



CLOSED CASE SUMMARY

ISSUED DATE: FEBRUARY 23, 2022

FROM: DIRECTOR ANDREW MYERBERG
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2020OPA-0329

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy (Patrol Rifle Manual)	Not Sustained (Management Action)
# 2	1.020 - Chain of Command 7. Command Employees Take Responsibility for Every Aspect of Their Command	Not Sustained (Management Action)

Named Employee #2

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy (Patrol Rifle Manual)	Not Sustained (Management Action)

Named Employee #3

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy (Patrol Rifle Manual)	Not Sustained (Management Action)

Named Employee #4

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy (Patrol Rifle Manual)	Not Sustained (Management Action)

Named Employee #5

Allegation(s):		Director’s Findings
# 1	5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy (Patrol Rifle Manual)	Not Sustained (Management Action)

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 the Named Employees failed to comply with Department policy by improperly storing their patrol rifles. It was also alleged that Named Employee #1, a supervisor, failed to take responsibility for his command.



SUMMARY OF INVESTIGATION:

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

The specific incident at issue here occurred on May 30, 2020, the second day of the protests. At least two groups had planned unpermitted demonstrations that day. Ultimately the number of demonstrators was approximately 5,000. SPD declared the demonstrations to be an unlawful assembly and, at about 3:10 P.M., began issuing orders for the crowd to disperse. At about 4:02 P.M., SPD declared the assembly a riot. Over the course of the afternoon, numerous police officers and demonstrators were injured, multiple police vehicles were vandalized or set on fire, numerous individuals were arrested, and businesses downtown were heavily damaged.¹

At about 4:14 P.M., an individual was observed removing a rifle from a police vehicle and firing the rifle into other vehicles. At about 4:16 P.M., members of a news agency and their private security officer (Security Officer #1) approached officers to report that they had observed two individuals remove two SPD rifles from SPD patrol vehicles. Security Officer #1 reported that he approached both individuals, disarmed them, and disabled the rifles. During the course of the day, multiple other SPD patrol rifles as well as an SPD employee's off-duty firearm were either reported stolen or presumably destroyed by fire. These events were reported to the public by both the SPD Twitter Account and local media.² OPA commenced this investigation.

During its investigation, OPA reviewed the May 30, 2020 Incident Action Plan (IAP), SPD Radio Log, Computer Aided Dispatch (CAD) records, and five Incident/Offense Reports. OPA also reviewed the SPD Case Investigation Report (CIR) for the stolen and destroyed firearms. OPA conducted interviews of each of the Named Employees, a Witness Employee, and Security Officer #1. OPA also took photographs of SPD vehicles and reviewed relevant video of the May 30, 2020 events. Finally, OPA reviewed the Named Employees' training records, Seattle Rifle Program Operators Manual (Patrol Rifle Manual), and SPD Policy Manual.

a. Security Officer #1

OPA interviewed Security Officer #1. Security Officer #1 stated that, on May 30, 2020, he was working for a private security company providing armed security for a local news company. Security Officer #1 stated that at about 4:30 P.M. he observed several individuals using objects to damage buildings and SPD vehicles. Security Officer #1 stated that he observed an individual break a passenger-side window of a marked SPD vehicle and remove a rifle from inside. Security Officer #1 stated that he then saw this individual level the rifle and fire four shots into the SPD vehicle and a nearby building. Security Officer #1 stated he approached the individual, disarmed him, and secured the rifle.

¹ For an overview of the events of May 30, 2020, see Seattle Office of Inspector General, Sentinel Event Review Wave 1, pp. 20-21, available at <https://www.seattle.gov/Documents/Departments/OIG/Policy/OIGSERWave1Report072221.pdf>

² See, e.g., Associated Press, Riots, looting, cars set ablaze in downtown Seattle chaos after protests (May 31, 2020), available at <https://www.q13fox.com/news/riots-looting-cars-set-ablaze-in-downtown-seattle-chaos-after-protests>.



Security Officer #1 stated that he later observed other individuals damaging a second SPD vehicle and removing items from inside. Security Officer #1 stated that he then observed a second individual remove a rifle from within this second SPD vehicle shortly before setting the SPD vehicle on fire. Security Officer #1 stated that he approached and disarmed this second individual and then disabled the second rifle.

