



CLOSED CASE SUMMARY

ISSUED DATE: SEPTEMBER 30, 2021

FROM: DIRECTOR ANDREW MYERBERG
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0354

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	1.020 - Chain of Command 7. Command Employees Take Responsibility for Every Aspect of Their Command	Not Sustained (Lawful and Proper)
# 2	5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy	Not Sustained (Unfounded)
# 3	5.001 - Standards and Duties 6. Employees May Use Discretion	Not Sustained (Lawful and Proper)
# 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	1.020 - Chain of Command 7. Command Employees Take Responsibility for Every Aspect of Their Command	Not Sustained (Lawful and Proper)
# 2	5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy	Not Sustained (Unfounded)
# 3	5.001 - Standards and Duties 6. Employees May Use Discretion	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:

In June of 2020, a Seattle City Councilmember and multiple community members filed complaints in connection with the evacuation of SPD property and personnel from the East Precinct¹ and subsequent events that occurred, including the establishment of a “police-free” autonomous zone by armed protesters. Specifically, the complainants alleged that both Named Employees—the former Chief of Police and an Assistant Chief of Police—failed to take responsibility for their respective commands, did not adhere to laws or policy, used improper discretion, and were unprofessional.

¹ The term “East Precinct” commonly refers to both an SPD facility located at 1519 12th Avenue and an entire patrol area within the City of Seattle. Throughout this DCM the term “East Precinct” is used to refer to the SPD facility. When referring to the patrol area, this DCM will reference the “confines of the East Precinct.”



SUMMARY OF INVESTIGATION:

This case arises out of the demonstrations that occurred within Seattle and across the nation in the wake of the killing of George Floyd by a Minneapolis Police Officer. These protests were unprecedented in scope and were directed at law enforcement. While most demonstrators protested peacefully, some demonstrations, especially during the early days of the protests and during nighttime hours, devolved into violence, property destruction, and looting.

The specific incident at issue here occurred on June 8, 2020, the eleventh day of the protests, when SPD property and all SPD personnel were evacuated from the East Precinct. Thereafter, protesters established a “police-free” autonomous zone—widely referred to as either “CHOP” or “CHAZ,” and referred to herein as “CHOP/CHAZ.” Some individuals within the zone armed themselves, including with semi-automatic rifles. In addition, several individuals were shot and killed either within CHOP/CHAZ or in its immediate vicinity. CHOP/CHAZ remained until July 1, 2020, when SPD cleared the area following these shooting deaths.

In June of 2020, OPA received a number of complaints alleging that the then Chief of Police—referred to here as Named Employee #1 (NE#1)—and other unidentified SPD command staff members neglected their duty in ordering or allowing the evacuation of the East Precinct. Ultimately, OPA investigated allegations that NE#1 and an Assistant Chief of Police—Named Employee #2 (NE#2)—failed to take responsibility for their respective commands, did not adhere to laws or policy, used improper discretion, and were unprofessional.

A. Narrative of Incident

OPA’s assessment of this incident is based on multiple sources. OPA interviewed two of the three community member complainants (the third declined an interview), as well as eleven employees of both SPD and the Seattle Mayor’s Office. OPA also reviewed: (1) public statements of NE#1 and Seattle Mayor Jenny A. Durkan—hereinafter “the Mayor”; (2) public reporting on the incident; (3) cell phone call logs for both of the Named Employees; (4) instant and text messages associated with the Named Employees; and (5) emails of the Named Employees, a former Assistant Chief—referred to here as Witness Officer #1 (WO#1), and a Lieutenant—referred to here as Witness Officer #2 (WO#2). To provide clarity, OPA synthesized these sources to create a narrative of the incident. To the extent that there is disagreement about what occurred, underlying motivations or causes, or the incident’s aftermath, OPA presents those disagreements in sections below.²

After the killing of George Floyd in late May, the area around SPD’s East Precinct—specifically the police line established at 11th Avenue and East Pine Street—was the focus of nightly protests. Considering the size and intensity of the protests, SPD command staff was concerned about maintaining a perimeter around the East Precinct. Driving these concerns was intelligence from the FBI that government buildings would be targeted by some groups of protesters. In addition, the May 28 burning of the Third Precinct of the Minneapolis Police Department, the fire risk of the East Precinct and surrounding non-police structures, and the presence of sensitive material—such as weapons, evidence, and computer systems—inside of the East Precinct, were also of grave concern. From late May into early June, SPD closed off street access with different types of fencing to create “standoff distance” between the protesters and the East Precinct and SPD officers. However, these barricades were ineffective and repeatedly dismantled by protesters. Meanwhile, contentious, frequently violent encounters between protesters and SPD members continued

² Except where specifically noted, OPA found broad consensus among the witnesses and documentary evidence. OPA’s findings are based on a preponderance of the evidence.



for more than a week. This included the highly publicized “pink umbrella” case in which a large crowd was dispersed using less-lethal tools from the vicinity of the East Precinct and which was heavily criticized by community members and public officials.³ Numerous protesters and SPD members were injured during the ongoing demonstrations, some seriously. By early June, there was significant political pressure for SPD to change their tactics in order to de-escalate tensions and to avoid large scale crowd dispersals and the use of less-lethal tools, including chemical agents.

On June 7, the Mayor convened a meeting to address the plan moving forward. NE#1 ordered WO#1 to attend in order to brief the Mayor’s Office on SPD’s request for larger, permanent barricades to fortify the perimeter around the East Precinct. To facilitate his briefing, WO#1 drafted a document—referred to hereinafter as the “the Outline”—detailing four “courses of action” for SPD. These included that SPD: (1) maintain their current posture with “hardened barricades”; (2) remove all barricades and establish a “bicycle fence” along the sidewalk outside the East Precinct, with SPD members manning the perimeter behind the fence line; (3) remove all barricades and establish a “bicycle fence” along the sidewalk outside the East Precinct, with all SPD personnel inside the East Precinct; or (4) remove all barricades, including bicycle fencing, and then “[r]emove officers and sensitive property from [the] precinct [and] observe from [a] distance.” The Outline also noted anticipated risks of each course of action, opining that the first was the “safest for officers and protesters,” that the second and third involved risks of injury to both protesters and officers, and that the fourth would “very likely” result in the destruction of the East Precinct.

The June 7 meeting was held in a conference room at the Mayor’s Office. It was attended by NE#1, the Mayor, and members of their respective staffs. At the meeting, NE#1 and WO#1 briefed the Mayor on the credibility of the threat to the East Precinct. This information was corroborated by the Special Agent in Charge of the FBI’s Seattle Field Office, whom NE#1 contacted on the phone during the June 7 meeting. WO#1 briefed the meeting attendees on the options set forth in the Outline either verbally or by circulating a copy of the document. At no point during this meeting did NE#1 tell any of the meeting attendees—including WO#1—that the fourth option was no longer to be considered and was off the table.

SPD’s tactical posture at the East Precinct did not change from June 7 into June 8. SPD maintained a perimeter around the East Precinct with reinforced fencing and uniformed SPD members. However, demonstrators dismantled the fencing and the standoff again escalated into violence. One person was shot by an individual who drove a car into a group of protesters. The crowd was dispersed that evening with the deployment of a significant number of less-lethal tools. A number of community members suffered injuries, some serious. SPD employees also sustained injuries from projectiles thrown by the protesters, including rocks, bottles, and fireworks. The crowd dispersal and the use of less-lethal tools was again met with an uproar from community and elected officials, with at least two councilmembers supporting the potential impeachment of the Mayor.⁴

Following the overnight violence and subsequent fallout, the Mayor called another meeting on June 8 at the Emergency Operations Center. Prior to this meeting, at 10:27 A.M., the Deputy Mayor of Operations text messaged NE#1 and the Assistant Chief of the Professional Standards Bureau,⁵ stating: “I want to see a plan to remove firearms, ammunition, and all evidence from the East Precinct today. That plan should be capable of being fully executed by 5

³ This incident was investigated by OPA under case number 2020OPA-0334.

⁴ Nathalie Graham, *Teresa Mosqueda Calls for Mayor Durkan to Resign*, The Stranger (June 8, 2020), <https://www.thestranger.com/slog/2020/06/08/43868843/teresa-mosqueda-calls-for-mayor-durkan-to-resign>

⁵ OPA ultimately made the decision that the interviews of the Deputy Mayor of Operations and the Assistant Chief of the Professional Standards Bureau were unnecessary given their limited involvement in this matter.



pm today.” Both NE#1 and the Assistant Chief of the Professional Standards Bureau discussed the message, and NE#1 directed her to start a plan during a text exchange from around 10:28 through 10:41 A.M. The June 8 meeting at the Emergency Operations Center occurred from around noon through 2:00 P.M. and was attended by representatives of SPD and the Mayor’s Office. At the meeting, the Mayor’s Office ordered SPD to remove the barricades surrounding the East Precinct, open the street, and permit protesters to pass by the East Precinct. However, the Mayor’s Office did not direct SPD on the operational details of managing the “open street” scenario. These decisions were left to the discretion of SPD command staff.

NE#2 was the incident commander responsible for protecting the East Precinct. After consulting with other members of SPD’s command staff, NE#2 ultimately gave the order to temporarily evacuate the East Precinct and the immediate area to ensure the safety of SPD members. The plan was to secure the building—including the removal of all personnel, sensitive property, and evidence—observe the situation from a nearby location and prepare to intervene should any protesters attempt to destroy the precinct, but to otherwise reoccupy the East Precinct the following morning after the protesters had passed. All SPD personnel were evacuated from the East Precinct by approximately 6:00 P.M.

