



## CLOSED CASE SUMMARY

ISSUED DATE: SEPTEMBER 25, 2024

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

CASE NUMBER: 2024OPA-0143

### Allegations of Misconduct & Director’s Findings

**Named Employee #1**

Allegation(s):		Director’s Findings
# 1	5.002 – Responsibilities of Employees Concerning Alleged Policy Violations, 5.002-POL-5. Supervisors Will Investigate or Refer Allegations of Policy Violations Depending on the Severity of the Violation	Sustained

**Imposed Discipline**

Retired Prior to Proposed Discipline
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**Named Employee #2**

Allegation(s):	Director’s Findings	Chief’s Findings
# 1	8.100 – De-Escalation, 8.00-POL-1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics in Order to Reduce the Need for Force (Eff. April 24, 2023)	Not Sustained - Training Referral
# 2	8.200 – Using Force, 8.200-POL-2. Use of Force: When Prohibited (Eff. April 24, 2023)	Not Sustained - Training Referral

**Named Employee #3**

Allegation(s):		Director’s Findings
# 1	5.002 – Responsibilities of Employees Concerning Alleged Policy Violations, 5.002-POL-5. Supervisors Will Investigate or Refer Allegations of Policy Violations Depending on the Severity of the Violation	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.***

**ADMINISTRATIVE NOTE ON PROPOSED FINDINGS:**

*When the OPA Director recommends a sustained finding for one or more allegations, a discipline committee, including the named employee’s chain of command and the department’s human resources representative, convenes and may propose a range of disciplinary to the Chief of Police. While OPA is part of the discipline committee, the Chief of Police decides the imposed discipline, if any. See OPA Internal Operations and Training Manual section 7.3 – Sustained Findings.*



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**EXECUTIVE SUMMARY:**

Named Employee #2 (NE#2) responded to a call involving Community Member #1 (CM#1) being in crisis, resulting in her detention under the Involuntary Treatment Act (ITA).<sup>1</sup> NE#2 deployed his Taser at CM#1 as she approached SPD officers. After CM#1 was handcuffed and still had Taser probes connected to her body, NE#2 reenergized his Taser. NE#2's use of force was reported to Named Employee #1 (NE#1) and Named Employee #3 (NE#3), both SPD Police Sergeants. It was alleged that NE#2 failed to de-escalate and used prohibited force. It was also alleged that NE#1 and NE#3 failed to report NE#2's use of force to OPA.

**ADMINISTRATIVE NOTE:**

On August 16, 2024, the Office of Inspector General certified OPA's investigation as thorough, timely, and objective.

**SUMMARY OF INVESTIGATION:**

**A. OPA Complaint**

On March 22, 2024, the Complainant—an SPD Force Investigation Team lieutenant—submitted an OPA complaint via Blue Team, writing that NE#2 deployed his Taser at CM#1 during his attempt to detain her under the ITA. The Complainant wrote that officers handcuffed CM#1, who still had probes and Taser wires connected to her body. The Complainant wrote that NE#2 appeared to inadvertently reenergize his Taser, which was reported to NE#1 and NE#3. The Complainant wrote that neither NE#1 nor NE#3 reported the incident to OPA.

OPA investigated the complaint, reviewing the computer-aided dispatch (CAD) call report, body-worn video (BWV), police reports, use of force reports, and a remedial training memorandum. OPA interviewed NE#2 and NE#3. NE#1, who retired from SPD, did not respond to OPA's request for an interview. CM#1 did not respond to OPA's multiple requests for an interview.

**B. Computer-Aided Dispatch (CAD) Call Report**

On March 8, 2024, at 2:37 PM, CAD call remarks noted, "CH[EC]K FOR NUDE FEMALE WAVING A FLAG IN AREA, WAS LAST SEEN WALKING AROUND INTERSECTION, NO [WEAPONS] SEEN." Dispatch noted that the female smeared blood on a driver's windshield and struck other vehicles. Dispatch noted that the female entered a store and damaged its products.