Security Officer #1 stated that he returned both SPD rifles to an SPD officer but could not recall that officer's name.

b. Named Employee #1

OPA interviewed Named Employee #1 (NE#1). NE#1—an acting sergeant—stated that he was supervising the South ACT team. NE#1 stated that, in his capacity as the South ACT supervisor, he supervised a team of about five officers that are “less patrol officers and more hybrid sort of tactical and investigational type organization officers.” NE#1 stated that he first attended SPD’s Rifle School in 2004 and, to remain in SPD’s Patrol Rifle Program, he had to qualify with the rifle biannually.

NE#1 stated that officers in the Patrol Rifle Program have three options for storing their patrol rifle in an SPD vehicle (1) a rifle rack between the front passenger and driver seats, (2) the rear cargo hold or trunk of a vehicle, or (3) a drawer located in the trunk of a Police Interceptor Unit (PIU).³ NE#1 stated that the best practice is the rifle rack or trunk of a vehicle.

NE#1 stated that, on May 30, 2020, the South ACT team was assigned to work the protests. NE#1 said his team drove from South Precinct to West Precinct in three vehicles. NE#1 stated that the other members of his team that day were the other Named Employees and one other SPD employee. NE#1 stated his team was not given explicit instructions concerning where to secure their patrol rifles during the protest but, based on previous briefings for protests, NE#1 believed “the desire of the chain of command to have long guns on the ground to protect officers and to protect protesters should certain events arise that require immediate action. And so I operated under that understanding, which has been repeated in roll calls now for several years.” NE#1 stated he did not inspect the way his team stored their patrol rifles as “they’re all trained rifle officers. I have confidence that they stored them appropriately.”

NE#1 stated that his team attended a briefing before reporting to the vicinity of Westlake Park. NE#1 stated that his team parked their vehicles in Pine Street, but they were later ordered to move their vehicles from Pine Street to 6th Avenue in order to “route some portion of the crowd along Pine Street to alleviate ... the pressure that was building inside Westlake Park.” NE#1 stated he and his team stood about half a block from where their vehicles were parked.

NE#1 stated that his team did not deploy with their patrol rifles because it would have violated policy to do so. NE#1 said “[t]here is a prohibition on deploying rifles and long guns during protests, unless specifically directed to do so by a lieutenant or higher.” NE#1 stated that he left his rifle in an SPD van (hereinafter referred to as “Van #1”). NE#1 stated that he secured his patrol rifle inside of “benches where equipment is stored” in the rear cargo area of Van #1. NE#1 stated that Van #1 was then locked and secured. NE#1 described the benches as “in principle ... the same as a trunk, plus a little added security.” NE#1 stated that the benches have the ability to be locked, but he did not remember if the benches were padlocked on May 30, 2020. NE#1 stated that it was common practice to store patrol rifles in the benches in the rear area of Van #1.

³ A Police Interceptor Unit, or PIU are police car variants of their originating cars. The Seattle Police Department commonly uses Ford Explorers, that have been modified to suit the needs and purposes of the Department.



NE#1 said that officers had to leave 6th Avenue around 4:00 P.M. because the crowd of demonstrators had become violent. NE#1 also said that the crowd was causing “large amounts of property damage, committing assaults, setting fires, throwing things, chemicals, incendiaries, some explosive improvised out of fireworks at officers.” NE#1 also said that some of individuals in the crowd starting damaging SPD vehicles. NE#1 said that he had just finished moving a crowd away from SPD vehicles along 5th Avenue when Security Officer #1 approached him and his supervisor with two patrol rifles. NE#1 stated he did not know at that point Security Officer #1 turned over his team’s patrol rifles.

NE#1 stated that it was dark before he was able to return to the area where his team’s vehicles were parked. NE#1 said that he could not determine what property or rifles had been taken or destroyed because “the fire was extremely intense, and that 90 percent of what we had in those vehicles had been either vaporized or melted.” NE#1 said he observed steel components for a rifle on the floorboard of Van #1 roughly where he had left his patrol rifle.

c. Named Employee #2

OPA interviewed Named Employee #2 (NE#2). NE#2 stated that he attended Patrol Rifle training prior to 2018 and was current on his training requirements on May 30, 2020.

NE#2 stated that, on May 30, 2020, he was assigned to work with the South ACT team for a demonstration in downtown Seattle. NE#2 stated that he was instructed to bring his patrol rifle on May 30, 2020. NE#2 said that the South ACT team met that day at the South precinct, gathered their equipment, then carpooled to the West Precinct before deploying to the demonstration. NE#2 stated that he rode in one of the SPD PIUs.