By 4:21 A.M. on June 9, SPD command staff was discussing a plan to secure the East Precinct later that day. However, by 5:31 A.M., SPD officers reported that their efforts to gain access to the area around the East Precinct had been stopped by an armed individual who ordered police off the protesters’ “sovereign land.” CHOP/CHAZ was established soon thereafter and remained in place around the East Precinct until July 1, when SPD cleared the area following fatal shootings.

B. Interviews

During its investigation, OPA interviewed two of the three community member complainants, with the third declining an interview. OPA also interviewed nine SPD employees and two staffers from the Mayor’s Office.

1. Complainant Interviews

None of the community member complainants claimed to have any personal or unique knowledge regarding the decision to evacuate the East Precinct. Instead, all three complainants broadly alleged that various City officials—such as the Mayor, NE#1, or SPD generally—were derelict in their duty by evacuating the East Precinct and allowing the disorder to follow.

Complainant #1 reported that she has lived in the vicinity of the East Precinct for the past six years. Complainant #1 observed protesters on television assault people and burn vehicles and buildings. Complainant #1 described a variety of hardships during the 2020 protests, such as gates in front of her building, tear gas, and lockdowns. However, Complainant #1 expressed an understanding of these hardships because of their public safety purpose. Complainant #1 stated that, following the evacuation of the East Precinct, the situation in her neighborhood deteriorated. She alleged that she saw NE#1 in the media saying that she would not come back, which Complainant #1 interpreted to mean that NE#1 had abandoned the residents. Complainant #1 also claimed that she saw the Mayor on the news saying that she made the decision to abandon the East Precinct. In late June of 2020, Complainant #1 reported that she called 911 to request medical attention but was informed that medics would not come to her home. Instead, Complainant #1 reported that she had to use her cane to walk to a nearby Fire Station to receive medical care.



Complainant #2 reported that he lives in the vicinity of the East Precinct. After the East Precinct was evacuated, Complainant #2 claimed that there was an increase in lawlessness in the community, and, specifically, that there had been two murders, property damage, assaults, noise complaints, and weapons possession. Complainant #2 also reported that armed vigilantes had stopped and questioned him and that he had to defend his neighbors from protesters. Complainant #2 attributed this increase in crime to the evacuation of the East Precinct and claimed that NE#1 did not allow SPD officers to do their jobs. Complainant #2 reported that he had called 911 for police assistance and was informed that officers would not respond to the area because it was not safe.

2. Witness Employee Interviews

OPA interviewed nine SPD employees during its investigation.

a. Named Employee #2

NE#2 was interviewed twice by OPA. The first interview occurred on October 28, 2020. At that time, NE#2 was interviewed as a witness employee. NE#2 was later added as a Named Employee in this investigation. NE#2 was then interviewed a second time on March 31, 2021.

When the protests began, NE#2 was the Assistant Chief of Patrol Operations. NE#2 stated that, during this time, his main concern was finding a way to manage and save the East Precinct without putting SPD officers in danger, given that officers were being harassed and having commercial grade fireworks thrown at them. NE#2 also stated that SPD had received information from the FBI that protest groups were going to target government buildings, and that SPD believed that the East Precinct was vulnerable to the type of destruction inflicted on Minneapolis's Third Precinct. This was of additional concern to NE#2 given that the East Precinct contained police vehicles, firearms, investigative files, and other sensitive information.

At 7:05 P.M. on June 7, NE#2 sent an email to all sworn SPD members stating "very strongly" that officers in the East Precinct had not been told to remove their personal belongings in preparation for abandonment of the building. The email further stated that it was the "strong position of both [NE#1] and myself that **we will not abandon one of our facilities** to those who are intent on damaging or destroying it." (Emphasis in original). NE#2 stated that he sent this email to address "rumors" possibly caused by SPD boarding up the East Precinct.

NE#2 did not attend the June 7 meeting at the Mayor's Office but was present at the June 8 meeting in the Emergency Operations Center. NE#2 recalled making an "impassioned plea" to continue defending the East Precinct and expressing his belief that there could be a "domino effect" if one precinct were to be destroyed. NE#2 recalled advocating for the City to permit SPD to acquire permanent, stationary fencing, but that the Mayor's Chief of Staff rejected this plan. According to NE#2, the Chief of Staff informed those present that the protesters just wanted to peacefully march by the precinct, and SPD was instructed to allow the protesters to do that. NE#2 stated that he left the June 8 meeting believing that the decision whether to open the streets "had been taken out of [SPD's] hands." NE#2 understood that both NE#1 and WO#1 had previously briefed the Mayor on his concerns, and that the Chief of Staff was conveying the Mayor's decision.

NE#2 noted that, after the June 8 meeting ended, he had limited time to decide how best to protect the East Precinct, its personnel, and physical assets. NE#2 believed he may only have a matter of hours to execute any plan to secure



the building and anything inside. NE#2 described that a “panic-type” situation unfolded at the East Precinct. He said that information about the street opening leaked out and a significant crowd was forming. NE#2 ordered sensitive SPD property be removed from the building and computer systems shut down but, given the limited amount of time, “it spun a little bit more...it just was too much to manage.” NE#2 described getting as many people involved as he could due to the logistics he had to arrange and that the situation “started taking on a life of its own.”

NE#2 described that NE#1 was fully aware of his efforts to remove sensitive items from the precinct, but that he never considered the removal as an “abandonment” of the building. Instead, NE#2 believed it was an effort to remove sensitive items in order to keep them safe. Ultimately, NE#2 said that he ordered personnel to evacuate the building as well, elaborating:

I had to weigh what was put in front of me, based on the current concerns I had. I mean, I think—ultimately, our hand was forced by us not being allowed to use the tactics that I suggested to better fortify and secure the building, so left with minimal options, uh, I took the best course of action that I felt at the time was necessary, again, to protect the sensitive files, our computer systems, and not allow firearms to fall in the wrong hands, to get, uh, police vehicles that we didn’t want destroyed out of—out of there, uh, you know, with—that’s what I was left with, that’s what I had to deal with, and that’s what I felt was necessary to do at the time.

NE#2 confirmed that no one at the Mayor’s Office specifically ordered SPD to evacuate the precinct, but that the potential consequences of the Mayor’s Office’s directive to SPD to remove all barricades and allow the protesters to pass by on the street had been “very clearly” explained to the Mayor’s Office. At his first interview, NE#2 further stated that he never discussed the evacuation of personnel with NE#1 specifically, but that they had been in communication about removing sensitive items from the precinct and that NE#1 recognized that NE#2 was going to take the steps that “were necessary to secure the building and prevent what we had seen on the previous six or seven nights.”

NE#2 denied that the decision to evacuate the East Precinct was made in retaliation for a lack of political support from the Mayor’s Office. Instead, NE#2 stated that SPD was given the responsibility of public safety and that, when SPD’s tools were limited, they managed the best they could under the direction they were given. NE#2 told OPA that “giving up” or “simply walking away” was not an option that SPD “could possibly take.” Furthermore, NE#2 denied that he had any idea that something like CHOP/CHAZ would be established in the absence of SPD from the East Precinct. NE#2 stated that he instead believed the principal risk was the physical destruction of the East Precinct. NE#2 agreed that the establishment of CHOP/CHAZ affected SPD’s ability to effectively police the area. However, once an armed CHOP/CHAZ perimeter was established and SPD leadership observed that the East Precinct was not being destroyed, a decision was made to hold off taking back the precinct because reestablishing a police presence in the area would require significant planning.

At his second OPA interview, NE#2 largely reiterated, but expanded on, his prior statements. NE#2 stated that he did not recall when it was that he had seen the Outline, but NE#2 stated that all four options were discussed following the June 8 meeting. NE#2 indicated that, as a result of the decision from the Mayor’s Office to open the street, the only option truly available to SPD was the fourth option—evacuation.



In contrast to his first interview, NE#2 stated at his second interview that he told NE#1 during a phone call “exactly what we were going to do” and that he would never make as significant a decision as evacuating all personnel from the East Precinct “without running by the chief exactly what it was that we were going to do.” NE#2 said that this call occurred at approximately 3:00 P.M. on June 8. When asked what NE#1’s response was, NE#2 said: “Not specific words, but she concurred with the response, and I think she understood it.” NE#2 stated that he was alone when he had the 3:00 P.M. call with NE#1. However, NE#2 stated that, after finishing the call, he reentered a room occupied by Witness Officer #4, Witness Officer #2, Witness Officer #1, and the Deputy Incident Commander.⁶ NE#2 recalled that he would have told this group of individuals: “Just that I talked to the chief....And, you know, that we’d move forward with the plan that we ended up implementing.”

b. Witness Officer #3

The Assistant Chief of Investigations—Witness Officer #3 (WO#3)—was interviewed in connection with another case (2020OPA-0355) on October 29, 2020. However, during that interview, she was asked questions about the East Precinct evacuation and provided relevant information to this investigation.

WO#3 recalled that, during the summer 2020 protests, SPD received intelligence from the FBI and other sources that certain groups of protesters were committed to the destruction of the East Precinct. To protect the facility, a perimeter was established around the East Precinct in the early days of the protests. WO#3 stated that, as the protests wore on, SPD was told by protesters that the barricades were a “flash point” and that the protesters just wanted to be able to march peacefully down the street. However, WO#3 noted that SPD continued to have concerns that this was not true and that the protesters wanted to “burn the precinct down, break out the windows and/or occupy it as they had done in other cities” such as Minneapolis and Portland.