**C. Body-Worn Video (BWV)**

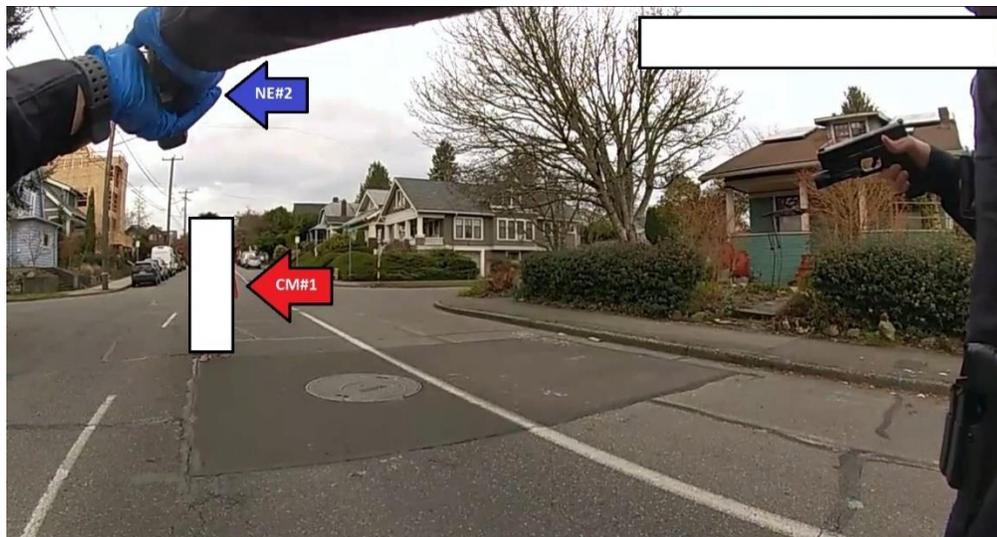
NE#2's BWV captured the following:

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<sup>1</sup> The ITA permits an officer to take into custody and deliver a person to a facility when the officer reasonably believes that such person is suffering from a behavioral health disorder and presents an imminent likelihood of serious harm or is in imminent danger because of being gravely disabled. See RCW 71.05.153(2).



NE#2 drove to the incident location with his partner in the passenger seat. NE#2 and other officers parked their patrol vehicles in the middle of a road where CM#1 stood. CM#1 was naked but wore a rainbow-colored flag like a cape.<sup>2</sup> NE#2 exited his patrol vehicle and said to CM#1, "Hey! Seattle police." NE#2 drew his firearm in the low-ready position. NE#2 told another officer that he did not see any glass on CM#1. NE#2 told CM#1, "Keep your hands up. Face away from us." NE#2 holstered his firearm, drew his Taser, and aimed it at CM#1. An officer drew his firearm in the low-ready position. CM#1 raised her hands and approached the officers. NE#2 ordered CM#1 to get on the ground and offered to help her.<sup>3</sup> The officers began to slowly approach CM#1, who stepped backwards simultaneously. Witness Officer #1 (WO#1) announced, "You need to comply. If you do not comply, force could be used against you." CM#1 replied that she was betting on that. CM#1 said if the officers killed her, the city would riot. The officers stopped approaching and stood several feet away from CM#1:



WO#1 said, "Listen. No one wants to harm you. We want to get you help. You're bleeding, you're completely naked, and you're a danger to yourself right now. You are detained. We have the lawful authority to detain you, and we are detaining you. Please comply with us, okay?" CM#1 asked, "Can you not Eric Garner me?" WO#1 said an ambulance was on its way to transport CM#1 to a hospital. WO#1 ordered CM#1 to get on her knees with her hands out. CM#1 repeatedly asked the officers to call her mother. WO#1 replied, "We'd love to do that. Go down to your knees." CM#1 took three steps toward the officers. NE#2 announced, "Taser" and deployed it, firing twice. CM#1 slumped over and said, "Okay, please stop. Ow." As CM#1 was finishing this statement, NE#2 fired a third time, and his Taser beeped. CM#1 shouted, "Ow" and fell. CM#1 apologized as two officers rolled her onto her stomach and handcuffed her.

