



CLOSED CASE SUMMARY

ISSUED DATE: DECEMBER 30, 2021

FROM: DIRECTOR ANDREW MYERBERG
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0749

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 – Standards and Duties 6. Employees May Use Discretion	Sustained
# 2	5.001 – Standards and Duties 11. Employees Shall Be Truthful and Complete in All Communication (Ruses, when appropriate)	Sustained
# 3	5.001 – Standards and Duties 10. Employees Shall Strive to be Professional	Allegation Removed

Imposed Discipline

Discipline pending

Named Employee #2

Allegation(s):		Director's Findings
# 1	5.001 – Standards and Duties 6. Employees May Use Discretion	Sustained
# 2	5.001 – Standards and Duties 11. Employees Shall Be Truthful and Complete in All Communication (Ruses, when appropriate)	Sustained
# 3	5.001 – Standards and Duties 10. Employees Shall Strive to be Professional	Allegation Removed

Imposed Discipline

Discipline pending

Named Employee #3

Allegation(s):		Director's Findings
# 1	5.001 – Standards and Duties 6. Employees May Use Discretion	Allegation Removed
# 2	5.001 – Standards and Duties 11. Employees Shall Be Truthful and Complete in All Communication (Ruses, when appropriate)	Allegation Removed
# 3	5.001 – Standards and Duties 10. Employees Shall Strive to be Professional	Allegation Removed

Named Employee #4

Allegation(s):		Director's Findings
# 1	5.001 – Standards and Duties 6. Employees May Use Discretion	Allegation Removed



# 2	5.001 – Standards and Duties 11. Employees Shall Be Truthful and Complete in All Communication (Ruses, when appropriate)	Allegation Removed
# 3	5.001 – Standards and Duties 10. Employees Shall Strive to be Professional	Allegation Removed

Named Employee #5

Allegation(s):		Director's Findings
# 1	5.001 – Standards and Duties 6. Employees May Use Discretion	Allegation Removed
# 2	5.001 – Standards and Duties 11. Employees Shall Be Truthful and Complete in All Communication (Ruses, when appropriate)	Allegation Removed
# 3	5.001 – Standards and Duties 10. Employees Shall Strive to be Professional	Allegation Removed

Named Employee #6

Allegation(s):		Director's Findings
# 1	5.001 – Standards and Duties 6. Employees May Use Discretion	Allegation Removed
# 2	5.001 – Standards and Duties 11. Employees Shall Be Truthful and Complete in All Communication (Ruses, when appropriate)	Allegation Removed
# 3	5.001 – Standards and Duties 10. Employees Shall Strive to be Professional	Allegation Removed

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:

It was alleged that Named Employee #1 may have overseen the inappropriate use of a ruse during the 2020 protests. It was further alleged that Named Employee #2 improperly supervised the ruse and that Named Employees #3 through #6 violated policy by participating in the ruse.

SUMMARY OF INVESTIGATION:

A. Background and Initial Review

On November 18, 2020, OPA received an email from a journalist requesting information concerning radio transmissions allegedly made by SPD officers on June 8, 2020 concerning “spotting and then following a group of armed Proud Boys who were downtown and then were potentially on their way to Cal Anderson Park.” The journalist stated the following: “You might recall that on June 8th, this was the day the SPD vacated the East Precinct. There was radio chatter that the Proud Boys were heading to Capitol Hill and protesters began building barricades and arming themselves.” The journalist also provided a screenshot of a June 9, 2020 Seattle Times article that referenced a rumored appearance of the Proud Boys that never materialized. The journalist lastly provided audio recordings of the alleged SPD transmissions to OPA.



The radio transmissions in question were between a dispatcher and a number of other individuals who referred to themselves as “one Alpha,” “one Adam,” “three Echo,” and “one Charlie.” The relevant content of the transmissions with timestamps is listed below:

9:24:50 PM

- *Voice 1 - Dispatcher:* One Alpha?
- *Voice 2 – Officer (1 Alpha):* So, we're gonna be the one taking my group down around city hall to monitor the group of the proud boys gathering right now. It's small, but we don't need any other units at this time.

9:25:16 PM

- *Voice 3 – Officer (3 Echo):* Three Echo - We're in the area as well. We'll float around that area just in case, so we monitor everything.

9:29:00 PM

- *Voice 1 - Dispatcher:* Received. One Alpha advising this is a fairly small group for now. They may be marching around the City Hall, jail area.

9:31:54 PM

- *Voice 3 – Officer (3 Echo):* Three Echo. Yeah just for your information. Small group, possible Proud Boys. Ah, it looks like a few of them might be open carry but right now they seem pretty peaceful.

9:32:09 PM

- *Voice 1 - Dispatcher:* Radio copy. Advising just a small group of possibly Proud Boys, but it looks like everybody is staying peaceful for now.

9:42:06 PM

- *Voice 2 – Officer (1 Alpha):* Just updating. The crowd size is kinda holding steady. A few more stragglers joining every so often.
- *Voice 4 – Officer (1 Adam):* One Adam. This is TAC four. We are using it to monitor the gathering at City Hall.