WO#3 reported being present at the June 8 meeting between the Mayor’s Office and SPD command staff. WO#3 recalled that the Mayor’s Office was “incredibly interested in the barricades being removed” and that SPD agreed in an act of “good faith” and de-escalation. WO#3 said that SPD’s role in this decision was made by NE#1 as a calculated risk. However, WO#3 recalled that the decision at the meeting was that “under no circumstances were we going to leave the precinct.” According to WO#3, at some point thereafter NE#2 received intelligence that the East Precinct could be fire-bombed. WO#3 said that NE#2 then made a tactical decision to evacuate the East Precinct out of concern for the safety of his officers and specific risks to the East Precinct—namely, that the East Precinct had a generator in the basement, significant timber construction, and was attached physically to housing.

c. Witness Officer #2

WO#2 is a Lieutenant who was the Operations Section Chief on June 8, 2020, serving at the direction of NE#2. He was interviewed by OPA on December 9, 2020.

According to WO#2, he arrived at work on June 8 believing that additional, more secure fencing would be installed around the East Precinct. However, WO#2 was then informed by Witness Officer #4 (WO#4)—then a Captain, now an Assistant Chief—that the Mayor had ordered the suspension of fence installation and, instead, protesters were to be

⁶ The Deputy Incident Commander was ultimately not interviewed by OPA as his involvement in the incident was largely administrative and the decisions at issue were made by individuals, including NE#2, who were above him in the chain of command.



allowed to march by the precinct. According to WO#2, this was “hugely concerning” from a security perspective to himself and other SPD supervisors given the progression of aggression from protesters. Specifically, WO#2 described a difficult tactical decision where SPD officers would either have to hold a line just outside the East Precinct—with nowhere to retreat other than the East Precinct—or barricade the East Precinct and stay inside. Both of these options were described by WO#2 as extremely dangerous given the possibility that the East Precinct could be set on fire. WO#2 asserted that “there was no way we were going to leave officers stuck in that predicament.”

WO#2 recalled being part of a discussion with another Lieutenant, WO#4, and NE#2 at which it was decided that the precinct would be evacuated. WO#2 stated that it was determined at this meeting that “we would remove officers from the area” with the intention of observing the precinct and reoccupying it the next morning. WO#2 said that, although NE#1 was not present for this meeting, he believed that NE#2 spoke with NE#1 by phone.

WO#2 stated that, during the evacuation, he informed both a Deputy Mayor and the Mayor’s Chief of Staff that there would no longer be any SPD personnel inside or outside the precinct. WO#2 believed that both the Deputy Mayor and the Chief of Staff understood and agreed with the reasoning behind this decision.

WO#2 said that the plan was to temporarily evacuate the precinct, then return and retake the area after the protesters moved on. The only deviation from that plan would be if protesters set fire to the East Precinct or broke into the building. WO#2, like both Named Employees, denied having any information or belief that CHOP/CHAZ would be established or that “heavily armed and body armored individuals” would show up to “secure and ostensibly to hold off a police presence from reopening our precinct.”

d. Named Employee #1

The Former Chief of Police—NE#1—agreed to be interviewed by OPA after she had retired from SPD. She was interviewed on January 13, 2021.

At the outset of her interview, NE#1 denied that she made the decision to leave the precinct. She stated that a decision was made to remove staff and supplies from the precinct based on perceived dangers associated with the Mayor’s decision to open the area around the East Precinct to protesters and the belief that some protesters wanted to set fire to the precinct. However, NE#1 reiterated that she “wasn’t a part of that decision.”

In recalling the June 8 meeting, NE#1 stated that it went on for some time, with the ultimate decision being—over the objection of some members of SPD—that the barricades were going to be removed and protesters would be permitted to pass by the East Precinct. NE#1 recalled that she had concerns about this plan, given her observations of rocks and bottles being thrown at police officers, but that she was also cognizant that continuing to hold a line every day would drain SPD’s resources and morale. NE#1 asserted that, after the decision to remove the barricades was made, she was not involved in any further internal discussions as to what SPD would do to secure the East Precinct. Although NE#1 stated she knew there were concerns about the building, she told OPA that she “wasn’t involved in the discussion about what, you know, who was moving what material and when.” When asked to specify when she became aware that preliminary steps were being taken to remove sensitive items from the East Precinct, NE#1 said: “Yeah, I don’t, I don’t remember. I know I was aware of it at some point, you know, but I don’t know if that was before or after the fact to be honest with you.”



NE#1 stated that she understood the decision to remove the barricades created concerns about the safety of the officers inside the East Precinct, as well as the security of the building itself and sensitive material inside. NE#1 confirmed that she felt these concerns were reasonable, but that she would have “preferred to have been a part of the decision-making process before we decided to exit and [she] wasn’t.” NE#1 elaborated that she was notified after the fact by NE#2 that there was “like a collaborative decision to do it” among NE#2, WO#2, and WO#4.

NE#1 was adamant that any decision by NE#2 to evacuate the East Precinct was not insubordinate and she had “every confidence in him.” Instead, NE#1 voiced her belief that “things were dynamic, there was a good will concern between the discussion they were having, they all sort of co-sign on each other’s opinion and mixing another, start to move and take action.” Moreover, NE#1 acknowledged that she empowered her command staff to make decisions without always consulting her. NE#1 specifically noted that the entire reason for appointing an individual as an Incident Commander—here, NE#2—was so that they could make decisions that could and would result in significant outcomes. Although NE#1 expressed her desire and preference that NE#2 would have consulted with her prior to ordering the East Precinct evacuation, she noted the following: “Typically, you know, those decisions, you know, sometimes they’ll [the command staff] have the chance to include me and sometimes they won’t or sometimes they’re directed to include me...And you know, they have to be able to make decisions dynamically.” NE#1 also acknowledged that there was some discretion for the decision to evacuate the precinct, stating: “I wasn’t there as [a] dynamic situation was unfolding, you know, I’m not being overly critical because I don’t think that—I do think that there was some latitude there, but it did not—I would’ve rather have known that. That’s all.” NE#1 denied that NE#2 or others would have intentionally left her out of the decision-making process based on a belief that she would have disapproved of the evacuation plan.

NE#1 was uncertain whether the decision to evacuate the East Precinct contributed to the establishment of CHOP/CHAZ, calling such a connection “all speculation.” However, NE#1 noted that the decision to remove the barricades made the precinct “more vulnerable,” and that “allowing people to have that access, certainly contributed.”

e. Witness Officer #4

WO#4 was interviewed by OPA on January 27, 2021.

WO#4 recounted that he arrived to work on the morning of June 8 with the understanding that the City had contracted with a company to screw fencing into the concrete in the area around the East Precinct. However, an hour before roll call, NE#2 told WO#4 that the plan had changed, and that the street would be opened. WO#4 said that this put SPD into a “scramble” as officers secured the East Precinct and removed sensitive items from approximately noon or 1:00 P.M. until approximately 6:00 P.M.

WO#4 recounted that, following the order to open the street, command-level staff who were present were forced to decide how best to tactically manage the situation. Ultimately, those individuals—including WO#4—decided that “it wasn’t a good idea to have officers present.” Specifically, WO#4 recounted that they considered a number of options in order to leave officers inside the East Precinct but that, given the number of protesters, the thinking was that any officers left inside the building would be at risk of becoming “cut off, possibly from rescue, from further assistance.” Instead, the plan was to have officers set up several blocks away to put them in position to intervene if protesters started damaging the East Precinct.



WO#4 stressed that no one expected the establishment of CHOP/CHAZ or that the protesters would remain in place for two or three weeks. WO#4 opined that, had anyone at SPD anticipated that CHOP/CHAZ would result as an outcome, he would have “strongly advocated” against leaving the area. However, WO#4 stated his belief that anticipating the development of CHOP/CHAZ would be looking back at the situation with “20/20” hindsight.

f. Witness Officer #1

WO#1 was interviewed by OPA on February 2, 2021. During the summer 2020 protests, WO#1 was both an SPD Captain and a Brigadier General in the Washington Army National Guard. On June 2, NE#1 assigned WO#1 to take over the “planning and responsibilities for the department” via the Seattle Police Operations Center.

WO#1 detailed the difficulty SPD had maintaining a perimeter around the East Precinct during the protests. WO#1 stated that SPD originally used “bicycle fencing” for a perimeter, but that this was destroyed and used as weapons by protesters against SPD officers. SPD responded by contracting with a vendor for “heavier duty fencing,” which protesters dismantled using “blowtorches and pneumatic tools.”

As recounted above, WO#1 described his experience attending the June 7 meeting at the Mayor’s Office. WO#1 attended at the behest of NE#1 to present the department’s argument for reinforcing the existing barricades. WO#1 noted that he only had approximately a half hour to prepare for the meeting. During this time, WO#1 drafted the Outline, setting out four potential courses of action. WO#1 described the four options he presented to the Mayor as follows: (1) “maintain a current posture with hard barricades, best option to protect the East Precinct, safest option for officers and protesters”; (2) “remove [all of the] the barriers..., establish bicycle fencing around the sidewalk of the East Precinct, officers manning perimeters behind the fence line, extreme risk of damage to or loss to the East Precinct, will force officers to confront and protect selves with OC and other munitions for officer safety if precinct is attacked, highly likely the officers will sustain injuries in defense of the precinct”; (3) “remove barriers, all of them, establish bicycle fencing around the sidewalk of the East Precinct, officers inside the precinct, not visible on the street, extreme risk of damage or loss to the East Precinct, will force officers to judge and protect selves or others with OC or other munitions for officer safety if precinct is attacked, highly likely officers will sustain injuries in defense of the precinct, evacuation of officers and staff and property will be difficult or impossible”; (4) “remove barricades, no bicycle fencing around the precinct, remove officers and staff and property from the precinct, observe from a distance, very likely that the precinct will be destroyed.”

The next day, June 8, WO#1 was ordered into work on his day off by NE#2 at approximately 2:00 P.M. WO#1 recalled NE#2 telling him: “you need to come back to the precinct, we’re going to pull back from the precinct, you need to help organize getting the stuff out of there and prepare it to get boarded up because we’re going to pull back, we just can’t sustain the injury to the officers, it’s unsustainable.”