While CM#1 was on the ground, one officer held CM#1's left arm while another officer held CM#1's hands:

<sup>2</sup> NE#2's partner documented in a police report that CM#1 was covered in blood, had lacerations on her body, appeared to be disoriented, and appeared to be in crisis.

<sup>3</sup> NE#2's use of force statement documented that CM#1 met the ITA criteria for being a danger to property, others, and herself. NE#2 also noted that officers had probable cause to arrest CM#1 for property destruction.



NE#2's Taser beeped. CM#1 jerked her body and shouted, "Ow! Please stop!" NE#2's Taser stopped beeping. The two officers holding CM#1 looked at NE#2, who said, "Sorry." An officer said, "Fucking hell, dude!" NE#2 apologized again.

NE#2 screened the incident with NE#1, telling him, "We just had the Taser deployment.... I think I had three shots, and then, uh, I, I accidentally had like a second redeployment as she's in cuffs. You know when like the Taser switch goes up? It was for like a split second then." NE#1 replied, "Just make sure you explain that, and the Taser readout I'm sure will show it."

#### **D. Police Reports and Use of Force Reports**

##### Police Reports

NE#2's and witness officers' police reports were consistent with the abovementioned evidence.

##### Named Employee #2's Use of Force Statement

NE#2's type II<sup>4</sup> use of force statement was consistent with the abovementioned evidence. NE#2's articulated de-escalation tactics included blocking the roadway to prevent vehicular and foot traffic, awaiting backing officers before contacting CM#1, forming a contact team and assigning use of force responsibilities, attempting to establish rapport with CM#1, issuing verbal commands to gain voluntary compliance, and maintaining distance out of concern that CM#1 was armed with an edged weapon. NE#2 also described the reenergization of his Taser as follows:

*After subject was placed into handcuffs, I inadvertently reenergized my taser very briefly before immediately turning it off. The reenergizing of the taser was completely accidental and I attempted to correct my mistake immediately. I have been a taser*

<sup>4</sup> Type II is force that causes, or is reasonably expected to cause, physical injury greater than transitory pain but less than great or substantial bodily harm. SPD Interim Policy 8.050 (effective May 19, 2023). Type II force includes a Taser deployment. SPD Interim Policy 8.400-POL-1 (effective May 19, 2023).



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*operator my entire career but recently switched to the newer model whereas the prior model had the reenergize ability in a button instead of along with the switch.*

Named Employee #3's Use of Force Report

NE#3's use of force report documented his interview with NE#2 about the reenergization of his Taser as follows:

*[NE#2] explained to me that he was recently issued his new taser. [NE#2] carried a different taser from his previous four years in patrol. [NE#2] explained to me that with his old taser, you turn the switch in a certain direction to turn it off. With his newly issued taser, that switch must be moved in the opposite direction to turn it off. After [CM#1] was in handcuffs, [NE#2] turned the switch in the wrong direction, thus reenergizing the taser. [NE#2] realized his mistake and immediately corrected it. When I reviewed [NE#2's] Body camera, the taser does not appear to complete a full 5 second cycle. When [NE#2] realized what was happening, he immediately turned his taser off.... [NE#2] reverted to his initial taser training when he attempted to turn off his taser. [NE#2] stated to me in his interview that this was the first time he used the new taser in the field. I think more training would be appropriate to prevent incidents like this from occurring again.*

**E. Remedial Training Memorandum**

Witness Officer #2 (WO#2)—an Education and Training Section Taser coordinator—wrote a memo dated April 10, 2024, to a lieutenant, noting, “Since this is a new platform, I do not find this to be an egregious action or an isolated event.<sup>5</sup> This is also a completely different feature than the earlier platforms.” WO#2 documented a remedial Taser 10 training he conducted with NE#2. WO#2 then concluded, “I am satisfied that [NE#2] has the necessary skills to be an efficient taser operator. I believe [NE#2's] inadvertent press of the selector switch was an isolated incident. I did not observe any behaviors from [NE#2] that would lead me to believe this will be an [ongoing] issue.”