NE#2 described the demonstration as, initially, a “very large crowd of people, but it was fairly calm, fairly—people milling around our location.” NE#2 stated that he did not deploy with his patrol rifle because it was not “appropriate at the time” because there “wasn’t any violent action that needed to be countered with patrol rifle capabilities.” NE#2 stated that he secured his patrol rifle in a locked PIU “in the trunk area in the provided patrol rifle locking case,” which NE#2 described as “in the trunk area, there were two large metal drawers that have a combination lock on them for patrol rifles and other equipment.” NE#2 did not recall whether he locked the metal drawer containing his patrol rifle, but stated he was sure he locked the PIU because “anytime we exit the vehicle and leave the area, especially in a protest, especially when my rifle has been left in that vehicle, I checked the door.” NE#2 stated that he observed “several rifles” in open drawers as he put his patrol rifle in the metal drawer.

NE#2 stated that, following the demonstration, he found that that South ACT team’s vehicles had been burned and his rifle had been stolen from the vehicle he rode in. NE#2 stated that he later returned to the West Precinct and was informed by a clerk there that citizen had returned his rifle, which he confirmed was his by its serial number.

NE#2 told OPA that he did not believe he violated SPD policy because his patrol rifle “was in the trunk of the locked patrol vehicle [in] a large metal drawer that can be locked with a combination on the outside.”

d. Named Employee #3

OPA interviewed Named Employee #3 (NE#3). NE#3 stated that she has participated in SPD’s Patrol Rifle Program for approximately three and a half years. NE#3 stated patrol rifle officers are required to attend a weeklong SPD Rifle Course and pass qualifications prior to being assigned a patrol rifle.



NE#3 stated that, on May 30, 2020, she was assigned to the South ACT Team to provide demonstration assistance. NE#3 stated that “we knew that we were going to have thousands of people coming into the city that day for a protest and a march. The night before, it had become pretty violent in the city from my understanding.” NE#3 stated that she was ordered to bring her patrol rifle by NE#1.

NE#3 said that she rode with two unnamed SPD employees to the Westlake Park area of Seattle in an SPD PIU. NE#3 stated that they parked their vehicle on 4th Avenue, between Pike and Pine Street, before deploying. NE#3 stated that she secured her patrol rifle in a rifle bag in the trunk of the vehicle. NE#3 explained that she did not deploy with her patrol rifle because “if you’re on a line, having your rifle is not going to be very conducive to pushing people back.” NE#3 stated that she did not secure her patrol rifle in a locking drawer in the rear of the PIU because the two unnamed SPD employees that she rode with already had their rifles in the drawer, which could only accommodate two rifles. NE#3 also said that the PIU did not have a rifle rack between the driver and passenger seats.

NE#3 stated that she was stationed on a line with fellow officers when she heard over the radio that patrol cars parked along 6th Avenue and Pine were being set on fire. NE#3 stated that she did not believe that this broadcast referred to her vehicle, but then another officer told her that the vehicles had been moved after they were dropped off. NE#3 stated that she “heard five to six shots go off” and that the officers she was with were told not to leave their position. NE#3 stated that she observed “giant flames” and a “plume of black smoke” before being informed that the vehicle she arrived in had been set on fire.

NE#3 stated that she later returned to her vehicle and found it had been destroyed by fire and that her rifle was no longer in the vehicle. NE#3 said that her rifle was returned to her back at the West Precinct. NE#3 stated that she was informed that “someone brought it in, dropped it off ... [at] the clerk’s desk up there.”

NE#3 stated that she did not believe she had violated policy because she had her “rifle stowed in a secured trunk of a patrol vehicle in [her] carrying case that was issued to me by the Department.”

e. Named Employee #4

OPA interviewed Named Employee #4 (NE#4). NE#4 stated that she attended Rifle Training in 2018 and regularly deploys with her patrol rifle while on patrol duty. NE#4 stated that, when deploying with her patrol rifle, she regularly places her rifle in the trunk of her vehicle, in its designated carrying case.

NE#4 stated that, on May 30, 2020, she was assigned to the South ACT Team to provide demonstration response as a “rapid deployment force.” NE#4 stated that, prior to departing from the South Precinct, NE#1 instructed her to bring her patrol rifle.