Upon arriving at the East Precinct, WO#1 described a “gut-wrenching situation” as officers in an “absolute panic” were “ripping open lockers” and “kicking in doors in the offices” in order to secure weapons, computers, and hard drives. WO#1 stated that he organized the supervisors to get them to “take a breath” and approach the situation in a “methodical manner.” The overall effect on the officers was “hugely demoralizing,” according to WO#1. WO#1 described seeing “a lot of officers [...] crying” that day and that the situation was “one of the more difficult events that I’ve been through in my life.”



Following the evacuation, WO#1 turned his attention to the need “to have a functioning police precinct or at least the ability to police the [confines of the] East Precinct.” WO#1 described handling the logistical issues attendant to continuing police operations in the confines of the East Precinct without access to the East Precinct, such as securing parking for officers, viable response options, ensuring officers knew where to report, and making sure officers knew the plan for policing the confines of the East Precinct out of the West Precinct building. WO#1 stated: “So that was the first part, you know, to take care of the assistance of the [confines of the] East Precinct and provide them some sort of semblance of police services.”

g. Witness Officer #5 and Witness Officer #6

OPA interviewed two employees assigned to SPD’s Public Affairs Unit—referred to here as Witness Officer #5 (WO#5) and Witness Officer #6 (WO#6).⁷ WO#5 was interviewed on April 15, 2021. WO#6 was interviewed on April 28, 2021.

The focus of these interviews was a statement on the SPD Blotter—the official SPD blog—filed by SPD Public Affairs on June 8 at 4:32 P.M., announcing that SPD would be opening the streets around the East Precinct. The Blotter included a lengthy quote—set off in a text box with a gray background and vertical green line—from NE#2. The quote did not specifically address whether any SPD personnel would remain inside of the East Precinct. Following the NE#2 quote—below the text box—was a single sentence that stated: “The East Precinct will remain staffed.”

At his second OPA interview, NE#2 stated that he did not recall whether he was involved in the production of the Blotter release. He further stated that this was the first time he had seen that Blotter entry. NE#2 elaborated that there was a lot going on at the date and time the Blotter was released.

Both WO#5 and WO#6 denied writing the Blotter entry. WO#5 was newly hired at SPD on the date the Blotter was released and would not have been involved. WO#6 stated that he may have been involved in the Blotter release but had no specific recollection of reviewing the Blotter contents. WO#6 said that it would be unlikely that NE#2 would not have been shown a release in which he was quoted but indicated that the last sentence—concerning the East Precinct remaining staffed—appeared to have been inserted by someone in the Public Affairs Section based on the way it was written. WO#6 indicated that this sort of information would typically be included after receiving confirmation from someone in the field.

WO#5 also discussed a video speech made by NE#1 to SPD members and released on SPD’s YouTube Page on June 11. In the speech, NE#1 stated that leaving the East Precinct was not her decision and that “ultimately the City had other plans for the building and relented to severe public pressure.” WO#5 stated that she was involved in writing the speech and specifically wrote the line in the speech stating that leaving the East Precinct was not NE#1’s decision. WO#5 stated that she did not think it was ever NE#1’s intention to leave the East Precinct and that this message in the speech was “ultimately approve[d] by” NE#1. WO#5 stated that she believed the speech to be true but that only NE#1 could answer what her intent was with respect to releasing the speech.

h. Witness Officer #7

OPA interviewed Witness Officer #7 (WO#7) on July 8, 2021. At the time of the interview, WO#7 was a Captain; however, at the time of the incidents in question he was an Assistant Chief.

⁷ Both of these employees are civilians but are referred to here as “Witness Officers” for consistency purposes.



WO#7 said that, prior to June 8, he had a role in attempting to secure 12-foot fencing through a private vendor. WO#7 understood, through his capacity working to secure the fencing, that the vendor was moving forward with the installation until the Mayor's Office ordered its removal due to liability concerns.

WO#7 described being present at the June 8 meeting. It was his understanding that the Mayor's Office ordered SPD to open Pine Street to allow the protesters to come through. WO#7 believed that, because of the Mayor's Charter authority, SPD had no discretion to disobey this order. However, WO#7 noted that NE#1 and NE#2 argued strongly against opening Pine Street, with NE#2 "getting pretty heated" with the Mayor's Office. WO#7 also summarized a back and forth at the June 8 meeting in which, according to him, SPD officials described political fallout if the East Precinct were to be destroyed by protesters, and Mayor's Office staff countered describing political fallout if they did not open the streets. WO#7 further described a conclusion to this disagreement with "universal agreement that we (SPD) couldn't hold this line forever because of the attrition through injury." WO#7 stated that, after the decision was made to open the street, the greatest concern was protecting the East Precinct from destruction. WO#7 recounted that, at the meeting, he opined to NE#1 that since SPD had previously been able to push the crowd back, if the protesters began attacking the precinct, SPD would be able to push the protesters back again. WO#7 stated that this reasoning encouraged NE#1 to "capitulate" to the Mayor. At the meeting's conclusion, WO#7 understood that there was to be fencing placed immediately around the East Precinct, with room for there to be an "operating area" between the fence line and the building for officers to defend the building. Additionally, WO#7 understood that there would also be officers at a nearby location who would be on standby to rescue any officers that got trapped inside the fence line. WO#7 then left the meeting to begin working on the fencing, but stated that NE#1, NE#2, and the Deputy Mayor "stayed back for a sec...they had a little sidebar."

WO#7 recounted that, after returning to the West Precinct Operations Center, there was another meeting between NE#2, WO#1, and others. WO#7 was not included in this meeting but understood that it involved further operational planning. WO#7 also described a participant of that meeting—the Deputy Incident Commander—telling him, just as WO#7 was leaving to go to the East Precinct, "we can't leave officers in the Precinct, it's not safe for them."

At the East Precinct, WO#7 began working on the fence installation before he got "distracted" for a period of time. WO#7 then noticed that the individuals installing the fence were "starting to bolt stuff against the wall of the East Precinct." WO#7 said that, when he inquired as to what was happening, NE#2 told him: "we're changing things around a bit." WO#7 then got a phone call from the Deputy Mayor asking about why the plan changed, to which WO#7 replied: "I'm not in charge anymore, you know, that's [NE#2]." WO#7 also claimed that, immediately after speaking to the Deputy Mayor, he received a phone call from NE#1 also asking about the change in plans. WO#7 stated that he responded: "I don't know, you put [NE#2] in charge, you need to talk to [NE#2]." WO#7 said that NE#1 told him that NE#2 was not answering his phone. WO#7 recalled that these conversations occurred "maybe two or three hours before the precinct was abandoned." WO#7 told OPA the following: "I stepped away and I decided, well okay, things are changing. And it's, you know, I don't have a job here anymore. So, you know, I left the East Precinct." WO#7 did not remember where he went after leaving the East Precinct.

WO#7 acknowledged that there was a risk that, if officers were left to defend the precinct, they could be trapped behind a group of protesters and—in the worst case scenario—inside a burning building. However, WO#7 did not believe this scenario was likely because the officers had been able to move the crowds back on previous nights. WO#7 also acknowledged that the fences would not have been fully installed before the street was opened. WO#7 told OPA that the fencing was always going to need officers to defend it.



Notably, WO#7 was the only witness interviewed by OPA that claimed that anyone anticipated the establishment of CHOP/CHAZ. WO#7 opined that “there was a belief that we would be denied access to areas, you know, with some of the fencing.”

3. Mayor’s Office Interviews

OPA interviewed two employees from the Mayor’s Office, the Chief of Staff and the Deputy Mayor.

a. Chief of Staff

OPA interviewed the Chief of Staff on March 3, 2021. In her role as the Chief of Staff, she was responsible for numerous issues, including the Mayor’s communication, schedule, and overseeing a portfolio of important matters. During the summer 2020 protests, the Chief of Staff was directly involved in monitoring the protests from the first day.

The Chief of Staff recalled that the protests began in Seattle on May 29, with nightly protests occurring by the East Precinct and in nearby Cal Anderson Park. During this time, the Chief of Staff was present in the Emergency Operations Center every night until 2:00 or 3:00 A.M. monitoring the events and communicating in real time with SPD.

The Chief of Staff recollected that SPD established a “static line” to protect the East Precinct. This was a concern because SPD had received information from the FBI indicating that protesters wanted to destroy the building. However, according to the Chief of Staff, SPD’s “static line” created “challenges” and caused “a lot of conflict between officers and protesters.” The Chief of Staff stated that discussions were held every night between the Mayor’s Office and NE#1 concerning how things were going.

The Chief of Staff was present for the June 7 meeting in the Mayor’s Office. The Chief of Staff recalled NE#1 calling the Special Agent in Charge of the FBI’s Seattle Field Office and that the “takeaway” of the call was that the threat to the East Precinct was “very real.” The Chief of Staff also recalled being presented with the Outline and that the purpose of the meeting was to explore tactical options SPD could employ to deescalate the situation. The Chief of Staff stated that SPD discussed the possibility of installing a ten-foot-high barrier-type fence, but that the reaction of the Mayor’s Office was skepticism that the prospect of building a “10-foot barrier blocking off an entire neighborhood, more or less” was not very realistic because it could not be immediately accomplished. The Chief of Staff stated that the June 7 meeting did not result in a decision to pursue any specific action.

The Chief of Staff described further developments overnight from June 7 to June 8—specifically someone driving a car into the demonstrators, shots fired with injuries, tear gas deployment, and additional officer injuries. Worried that people were going to be killed if matters continued along the same lines, another meeting was called. The Chief of Staff recounted that she, the Deputy Mayor, the Seattle Department of Transportation director, and SPD command staff were present at the June 8 meeting.