**F. Named Employee #2's Taser Download**

OPA reviewed the Use of Force documentation for this incident, which contained NE#2's Taser download. The download corroborated NE#2's characterization that he immediately deactivated his Taser, showing the second energization of NE#2's Taser lasted about 1.438 seconds before being switched to “safe” mode:

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<sup>5</sup> This reference to “isolated event” appears to be a typographical error as the context of the memorandum supports WO#2's conclusion which noted his belief that NE#2's Taser activation “was an isolated incident.”



Date/Time	Event/Log	Duration	Assignee
14:52:46.514	Lowered		
14:52:49.103	Energize stopped due to timer expiration	6.881s (Pulse Graph 1)	
14:53:12.782	Switch pressed up		
14:53:12.821	Energize started due to switch		
14:53:13.038	Switch released		
14:53:14.259	Energize stopped	1.438s (Pulse Graph 2)	
14:53:14.454	Switch moved to Safe		
14:53:53.103	Raised		
14:53:56.107	Lowered		
14:53:57.605	Holstered		
14:53:57.734	Sleep mode enabled		

**G. OPA Interviews**

Named Employee #3

On August 2, 2024, OPA interviewed NE#3. NE#3 said he was promoted to sergeant shortly before this incident and relied on other sergeants for guidance while he performed his duties. NE#3 said he was the secondary sergeant, while NE#1 was the primary sergeant who investigated the incident on scene. NE#3 said he returned to the precinct where NE#1 said he could not complete the use of force investigation because he was close to retirement, so NE#3 agreed to complete it. NE#3 said he spoke to the involved officers and watched BWV, including video of NE#1 telling NE#2 to explain his accidental Taser reenergization. NE#3 believed the reporting requirement was satisfied based on that conversation. NE#3 stated he went on leave for personal reasons around this time. NE#3 said another sergeant, who overheard BWV, asked NE#3 whether he screened the incident with FIT since it involved a use of force against a handcuffed subject, but NE#3 replied that he was unaware of this requirement. NE#3 stated he contacted NE#1 to determine whether FIT had been contacted. NE#3 noted that NE#1, who had extensive supervisory experience, was also unaware of this requirement. NE#3 said he subsequently screened the incident with FIT.

Named Employee #2

On August 6, 2024, OPA interviewed NE#2. NE#2 said he was aware that he was responding to an excited delirium call involving CM#1 being naked, running in front of vehicles, and throwing items on the street. NE#2 said people experiencing excited delirium could exhibit superhuman strength. NE#2 said he saw debris on the roadway, which was heavily trafficked and near a school and a residential neighborhood. NE#2 said he issued verbal commands to gain voluntary compliance, assess CM#1’s state of mind, and build rapport. NE#2 said backing officers arrived and formed a contact team, assigning NE#2 as the less lethal Taser operator and WO#1 as the communicator. NE#2 said CM#1 was larger than the responding officers, had cuts on her body, and was noncompliant. NE#2 also expressed concern CM#1 could have possessed an edged weapon in her closed fist.<sup>6</sup> NE#2 said officers had sufficient information to execute an ITA detainment, but CM#1 stepped back as the officers approached her.

<sup>6</sup> BWV did not show CM#1 holding an edged weapon. As NE#2 transitioned from his firearm to his Taser, he ordered CM#1 to keep her hands up and commented to other officers, “I don’t see any glass.”



NE#2 said he deployed his Taser based on his concern that a physical confrontation was imminent, given that CM#1 refused to get on the ground and approached the officers. NE#2 said a physical confrontation would have escalated to a higher level of force and resulted in injuries as officers attempted to subdue the much-larger CM#1. NE#2 believed his Taser deployment reflected the most ideal and least intrusive use of force to end the encounter. NE#2 said his Taser was active after its deployment because people oftentimes fight officers even after they are arrested. NE#2 said he was prepared to deploy it again in case CM#1 fought the officers. NE#2 said he accidentally pressed the button that reenergized the Taser. NE#2 acknowledged CM#1 was in handcuffed at the time he pressed the button that reenergized the Taser. NE#2 said he immediately released his hand from the button, reported the accidental deployment to NE#1, and received remedial training on the Taser.

