30, he gave a dispersal order and associated warnings (see above). Over the course of the next hour and a half, NE#2 stated that he attempted to speak to the crowd and urge them to maintain a five-foot distance.

He stated that the incident became violent at approximately 12:04 a.m. on June 8. He stated that at that time, he was facing the crowd and caught a “glimpse” of OC spray being deployed on the line and then observed blast balls. He stated that he subsequently authorized the SWAT commander on the scene to use CS gas if necessary to quell violence in the crowd. He said that he gave this directive based on reports of a person with a firearm and his own observations of projectiles being thrown at officers. With respect to the 12:04 a.m. deployment of OC and blast balls, NE#2 stated that under policy, officers may make individual decisions to deploy both tools to protect themselves and others. OPA notes that at approximately 12:04 a.m., NE#2 also broadcast an additional dispersal order, although this did not occur until immediately after OC spray was initially deployed.

With respect to medical tents, NE#2 stated that he had no recollection of observing medical tents during the incident.

III. Named Employee #3

OPA interviewed NE#3. NE#3 stated that he understood his role as Deputy Operations Chief as maintaining ingress and egress at the East Precinct. He characterized the SPD deployment as defensive in nature and said that he was aware of the plan developed by NE#2, which deployed the SPD line significantly back from an unmanned metal fence in order to create space. NE#3 stated that this plan relied on de-escalation and other means besides force to manage the crowd. To that end, he recalled NE#2 giving the crowd numerous warnings not to approach and stating that if the crowd did approach and push on the line, SPD would take necessary steps to prevent that encroachment.



NE#3 stated that based on his observations, he believed NE#2's statements were not effective in de-escalating the crowd and that NE#2 used all available verbal means to do so.

Prior to the incident at 12:04 a.m., NE#3 stated that his primary concern was that the crowd had breached the metal fence and that the fence had been removed. He stated his concern that the crowd would use sections of the fence as a weapon against officers. NE#3 stated that he observed officers on the line being hit with projectiles including rocks and bottles. With respect to the OC deployment at 12:04, NE#3 stated that he believed it to have been an individual decision by an officer in response to thrown projectiles.

In describing the decision to use OC spray and blast balls to maintain approximately five feet of separation, NE#3 stated that he believed at that point (approximately 12:04 a.m.), he was faced with a decision between using the less lethal tools authorized that day and allowing the crowd to close to contact range, which would require officers to use batons. He stated that he believed less lethal tools were a less dangerous option for the crowd and for officers, and that batons carried a risk of severe injury.

Finally, NE#3 stated that he was not aware of any medical tents until he received the notice of this OPA complaint.

C. Complaints and OPA Investigation

As noted above, OPA received numerous complaints about this incident, both from individuals present and from those who saw portions of the incident on social media. This OPA investigation ensued. OPA examined BWV of multiple officers, the SPD protest log of this incident, use of force reports, declarations by witnesses, interviews with the named employees, and separate investigations of OPA cases arising out of the same set of facts. Information from these sources was incorporated into the above narrative.

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 (IC) 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 IC "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 IC must ensure there is a viable avenue of egress to allow the crowd to disperse, and that where feasible, the IC or a designee should issue a dispersal order prior to ordering officers to disperse the crowd. *Id.*

OPA found that NE#1, the Incident Commander designated in the IAP, did not make the decision to disperse the crowd. Rather, he delegated that decision to NE#2, the Operations Section Chief. Given that, OPA finds that NE#1 did not violate this policy and recommends that this allegation be Not Sustained – Unfounded as against him.

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 (IC) 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 IC. *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 reason as above (see Named Employee #1 – Allegation #1), OPA recommends that this allegation be Not Sustained – Unfounded.

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 (IC) retains ultimate responsibility for the decisions of subordinates. The policy goes on to state that to fulfill this obligation, the IC will remain available on scene for consultation. *Id.*

OPA has elsewhere discussed its concerns related to SPD command’s decision to delegate responsibility down to lower-level commanders in managing demonstrations. However, OPA does not find that the mere fact of doing so violates this policy. As such, OPA recommends that this allegation be Not Sustained – Unfounded.

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

Named Employee #1 - Allegations #4

5.001 - Standards and Duties 10. Employees Shall Strive to be Professional

SPD Policy 5.001-POL-10 requires that SPD employees “strive to be professional.” The policy further instructs that “employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers” whether on or off duty. (SPD Policy 5.001-POL-10.) The policy further states the following: “Any time employees represent the Department or identify themselves as police officers or Department employees, they will not use profanity directed as an insult or any language that is derogatory, contemptuous, or disrespectful toward any person.” (*Id.*) Lastly, the policy instructs Department employees to “avoid unnecessary escalation of events even if those events do not end in reportable uses of force.” (*Id.*)

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



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

Named Employee #2 - Allegations #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

OPA finds that NE#2, the Operations Section Chief, exercised primary decision-making with respect to dispersing the crowd. In addition, OPA finds that NE#2 only did so after giving the crowd numerous warnings throughout the evening, repeatedly attempting to convince the crowd to move back and obey lawful orders, and ultimately ordering them to move away from the police line or risk exposure to less lethal tools.