The Chief of Staff described the June 8 meeting as “a robust 60- to 90-minute conversation” about acknowledging that the *status quo* was not working, and that they needed to create a solution to address the goals of keeping the officers safe and protecting the community, including both peaceful protesters and residents. Moreover, the Chief of Staff described additional concerns should anyone burn the East Precinct as it is attached to residential housing. Although the Mayor’s Office made the ultimate decision to open the streets around the East Precinct, the Chief of Staff recalled



that there was “not a significant objection” from SPD or an insistence on installing additional fencing. Instead, the Chief of Staff described the decision to remove the barriers as a “joint decision.”

The Chief of Staff recounted that, after the decision was made to remove the barriers, a planning session occurred concerning the response to the street opening. She recollected that the operational plan included fencing immediately around the precinct as well as “staffing plans” and barricades for the building. The Chief of Staff stated that, in addition, the Seattle Fire Department was consulted, and plans were made to remove sensitive items from the building. The Chief of Staff recalled discussing during the meeting “what would it look like to make sure that not every officer was right inside the precinct, because I think that could then turn into a life safety situation.” The Chief of Staff recalled that SPD had a plan of “having people five minutes out...[s]o if the precinct starts to burn and people are just there and not leaving, that they feel like they (SPD) can be prepared to handle that.”

According to the Chief of Staff, she and the Deputy Mayor learned at approximately 4:00 or 5:00 P.M. on June 8 that the plan “changed” and that the East Precinct was being evacuated. Specifically, the Chief of Staff stated that she and the Deputy Mayor physically went to the East Precinct and spoke with WO#2, who informed them that most of the confidential materials and weapons had been removed from the building, and that there would not be any officers in the precinct building. WO#2 told the Chief of Staff and the Deputy Mayor that, instead, SPD would be staged at Volunteer Park five minutes away. In the moment, the Chief of Staff thought that WO#2’s update seemed like “a completely reasonable thing,” especially since SPD was only going to be few blocks away if anything happened.

The Chief of Staff stated that, in all the scenarios that were considered, no one ever considered the possibility of CHOP/CHAZ being established.

b. Deputy Mayor

OPA interviewed the Deputy Mayor on March 3, 2021. He was one of three Deputy Mayors in the Mayor’s Office. His responsibilities comprised a portfolio that included public safety departments.

The Deputy Mayor described the first week of the summer 2020 protests as involving nightly standoff situations that “continued to escalate.” The Deputy Mayor stated that, despite SPD’s experience with crowd management, a succession of barriers were removed by protesters, there was a “repetitive cycle of altercation and conflict,” and there were concerns all around that the “particular tactics” being used were not sustainable.

The Deputy Mayor recounted that a meeting occurred at the Mayor’s Office on June 7. He recalled that the meeting was called to consider alternatives and to have SPD share those alternatives with the Mayor. The Deputy Mayor recalled that, at the meeting, the FBI also conveyed information concerning threats to the East Precinct. The Deputy Mayor remembered that both NE#1 and WO#1 attended the meeting. The Deputy Mayor stated that WO#1 presented the Mayor’s Office with four options, the first of which was to “stay the course.” According to the Deputy Mayor, SPD was permitted to reinforce their barriers and maintain a perimeter around the East Precinct overnight from June 7 to June 8.

The Deputy Mayor stated that another meeting was called on June 8. The motivation for the June 8 meeting, according to the Deputy Mayor, was the Citywide impact, across all departments, of the continued protests as well as the fact that, on the night of June 7, the barriers were removed by the protesters and a series of “significant altercations and interactions between the police and protesters” followed “nearly immediately.” The Deputy Mayor said that, after



arriving at the meeting, he was informed of a new request from SPD to secure additional, stronger barriers. The Deputy Mayor then convened the meeting and, according to him, the conversation focused on whether erecting additional barriers at the “flashpoint intersection” would “help de-escalate the dynamics.” The Deputy Mayor described a “healthy dialogue” and “lengthy conversation,” lasting approximately 90 minutes to two hours, involving himself, the Chief of Staff, another Deputy Mayor, NE#1, NE#2, WO#7, WO#3, three other Assistant Chiefs, and an SPD civilian Executive Director. The Deputy Mayor stated that, during the conversation, the efficacy of maintaining barriers was discussed. However, the Deputy Mayor stated that it “was probably not feasible” to get SPD the barriers they were looking for that evening, and the Mayor’s Office did not believe the barriers were working. The Deputy Mayor stated that the meeting concluded at approximately 1:00 or 2:00 P.M. with SPD command staff, specifically NE#2 and WO#3, essentially articulating that they needed to go back to the police operation center and work through the issues. The only conversation that the Deputy Mayor recalled at the meeting regarding staffing was between NE#2 and WO#3, during which there was “a little bit of back-and-forth about, ‘do we leave some folks inside?’” NE#2 stated: “I don’t know if that’s safe.” According to the Deputy Mayor, he left the conversation with “the impression that there is potentially likely a change in tactics...but, admittedly, I, at that point, still am not certain what exactly the operational posture or approach is going to be for later that evening.”

The Deputy Mayor stated that, at approximately 5:00 P.M., he and the Chief of Staff decided to drive to the East Precinct as an “unannounced visit.” There, WO#2 informed them that SPD was “wrapping the building” and that SPD personnel would be told at “X hour” they were going to open the street. WO#2 then informed him and the Chief of Staff that SPD would stage at Volunteer Park, but that the plan was “everybody out” of the East Precinct.

C. Public Statements

OPA reviewed a selection of NE#1’s public statements concerning the East Precinct evacuation. From June 11 until June 19, NE#1’s public statements broadly repeated the same salient points: (1) she was involved in the decision to allow protesters to march unencumbered down the street, but this was not her preferred course of action; (2) evacuating the East Precinct was not her decision; and (3) SPD always intended to return to the East Precinct.

As discussed above, NE#1 gave a video-recorded speech to SPD members which was released on SPD’s YouTube Page on June 11. In the speech, NE#1 stated that leaving the East Precinct was not her decision—describing it as a “change of course” two weeks into the protests—and that “ultimately the City had other plans for the building and relented to severe public pressure.” NE#1 emphasized that she was “angry about how this all came about.” NE#1 then detailed that there was “solid information” to suggest that “anti-government” individuals intended to destroy the East Precinct “once we left,” but that the Fire Department was nearby to protect the area from a “real risk” of fire.

On May 7, 2021, NE#1—now the former Chief of Police—appeared on the podcast Reducing Crime.⁸ On this program, NE#1 made additional statements beyond the broad points above. Specifically, NE#1 opined that “leaving the precinct was a real problem, because that was the precipitating factor to the Capitol Hill Autonomous Zone, the CHAZ...But leaving that precinct really, no pun intended, sort of triggered that whole set of events.” NE#1 elaborated that the decision to leave was a command decision and that often such decisions are made in “dynamic situations.” NE#1 also noted several issues that she thought factored into the command decision to evacuate the East Precinct, including that the Fire Department noted the building would burn quickly, the East Precinct was physically attached to other non-police buildings, the situation was dangerous, the Third Precinct in Minneapolis had recently been razed, the FBI

⁸ Jerry Ratcliffe, *Podcast #35: Carmen Best*, Reducing Crime (2021), <https://www.reducingcrime.com/podcast>



warned that police precincts were under threat, and sensitive material could be compromised. NE#1 further noted that the decision to “open up those streets” came from “the City” and that SPD did not want to clear the barricades.

D. Cell Phone Call Logs

OPA obtained the monthly phone bill records associated with NE#1’s and NE#2’s SPD cellphone accounts from May 14, 2020 through June 13, 2020. There were seven calls between them on June 8, at the following times:

1. 2:35 P.M. for 1 minute, from NE#2 to NE#1;
2. 2:42 P.M. for 1 minute, from NE#2 to NE#1;
3. 3:02 P.M. for 4 minutes, from NE#1 to NE#2;
4. 3:13 P.M. for 4 minutes, from NE#2 to NE#1;
5. 6:43 P.M. for 4 minutes, from NE#2 to NE#1;
6. 7:47 P.M. for 20 minutes, from NE#2 to NE#1; and
7. 10:13 P.M. for 6 minutes, from NE#1 to NE#2.

E. Instant and Text Messages

OPA further obtained a spreadsheet of instant and text messages that were sent between June 7 and June 9 that related to NE#1 and NE#2.

The messages from June 7 support what OPA was told during its interviews with the Named Employees and witnesses, namely that the Mayor’s Office was interested in removing the barriers at the intersection of 11th and Pine. The text messages additionally supported the statements NE#1 made about needing to get the FBI on the phone to corroborate the intelligence concerning threats made to the East Precinct.

The messages from June 8 show that, around 10:27 A.M., the Mayor’s Office requested a plan to evacuate “firearms, ammunition, and all evidence” from the East Precinct that could be executed by 5:00 P.M. that same day. There is no mention in these communications about NE#1 insisting that SPD not leave the precinct. Additionally, NE#2 received a message from an SPD Lieutenant at approximately 2:39 P.M. stating “It’s the right decision. It takes great courage. You’re doing a great job.” This message appears to support NE#2’s estimated timeline of making a decision to vacate the precinct by around 3:00 P.M.

At 4:17 P.M. on June 8, a civilian Executive Director at SPD asked NE#2 whether anyone would be working inside the precinct and NE#2 told him, “No.” This message was followed shortly thereafter by a 4:32 P.M. message from WO#3 about taking steps to disable equipment, which was sent to NE#1, NE#2, and other command staff members. This message included a comment about how doing so would stop anyone who got into the building from obtaining SPD’s data. NE#1 liked WO#3’s message at 5:51 P.M. By 7:33 P.M., WO#3 messaged about letting the FBI know that “they” have painted over SPD’s exterior precinct cameras in the event that the FBI had resources in the group of protesters. This communication was sent to NE#1, NE#2, and other command staff members.