9:43:51 PM

- *Voice 2 – Officer (1 Alpha):* Was that for our group? Do you think those are other Proud Boys coming down here. It seems like they are starting to muster up, maybe thinking about marching around.

9:44:07 PM

- *Voice 5 – Officer (2 Charlie):* Two Charlie affirmed. They look associated with that group that you are monitoring.

9:49:45 PM

- *Voice 2 – Officer (1 Alpha):* One Alpha, Alpha. It looks like they are going to stay on the sidewalk. Go with the flow of traffic. At this point all they are carrying is maybe a flag. I haven't seen any long weapons, maybe one. Carrying one maybe sidearm on a holster.



9:54:10 PM

- Voice 2 – Officer (1 Alpha): One Alpha to radio. Just be advised the group is very boisterous tonight so if you get some calls about some kind of menacing verbiage. That is all it is.

10:03:25 PM

- Officer (Unknown Call Sign): Hey can you give me a call on my login? We need to talk about what's going on down here.

10:14:32 PM

- *Voice 2 – Officer (1 Alpha)*: Hearing from the Proud Boys group. They are not very happy with the response in the audience. They may be looking for somewhere else for confrontation...

Two OPA investigators began an initial inquiry into SPD radio communications on June 8. OPA listened to the radio transmissions provided by the journalist and reviewed Body Worn Video (BWV) from the evening of June 8. OPA could not initially identify any SPD officers that may have communicated about the Proud Boys and did not locate any evidence suggesting that the Proud Boys were actually in or around CHAZ/CHOP on that evening. The only mention of the Proud Boys found by OPA appeared to be from a call made to 911 by a community member.

OPA informed the journalist of the above on November 30, 2020, and asked if the journalist had any additional information concerning the source of the audio recordings and, specifically, why they were labeled as “SPD Command 1” by the website from which they were obtained. OPA indicated that it would be continuing to look into this matter. The journalist called OPA in early December 2020 and said that he did not have any further information concerning the source of the recordings. The journalist indicated that, in his perspective, things were going fine in CHAZ/CHOP until people in the crowd heard reports that the Proud Boys were coming. The journalist stated that, when this occurred, it seemed like everyone in the crowd who owned guns went to get theirs and the event went from being peaceful to something entirely different.

OPA senior management discussed the information that was known and the outstanding questions concerning the radio transmissions. While the journalist stated that he did not want to file a formal complaint, OPA initiated an intake investigation into this matter on December 15, 2020.

B. OPA Intake

OPA was informed by the Communications Section that the TAC 4 channel referenced in the recordings was not used or monitored by SPD. Communications suggested that OPA reach out to Seattle City Hall security and opined that the transmissions were likely not belonging to SPD, the King County Sheriff's Office, or the National Guard. OPA contacted Seattle City Hall security and were informed that they were not the broadcasters.

OPA reached to the Seattle Police Operations Center (SPOC) and were informed by the SPOC Lieutenant that the communications may have been made by SPD as part of a “misinformation” effort to test the response of individuals who the Department believed was monitoring its communication channels. The SPOC Lieutenant said that this effort ended in June of 2020.

OPA requested all saved radio communications from June 8. OPA was provided with recordings from the TAC 9 and East Precinct channels. OPA was told that there were no recordings from TAC 4 and that West Precinct radio



transmissions were not saved. After reviewing the TAC 9 and East Precinct radio recordings, OPA heard no mention of the Proud Boys or transmissions consistent with the recordings provided by the journalist.

OPA was subsequently informed by a member of SPD's Intelligence Unit that there was, in fact, a misinformation effort that was approved, ordered, and led by Named Employee #1 (NE#1), then an Assistant Chief who has since retired from the Department. The Intelligence Unit stated that it was not involved.

Based on this information, OPA commenced a full investigation into this matter on January 3, 2021.

C. OPA Investigation

OPA's investigation included: (1) interviewing multiple SPD employees, including NE#1, multiple times; (2) reviewing third-party video that showed what was happening within CHOP/CHAZ both prior to and after its occupants learned of the radio transmissions surrounding the Proud Boys; (3) reviewing BWV; (4) reviewing other documentary evidence; and (5) conducting email searches for the accounts of multiple chiefs, supervisors, and officers.

1. OPA Interviews

i. Named Employee #1's First OPA Interview

Named Employee #1 was interviewed twice. During his first interview, NE#1 said that, at the time of the incident, he was a Captain. He told OPA that SPD engaged in a "misinformation" effort because it determined that individuals were "listening to and then reacting to what we were doing over the radio." He stated that he assigned an officer – referred to here as Named Employee #2 (NE#2) – "to come up with a system where we were just kind of feeding information kind of more mundane, routine kind of information of the radio to make it look like we had more officers out there doing regular stuff." NE#1 believed that NE#2 recruited another officer – Witness Officer #1 (WO#1) – to assist. NE#1 indicated that SPD "didn't want to alarm anyone." He provided the following explanation:

[There was] no intent to put any kind of false narrative out there, as far as like Proud Boys, or anything, that was not the guidance that I that I gave to those. I just wanted to see if that was something that would, that could actually work, but it was all more routine kind of movement, you know, we're going to go here to there, let's deliver food, let's do that kind of stuff like that, just to kind of see what the reaction would be. But there was no—no intent to you know, provide any kind of false information. Certainly not Proud Boys, that none of that kind of stuff that any of the guidance that I gave to the officers to, to react or do what they do.

