



## ***CLOSED CASE SUMMARY***

ISSUED DATE: MAY 21, 2022

FROM: INTERIM DIRECTOR GRÁINNE PERKINS  
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2021OPA-0529

### **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 - Unfounded
# 2	5.001 - Standards and Duties 6. Employees May Use Discretion	Not Sustained - Unfounded
# 3	5.001 - Standards and Duties 10. Employees Will Strive to be Professional	Not Sustained - Unfounded

#### **Named Employee #2**

Allegation(s):		Director's Findings
# 1	5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 4. Retaliation is Prohibited	Not Sustained - Unfounded
# 2	5.001 - Standards and Duties 10. Employees Will Strive to be Professional	Not Sustained - Unfounded

#### **Named Employee #3**

Allegation(s):		Director's Findings
# 1	5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 4. Retaliation is Prohibited	Not Sustained - Unfounded
# 2	5.001 - Standards and Duties 10. Employees Will Strive to be Professional	Not Sustained - Unfounded

#### **Named Employee #4**

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 15. Employees Obey any Lawful Order Issued by a Superior Officer	Not Sustained - Management Action
# 2	5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 4. Retaliation is Prohibited	Not Sustained - Unfounded
# 3	5.001 - Standards and Duties 10. Employees Will Strive to be Professional	Allegation Removed



**Named Employee #5**

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 15. Employees Obey any Lawful Order Issued by a Superior Officer	Not Sustained - Management Action
# 2	5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 4. Retaliation is Prohibited	Not Sustained - Unfounded
# 3	5.001 - Standards and Duties 10. Employees Will Strive to be Professional	Allegation Removed

**Named Employee #6**

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 15. Employees Obey any Lawful Order Issued by a Superior Officer	Not Sustained - Management Action
# 2	5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 4. Retaliation is Prohibited	Not Sustained - Unfounded
# 3	5.001 - Standards and Duties 10. Employees Will Strive to be Professional	Allegation Removed

**Named Employee #7**

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 15. Employees Obey any Lawful Order Issued by a Superior Officer	Not Sustained - Management Action
# 2	5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 4. Retaliation is Prohibited	Not Sustained - Unfounded
# 3	5.001 - Standards and Duties 10. Employees Will Strive to be Professional	Allegation Removed

**Named Employee #8**

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 15. Employees Obey any Lawful Order Issued by a Superior Officer	Not Sustained - Management Action
# 2	5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 4. Retaliation is Prohibited	Not Sustained - Unfounded
# 3	5.001 - Standards and Duties 10. Employees Will Strive to be Professional	Allegation Removed

**Named Employee #9**

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 15. Employees Obey any Lawful Order Issued by a Superior Officer	Not Sustained - Management Action
# 2	5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 4. Retaliation is Prohibited	Not Sustained - Unfounded



# 3	5.001 - Standards and Duties 10. Employees Will Strive to be Professional	Allegation Removed
-----	---	--------------------

**Named Employee #10**

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 15. Employees Obey any Lawful Order Issued by a Superior Officer	Not Sustained - Management Action
# 2	5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 4. Retaliation is Prohibited	Not Sustained - Unfounded
# 3	5.001 - Standards and Duties 10. Employees Will Strive to be Professional	Allegation Removed

**Named Employee #11**

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 15. Employees Obey any Lawful Order Issued by a Superior Officer	Not Sustained - Management Action
# 2	5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 4. Retaliation is Prohibited	Not Sustained - Unfounded
# 3	5.001 - Standards and Duties 10. Employees Will Strive to be Professional	Allegation Removed

**Named Employee #12**

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 15. Employees Obey any Lawful Order Issued by a Superior Officer	Not Sustained - Management Action
# 2	5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 4. Retaliation is Prohibited	Not Sustained - Unfounded
# 3	5.001 - Standards and Duties 10. Employees Will Strive to be Professional	Allegation Removed

**Named Employee #13**

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties 15. Employees Obey any Lawful Order Issued by a Superior Officer	Not Sustained - Management Action
# 2	5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 4. Retaliation is Prohibited	Not Sustained - Unfounded
# 3	5.001 - Standards and Duties 10. Employees Will 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:**

The Complainant alleged that multiple Named Employees disobeyed lawful orders, retaliated against him, and were unprofessional because they “chirped” their sirens or sounded their air horn as they exited the garage of the East Precinct building. The Complainant also alleged that the East Precinct Captain, Named Employee #1 (NE#1), failed to take control of every aspect of his command and used improper discretion in relation to this issue.