F. Emails

OPA obtained the relevant emails of NE#1, NE#2, WO#1, and WO#2 from June 7 through June 9. These emails broadly confirmed the recitation of events set forth above.



Four emails in particular suggest that NE#2's decision to evacuate personnel from the East Precinct was relayed to SPD's command staff at the time of the decision or very close to the time it was made.

Two of these emails were sent as responses to NE#2's June 7 email (discussed above) informing all sworn SPD members that officers had not been told to remove personal items from the East Precinct in preparation for "an abandonment of the building." The first response was from a homicide detective, sent directly to NE#2 at 2:47 P.M. on June 8, stating "I am hearing a disturbing rumor today that we are abandoning the E. Pct?" The second response was sent from a narcotics detective at 3:09 P.M. on June 8. The narcotics detective's responding email was directed only to NE#2, but accidentally carbon copied to all sworn SPD members, which would include NE#1. It stated: "What happened? I volunteer to help defend. This is ridiculous!"

The third email was a list of "speaking points" forwarded by NE#1 to members of SPD's Public Information Office, including WO#5. NE#1 forwarded the email on June 8 at 3:08 P.M.—approximately two minutes after ending a four-minute phone call with NE#2 and approximately five minutes before another four-minute phone call with NE#2. The speaking points were drafted by WO#3, who emailed them to NE#1, NE#2, WO#7, and other members of SPD's command staff. The speaking points noted that NE#1 ordered "changes to our deployment strategy" that would decrease the SPD "footprint in the East Precinct." The speaking points elaborated that the streets would be opened to protesters, SPD would "bring more officers off the line and into safer positions," the East Precinct facility would be secured, and that a deployment plan would be sent to ensure continuity of police services. The timing of this exchange corroborated NE#2's account that he was in communication with NE#1 regarding his decision to evacuate the East Precinct. Given that NE#1 forwarded this email in the middle of a fifteen-minute window in which she had two four-minute-long phone conversations with NE#2, it appears possible if not probable that the subject of these phone calls between NE#1 and NE#2 was the operational plan for the East Precinct. Also, the phrasing of the "speaking points" would make it apparent to anyone familiar with the Outline that an evacuation of personnel from the East Precinct was, at the very least, being considered. Specifically, the note that the changes would permit SPD to "bring more officers off the line and into safer positions" was consistent with the Outline's fourth course of action, removing officers from the precinct and observing from a distance.

The fourth email also corroborated NE#2's account that he was in communication with NE#1 regarding his decision to evacuate the East Precinct. On June 8 at 3:28 P.M., NE#2 sent an email to all sworn members of SPD informing them of the decision to open the streets to protesters and emphasizing that the safety of SPD employees and the security of SPD facilities were his "highest priority." In his email, NE#2 stated that: "Additional measures are currently underway to enhance our ongoing efforts to insure [sic] the security of our East Precinct and provide for the safety of all our officers. We will have personnel in place should the need arise to swiftly address acts of violence and/or property destruction." Approximately two minutes later, NE#2 sent an email to NE#1, WO#3, and WO#7, copying three other command staff members, stating that he just sent an email to all sworn members that was "approved by the Chief."

Three elements of NE#2's June 8 email are particularly relevant. First, the overarching plan outlined in the email is most like the fourth course of action in the Outline, which always anticipated evacuating personnel. Second, as with the "speaking points" email, the phrasing of this email would make it clear to anyone familiar with the Outline that an evacuation was being considered. NE#2 did not state that the "personnel in place" would actually be inside of the East Precinct. This is consistent with the Outline's fourth course of action. NE#2 also did not elaborate on what specific "additional measures" were being taken to provide for officer safety, even though the Outline noted that it would be "highly likely officers will sustain injuries" under any scenario in which officers remained inside of the East Precinct



after the streets were opened to protesters. Moreover, the email did not state that the East Precinct would remain open, even though the building was contemporaneously being barricaded and emptied of sensitive items. Third, a subordinate SPD member sent a draft of this email—substantially the same as the final email—to NE#2 at 3:18 P.M. This was approximately one minute after the second four-minute phone call between NE#1 and NE#2. This again suggests that NE#2 was in ongoing communication with NE#1 at the precise timeframe that the decision to evacuate personnel from the East Precinct was made.

G. Incident Action Plan

In the hours after the decision was made to evacuate the East Precinct, SPD commanders began drafting a narrative report—referred to as the “Situation Report”—which was later added to the Incident Action Plan (IAP). The Situation Report was initially created by a SPOC employee, who forwarded the draft to the Deputy Incident Commander. This draft was received at 5:25 P.M. The Deputy Incident Commander forwarded the narrative section via email to NE#2 at 5:35 P.M. In that email, the Deputy Incident Commander wrote: “I reviewed this. Let me know if you want any changes.” The Situation Report outlined the force that had been used against protesters and the injuries sustained by officers in defending the static lines around the East Precinct. Among other things, the Situation Report noted: “In light of the ongoing volatility of the situation and potential for continued conflict, the decision has been made to cease police operations out of the Seattle Police Department East Precinct.” Included within the Situation Report’s Action Steps was the “[r]emoval of all police personnel from East Precinct, both inside and outside the facility.” The Deputy Incident Commander emailed NE#2 at 9:27 P.M. with a revised draft including “the requested added language.” These two drafts appear identical with the exception of a single added paragraph at the bottom of the revised draft that outlines that SPD would take “appropriate action to protect the life and safety of officers and demonstrators,” including that such action could include the use of less lethal tools. NE#2 approved the revised draft and asked for it to be included as an addendum to the Incident Action Plan for the record.

H. Public Reporting

The media reported extensively on the decision to evacuate the East Precinct. On July 9, 2021, KUOW published an investigative article titled: “We know who made the call to leave Seattle Police’s East Precinct last summer, finally.”⁹ The KUOW article noted that it was sourced from “nearly two thousand pages of public records in the form of emails, texts, and instant messages, plus six interviews with people across city departments who have intimate knowledge of the events.” All six of the sources spoke on condition of anonymity.

The KUOW article was, in OPA’s assessment, the most thorough and accurate accounting of the decision-making surrounding the precinct to date and was consistent with most of the evidence reviewed by OPA. However, certain relevant evidence was uncovered during OPA’s investigation that did not appear to be among what KUOW reviewed and/or had access to. Specifically, this evidence included: the (1) cell phone records of the Named Employees; and (2) the Outline created by WO#1 for the June 7 meeting. The KUOW article also based its findings on interviews provided under the condition of anonymity, while OPA required witnesses to go on the record and attest that their statements were truthful and complete under penalty of termination (at least for SPD employees).

⁹ Isolde Raftery, *We know who made the call to leave Seattle Police’s East Precinct last summer, finally*, KUOW (July 9, 2021, 12:23 PM), <https://www.kuow.org/stories/we-know-who-made-the-call-to-seattle-police-s-east-precinct-last-summer-finally>



Despite significant alignment between OPA's investigation and the KUOW article, there were two significant conclusions reached by the KUOW article that did not comport with the totality of the evidence reviewed by OPA.

First, the KUOW article endorsed the conclusion that NE#2 did not inform NE#1 that all personnel would be evacuated from the East Precinct. The KUOW article posited that NE#1 called NE#2 and was unable to reach him, reportedly telling someone else that NE#2 was "not answering his phone." WO#7 was the only individual interviewed by OPA who made such a claim. However, considering NE#1's and NE#2's cell phone records, which are detailed above, this claim appears mistaken. Indeed, there were seven calls between NE#1 and NE#2 on June 8 between the hours of 2:35 P.M. and 10:13 P.M. Two of these calls—one at 3:02 P.M. and the other at 3:13 P.M.—lasted for approximately four minutes and corroborated NE#2's statement that he and NE#1 spoke around 3:00 P.M. Notably, this was the same time that the decision to evacuate the precinct was made. During her OPA interview, NE#1 did not mention these two phone calls or tell OPA that NE#2 was ever unreachable via phone, text, or email.

Second, the KUOW article also reasoned that SPD command staff—specifically NE#1 and NE#2—were so strongly opposed to the concept of evacuating personnel from the East Precinct during the noon meeting on June 8 that NE#2 had no discretion to take this course of action later without NE#1's approval. WO#3 and WO#7 were the only individuals interviewed by OPA who provided even partial support for this idea. However, based on the totality of the evidence adduced by OPA, this is unlikely to be what happened for a number of reasons. First, NE#1 stated that NE#2—as the incident commander—was afforded discretion to make tactical decisions, and even significant ones. Second, among the majority of witnesses interviewed by OPA, there was consensus that the noon meeting on June 8 concluded without any operational directives issued by the Mayor's Office—or, for that matter, by NE#1—for how SPD command staff was to secure and protect the East Precinct after the streets were opened. This was consistent with testimony offered by NE#1, NE#2, and the Deputy Mayor. This is significant as WO#7 identified all three of these individuals as remaining after the meeting to talk. It seems most likely to OPA that it was assumed by both the Mayor's Office and SPD command staff that the dynamic, tactical decisions concerning the precinct would be resolved by NE#2 as the incident commander and also that the possibility of a tactical evacuation from the precinct was, at the very least, on the table.

I. Remaining Factual Issue

As noted above, there was broad consensus among the witnesses and documentary evidence concerning the evacuation of the East Precinct on June 8. Incongruities that OPA identified are discussed in sections above. That being said, a remaining core factual disagreement identified by OPA is discussed below.