NE#1 said that he did not seek approval for the misinformation from either the then-Chief of Police or the Assistant Chief of Patrol Operations. He stated that it was his idea. NE#1 did not contemporaneously know that the officers were using the Proud Boys in their communications; however, he later learned this. He believed that he was informed by someone at SPOC about this. He recalled the following: "I think somebody showed me as I recall, the—the actual live stream, like somebody was actually listening and typing the radio broadcasts over Twitter, and somebody was actually showing me as it was occurring." NE#1 said that, after he learned of the use of the Proud Boys in the transmissions, he spoke with officers about it.



NE#1 told OPA that the misinformation effort lasted for one day. When asked specifically why it occurred on June 8, he stated:

Well, I mean, I think it was, well, we were overrun with, you know, forces or protesters, you know, so obviously, I think the eighth is when the whole CHOP situation set up. We had , you know, because of the political situation, all our mutual aid partners that had abandoned us WSP, all the other agencies, King County backed away, refused to provide us support. Soon after, I think it was the National Guard that said that they had to pull back too, because of what was happening to that situation. So, there was a big concern that, you know, we were operating on an island, and we needed to be able to have the ability to respond in case something did happen. And so, the thought that if we could kind of, you know, separate some of the, you know, the—the forces there and get them into other areas, that allowed us the flexibility and the ability to operate.

NE#1 did not believe that the reference to the Proud Boys in the transmissions caused people in CHAZ/CHOP to get weapons to protect themselves. NE#1 stated the following: “People already had weapons. I mean officers we're getting injured by weapons on a daily basis. You know, I honestly in my mind, I don't think it really made a difference, you know, but I probably do think that—that, you know, that—that comment probably caused some alarm and that wasn't the intent.”

ii. Named Employee #2's OPA Interviews

At the time of his OPA interview, NE#2 was retired from SPD. He told OPA that he was working at SPOC and was assigned by NE#1 to participate in the misinformation effort. NE#2 stated that NE#1 asked him to “organize some folks that could broadcast anything that was mundane and kind of focus some attention on a location different than where the main police and protest interactions were happening.” He recalled that NE#1 made this request because SPD's communications were being monitored by the protesters. WO#1 recruited other officers to assist him.

NE#2 said that it was decided that they would use a different phonetic alphabet than typically applied to announce the officers' call signs. This was done so SPD employees would know that the information was not authentic. NE#2 also recalled the goal being to broadcast miscommunications of activity taking place at a location different than around the East Precinct.

NE#2 reiterated that the officers were told by NE#1 not to engage in any communications that were “alarming” or “unusual.” NE#2 did not recall any communications that involved the Proud Boys.

After listening to the recordings, NE#2 provided the names of officers whose voices he believed he heard. He said that he did not keep a list of who participated. He believed that some of the officers who assisted him were assigned to the North Precinct Anti-Crime Team. He did not hear WO#1's voice on the recordings. NE#2 did not know if any of the recordings of the transmissions were saved by SPD.

When asked about the use of the Proud Boys in the recording, NE#2 told OPA that he did not necessarily view it as being inappropriate. NE#2 explained: “I'm trying to equate it with, like, if we – if the broadcast included, you know, BLM protesters or, you know, some other group. But I think at the time it was just a way to try to make the broadcast seem realistic.” In response to a question from OPA pertaining to the mention of guns in the audio recording and that



the Proud Boys were possibly looking for confrontation, NE#2 stated: "I believe there was some care taken to not incite that type of fear." He said, "I didn't think of this as a—we're targeting a group like the Proud Boys, or we're trying to incite fear that the Proud Boys are doing something. That was not the intention at all." NE#2 did not believe that this ruse shocked the conscience.

NE#2 was interviewed a second time but did not add any other pertinent information.

iii. Witness Officer #1's OPA Interview

WO#1 confirmed that NE#2 recruited him to participate in the misinformation effort. After listening to the recordings, WO#1 said that he was not involved in that specific effort and said that he did not hear his voice. He said that his involvement in providing misinformation lasted for several days and consisted of "broadcasting nonsense" like what he was going to eat on a given day. He described the overall effort as poorly planned. He further questioned the operational need for the misinformation and whether it was consistent with policy. While he did not have concerns with the use of the Proud Boys, he acknowledged that it was important to be mindful of how such communications could be perceived by others.

iv. SPOC Captain's OPA Interview

The SPOC Captain said that the misinformation effort was commenced in response to SPD learning that its communications were being monitored. He described what was occurring as a "really organized effort to try to counter what we [SPD] were doing." Ultimately, SPD transitioned to an encrypted frequency; however, because they were working with mutual aid resources, not everything could be moved to that channel.

NE#1 came up with the idea of engaging in a "mock broadcast." The purpose, according to the SPOC Captain, was to draw attention away from other ongoing SPD tactics. He recalled that NE#2 was assigned to coordinate the effort. The SPOC Captain did not recall significant parameters being placed around the work other than: "go do this thing and make it sound realistic...so that it would make people think that there was an actual police operation going on."