NE#4 stated that the South ACT Team drove to the demonstration site in Van #1 and two SPD PIUs. NE#4 said that she rode in the back of one of the PIUs that was driven by Named Employee #5. NE#4 stated that she left her patrol rifle in its carrying case in the trunk of the vehicle “as it is described in policy.” NE#4 clarified that she left her patrol rifle in the “tailgate in the back” of the PIU and that the tailgate area is “blocked off behind the back seat.” In her OPA interview, NE#4 read from the Patrol Rifle Manual noting that “at least four times [it] speaks about the trunk of the car being an acceptable place as long as it’s in that approved case to store the rifle.”



NE#4 stated that the vehicle she rode in was destroyed during the demonstrations when demonstrators set it on fire. NE#4 said she returned to the vehicle and discovered that her rifle was missing and was later notified by an individual from the Seattle Police Officers' Guild that her rifle had been recovered by a security guard.

NE#4 stated that she did not believe she violated SPD policy because her rifle was in the approved carrying case locked in the trunk of the vehicle per Department policy. NE#4 stated that she considered the back compartment "tailgate" of the Department's PIUs to be the "trunk" as "that is the only thing that could be considered the trunk of the vehicle."

f. Named Employee #5

Named Employee #5 (NE#5) was interviewed by OPA. NE#5 stated that she has been assigned a patrol rifle for the past three and a half years and that she is current on all the training and requirements to carry a rifle. NE#5 also stated that she carries a personal weapon—a handgun—in a fanny pack to and from work.

NE#5 stated that, on May 30, 2020, she and her Team were assigned as "rapid deployment" for a demonstration in downtown Seattle. NE#5 described their assignment as responding "mobile to any acts of violence or if anybody needed us outside of what was already there." NE#5 stated that she was instructed to bring her patrol rifle. NE#5 stated that the team carpooled to the West Precinct in two PIUs and Van #1. NE#5 states that neither PIU had a front passenger rifle rack.

NE#5 said she left her patrol rifle in its rifle bag in the trunk of the vehicle. NE#5 specified that she left her patrol rifle in the "trunk area of the patrol car, which is an Explorer, it's not like a normal Explorer. It's – the back seat and the trunk are separated by a myriad of different things, like where the housing unit is for our computers and the vault and – and different things. So you can access the trunk without accessing the rest of the patrol car, if that makes any sense, and vice versa. You can be inside the car and not be able to access the trunk, whereas a normal Explorer, you would be able to." NE#5 stated that she believed there were a couple other rifles in the same place as hers.

NE#5 stated that her Team was asked to park and deploy to the event on foot. NE#5 stated that the officers were quickly surrounded by thousands of protesters who were "extremely aggressive, bordering on violence." NE#5 said that the situation then took "a turn for the worse" as businesses were looted, vehicles were burned, and "[t]here were fires everywhere. There was things breaking around us. There were things being thrown at us. ... [C]alling it chaos would be an understatement."

NE#5 stated that, as the situation escalated, she handed the PIU keys to another officer and told them to move the vehicle but did not know where it was moved. NE#5 stated that she later observed her vehicle was severely damaged and that another vehicle her Team drove downtown was "burned past all recognition ... there was nothing left inside of the car." NE#5 stated that, after the demonstration ended, she could not find her patrol rifle or her personal weapon.

NE#5 stated that she left her fanny pack, with her personal weapon inside, "more or less" underneath the driver's seat, but that she did not realize that her personal weapon was inside the fanny pack when she did so. NE#5 described the circumstances that led her to bring her personal weapon to the demonstration in the following way:

So prior to us leaving, I put my personal toiletry items inside of my fanny pack, which is my purse. My purse is also – like I said, it's how I carry my firearm. So in the mix of doing



things during the day, I put all of my toiletry items inside of my bag, took my bag with me, and didn't think anything of it. It wasn't until after all of this happened that I realized that I didn't have it, and then I realized where it was, and it wasn't in my desk, like I thought. It was in my bag.

OPA notes that no SPD policy prohibits SPD officers from lawfully carrying personal firearms off-duty as they travel to or from work, nor does any SPD policy directly prescribe the location or manner in which such personal firearms should be stored while an SPD officer is on-duty.