NE#1 and NE#2 disagreed over whether NE#1 authorized the plan to evacuate the East Precinct. NE#2 was interviewed by OPA twice during the investigation—the first time as a witness officer, the second time after he was added as a Named Employee. During his first interview, NE#2 stated that he never discussed his decision to evacuate the East Precinct with NE#1 specifically, but that NE#1 was fully aware that sensitive equipment was being removed from the building and NE#2 was empowered to take steps that he felt "were necessary to secure the building and prevent what we had seen on the previous six or seven nights." During his second interview, NE#2 stated that he informed NE#1 of his decision to evacuate the East Precinct during a phone call at approximately 3:00 P.M. on June 8. NE#2 did not recall NE#1 taking any kind of position with respect to his decision. NE#2 noted that NE#1 "concurred with the response" given the recent directive from the Mayor's Office to remove the barricades and allow the protesters to pass by the East Precinct. NE#2 stated that no one else was present during this phone conversation with NE#1. He was adamant that he would not have ordered the evacuation of the East Precinct without consulting NE#1. Cell phone account data



from the Named Employees corroborate NE#2's account that he was in communication with NE#1 around 3:00 P.M. on June 8; however, OPA cannot definitively determine what they discussed at that time. NE#1 has consistently stated that NE#2 neither sought nor received her authorization to evacuate the precinct. She told OPA that she would have wanted to be included in such a decision, but that she expected her commanders to make difficult decisions and that she did not believe that NE#2 was insubordinate by not consulting with her.

Ultimately, the evidence is conflicting as to whether NE#1 explicitly approved the plan to evacuate the East Precinct, or if NE#2 made this decision independently. OPA believes it much more likely that this ambiguity was the result of a number of complicated decisions being made during a highly stressful, rapidly evolving situation. However, regardless of this dispute of fact, the evidence is clear—predominantly based on NE#1's statement—that, even if NE#2 decided independently to evacuate the East Precinct, he had full discretionary authority to make that decision.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

1.020 - Chain of Command 7. Command Employees Take Responsibility for Every Aspect of Their Command

SPD Policy 1.020-POL-7 requires supervisory employees to “coordinate and direct subordinates and allocate resources to achieve the operations objective.” (SPD Policy 1.020-POL-7.) The policy further commands supervisors to “perform the full range of administrative functions,” guided by “Policy, direction, training, and personal initiative” to achieve “the highest level of performance possible.” (*Id.*)

The community member complainants generally alleged that NE#1—as the Chief of Police—failed to take responsibility for her command by ordering—or allowing through her designee—the evacuation of SPD personnel from the East Precinct and surrounding area. Furthermore, the complainants alleged that the evacuation led to the establishment of CHOP/CHAZ and an ensuing period of lawlessness in the area.

When evaluating NE#1's actions and decision-making, OPA is required to consider the facts and circumstances she and the Department encountered at the time. Applying this framework, OPA finds that, in totality, NE#1 fulfilled her responsibilities under SPD policy. Facing an unprecedented level of civil unrest, NE#1, in consultation with the Mayor's Office, pursued a broad policy directed at maintaining the peace of the City to the best of her ability. One focus of this broader policy was protecting the East Precinct—reportedly a target for some groups of protesters—by establishing a perimeter around the facility. For over a week, this perimeter was repeatedly breached by protesters, resulting in numerous injuries to both protesters and SPD members. By June 8, in the unanimous opinion of every witness OPA interviewed, the strategy of defending the static line as it existed around the East Precinct was unsustainable and, to the contrary, largely counterproductive. To deescalate tensions around the East Precinct, NE#1 accepted the direction from the Mayor's Office to open the streets surrounding the East Precinct to protesters. In OPA's opinion, under the totality of the circumstances, the decision to open the streets and to discontinue reinforcing the fence line, was a reasonable course of action and, in many respects, the only viable course of action. Relevant to this conclusion, OPA points to recommendations it made in August 2020 concerning SPD's crowd control tactics. At that time, OPA suggested that SPD: “Avoid confrontation between officers and community members when demonstrations are in



response to law enforcement.”¹⁰ This included avoiding the creation of arbitrary lines, which only served as a flashpoint and placed both demonstrators and officers at risk.

Having decided to open the streets around the East Precinct, NE#1 delegated the specifics of maintaining continuous police operations within the confines of the East Precinct area to her command staff, specifically to NE#2, the incident commander. This did not violate SPD policy, which states that: “An employee may assign a subordinate employee the same authority and responsibility they possess to accomplish a specific task. The delegating employee remains responsible to complete the delegated task.” (SPD Policy 1.2020-POL-4.) Although this was a serious delegation of authority, it was not unreasonable given NE#2’s position, rank, level of expertise, and resources. Moreover, given the number and scope of public safety issues facing the City at that time, it is understandable that NE#1 had to delegate consequential decisions to her most senior and experienced command staff. Finally, NE#1 and NE#2 were in contact multiple times through several consecutive days—but, most notably, June 8—which, by every account, was extremely stressful, chaotic, and dynamic. NE#1 did not abdicate her command with respect to securing—and ultimately evacuating—the East Precinct. Instead, this responsibility was knowingly delegated to and, as discussed below, executed by NE#2. Accordingly, the analysis of whether this specific decision violated policy is addressed below with respect to NE#2 only.

In addition, NE#1 did not abdicate her command by, as the community member complainants alleged, “permitting” the establishment of CHOP/CHAZ and any lawlessness that ensued. To the contrary, OPA found no evidence establishing anyone within SPD command or the Mayor’s Office anticipated that opening up the street—and the ensuing evacuation of personnel from the East Precinct—would result in the establishment of CHOP/CHAZ. Instead, the most highly anticipated risks of this course of action were that the protesters would burn or otherwise damage the East Precinct, which would result in injuries to both protesters and officers, as well as compromise or destroy sensitive SPD information or property. Furthermore, after all personnel were evacuated from the East Precinct, SPD command immediately turned their attention to the provision of police services and efforts to secure the East Precinct. Given the number of protesters within and immediately surrounding CHOP/CHAZ, as well as the plain presence of armed resistance in a densely populated neighborhood, it was reasonable for NE#1 not to immediately confront the situation, but to plan to resecure the area in a coordinated manner.

In reaching this decision, OPA in no way discounts the severity of what the community member complainants and others experienced and, in some cases, the harm they suffered. However, in OPA’s opinion, the evidence indicates that SPD command staff and, specifically, the Named Employees, made the best decisions they could under trying and overwhelming circumstances. These choices, while both imperfect and consequential, did not violate policy or establish a failure on NE#1’s part to carry out her duties and responsibilities as the Chief of Police.

Finally, in OPA’s perspective, one significant misstep by SPD was concerning the lack of information provided to the public in the aftermath of the decision to evacuate the precinct. Even without getting into the reasoning for the decision and arguing the merits publicly, SPD could have generally informed the public that the Mayor asked for the streets to be opened, that NE#2 ultimately made the call to evacuate, and that the authority to do so was delegated to him by NE#1. Instead, this issue was left open in excess of a year, and it was up to the public and media to speculate as to what occurred, at times by sorting through sometimes vague and ambiguous statements and incomplete information. This appeared, at least in OPA’s estimation, to create a sense of distrust within community and the belief

¹⁰ Available at <http://www.seattle.gov/Documents/Departments/OPA/Special-Reports/OPA-Response-to-Council-CCW-Ordinance-081520.pdf>



that there was something nefarious at play, when this was established to not be the case when all of the facts were uncovered. SPD leadership should continue to endeavor to communicate decisions of public concern in a clear, transparent, and timely fashion.

Based on the totality of the above, OPA recommends a finding of Not Sustained – Lawful and Proper.

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

Named Employee #1 - Allegation #2

5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy

SPD Policy 5.001-POL-2 requires that employees adhere to laws, City policy, and Department policy. The community member complainants alleged that NE#1 failed to adhere to the law in relation to the evacuation of SPD personnel from the East Precinct and the establishment of CHOP/CHAZ. While not specifically articulated by the complainants, OPA interprets them to be referring to the obligations of NE#1—as the Chief of Police—pursuant to the Seattle City Charter.

Relevant to this case, the Charter provides that there “shall be maintained adequate police protection in each district of the City.” (The Charter of the City of Seattle, Art. VI, § 1.) The Charter further mandates that: “[T]he Chief of Police shall be responsible to the Mayor for the administration of the Police Department and the enforcement of law.” (*Id.* at. § 4.) Moreover, the Charter directs that the “Chief of Police shall maintain the peace and quiet of the City.” (*Id.* at § 5.)

As discussed above, NE#1’s obligations to comply with law and policy were not suspended during a period of unprecedented unrest; however, NE#1 was afforded a considerable amount of discretion in addressing these circumstances to the best of her ability. Under such circumstances, NE#1 was forced to make decisions that involved high-level tradeoffs between Department values and priorities—specifically the continuation of services and harm reduction—and the need to reduce the ongoing danger to both officers and demonstrators, which was the unsustainable result of the nightly protests at the East Precinct and the resultant crowd dispersals. Notably, while SPD members do accept certain hazards as inseparable from their sworn obligations, NE#1 was not necessarily free under policy to ignore the welfare of her officers in defense of the East Precinct or to disband CHOP/CHAZ once it was occupied by demonstrators, some of whom were armed. *See* SPD Policy 3.330 (“The prevention of occupational injuries and illnesses shall be given a top priority.”). Similarly, the continuing harm to demonstrators could not continue. *See generally* SPD Policy 8.000-POL-2 (“When Safe, Under the Totality of the Circumstances, and Time and Circumstances Permit, Officers Will Use De-Escalation Tactics to Reduce the Need for Force.”).