OPA notes that NE#2 did not directly issue a dispersal order using the standard format until 12:04 a.m., moments after OC spray and blast balls were deployed by officers in response to projectiles thrown by the crowd. See SPD Policy 14.090-TSK-3 Issuing the Order to Disperse (specifying the form of words which constitutes a dispersal order under the policy). That said, NE#2 did issue numerous warnings which, collectively, contained the same information as the standard dispersal order. In OPA's assessment, a demonstrator who heard all or most of NE#2's directives to the crowd issued over the course of an hour and a half or more would have understood that continuing to advance on the SPD line would ultimately result in exposure to less lethal tools.

Finally, OPA finds that the "substantial risk" factor was met in this incident. NE#2 observed, and OPA verified based on BWV and interviews, that officers on the line were being exposed to multiple thrown objects at the time the first less-lethal deployment was observed. Neither the officers themselves who reacted by deploying OC, nor NE#2 who broadcast a dispersal order at 12:04 a.m., was obligated by policy to ignore these objects and continue to risk injury merely because the protesters in the front rank did not throw the objects themselves. Indeed, those in the front rank participated in the advance on the line despite numerous orders to stop and move back.

As such, OPA finds that NE#2's decision to order the crowd to be dispersed at 12:04 was consistent with policy and recommends that this allegation be Not Sustained – Lawful and Proper.

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

Named Employee #2 - 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 #2 – Allegation #1), 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



For the same reasons as above (see Named Employee #2 – Allegation #1), OPA recommends that this allegation be Not Sustained – Lawful and Proper.

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

Named Employee #2 - Allegations #4

5.001 - Standards and Duties 10. Employees Shall Strive to be Professional

In the context of this investigation, OPA adjudicates the question of whether NE#2 knowingly caused less lethal tools to be deployed in and around the medical tents near Rancho Bravo in the context of a professionalism allegation. Since in this case this widely-publicized allegation appears to have led to a loss of public confidence at least from the perspective of the Complainants, OPA finds that this policy applies. In reaching this determination, OPA does not state that all such deployments automatically violate policy. Rather, the decision to knowingly deploy a less lethal tool in the vicinity of a medical tent would have to be adjudicated under the totality of the circumstances.

OPA's analysis finds that NE#2 did not knowingly target medical tents or medics, nor did he cause less lethal tools to be deployed in a manner where he should have known that this would be the proximate cause of his actions. Rather, OPA's analysis of BWV substantiates that the medical tents were not visible from the SPD position on 11th and Pine. OPA could not identify any other evidence suggesting that NE#2 or other commanders knew or should have known that the tents were present or served that function. For example, BWV of the area did not conclusively show clear markings visible from a distance, such as obvious red crosses.

Moreover, the tents were placed directly along the corridor used for demonstration activity. This corridor had been the site of numerous other dispersal orders in which less lethal tools and CS gas were used. While undoubtedly this made the tents easy to access for persons needing medical attention, it also exposed the tents themselves, the personnel therein, and the patients to known risks.

With this in mind, OPA does not find that NE#2 knew or should have known that his deployment of less lethal tools would lead to exposure by persons in the medical tents. As such, OPA recommends that this allegation be Not Sustained – Unfounded.

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

Named Employee #3 - Allegations #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

OPA finds that NE#3, the Deputy Operations Chief, largely deferred to NE#2's decision-making with respect to the decision to disperse the crowd as a whole. As such, this finding incorporates the findings above. See Named Employee #2 – Allegation #1.

OPA finds, however, that NE#3 did exercise independent operational decision-making with respect to authorizing the deployment of OC spray. Sometime after 11:52 p.m. and before 12:04 a.m., when NE#2 issued the dispersal



order, NE#3 appeared to authorize officers on the line to use OC spray in response to direct threats to themselves in the form of assaults from the crowd. This is significant insofar as the initial use of less-lethal tools occurred at 12:04, before NE#2 began giving a full dispersal order. As such, OPA assesses whether NE#3's decision to authorize the use of less lethal tools rested on the proper foundation.

OPA finds that it did. Ultimately, NE#3 authorized officers to respond to direct threats against themselves that had been ongoing for at least the previous several minutes. While OPA was not able to scrutinize each less lethal deployment that occurred in a matter of seconds, it appeared that they occurred in response to objects thrown from within the crowd which could be seen and heard hitting around the SPD line. The risk posed by these objects and the continued refusal by the crowd as a whole to cease advancing on the SPD line reached the "substantial" level required by policy to justify the use of less lethal tools to disperse the crowd.

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

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

Named Employee #3 – 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 #3 – Allegation #1), OPA recommends that this allegation be Not Sustained – Lawful and Proper.

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

Named Employee #3 - Allegation #3

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

For the same reasons as 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 #3 - Allegations #4

5.001 - Standards and Duties 10. Employees Shall Strive to be Professional

As above, OPA found no basis to believe that NE#3 knowingly caused the medical tents to be targeted or, indeed, that he knew that they were there at all. Therefore, for the same reasons as above (see Named Employee #2 – Allegation #4), OPA recommends that this allegation be Not Sustained – Unfounded.

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