The SPOC Captain did not monitor the transmissions in real-time; however, he later learned that the Proud Boys had been mentioned. He raised this with NE#1. He recalled that NE#1 was of the mindset that SPD shouldn't be talking about the Proud Boys in the transmissions because "that's kind of controversial and may provoke a reaction that we're not really looking for." He believed that NE#1 discussed this with NE#2 at some point.

The SPOC Captain opined that the law enforcement purpose for engaging in the misinformation effort was to assist in providing a little relief to the officers, in terms of minimizing the people who knew where they were and what they would do next. He believed that this would, in turn, help prevent officers from being assaulted and to prevent them from being thwarted in what they were trying to achieve.

v. NE#1's Second OPA Interview

During his second interview, NE#1 said that the use of the Proud Boys was contrary to the guidance he had given NE#2 for the misinformation effort. He stated that he wanted more routine information to be used during the transmissions.



NE#1 reiterated that the purpose of the effort was to ensure the safety of SPD officers, including from being ambushed. He stated:

Well, because when we decided to do this, it was really about protecting officers. And that was as far as we went. This was a pretty dangerous time in the city of Seattle. And my number one priority was to protect the health and safety of the officers, not just the ones that were at the protest scenes but all the officers that were out there doing their 911 calls, you know, so that was first and foremost in my mind. And so the thought was to keep them off balance, but we didn't think any deeper than that.

NE#1 told OPA that the recordings of the misinformation were not retained. He provided the following explanation:

[On] most of our major, like operations or protests that we have out there, we will request for and get a monitor frequency with a dispatcher for that to maintain the recordings for posterity, you know, one so that we can go out and understand the timelines about what—what things are happening, we'll specifically have our commanders in the field make announcements over the air so that it can be marked on the time—timespan of when things are happening like they say, okay, just received a bottle thrown at me, or were starting to get rocks and bottles, you know, or made an announcement over the PA, made my second announcement. So that it's taped, time and stamped, it's recorded not only on the dispatch log, but it's also recorded.

NE#1 recalled speaking with NE#2 about the miscommunication effort and telling him: "I don't want to alarm any other officers that may be scanning..." In response to a question concerning the lack of organization of the effort, NE#1 said: "It was something that we kind of threw together pretty quickly, you know, so I gave some guidance to [NE#2] to—to put that together, and I think he did the best he could with, you know, what he was trying to do." NE#1 acknowledged that there may have been a lack of planning, which he attributed to the "million" other things that were going on at that time. He said that, when he became aware that the Proud Boys were used, he spoke with NE#2 and told him that it should stop.

NE#1 disagreed that individuals were "peacefully protesting" in CHAZ/CHOP at the time of the misinformation effort concerning the Proud Boys. He said that, prior to this time, individuals within the zone were already setting up barricades. He told OPA the following:

I think that there were people, regardless of whatever, people want to (unintelligible) under some—some false notion that there was a mention in one radio transmission of that, and then therefore, that we have armed checkpoints that are coming, regardless of whether that was happening, because there were people that were looking for an armed confrontation. Previous to these events, we've had folks in left leaning type groups, that, what is it, the John Brown Club, and then some of the other groups that would show up with arms and try to be confrontational or looking for confrontation. So, I think it's absolutely a false narrative that somebody is trying to advance. And it's ridiculous on its face. And that said, logic, the killings had happened inside the CHOP zone, and around the CHOP zone was a direct result of—of that, which is absolutely crazy. They got killed because you had lunatics that had weapons that were looking for a confrontation, and



enforcing their own martial law within the zone, were killing people. That's the narrative that was happening. Those are the people that were attracted to it. Not this canard, red herring that—that—that because of this, that happened, that's absolutely a false narrative.

When asked how he could have handled this matter differently, NE#1 stated:

Well, yeah, I mean, I'd be more forceful and say that, you know, we are, you know, make sure that there's nothing controversial that—that goes out there, and everything is routine, you know, and I thought, my—my directions were fairly clear. But, you know, on the other—the conversely, I don't regret trying to do something, in an effort to protect our officers who I thought were very vulnerable just out on calls, you know, there was a very real threat of ambush, and assault on the officers. And I was willing to make a—make a—an effort in order to mitigate some of that I wasn't going to be able to prevent it, but at least if we could mitigate it and kind of throw them off base, then, you know, perhaps I could, you know, help provide some safety to the officers that have no choice but to respond to 911 calls.

NE#1 did not believe that he violated any SPD policies through his ordering and supervision of the misinformation effort.

vi. Witness Officer #2's OPA Interview

Witness Officer #2 (WO#2) was one of the individuals identified as possibly taking part in the misinformation effort. He told OPA that, while he was involved in the effort, he did not make any transmissions concerning the Proud Boys. He told OPA that he was not working on June 8. He said that he recognized the voices of several of the officers. He identified them as Named Employee #3 (NE#3), Named Employee #4 (NE#4), Named Employee #5 (NE#5), and Named Employee #6 (NE#6). He said that he was least confident of hearing the voices of NE#5 and NE#6.