**ANALYSIS AND CONCLUSIONS:**

**Named Employee #1 – Allegation #1**

***5.002 – Responsibilities of Employees Concerning Alleged Policy Violations, 5.002-POL-5. Supervisors Will Investigate or Refer Allegations of Policy Violations Depending on the Severity of the Violation***

The Complainant alleged that NE#1 failed to report a prohibited use of force incident to OPA.

Supervisors will investigate or refer allegations of policy violations depending on the severity of the violation. SPD Policy 5.002-POL-5. Supervisors may investigate minor policy violations. SPD Policy 5.002-POL-5(c). However, supervisors must refer allegations of serious policy violations to OPA for investigation. SPD Policy 5.002-POL-5(a). Serious policy violations include, among other things, unnecessary, unreasonable, or disproportionate use of force. *See id.*

Undeniably, NE#2's reenergized Taser deployment, whether accidental or not, constituted an unnecessary, unreasonable, and disproportionate use of force, given that CM#1 was on her stomach, handcuffed, compliant, and apologetic. Additionally, two officers held CM#1 against the ground and controlled her movements. When NE#1 became aware of this alleged serious policy violation after NE#2 screened the incident with him, NE#1 was required to refer it to OPA for investigation. NE#1's supposed unawareness is inexcusable, especially considering his years of experience as a sergeant. NE#1, who recently retired from the Department, did not explain his inaction since he did not respond to OPA's request for an interview. Therefore, OPA must conclude that NE#1 failed to report a serious policy violation to OPA.

Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**

**Named Employee #2 – Allegation #1**

***8.100 – De-Escalation, 8.00-POL-1. When Safe, Feasible, and Without Compromising Law Enforcement Priorities, Officers Will Use De-Escalation Tactics in Order to Reduce the Need for Force (Effective April 24, 2023)***

It was alleged that NE#2 failed to de-escalate before deploying his Taser.

When safe, feasible, and without compromising law enforcement priorities, officers will use de-escalation tactics to reduce the need for force. SPD Interim Policy 8.100-POL-1 (effective April 24, 2023). Officers are encouraged to use



team approaches to consider whether any officer has successfully established a rapport with the subject. *Id.* De-escalation options should be guided by the totality of the circumstances. *Id.* SPD policy emphasizes communication, time, distance, and shielding to minimize the need for force. *Id.*

Here, NE#2 utilized several de-escalation tactics. NE#2 and WO#1 communicated throughout their encounter with CM#1, offering to help her and ordering her to comply with their commands. NE#2 utilized time by establishing a contact team with backing officers and assigning use of force responsibilities before engaging CM#1. Officers also stabilized the scene by blocking the roadway to prevent foot and vehicular traffic. NE#2 and backing officers maintained their distance from CM#1 while communicating with her, especially since NE#2 expressed concern that CM#1 may have been armed with an edged weapon. NE#2 and backing officers also shielded themselves by using their patrol vehicles before approaching CM#1.

Recognizing officers are not required to exhaust all possible de-escalation options, NE#2 could have de-escalated further before deploying his Taser. Specifically, as CM#1 took three steps toward the officers, NE#2 could have warned CM#1, providing her the opportunity to comply before she was Tased. Although CM#1 was in crisis and noncompliant with orders to get on the ground, she was communicating with the officers. Overall, OPA finds that NE#2 utilized de-escalation tactics but it is possible a specific warning to CM#1 could have prevented the use of force. Under the totality of the circumstances, there was a potential, but not willful, violation of policy that did not amount to misconduct.

Accordingly, OPA recommends this allegation be Not Sustained – Training Referral.

- **Training Referral:** NE#2's chain of command should discuss OPA's findings with NE#2, review the recently updated version of SPD Policy 8.100-POL-1 with NE#2, and provide any other retraining and counseling it deems necessary. Any retraining and counseling should be documented and maintained in Blue Team.

Recommended Finding: **Not Sustained - Training Referral**

#### **Named Employee #2 – Allegation #2**

##### ***8.200 – Using Force, 8.200-POL-2. Use of Force: When Prohibited (Effective April 24, 2023)***

It was alleged that NE#2 used prohibited force when he reenergized his Taser while CM#1 was restrained.