**SUMMARY OF INVESTIGATION:**

The Complainant resides in the vicinity of the East Precinct building. Since at least November of 2020, the Complainant has been in regular contact with SPD officers, supervisors, command staff, and executive level staff—and later, OPA—regarding his observations of SPD officers not wearing masks when mandated to do so as well as a separate, quality-of-life issue in his neighborhood: the practice of officers “chirping” their sirens or sounding their air horn prior to exiting the garage of the East Precinct building. In late 2021, the Complainant filed formal complaints with OPA, one of which resulted in this investigation.

During its investigation, OPA reviewed the Complaint and followed up with the Complainant on several occasions. OPA also reviewed spreadsheets and private video footage provided by the Complainant. OPA also reviewed email correspondence between the Complainant and NE#1. OPA also reviewed interviews and documents from a separate case filed by the Complainant, 2021OPA-0080, which principally concerned masking. Finally, OPA interviewed the Complainant and all Named Employees.

*a. The East Precinct Location and Garage*

Since the mid-1980s, SPD has operated the East Precinct building in the heart of Capitol Hill, a dense, urban neighborhood. The East Precinct building has street frontage on East Pine Street and 12<sup>th</sup> Avenue, both of which are busy thoroughfares lined by a mix of high density residential and commercial buildings.

The East Precinct building contains a garage that exits onto to East Pine Street. The ramp is very steep, and the visibility while exiting the garage is poor. Moreover, because of the grade of the exit, it is difficult to observe whether a vehicle is exiting until it crests the top of the ramp, and there is no level area of vehicle exiting the garage to stop and observe activity on the sidewalk before exiting the garage. Due to the poor visibility, a long-standing practice for officers assigned to the East Precinct has been to briefly engage their siren—called “chirping”—or sound their air horn in order to alert those on the sidewalk or the street that a vehicle is exiting. Additionally, the City and SPD have installed an audible signal and mirrors to improve the safety of this exit.

According to NE#1, he and SPD are looking into ways to further improve the design of the East Precinct garage exit. NE#1 noted that West Precinct has a different, better device that says “caution vehicle exiting” along with a bright strobe. NE#1, as well as several other named employees, noted that the present system is not always effective for individuals on electric scooters, bikes, or skateboards and that they had “had a lot of near misses.”

*b. Background of Complaint*

Following the protests of 2020, and after SPD reoccupied the East Precinct building in July of 2020, the Complainant stated that he and other people in his building noticed that officers were using their sirens while exiting the garage.



The Complainant said this was interpreted as “we’re back and this is our turf, we’re not going to leave again.” Due to this issue as well as officers masking (addressed in 2021OPA-0080), the Complainant began an ongoing dialogue with NE#1, in person, over the phone, and through email. The Complainant and NE#1 wrote emails to each other about this issue and even held a town hall meeting at which the siren “chirping” issue was discussed. At some point during this time, NE#1 issued a “mandate” that officers in the East Precinct stop chirping their sirens when exiting the garage.

In December of 2020, the Complainant and his apartment manager met, in person, with both the Interim Chief of Police (Chief) and the Assistant Chief for the Patrol Operations Bureau (Assistant Chief). Among other things, the noise issue was discussed. Following this meeting, the Complainant emailed the Assistant Chief an email that addressed a variety of issues. The Assistant Chief forwarded NE#1 the Complainant’s email on December 3, 2020, with two of the Complainant’s points highlighted. The first concerned mask wearing. The second read:

2. "Chirping." The practice of SPD officers using their sirens to signal their exit from the East Precinct garage on Pine Street has increased dramatically and, as [Building Manager] said, "It feels vindictive." The garage door has an alarm on it to meet the OSHA requirement, and the practice of officers tapping on their vehicle horn is even acceptable. But it seems excessive to use full on police vehicle sirens, even just for a moment, because it's especially disruptive as folks are living and working from home during the pandemic...and is especially disruptive when done in the dead of night.

In his email forwarding this point to NE#1, the Assistant Chief stated “Please follow-up with your troops on the highlighted items below. I know #2 has been going on for a long time, however it would engender some good will with the neighbors if officers would cease doing it.”

On December 3, 2020, NE#1 emailed all Lieutenants and Sergeants under his command. NE#1 wrote “I try not to make things ‘orders’ because I assume when I ask officers to do something, they’ll comply. Now, since this was passed onto me as an order, I’m now making it an order.” NE#1 then included the text of the Assistant Chief’s email and along with the two highlighted points.