With regard to the misinformation effort generally, WO#2 could not recall what NE#2 told him about the effort, but said that his understanding of the goal was the following:

[It was] was basically give radio information to try and split the groups and try to get them to respond to locations where police weren't actually present, to try to minimize their footprint, because during these times, they were monitoring our radio traffic very heavily, and coming in big groups, which were causing problems for police. So, the intention—the intent was to divide the group size to make it more manageable for police.

WO#2 did not recall being provided any training or parameters about what could be discussed during the transmissions. The officers' only contact person was NE#2 and WO#2 believed that NE#2 reported directly to NE#1.

vii. Attempted Interview of Named Employee #3

During the course of this investigation, NE#3 left SPD. OPA contacted her twice seeking her consent to be interviewed. NE#3 ultimately declined via email to be interviewed.



viii. Named Employee #4's OPA Interview

NE#4 left SPD in September 2020; however, he agreed to participate in an OPA interview.

He said that NE#2 asked him to be involved in the misinformation effort. After listening to the recordings, he identified himself as the officer using the 1 Alpha and 1 Adam call signs. He said that WO#1 provided the following guidance:

It was described like, hey, we're, our radio traffic's being listened to, you know, it's, strategically we're not able to kind of as we go to do something, move here and there and whatnot. Basically, everyone's one step with a curve. So, whatever the strategic plan of the day was, for them for command was, it was harder to do and accomplish whatever goal was of that day or the time so, to me, it was use radio traffic. It was obviously being monitored by everybody else involved with protest, whether it was, whoever they were, I don't know what group of people it was. But people that either wanted to set up roadblocks or you know, kind of counter anything that SPD was trying to accomplish. So, this was used to divide attention. They would take what was being said and sent groups of people out, it was just kind of kept everyone out of the known and made it harder for them to kind of counter any strategic plan that was going on with SPD.

NE#4 believed that the effort was approved by the chain of command. He said that they would periodically discuss the effort with NE#2; however, there were no specific directions provided.

NE#4 could not recall how the decision was made to use the Proud Boys in the transmissions. NE#4 said that the officers were not told to discuss the Proud Boys but that they also did not receive instructions not to do so. When asked whether the use of the Proud Boys could have caused fear in people within CHAZ/CHOP, NE#4 said the following:

In my mind, it was never about, let's - let's make them harden up or do anything. It was something that we knew that they were monitoring or suspect they're monitoring based off, we can see the chats, hey, let's go over here and find out let's split some groups and go there. If, you know, I imagined that was in there. Like I said it was the hot thing that was going on, was in those groups, keeping them separated, keeping a push around. So if we kept, you know, it's got groups monitor, follow them in the area, the back and forth that kept their attention to it. And it kept them thinking that maybe they need to send-- they would send scouts out to go check areas which is diverting their resources around the area too. So that was in my head, in my mind, my thought plan was that that's the reason why we were doing that not to, you know, we've got this group, we know that there's fear, you know, that it brings up so let's go ahead and scare the heck out of them. I mean, it wasn't our plan. I don't think, I've never heard anyone say that we need to do this just to make them scared.

NE#4 noted that, even absent their communications, individuals within the zone were armed. He stated the following, specifically referencing a Community Member #1 (CM#1) (discussed more fully below in Section (C)(2)):

You know, I've seen videos of him. During the time, even hours later as it's happening. People walking around and recruiting people as security, seeing the neighbors being



stripped down. Asked they live there. You hear all the videos from them. You got normal people walking by getting stripped down by our security. I don't know if that's necessarily a fear of Proud Boys or just a thing they were doing.

NE#4 told OPA that, along with the references to the Proud Boys on June 8, the officers discussed a number of other topics, mostly innocuous. NE#4 stated: "It was an honest attempt to try to like I said, divert, nobody had any bad intentions with it. There's probably hours of audio where you can hear people talking about movies and snacks."

NE#4 was interviewed a second time but did not add any other pertinent information.

ix. Named Employee #5's OPA Interview

NE#5 confirmed that he was one of the officers involved in making the communications concerning the Proud Boys. He did not recall who asked him to take part in the misinformation effort. NE#5 said that the purpose of the effort was to "see[] if we are, our transmissions are being monitored by the protesters." NE#5 did not remember who had the idea to use the Proud Boys as part of the transmissions. NE#5 told OPA that none of the communications he made referenced the Proud Boys or weapons.

After listening to the recordings, NE#5 identified himself as the officer who broadcasted at 10:03:25 PM without a call sign.

x. Named Employee #6's OPA Interview

NE#6 also confirmed that he was involved in the transmissions concerning the Proud Boys. After listening to the recordings, he identified himself as using the 3 Echo call sign.

NE#6 said that he and other members of North ACT were approached by NE#2 and asked to take part in the misinformation effort. NE#2 did not provide them with any training or guidance as to what should or should not be communicated.

NE#6 did not remember why they chose to use the Proud Boys during the transmissions. NE#6 assumed that the goal was to "grab their attention" so that SPD could monitor their transmissions. NE#6 denied there was any intention to generate fear in the group by talking about the Proud Boys. He said that the protesters could have sent their bike scouts, which they have done repeatedly, to see there was not a group on that corner as was stated in the misinformation.