NE#5 stated that she did not believe she violated policy because "you have the option of placing [a patrol rifle] in the trunk, and that's where I placed it."

g. Witness Employee #1

Witness Employee #1 (WE#1) was interviewed by OPA. WE#1 said he has been assigned to the Firearms Training Unit since 2009. WE#1 described the Firearms Training Unit as being responsible for handgun, rifle, and shotgun training for SPD. WE#1 said he is the coordinator for the Patrol Rifle Program and has been the lead instructor for the Rifle Training Program since 2018.

WE#1 stated that officers in the Patrol Rifle Program must complete a forty-hour rifle training program and are required to requalify yearly over two, nine-hour days of training. WE#1 confirmed that SPD currently uses the 2010 Seattle Police Department Rifle Program Operators Manual (Patrol Rifle Manual).

WE#1 confirmed that officers deploying with a patrol rifle are required to make their patrol rifle "patrol car ready" and secure their patrol rifles "in the passenger compartment, the one that locks, or in the a—trunk, or ah, the vault." WE#1 elaborated that the "manual, when it was written, we didn't have the PIU's at the time, so it just refers to the trunk of the vehicle, because we had sedans, and that was obviously a locked area." WE#1 stated that, since the PIUs entered operation, officers have been trained to secure their patrol rifles in the drawers of the "vault" in the rear of the PIUs. However, WE#1 acknowledged this is not what is written in the Patrol Rifle Manual. WE#1 also stated that the definition of what constitutes a "trunk" with respect to the PIUs has "not been discussed."

OPA asked WE#1 questions with extensive follow-up to determine whether it would violate SPD policy or training to leave a patrol rifle—in patrol car ready condition and enclosed in the approved carrying case—in the rear area of a PIU or in the back of an SPD van. Although, at one point, WE#1 stated that this would violate policy if the vehicle were left "unattended," WE#1 did not provide a definitive answer to this question. WE#1 stated twice that the matter was within employee discretion.

WE#1 stated that there is no training with respect to where patrol rifles should be secured within an SPD van.

h. SPD Rifle Program Operators Manual

OPA reviewed the operative manual for the Patrol Rifle Program, the Patrol Rifle Manual. The Patrol Rifle Manual references the proper location for securing a patrol rifle in three places (1) the definition of "Patrol Car Ready" condition, (2) in the "Deployment with the Patrol Rifle" section, and (3) in the "Operational Guidelines" section. The Patrol Rifle Manual sets forth additional recommendations for the use of the patrol rifle.



In the definition of patrol car ready, the Patrol Rifle Manual states “the rifle is placed in a patrol car locking rack or cased in the trunk.” The Patrol Rifle Manual elaborates that “[w]hen deploying with the patrol rifle, Officers will store the weapon either in the trunk of their patrol car (in the department approved carrying case) or locked into the approved locking rack inside the passenger compartment of the patrol car.” The Patrol Rifle Manual also states “Officers may retrieve the rifle from the trunk of their car in advance of arriving on a hot call, or for special details, if the car is not equipped with a locking rack inside the passenger compartment.”

The Patrol Rifle Manual says deploying with a patrol rifle is “not recommended” for “a typical crowd control response.”

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy (Patrol Rifle Manual)

The Complainant alleged that NE#1 failed to secure his patrol rifle in a manner consistent with the Patrol Rifle Manual.

SPD Policy 5.001-POL-2 requires that employees adhere to laws, City policy, and Department policy. For officers qualified to deploy with a patrol rifle, SPD has promulgated rules concerning its Rifle Program. See Rifle Program Operators Manual (2010) (“Patrol Rifle Manual”). Among other things, the Patrol Rifle Manual requires that “[w]hen deploying with the patrol rifle, Officers will store the weapon either in the trunk of their patrol car (in the department approved carrying case) or locked into the approved locking rack inside the passenger compartment of the patrol car.

NE#1 stated that he secured his patrol rifle inside of “benches where equipment is stored” in the rear cargo area of Van #1. NE#1 stated that Van #1 was then locked and secured.

The Patrol Rifle Manual is not clear regarding the proper storage of patrol rifles in vehicles other than sedan-style vehicles. Adding to this lack of clarity, SPD no longer commonly uses sedans—a switch made in 2015.⁴ While the Patrol Rifle Manual specifies that an officer may store their patrol rifle “in the trunk of their patrol car,” it does not define what a “trunk” means in this context. By way of example, the Merriam-Webster dictionary provides a definition of trunk as “the luggage compartment of an automobile.”⁵ Under this definition, both the rear “tailgate” area of an SUV or the rear “cargo” area of a van would clearly qualify. It also cannot be convincingly argued that the Patrol Rifle Manual means *only* a sedan-style vehicle when it references a “patrol car.” If that were the case, it could also be argued that the Patrol Rifle Manual forbids securing a patrol rifle in any vehicle beside a sedan since it only allows storage—whether in a trunk or a locking rack—in a “patrol car.”