On January 11, 2021, the Complainant emailed NE#1 to report that things had “quieted down” for a period but then “slipped back where they were previously.” The Complainant attached two spreadsheets to this email. One of the Complainant’s spreadsheets concerned mask wearing, the second concerned the “chirping” issue, listing a date, time, and vehicle number for every alleged “chirping” incident and included a video clip of an instance he observed. The next day, NE#1 forwarded this email to the Lieutenants under his command noting the following:

So, this is the type of stuff I have to deal with (as well as [the Assistant Chief] and [the Chief]) from [the Complainant]. Despite my several e-mails to you and you supervisors, the "chirping" of the siren continues and we continue to have officers not wearing their masks per the Governor's Order and [the Chief's] Directive.

If you recognize any of the officers, please speak to them directly to get in compliance! It shouldn't be that difficult now that we have a damn spreadsheet with dates, times and identifiers. And, yes, I'm pissed...I have more important issues to deal with that this nonsense.



The next day, NE#1 emailed the Complainant. NE#1 thanks the Complainant for his “passion and diligence” and giving him “something tangible to give to my supervisors.” NE#1 told the Complainant that the supervisors would be speaking to officers not in compliance and stated: “At this point, effective after this date, if you see violations, please contact OPA.” However, NE#1 did not specifically mention the “chirping” issue in this email and the remainder of his email suggested that, principally, it was concerned with officer masking.

The Complainant responded late that same day and, among other things, requested that NE#1 “be judicious” in disseminating the spreadsheet as the Complainant perceived that officers were looking directly into his camera—which was set up in his window near the East Precinct building—and believed that one officer waved at him in a way the Complainant described as “not in a way that felt friendly.” In an email several days later, the Complainant expressed further concern that an officer had stared into his camera and also pointed out his camera to a colleague. During a follow-up exchange of emails, NE#1 stated on January 25, 2021, “I have addressed all of my roll calls, in-person, and specifically addressed my officers about: Mask Wearing[;] Chirping the siren[;] Retaliation, and the severe repercussions associated with that.” NE#1 then reiterated his request to the Complainant to start filing OPA complaints for violations he observed.

*c. Investigation*

OPA identified Named Employees based on the spreadsheet and video evidence provided by the Complainant.

In reviewing the video provided by the Complainant, OPA observed that, on average, the “chirping” or horn blasts identified by the Complainant lasted about one second each.

OPA interviewed the Complainant on December 7, 2021 and April 22, 2022. In his interviews, the Complainant alleged that he has experienced an unreasonable activation of police sirens, horns, or air horns on a regular basis when officers exit the East Precinct garage. The Complainant noted that, since contacting NE#1 about the “chirping” issue, the noise had subsided but never went away completely. The Complainant stated that most of the chirping occurrences were between 11:45AM and 12:45PM. When asked to describe the noise, the Complainant stated sometimes it is a short sound, but other times it lasts about three seconds. The Complainant opined that he does not think officers need to use their sirens or horns at all when exiting the garage.

OPA also interviewed the Complainant’s building manager. The building manager also alleged that there was excessive siren and horn noise from the precinct. The building manager noted that it was not every single car and that it was getting less frequent. The building manager also stated that, after officers became aware of the Complainant’s camera, it seemed like the noise level increased and it “felt a little like retaliation.” The building manager stated that some building residents had moved out of the building due to the noise.

**ANALYSIS AND CONCLUSIONS:**

**Named Employee #1 - Allegation #1**

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

The Complainant alleged that NE#1 failed to take responsibility for every aspect of his command.



SPD Policy 1.020-POL-7 states that command employees are required to take responsibility for every aspect of their command. The policy further instructs that: “Employees in a supervisory role will coordinate and direct subordinates and allocate resources to achieve the operations objective.” (SPD Policy 1.020-POL-7.) Lastly, the policy makes clear that supervisors will “perform the full range of administrative functions relying upon policy, direction, training, and personal initiative as a guide for themselves and their command in achieving the highest level of performance possible.” (Id.)

An inescapable reality of urban life is the sound of emergency services sirens and, depending on certain factors—such as proximity to emergency buildings or situation along major routes of travel—the sound of sirens in some neighborhoods can seem almost constant at times. Given this, OPA notes that neither NE#1, the Assistant Chief, or the Chief, were obligated by law or policy to engage with the Complainant’s noise complaint to the level that they did. It appears that at least some of the attention the “chirping” issue received was because the Complainant raised the issue parallel to his complaint about officer mask requirements. However, that said, OPA would be hard-pressed to say that NE#1, the Assistant Chief, or the Chief could have reasonably taken this issue more seriously.