NE#6 felt that their effort was ultimately successful as protestors "were echoing our transmissions almost word for word immediately. It was rapid pace."

xi. Former Chief of Police's OPA Interview

The former Chief of Police told OPA that she was not aware of any misinformation efforts being used, including one involving the Proud Boys. She told OPA that she would have expected to know about it, particularly if it was used during the demonstrations.



xii. Assistant Chief of Patrol Operations' OPA Interview

The Assistant Chief of Patrol Operations said that they were aware early on that their radio communications were compromised. Due to this, demonstrators were able to anticipate and counter SPD's movements and tactics. The Assistant Chief said that, at some point, they moved all communications to an encrypted channel.

The Assistant Chief said that he was generally aware of a misinformation effort that occurred on June 8, but that he was not involved in it. He said that it was overseen by NE#1. NE#1 provided his understanding of why the misinformation was used:

[H]opefully get them to move to another area, I think the area that was mentioned, the radio transmissions are down around City Hall. So essentially move them away from the East Precinct to get to the downtown corridor that allow us to move our resources potentially, back towards the precinct.

The Assistant Chief was not aware at the time that the Proud Boys were used as part of the misinformation effort. When asked whether he felt that the use of the Proud Boys added to volatility of CHAZ/CHOP and the establishment of armed security, the Assistant Chief stated:

I don't know if they're already set up at all or not. This was an event that triggered it. Seems like it's happening fairly quickly. So I imagine there must have been people armed around there at the time. But if the messaging caused that, again, that certainly wasn't the intent, the intent of any of these communications was just to move the people off the building [The East Precinct].

The Assistant Chief believed that CM#1 and the John Brown Gun Group were involved in arming demonstrators. However, he did not recall exactly when he learned this.

Despite the use of the Proud Boys, the Assistant Chief thought that a ruse was permitted under policy because of the life safety exception. He cited to the inability to operate out of the precinct and the events that occurred over the next several weeks. The Assistant Chief stated the following:

Given the volatility situation, I think everyone is trying to do the best they could try to resolve a very complex situation, very dynamic circumstances, again, there's no attempt to instill fear or create alarm, I think, really, the goal was to try and without using force, move the crowd or get the crowd somehow distracted away from the precinct so potentially we could take the action to reoccupy the space.

The Assistant Chief told OPA that the misinformation effort should have been documented, including indicating why the misinformation was used. The Assistant Chief did not believe that the effort was documented here.

xiii. Patrol Lieutenant's OPA Interview

OPA interviewed a Patrol Lieutenant who said that protestors were monitoring SPD frequencies during the demonstrations. He said that, on one occasion, he provided his cell phone number to another supervisor over the



radio. The Patrol Lieutenant said that, shortly thereafter, his “phone blew up” with protestors calling him. Eventually, they moved all SPD communications to an encrypted channel.

2. Third-Party Video

OPA watched video recorded by CM#1, an individual who was heavily involved in the commencement of CHAZ/CHOP and who provided weapons to individuals within the zone. The video was recorded at some point on the evening of June 8 and lasted approximately five and a half hours.

Just over 13 minutes into the video, CM#1 wrote on his Facebook Live feed: “Come out to 12th and Pine. Come strapped and not afraid. Do not bring bs. Keep the peace.” Approximately 32 minutes into the recording, CM#1 discussed with others in the group setting up shifts to maintain the barricades that were set up on every street. He referenced the differing views within the zone on this and he talked about making sure people who know how to use firearms and legally carry them to bring them and protect the barricades. He mentioned seeing a person get shot during a demonstration the day prior.

Around one hour and 38 minutes into the recording, CM#1 was told by someone in the group that the Proud Boys were headed in their direction. It was noted that the information came from police radio transmission and that as many as 30 Proud Boys could be involved. Members of the group discussed the accuracy of the information. The group discussed finding someone with access to “solid police scanners.”

At around two hours and eight minutes into the video, CM#1 opened the trunk of his vehicle and began handing out rifles to members of the group. At that same time, someone posted on CM#1’s Facebook Live feed: “Proud Boys gonna get they ass whooped...”

At approximately three hours and twenty-one minutes into the video, an armed individual began speaking and reiterated the request that people volunteer to man barricades in the zone.

At the conclusion of the video, CM#1 encouraged the group to stay in the zone, maintain their presence, and protect the area.

3. Body Worn Video

BWV from the morning of June 9, 2020, showed an SPD Captain and Lieutenant enter into CHAZ/CHOP. They asked to speak with who was “in charge.” They met with an individual who said that he was “security.” Another armed male approached the Captain and Lieutenant and stated: “All you pigs get the fuck out.” The Lieutenant and other individuals tried to de-escalate the male, who said that the Mayor needed to come down to the zone and speak with them. A female told the Captain and Lieutenant that they needed to speak with CM#1, who was the “boss” and who would be back in the zone at noon. The Captain and Lieutenant had further conversations with other individuals in the zone, including those who were armed, prior to leaving.

OPA found no other potentially relevant BWV.