It is undisputed that the CHOP/CHAZ area did not, for a period of time, receive regular police services. This undoubtedly resulted in detrimental effects to residents of the immediate area and businesses in the vicinity. However, there is no argument here—or evidence that OPA is aware of—establishing that the entire confines of the East Precinct suffered a loss of police services or that there was not adequate police protection within the totality of the district in question. As such, OPA cannot find that there was a Charter violation.

Moreover, as discussed more fully herein, NE#1 was required to make decisions under unique circumstances and with extraordinary pressure and uncertainty. Given this, even if OPA found evidence that suggested a possible violation of the Charter, OPA would still decline to conclude that NE#1 violated the law based on the totality of this investigation.



Accordingly, OPA recommends that this allegation be Not Sustained – Unfounded.

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

Named Employee #1 – Allegation #3

5.001 - Standards and Duties 6. Employees May Use Discretion

As indicated in SPD Policy 5.001-POL-6, “[e]mployees are authorized and expected to use discretion in a reasonable manner consistent with the mission of the department and duties of their office and assignment.” This policy further states that “[D]iscretion is proportional to the severity of the crime or public safety issue being addressed.” (SPD Policy 5.001-POL-6.)

The community member complainants alleged that NE#1 and NE#2 used unreasonable discretion in relation to the evacuation of SPD personnel from the East Precinct and the establishment of CHOP/CHAZ. As discussed above, NE#1 and her command staff faced extremely high-level and consequential decisions concerning how best to address an unparalleled situation. In consultation with the Mayor’s Office, NE#1 and her command staff—including NE#2—weighed and considered a variety of options. Specifically, they had to decide whether to open the streets to protesters or continue engaging with the protesters, in one manner or another, along a static perimeter line. Both options involved risks, which NE#1 appeared to fully consider. As such, the decision to open the streets did not constitute an abuse of discretion.

Similarly, and as discussed more fully below, the decision to evacuate the precinct was also based on the totality of imperfect information available to NE#2 and others at the time. It was another scenario where SPD was not faced with many good options and had to choose the one that they believed would result in the least potential harm to officers and others. NE#2 believed, after evaluating all the various decision-points, that this was the best path forward. OPA does not find this to be an abuse of discretion.

Lastly, the community member complainants appeared to allege that NE#1 and her command staff abused their discretion by allowing CHOP/CHAZ to remain in place from approximately June 8 through July 1. As discussed above, this decision similarly involved weighty calculations as to whether a police presence could be reintroduced—and armed resistance overcome—without an unreasonable risk of injury or, potentially, death to protesters and police personnel. Again, OPA believes that, under the circumstances, this did not constitute an abuse of discretion.

Accordingly, OPA recommends a finding of Not Sustained – Lawful and Proper.

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

Named Employee #1 - Allegation #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.) 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.*)



The community member complainants alleged that both NE#1 and NE#2 were unprofessional in relation to the evacuation of SPD personnel from the East Precinct and because of the subsequent establishment of CHOP/CHAZ by demonstrators. The decisions to open the streets to protesters and to not immediately attempt to evict CHOP/CHAZ may have undermined the trust of some community members—perhaps even a large segment—in the Department. This is understandable. However, it was also clear that continuing to clash violently with protesters along a static line and the potential need to use violence to retake CHOP/CHAZ similarly served to or would have also served to significantly undermine public trust in the department. Given this, SPD’s command staff—and the City—was faced with a “Sophie’s choice,” where all available courses of action had significant potential risks and were imperfect. They ultimately made the choices that, based on the intelligence available to them and the functional reality on the ground, were what was believed to be the best options. OPA cannot say that this was unprofessional under the circumstances.

Accordingly, OPA recommends a finding of Not Sustained – Unfounded.

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

Named Employee #2 - Allegation #1

1.020 - Chain of Command 7. Command Employees Take Responsibility for Every Aspect of Their Command

As discussed above, NE#1 remained in command of the decisions to open the streets to protesters, as well as concerning when and in what manner to resecure the East Precinct following the establishment of CHOP/CHAZ. Accordingly, these decisions are not analyzed with respect to NE#2, who was subordinate to NE#1. However, given that NE#1 delegated specific tactical decisions for protecting the East Precinct, its personnel, and its equipment to NE#2, OPA evaluates the community member complainants’ allegations surrounding the evacuation of the East Precinct against him.

OPA finds that NE#2 fulfilled his obligation to take charge of every aspect of his command. At least as early as the morning of June 7, all the relevant parties—NE#1, NE#2, SPD command staff, the Mayor, and the Mayor’s senior staff—were all fully apprised of the four general courses of action set forth in the Outline. No witness told OPA that any other courses of action were considered or even possible.¹¹ All of the relevant parties were also aware of the anticipated risks for each of these courses of action. By all accounts, the only course of action that was definitively ruled out by the end of the June 8 meeting was the first option (“maintain current posture with hardened barricades”). No witness told OPA that courses of action 2, 3, or 4 were ever definitively ruled out. Notably, no witness interviewed definitively described the resolution of the June 8 meeting in terms of which course of action was to be pursued. Instead, the evidence indicates that all participants at the June 8 meeting wanted to devise some safe way to both open the streets to the protesters and to keep some SPD staff inside of the East Precinct, albeit protected from harm.

NE#2 was then tasked with making the decision of how to actually effectuate this and, in doing so, how to best balance the need to protect the East Precinct against the imperative to protect the physical safety of protesters and the SPD members under his command. NE#2 evaluated how the precinct could be protected, conferred with other

¹¹ The Chief of Staff alluded to a fifth option, which she described as building “a 10-foot wall around – at Eleventh and Pine and all the other intersections.” OPA did not see this “fifth” course of action as distinguishable from the first course of action set out in the Outline. In any event, the Chief of Staff stated that the reception to such an option was that “the barriers just weren’t working.”



commanders, and ultimately determined that officers left inside of the precinct could not realistically be protected from harm, particularly if, as the intelligence from the FBI suggested, some protestors might be planning to set fire to the precinct.

Regarding the FBI intelligence, it is important to note that OPA's investigation found no evidence indicating that the FBI did not, in fact, relay information concerning a potential threat to the precinct to the Mayor's Office and SPD command staff. While OPA did not have access to this intelligence and was not present at the meeting to verify what was relayed, numerous individuals from both the Mayor's Office and SPD who were present confirmed that this occurred and stated that the threat was legitimate. OPA believes that these interviews are credible and consistent with each other. OPA also cannot discern any motive for the threat to the precinct to have been either fabricated or exaggerated. Again, all of the evidence in this case points to the fact that SPD did not want to leave the precinct, not that they were looking for an excuse to do so. Moreover, OPA significantly doubts that any of the employees interviewed, particularly those at SPD who could face termination for withholding or misrepresenting information, would have chosen to mislead OPA on this point.

OPA notes that NE#2's decision was clearly impacted by the short amount of time he had to plan and consider alternatives, as well as by all of the other technical and tactical matters that needed to be worked out (and that may not even have been known of at the time).

Finally, the decision to evacuate the East Precinct was, by every account, intended to be temporary. The plan was for police services to be maintained within the confines of the East Precinct from a staging area at Volunteer Park until the following morning, when SPD intended to reoccupy the East Precinct. This also would have allowed officers to respond to imminent life safety issues at the precinct if needed.

Given all of the above, OPA finds that NE#2 made a decision—albeit one that was controversial among a wide swath of the community and officers—that was reasonable based on the information he had. This decision was an incredibly difficult one and it is clear from NE#2's testimony, as well as from the accounts provided by WO#1, WO#2, and WO#4, that he struggled immensely to make it and that he likely would have chosen another outcome that did not include evacuation had it been feasible at the time.

To find otherwise would be to engage in a hindsight analysis divorced from the immense pressures and time constraints that NE#2 and many others in the City faced at that time. Any contrary decision would also serve to entertain speculation that there was some alternative. No one—including OPA—can say that such an alternative strategy would have produced better results than those that occurred or that it would have prevented CHOP/CHAZ from forming, just as no one can say this unidentified alternative strategy would not have resulted in more uses of force to disperse the crowd and, potentially, to rescue stranded and endangered officers left inside of the precinct. Indeed, such conflicts were exactly what both the Mayor's Office and SPD were trying to avoid.

For these reasons, OPA finds that NE#2 properly exercised his supervisory responsibilities and authorities and recommends that this allegation be Not Sustained – Lawful and Proper.

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

Named Employee #2 - Allegation #2

5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy



The Complainants alleged that NE#2 failed to adhere to the law in relation to the evacuation of SPD personnel from the East Precinct and the establishment of CHOP/CHAZ.

As with NE#1 above, OPA finds no basis to conclude that NE#2 violated the law or the City Charter when he decided to evacuate SPD personnel from the East Precinct. Notably, no law or SPD policy dictates under what conditions an SPD supervisor may order the temporary evacuation of a facility under their command or precludes such action from being taken. As such, it was simply not illegal.

Accordingly, OPA recommends that this allegation be Not Sustained – Unfounded.

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

Named Employee #2 - Allegation #3

5.001 - Standards and Duties 6. Employees May Use Discretion

The Complainants alleged that NE#2 used unreasonable discretion in relation to the evacuation of SPD personnel from the East Precinct and the establishment of CHOP/CHAZ.

For the reasons stated above, OPA finds that NE#2's exercise of discretion was reasonable under the unprecedented circumstances facing him, the Department, and the City. Accordingly, OPA recommends that this allegation be Not Sustained – Lawful and Proper.

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

Named Employee #2 - Allegation #4

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

The Complainants alleged that NE#2 was unprofessional in relation to the evacuation of SPD personnel from the East Precinct and the establishment of CHOP/CHAZ.

Applying the same analysis from the allegation concerning NE#1, OPA finds that NE#2 did not act unprofessionally when he decided to order the evacuation of the East Precinct.

Accordingly, OPA recommends a finding of Not Sustained – Unfounded.

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