NE#1 himself spoke with the Complainant multiple times, attended a town hall, sent multiple emails to command leadership and supervisory staff, and personally spoke about this issue at every roll call under his command. When these options were exhausted, NE#1 referred the Complainant to OPA. He was not required to do more.

For these reasons, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**

#### **Named Employee #1 - Allegation #2**

##### ***5.001 - Standards and Duties 6. Employees May Use Discretion***

The Complainant alleged that NE#1 exercised unreasonable 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 discussed above for Named Employee #1, Allegation #1, OPA would be hard pressed to identify a more reasonable exercise of discretion on this issue than that exercised by NE#1. NE#1 on his own initiative and, later, at the direction of the Assistant Chief, openly and continuously engaged the Complainant and his staff on this issue. Ultimately, this issue has proved impossible to resolve to the Complainant’s standards and NE#1 had a limited amount of time to devote to this issue. There was also a practical limit to NE#1’s ability—or desire—to address this noise complaint through increasingly draconian measures. Finally, at its core, siren chirping is a quality-of-life concern, not an independent policy violation.

OPA finds that NE#1 exercised reasonable discretion to manage this issue on his own initiative and within the parameters of the Assistant Chief’s direction. OPA finds that there were legitimate safety concerns motivating officers to chirp their sirens or air horns when exiting the East Precinct garage. When weighing that public safety issue against the Department’s desire to address the noise issue in a neighborly way, OPA believes the public safety issue takes



precedence. NE#1 appeared to have constantly striven to strike a balance that could accommodate the Complainant. In reaching this finding with respect to NE#1, OPA is guided by the wording of the Assistant Chief's email to NE#1: "I know [the siren chirping] has been going on for a long time, however it would engender some good will with the neighbors if officers would cease doing it." The directive to stop chirping sirens was to engender good will, not supersede public safety or common sense.

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 10. Employees Will Strive to be Professional***

It was alleged that NE#1 was unprofessional.

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

OPA reviewed NE#1's email correspondence with the Complainant. The Complainant and NE#1 discussed a wide range of topics in their emails, both professional and personal. To their credit, both individuals discussed the complaint thoughtfully and respectfully throughout their correspondence while also, by all appearances, continuing friendly and casual banter about topics ranging from their upbringings, backgrounds, hobbies, and loved ones. At some times, it appeared that Complainant and NE#1 had misunderstandings about each other's intent, but they appeared to resolve these misunderstandings respectfully.

OPA notes that the Complainant did not raise a professionalism allegation against NE#1. Instead, OPA classified this allegation based on some of the more casual comments that passed between NE#1 and the Complainant. Two specific threads were of note. First, NE#1 commented that a shared tendency between himself and the Complainant must be explained as an "Asian thing." NE#1 and the Complainant both identify as different Asian ethnicities, and it did not appear in context that the Complainant took any offense to NE#1's comment. Moreover, according to NE#1, he and the Complainant speak often about their common background in this respect. Second, NE#1 made a comment at one point about the Complainant being "from New York." Although in a follow-up email, the Complainant asked what NE#1 meant by this, NE#1 explained in response that he intended it to mean that the Complainant had "probably . . . seen it all or experienced it all with that whole East Coast mentality of people being more direct." On thorough review, these candid, unpolished comments did not violate policy in either context.

For these reasons, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**



---

**Named Employee #2 - Allegation #1**

***5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 4. Retaliation is Prohibited***

The Complainant alleged that NE#2 retaliated against him.

SPD policy prohibits retaliating against individuals who, among other things, criticize the Department, file complaints, or otherwise engage in lawful behavior. See SPD Policy 5.002-POL-4. Retaliatory behavior is broadly defined and includes any discouragement, intimidation, or undertaking any adverse action against an individual who engaged in protected activities. *Id.*

The Complainant alleged two theories of retaliation against all the named employees (except NE#1). The first is that they continued or increased their use of the siren chirping. The second was that some officers appeared to look at or point towards his camera and, by extension, his apartment.