Officers are prohibited from using force under certain circumstances. SPD Interim Policy 8.200-POL-2 (effective April 24, 2023). Among other things, officers will not use force on restrained persons unless force is reasonable, necessary, and proportional under specific circumstances. *See id.* "Physical force" is defined as "any act reasonably likely to cause physical pain or injury or any other act exerted upon a person's body to compel, control, or restrain the person's movement." SPD Interim Policy 8.050 (effective April 24, 2023).

Although NE#2 could possibly have further de-escalated the situation, OPA finds that NE#2's first Taser deployment was objectively reasonable, necessary, and proportional, given that CM#1 was noncompliant, approached the officers, and posed a threat to herself and the public. NE#2 noted that CM#1 was much larger than the officers, may have been armed, and could have exhibited unexpected levels of resistance in her mental state. NE#2 believed a physical confrontation, which would have escalated to a higher level of force, was imminent when CM#1 approached the officers. NE#2's use of force was justified under these circumstances.



However, it is indisputable that NE#2's second Taser deployment—even if inadvertent—was an “act reasonably likely to cause physical pain or injury” and, so, constituted a prohibited use of force. CM#1 was on her stomach, restrained by two officers, and handcuffed. NE#2 described his second Taser deployment as entirely accidental. The evidence supports this explanation. NE#2 immediately corrected his mistake, apologized, reported it to his sergeant, and documented it in his use of force statement. Also, NE#2's Taser did not complete a full five-second cycle. In fact, NE#2 stopped the second cycle after about 1.438 seconds and switched the Taser to safe. NE#2 was familiar with an older version of the Taser that he used for four years but recently switched to a newer model that had certain switches in different locations. Here, when NE#2 intended to turn his newer model off, he accidentally reenergized it. WO#2—NE#2's Taser 10 instructor—also described the newer Taser model as a “completely different feature than the earlier platforms” and believed NE#2 inadvertently pressed the reenergization switch.

However, in review of the evidence provided, by a preponderance of the evidence, CM#1 was undeniably Tased, while she was restrained in violation of policy. Therefore, OPA concludes NE#2 violated policy.

Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**

### **Named Employee #3 – Allegation #1**

#### ***5.002 – Responsibilities of Employees Concerning Alleged Policy Violations, 5.002-POL-5. Supervisors Will Investigate or Refer Allegations of Policy Violations Depending on the Severity of the Violation***

The Complainant alleged that NE#3 failed to report a prohibited use of force incident to OPA.

NE#3's unawareness about his reporting requirements—while not an excuse—was understandable, given his limited experience as a sergeant since he was recently promoted and only had some experience as an acting sergeant. Further confusing the issue, NE#3 initially was not the primary sergeant investigating the use of force incident. It was handed to him due to NE#1's impending retirement. NE#3 reviewed BWV and thought the reporting requirements were satisfied when he heard NE#1 direct NE#2 to document his Taser deployments. After a period of leave, NE#3 then learned from another sergeant that he needed to screen the incident with FIT.<sup>7</sup> After NE#3 learned that NE#1 did not contact FIT, NE#3 screened the incident with FIT, which filed the OPA complaint. Ultimately, the totality of NE#3's actions demonstrated an attempt to comply with reporting requirements once he became aware of them, not an attempt to conceal any inaction. NE#3 is now on notice that any alleged serious policy violation, like prohibited use of force, must be referred to OPA for investigation. A training referral is warranted under the circumstances.

Accordingly, OPA recommends this allegation be Not Sustained – Training Referral.

- **Training Referral:** NE#3's chain of command should discuss OPA's findings with NE#3, review SPD Policy 5.002-POL-5 with NE#3, and provide any other retraining and counseling it deems necessary. Any retraining and counseling should be documented and maintained in Blue Team.

<sup>7</sup> See SPD Interim Policy 8.200-POL-2 (effective April 24, 2023) (“The investigating supervisor will consult with FIT regarding the classification of force used on restrained subjects when such force is not easily identifiable as *de minimis* or type I.”).



**Seattle**  
Office of Police  
Accountability

## ***CLOSED CASE SUMMARY***

OPA CASE NUMBER: 2024OPA-0143

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Recommended Finding: **Not Sustained - Training Referral**