4. Email Searches

OPA reviewed the emails for multiple SPD employees –including the involved and witness employees in this case—to locate any communications sent or received from June 7, 2020 through June 10, 2020 and using specified key words. OPA found no responsive documents.

5. Other Documentary Evidence

OPA reviewed publicly available information concerning CHAZ/CHOP and, specially, the presence of weapons and armed individuals within. One publication stated the following: “Protesters accepted open carry of firearms as a provision of safety. Members of the self-described anti-fascist, anti-racist and pro-worker CG#1 were reported on June 9 as carrying rifles in the zone in response to rumors of an attack by the right-wing Proud Boys.”

OPA reviewed the CG#1’s website but did not locate any information concerning the organization’s presence within CHAZ/CHOP and/or its involvement in patrolling it/providing security.

OPA attempted to reach a representative of CG#1 and was provided with the following response: “The CG#1 as an organization had no involvement in providing armed security for the autonomous zone in June of 2020.”

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

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.)

As a threshold matter, OPA finds that NE#1 ordered and maintained supervisory authority over the misinformation effort. The officers that engaged in the effort did so in compliance with orders from the chain of command. Accordingly, OPA finds that NE#1, not the individual officers, bears responsibility for what subsequently occurred.

After reviewing all of the evidence, OPA finds that NE#1 abused the law enforcement discretion afforded to him in three respects. First, he approved and oversaw a misinformation effort without providing sufficient guidelines around what should be discussed during the transmissions. Virtually all of the officers interviewed by OPA said that they were never told what to say or not say, including mentioning the Proud Boys. The failure to provide sufficient safeguards resulted in the use of misinformation that was problematic, as discussed more fully below.

Second, NE#1 did not ensure that the effort was appropriately supervised. While this was in part NE#2’s fault, he was, in turn, supervised by NE#1, who ultimately controlled the effort. OPA finds this to be particularly significant as several of the officers said that they had never engaged in this type of misinformation effort before and did not know what they were doing – or what they were expected to do.



Third, NE#1 did not cause any of the misinformation effort to be documented. For example, there was no after-action report or other paperwork indicating what was done and why. This made it extremely difficult for OPA to reconstruct the events after the fact. Similarly, the recordings of the transmissions were not recorded by SPD. While perhaps this was not within NE#1's purview, it still goes to an overall lack of documentation of the effort. But for the journalist providing the recordings to OPA and the recordings being preserved by a website, no evidence would have existed to assist in this investigation.

For these reasons, OPA recommends that this allegation be Sustained.

Recommended Finding: **Sustained**

Named Employee #1 - Allegation #2

5.001 – Standards and Duties 11. Employees Shall Be Truthful and Complete in All Communication (Ruses, when appropriate)

SPD Policy 5.001-POL-11 prohibits officers from engaging in dishonesty. However, the policy allows for deception to be knowingly used in three specific scenarios: (1) where there is an exigent threat to life safety or public safety; (2) the deception is necessary due to the employee's assignment (i.e. undercover); and/or (3) there is a need to acquire information for a criminal investigation. Even if the deception is permitted under one of these exceptions, Washington State Law requires that the ruse and the use thereof must not be so "shocking" to violate "fundamental fairness."

Here, NE#1 articulated that the ruse was appropriate, citing to the first exception. While OPA agrees that there was a law enforcement interest in ensuring that SPD communications were not being monitored and, thus, maintaining the safety of officers, OPA does not believe that there is any evidence in the record indicating that, at the time the Proud Boys ruse was used, there was an exigent threat to life safety or public safety. To the contrary, when the ruse was used, SPD officers had already removed themselves from the vicinity of the East Precinct and CHAZ/CHOP was being created. While anger and emotion were high within CHAZ/CHOP, there was no ongoing violence within the zone or imminent violence that could have been reasonably foreseen.

Even more problematic was the use of the Proud Boys as part of the misinformation effort. Much of the misinformation effort included officers discussing innocuous topics, such as movies or what they would eat the next day. This would have been acceptable under policy and law to test the monitoring of communications and would have been sufficient to achieve that goal. However, the use of the Proud Boys when it was known that the transmissions would be monitored took a volatile situation and made it even more so. It was reasonably foreseeable to believe that the demonstrators would be afraid and concerned that the Proud Boys – some of whom were said to be open-carrying – would come to CHAZ/CHOP. It was also reasonably foreseeable to believe that this could cause demonstrators within the zone to take steps to arm and defend themselves. Indeed, over the past several years, there had been multiple physical conflicts – some fatal in other cities – between left and right-leaning protestors.

This conclusion is not altered by the fact that, at least based on CM#1's Facebook Live video, there was an intent among some of the individuals within CHAZ/CHOP to arm themselves and guard the barricade before the misinformation concerning the Proud Boys was known to them. In OPA's perspective, it is still the case that discussing the Proud Boys, that they were armed, and that they may be moving in the direction of CHAZ/CHOP improperly added fuel to the fire and could have had dire results.



Given all of the above and based on the known facts and circumstances at the time, OPA believes that the use of the Proud Boys in the misinformation effort was an improper ruse that violated policy. Even though NE#1 may not have requested that this content be part of the transmissions, he was responsible because he supervised the effort. Accordingly, OPA recommends that this allegation be Sustained.