While continuing to chirp a siren could, theoretically, constitute retaliation, the examples provided by the Complainant appear to show very short siren “chirps.” As already discussed, chirping the siren in the context at issue in this complaint does have a legitimate safety rationale. Moreover, the evidence suggests that the practice of officers chirping their sirens when exiting the East Precinct garage has been going on for decades. Similarly, as will be discussed below, the Captain’s orders to stop chirping the siren were not uniformly understood to apply without exception. Finally, NE#1 stated that there has been significant turnover at the East Precinct over the past couple years and that, despite his best efforts, there are people who are unfamiliar with his directions regarding siren chirping. In the absence of a compelling or lengthy example, OPA finds by a preponderance of the evidence that none of the Named Employees were intentionally chirping their sirens to retaliate against the Complainant.

Similarly, while staring into an individual’s apartment window could, theoretically, constitute retaliation, on the evidence here, OPA finds that it is more likely that officers were curious about where, exactly, the Complainant’s camera was. As an initial matter, the Complainant’s camera does not appear to record from street level and appears to be some distance away from the area near the East Precinct that the Complainant’s camera records. Additionally, none of the pictures or video provided by the Complainant appears to show any officer doing anything overtly threatening or insulting to towards the camera. OPA finds by a preponderance of the evidence that no officers were retaliating against the Complainant by allegedly pointing and/or looking in the direction of the Complainant’s camera.

For these reasons, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**

**Named Employee #2 - Allegation #2**

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

The Complainant alleged that NE#2 was unprofessional by not helping him with his complaint when he spoke on the phone with NE#2 when he worked as the East Precinct desk clerk.

NE#2 described his interactions with the Complainant as “fine.” NE#2 stated that he used to provide the Complainant with the names and serial numbers of officers on request, but that he stopped after he learned that policy did not require him to do so.



In light of the above, OPA finds that, more likely than not, NE#2 was not unprofessional in his interactions with the Complainant. Accordingly, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**

**Named Employee #3 - Allegation #1**

***5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 4. Retaliation is Prohibited***

For the reasons set forth above at Named Employee #2, Allegation #1, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**

**Named Employee #3 - Allegation #2**

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

The Complainant alleged that NE#3 was unprofessional by only giving his complaints “lip service” when NE#3 worked as the East Precinct Desk Clerk.

NE#3 stated that his interactions largely consisted of the Complainant requesting the names and badge numbers of officers assigned to different vehicles. NE#3 stated that he would explain to the Complainant that he did not have access to that information. NE#3 stated he generally provided the Complainant with the information that NE#3 believed he had access to. This does not constitute unprofessionalism.

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

Recommended Finding: **Not Sustained - Unfounded**

**Named Employee #4 - Allegation #1**

***5.001 - Standards and Duties 15. Employees Obey any Lawful Order Issued by a Superior Officer***

The Complainant alleged that NE#4 disobeyed NE#1’s lawful order by continuing to chirp his siren or sound his air horn when exiting the East Precinct garage.

SPD Policy 5.001-POL-15 requires that Department employees obey any lawful order issued by a superior officer. The failure to do so constitutes insubordination.

There appeared to have been some reasonable confusion as to the precise parameters of NE#1’s order with respect to siren chirping. In OPA’s judgment, this confusion was caused by NE#1’s manner of communicating his order, the fact that that siren chirping issue arose in tandem with face masking, and the public safety impacts of the order.

Although his efforts to curb the practice of siren chirping remain ongoing, prior to this complaint being classified, NE#1 issued his order concerning siren chirping in two ways: through an email sent to his Lieutenants and Sergeants and by personally attending roll calls to explain the order. Based on the emails reviewed by OPA, NE#1 first communicated



an order with respect to siren chirping by essentially forwarding the content of an email from the Assistant Chief that, itself, was essentially forwarded information from the Complainant. NE#1 then expected his Lieutenants and Sergeants to convey this order to their employees. As such, OPA has no objective evidence of the precise words used to convey NE#1's order to East Precinct Employees. Similarly, OPA has no objective evidence of the words NE#1 used when conveying his order by personally attending roll calls.

The nature of NE#1's order was similarly confused in that it was repeatedly addressed in tandem with the order to wear face masks. These orders were of two different magnitudes. The order to wear a face mask when required was pursuant to state law and explicit, repeated orders of the Chief. Moreover, the order to wear a face mask when required, understood within the context of the COVID-19 pandemic during 2020 and 2021, had immediate and obvious public safety implications. As indicated by the Assistant Chief's email to NE#1, in comparison, the directive to stop chirping sirens was conveyed with language that suggested it was an ask to foster good will with the precinct's neighbors, not an absolute order to stop chirping sirens altogether.

Finally, both individual officers and NE#1 acknowledged in their interviews that the order to stop chirping sirens needed to be weighed against the public safety utility of continuing to do so. Multiple Named Employees told OPA that they understood the order as allowing the continued chirping of sirens "when necessary" or that there was no "order" per se, but an ask to abstain from siren chirping to maintain good will. Moreover, other Named Employees noted that they had personally almost had accidents exiting the East Precinct garage and that they continued to chirp their sirens or use their air horn to prevent such accidents. Similarly, NE#1 himself noted that he has received pushback that pedestrians do not always hear the regular car horn and that the current door warning system is not effective. Given the potentially high public safety issue, it is understandable that at least some number of officers understood the order to allow for a limited continued use of the siren or air horn to avoid accidents.

Ultimately, the Complainant's efforts in this case appear to be leading to a holistic solution that should both protect, if not improve, public safety and also eliminate any practical need for officers exiting the East Precinct garage to chirp their siren to sound their horn. SPD and the East Precinct should move forward with improving the automated warning system at this garage exit with all deliberate speed. Although OPA has reason to believe such an improvement is already underway, OPA now issues a Management Action Recommendation to that effect.

- **Management Action Recommendation:** Improve the East Precinct garage exit onto East Pine Street such that it provides conspicuous auditory and visual warnings to pedestrian, vehicular, and other modes of transportation when a vehicle is exiting from the garage. Such a system should also provide warnings sufficient for the driver of a vehicle exiting the garage to be aware that a warning has been given. Finally, the Department should issue orders, training, or guidance to all SPD members concerning the use of the siren and air horn that provides an appropriate balance between avoiding the unnecessary use of these tools and protecting public safety.

Recommended Finding: **Not Sustained - Management Action**

#### **Named Employee #4 - Allegation #2**

##### ***5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 4. Retaliation is Prohibited***

For the reasons set forth above at Named Employee #2, Allegation #1, OPA recommends that this allegation be Not Sustained – Unfounded.



Recommended Finding: **Not Sustained - Unfounded**

**Named Employee #4 - Allegation #3**

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

The professionalism allegation for this Named Employee is duplicative of the insubordination and retaliation allegations above. Accordingly, OPA is removing this allegation.

Recommended Finding: **Allegation Removed**

**Named Employee #5 - Allegation #1**

***5.001 - Standards and Duties 15. Employees Obey any Lawful Order Issued by a Superior Officer***

For the reasons set forth for Named Employee #4, Allegation #1, OPA is issuing the following Management Action Recommendation.

- **Management Action Recommendation:** Improve the East Precinct garage exit onto East Pine Street such that it provides conspicuous auditory and visual warnings to pedestrian, vehicular, and other modes of transportation when a vehicle is exiting from the garage. Such a system should also provide warnings sufficient for the driver of a vehicle exiting the garage to be aware that a warning has been given. Finally, the Department should issue orders, training, or guidance to all SPD members concerning the use of the siren and air horn that provides an appropriate balance between avoiding the unnecessary use of these tools and protecting public safety.

Recommended Finding: **Not Sustained - Management Action**

**Named Employee #5 - Allegation #2**

***5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 4. Retaliation is Prohibited***

For the reasons set forth above at Named Employee #2, Allegation #1, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**

**Named Employee #5 - Allegation #3**

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

The professionalism allegation for this Named Employee is duplicative of the insubordination and retaliation allegations above. Accordingly, OPA is removing this allegation.

Recommended Finding: **Allegation Removed**

**Named Employee #6 - Allegation #1**

***5.001 - Standards and Duties 15. Employees Obey any Lawful Order Issued by a Superior Officer***



For the reasons set forth for Named Employee #4, Allegation #1, OPA is issuing the following Management Action Recommendation.

- **Management Action Recommendation:** Improve the East Precinct garage exit onto East Pine Street such that it provides conspicuous auditory and visual warnings to pedestrian, vehicular, and other modes of transportation when a vehicle is exiting from the garage. Such a system should also provide warnings sufficient for the driver of a vehicle exiting the garage to be aware that a warning has been given. Finally, the Department should issue orders, training, or guidance to all SPD members concerning the use of the siren and air horn that provides an appropriate balance between avoiding the unnecessary use of these tools and protecting public safety.

Recommended Finding: **Not Sustained - Management Action**

**Named Employee #6 - Allegation #2**

***5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 4. Retaliation is Prohibited***

For the reasons set forth above at Named Employee #2, Allegation #1, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**

**Named Employee #6 - Allegation #3**

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

The professionalism allegation for this Named Employee is duplicative of the insubordination and retaliation allegations above. Accordingly, OPA is removing this allegation.