Recommended Finding: **Sustained**

Named Employee #1 - Allegation #3

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

OPA finds that this allegation is fully subsumed in Allegations #1 and #2. Accordingly, OPA recommends that it be removed.

Recommended Finding: **Allegation Removed**

Named Employee #2 - Allegation #1

5.001 – Standards and Duties 6. Employees May Use Discretion

OPA finds that NE#2 also bears responsibility for the improper ruse that was used. Specifically, OPA finds that NE#2 failed to sufficiently supervise the misinformation effort and that this resulted in a lack of clarity concerning what could be said and how the effort should be documented. This was particularly important here given the tenor of the demonstrations and the need to reduce conflicts and violence, as well as the fact that virtually all of the officers involved in the effort said that they had never been tasked with a similar assignment before. The absence of these safeguards resulted in the use of an improper ruse.

While NE#1 is predominantly accountable for what went wrong here, NE#2 also has culpability as, in OPA's opinion, he failed to appropriately exercise the discretion afforded to him. Accordingly, OPA recommends that this allegation be Sustained.

Recommended Finding: **Sustained**

Named Employee #2 - Allegation #2

5.001 – Standards and Duties 11. Employees Shall Be Truthful and Complete in All Communication (Ruses, when appropriate)

As discussed above, OPA finds that NE#2 bears responsibility for the improper use of a ruse during the misinformation effort. Accordingly, OPA recommends that this allegation be Sustained as against him.

Recommended Finding: **Sustained**

Named Employee #2 - Allegation #3

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

OPA finds that this allegation is fully subsumed in Allegations #1 and #2. Accordingly, OPA recommends that it be removed.



Recommended Finding: **Allegation Removed**

Named Employee #3 - Allegation #1

5.001 – Standards and Duties 6. Employees May Use Discretion

While Named Employees #3 through #6 carried out the ruse and improperly used the Proud Boys during their transmissions, OPA finds that this was predominantly attributable to the lack of supervision and guidance provided to them by NE#1 and NE#2. For this reason, OPA recommends that the allegations be Sustained against the supervisory employees and the allegations against the officers be removed. However, OPA reiterates its belief that the officers exercised poor judgment in choosing to reference the Proud Boys independent of the clear lack of command supervision.

Recommended Finding: **Allegation Removed**

Named Employee #3 - Allegation #2

5.001 – Standards and Duties 11. Employees Shall Be Truthful and Complete in All Communication (Ruses, when appropriate)

For the same reasons as stated above (see Named Employee #3 – Allegation #1), OPA recommends that this allegation be removed.

Recommended Finding: **Allegation Removed**

Named Employee #3 - Allegation #3

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

For the same reasons as stated above (see Named Employee #3 – Allegation #1), OPA recommends that this allegation be removed.

Recommended Finding: **Allegation Removed**

Named Employee #4 - Allegation #1

5.001 – Standards and Duties 6. Employees May Use Discretion

For the same reasons as stated above (see Named Employee #3 – Allegation #1), OPA recommends that this allegation be removed.

Recommended Finding: **Allegation Removed**



Named Employee #4 - Allegation #2

5.001 – Standards and Duties 11. Employees Shall Be Truthful and Complete in All Communication (Ruses, when appropriate)

For the same reasons as stated above (see Named Employee #3 – Allegation #1), OPA recommends that this allegation be removed.

Recommended Finding: Allegation Removed

Named Employee #4 - Allegation #3

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

For the same reasons as stated above (see Named Employee #3 – Allegation #1), OPA recommends that this allegation be removed.

Recommended Finding: Allegation Removed

Named Employee #5 - Allegation #1

5.001 – Standards and Duties 6. Employees May Use Discretion

For the same reasons as stated above (see Named Employee #3 – Allegation #1), OPA recommends that this allegation be removed.

Recommended Finding: Allegation Removed

Named Employee #5 - Allegation #2

5.001 – Standards and Duties 11. Employees Shall Be Truthful and Complete in All Communication (Ruses, when appropriate)

For the same reasons as stated above (see Named Employee #3 – Allegation #1), OPA recommends that this allegation be removed.

Recommended Finding: Allegation Removed

Named Employee #5 - Allegation #3

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

For the same reasons as stated above (see Named Employee #3 – Allegation #1), OPA recommends that this allegation be removed.

Recommended Finding: Allegation Removed



Named Employee #6 - Allegation #1

5.001 – Standards and Duties 6. Employees May Use Discretion

For the same reasons as stated above (see Named Employee #3 – Allegation #1), OPA recommends that this allegation be removed.

Recommended Finding: **Allegation Removed**

Named Employee #6 - Allegation #2

5.001 – Standards and Duties 11. Employees Shall Be Truthful and Complete in All Communication (Ruses, when appropriate)

For the same reasons as stated above (see Named Employee #3 – Allegation #1), OPA recommends that this allegation be removed.

Recommended Finding: **Allegation Removed**

Named Employee #6 - Allegation #3

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

For the same reasons as stated above (see Named Employee #3 – Allegation #1), OPA recommends that this allegation be removed.

Recommended Finding: **Allegation Removed**