Recommended Finding: **Allegation Removed**

**Named Employee #7 - Allegation #1**

***5.001 - Standards and Duties 15. Employees Obey any Lawful Order Issued by a Superior Officer***

For the reasons set forth for Named Employee #4, Allegation #1, OPA is issuing the following Management Action Recommendation.

- **Management Action Recommendation:** Improve the East Precinct garage exit onto East Pine Street such that it provides conspicuous auditory and visual warnings to pedestrian, vehicular, and other modes of transportation when a vehicle is exiting from the garage. Such a system should also provide warnings sufficient for the driver of a vehicle exiting the garage to be aware that a warning has been given. Finally, the Department should issue orders, training, or guidance to all SPD members concerning the use of the siren and air horn that provides an appropriate balance between avoiding the unnecessary use of these tools and protecting public safety.

Recommended Finding: **Not Sustained - Management Action**



---

**Named Employee #7 - Allegation #2**

***5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 4. Retaliation is Prohibited***

For the reasons set forth above at Named Employee #2, Allegation #1, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**

**Named Employee #7 - Allegation #3**

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

The professionalism allegation for this Named Employee is duplicative of the insubordination and retaliation allegations above. Accordingly, OPA is removing this allegation.

Recommended Finding: **Allegation Removed**

**Named Employee #8 - Allegation #1**

***5.001 - Standards and Duties 15. Employees Obey any Lawful Order Issued by a Superior Officer***

For the reasons set forth for Named Employee #4, Allegation #1, OPA is issuing the following Management Action Recommendation.

- **Management Action Recommendation:** Improve the East Precinct garage exit onto East Pine Street such that it provides conspicuous auditory and visual warnings to pedestrian, vehicular, and other modes of transportation when a vehicle is exiting from the garage. Such a system should also provide warnings sufficient for the driver of a vehicle exiting the garage to be aware that a warning has been given. Finally, the Department should issue orders, training, or guidance to all SPD members concerning the use of the siren and air horn that provides an appropriate balance between avoiding the unnecessary use of these tools and protecting public safety.

Recommended Finding: **Not Sustained - Management Action**

**Named Employee #8 - Allegation #2**

***5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 4. Retaliation is Prohibited***

For the reasons set forth above at Named Employee #2, Allegation #1, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**

**Named Employee #8 - Allegation #3**

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

The professionalism allegation for this Named Employee is duplicative of the insubordination and retaliation allegations above. Accordingly, OPA is removing this allegation.



---

Recommended Finding: **Allegation Removed**

**Named Employee #9 - Allegation #1**

***5.001 - Standards and Duties 15. Employees Obey any Lawful Order Issued by a Superior Officer***

For the reasons set forth for Named Employee #4, Allegation #1, OPA is issuing the following Management Action Recommendation.

- **Management Action Recommendation:** Improve the East Precinct garage exit onto East Pine Street such that it provides conspicuous auditory and visual warnings to pedestrian, vehicular, and other modes of transportation when a vehicle is exiting from the garage. Such a system should also provide warnings sufficient for the driver of a vehicle exiting the garage to be aware that a warning has been given. Finally, the Department should issue orders, training, or guidance to all SPD members concerning the use of the siren and air horn that provides an appropriate balance between avoiding the unnecessary use of these tools and protecting public safety.

Recommended Finding: **Not Sustained - Management Action**

**Named Employee #9 - Allegation #2**

***5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 4. Retaliation is Prohibited***

For the reasons set forth above at Named Employee #2, Allegation #1, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**

**Named Employee #9 - Allegation #3**

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

The professionalism allegation for this Named Employee is duplicative of the insubordination and retaliation allegations above. Accordingly, OPA is removing this allegation.

Recommended Finding: **Allegation Removed**

**Named Employee #10 - Allegation #1**

***5.001 - Standards and Duties 15. Employees Obey any Lawful Order Issued by a Superior Officer***

For the reasons set forth for Named Employee #4, Allegation #1, OPA is issuing the following Management Action Recommendation.

- **Management Action Recommendation:** Improve the East Precinct garage exit onto East Pine Street such that it provides conspicuous auditory and visual warnings to pedestrian, vehicular, and other modes of transportation when a vehicle is exiting from the garage. Such a system should also provide warnings sufficient for the driver of a vehicle exiting the garage to be aware that a warning has been given. Finally, the Department should issue orders, training, or guidance to all SPD members concerning the use of the siren and



air horn that provides an appropriate balance between avoiding the unnecessary use of these tools and protecting public safety.

Recommended Finding: **Not Sustained - Management Action**

**Named Employee #10 - Allegation #2**

***5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 4. Retaliation is Prohibited***

For the reasons set forth above at Named Employee #2, Allegation #1, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**

**Named Employee #10 - Allegation #3**

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

The professionalism allegation for this Named Employee is duplicative of the insubordination and retaliation allegations above. Accordingly, OPA is removing this allegation.

Recommended Finding: **Allegation Removed**

**Named Employee #11 - Allegation #1**

***5.001 - Standards and Duties 15. Employees Obey any Lawful Order Issued by a Superior Officer***

For the reasons set forth for Named Employee #4, Allegation #1, OPA is issuing the following Management Action Recommendation.

- **Management Action Recommendation:** Improve the East Precinct garage exit onto East Pine Street such that it provides conspicuous auditory and visual warnings to pedestrian, vehicular, and other modes of transportation when a vehicle is exiting from the garage. Such a system should also provide warnings sufficient for the driver of a vehicle exiting the garage to be aware that a warning has been given. Finally, the Department should issue orders, training, or guidance to all SPD members concerning the use of the siren and air horn that provides an appropriate balance between avoiding the unnecessary use of these tools and protecting public safety.

Recommended Finding: **Not Sustained - Management Action**

**Named Employee #11 - Allegation #2**

***5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 4. Retaliation is Prohibited***

For the reasons set forth above at Named Employee #2, Allegation #1, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**



---

**Named Employee #11 - Allegation #3**

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

The professionalism allegation for this Named Employee is duplicative of the insubordination and retaliation allegations above. Accordingly, OPA is removing this allegation.

Recommended Finding: **Allegation Removed**

**Named Employee #12 - Allegation #1**

***5.001 - Standards and Duties 15. Employees Obey any Lawful Order Issued by a Superior Officer***

For the reasons set forth for Named Employee #4, Allegation #1, OPA is issuing the following Management Action Recommendation.

- **Management Action Recommendation:** Improve the East Precinct garage exit onto East Pine Street such that it provides conspicuous auditory and visual warnings to pedestrian, vehicular, and other modes of transportation when a vehicle is exiting from the garage. Such a system should also provide warnings sufficient for the driver of a vehicle exiting the garage to be aware that a warning has been given. Finally, the Department should issue orders, training, or guidance to all SPD members concerning the use of the siren and air horn that provides an appropriate balance between avoiding the unnecessary use of these tools and protecting public safety.

Recommended Finding: **Not Sustained - Management Action**

**Named Employee #12 - Allegation #2**

***5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 4. Retaliation is Prohibited***

For the reasons set forth above at Named Employee #2, Allegation #1, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**

**Named Employee #12 - Allegation #3**

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

The professionalism allegation for this Named Employee is duplicative of the insubordination and retaliation allegations above. Accordingly, OPA is removing this allegation.

Recommended Finding: **Allegation Removed**

**Named Employee #13 - Allegation #1**

***5.001 - Standards and Duties 15. Employees Obey any Lawful Order Issued by a Superior Officer***

For the reasons set forth for Named Employee #4, Allegation #1, OPA is issuing the following Management Action Recommendation.



- **Management Action Recommendation:** Improve the East Precinct garage exit onto East Pine Street such that it provides conspicuous auditory and visual warnings to pedestrian, vehicular, and other modes of transportation when a vehicle is exiting from the garage. Such a system should also provide warnings sufficient for the driver of a vehicle exiting the garage to be aware that a warning has been given. Finally, the Department should issue orders, training, or guidance to all SPD members concerning the use of the siren and air horn that provides an appropriate balance between avoiding the unnecessary use of these tools and protecting public safety.

Recommended Finding: **Not Sustained - Management Action**

**Named Employee #13 - Allegation #2**

***5.002 - Responsibilities of Employees Concerning Alleged Policy Violations 4. Retaliation is Prohibited***

For the reasons set forth above at Named Employee #2, Allegation #1, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained - Unfounded**

**Named Employee #13 - Allegation #3**

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

The professionalism allegation for this Named Employee is duplicative of the insubordination and retaliation allegations above. Accordingly, OPA is removing this allegation.

Recommended Finding: **Allegation Removed**