Nor is SPD’s Patrol Rifle Program training clear on this point. WE#1 stated that officers are now trained to secure their patrol rifles in the drawers of the “vault” in the rear of the PIUs. But WE#1 also acknowledged that whether an officer could secure their patrol rifle encased in the rear “tailgate” area of a PIU is largely a matter of officer discretion.

⁴ Jennifer Sullivan, *SPD fleet shifts from Crown Vics to crossover vehicles*, The Seattle Times, originally published Aug. 10, 2015, updated Aug. 13, 2015, available at <https://www.seattletimes.com/seattle-news/law-justice/spd-fleet-shifts-from-crown-vics-to-crossover-vehicles/>.

⁵ <https://www.merriam-webster.com/dictionary/trunk>



Moreover, WE#1 stated that there has been no discussion about what constitutes the “trunk” of a PIU within the meaning of the Patrol Rifle Manual. Finally, WE#1 stated there is no training as to where a patrol rifle should be secured in an SPD van.

For these reasons, OPA issues the following Management Action Recommendation:

- **Management Action:** SPD should update and revise their Rifle Program Operators Manual and Patrol Rifle Program training to address, at minimum:
 - the secure storage of patrol rifles in SPD vehicles and other fleet;
 - the appropriateness of deploying to demonstrations with patrol rifles; and
 - requirements to remain with vehicles containing patrol rifles or other firearms.

Recommended Finding: **Not Sustained (Management Action)**

Named Employee #1 - Allegation #2

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.*)

Overall, OPA questions the operations objective of NE#1 instructing—or, at the very least, permitting—his team to bring their patrol rifles to this demonstration. NE#1 stated that, in the past, the chain of command has made it clear that his team should deploy to demonstrations with their rifles available to them. OPA has no evidence to refute NE#1’s claim. But, as a general matter, the Patrol Rifle Manual states that deploying with a patrol rifle is “not recommended” for “a typical crowd control response.” Moreover, multiple witnesses told OPA that they did not remove their patrol rifles from their vehicles at the demonstration for this reason or reasons like it. This begs the questions of whether these tools should have been brought by every member of the South ACT team or whether they should have been brought at all. NE#1 stated that the intensity of these protests were both unprecedented and unexpected. NE#1 said that, at previous protests, his ACT team was not required to even leave their vehicles. NE#1 also described scenarios in which command wants “long guns quickly available if needed for certain circumstances.” NE#1 volunteered that one such circumstance would be “if we have a vehicle running at a crowd.” However, NE#1 acknowledged that firing at a moving vehicle in such a circumstance would likely violate policy. See SPD Policy 8.300-POL-12(8). Moreover, it is unlikely that an officer in the Patrol Rifle Program would have time to perceive a moving vehicle charging at a crowd, return to their vehicle, obtain their patrol rifle, and then effectively confront that threat. NE#1 also volunteered that patrol rifles could be needed to confront an active shooter. It seems far more likely that an officer could effectively retrieve a patrol rifle from their vehicle and effectively confront this threat than a vehicle charging a crowd. But other options—such as having a limited number of officers deployed with patrol rifles present but not engaged in crowd management, leaving at least one officer with any vehicle containing patrol rifles, and/or limiting the number of patrol rifles deployed to the availability of space in the PIU “vault”—seem more prudent



than the course of action taken here. Finally, OPA is acutely aware of the ongoing staffing challenges facing SPD. However, OPA questions whether and under what circumstances acting sergeants, as opposed to sergeants, should be charged with supervising ACT teams.

However, on this evidence and policy as-written, OPA cannot say that NE#1 failed to take responsibility for his command by instructing or allowing the South ACT team to bring their patrol rifles to the May 30, 2020 demonstrations. Nor can OPA say that NE#1 failed to take responsibility for his command by allowing the South ACT team to store their patrol rifles in the manner that they did because the policy, as written, was ambiguous as to whether such storage was permitted.

For these reasons, OPA issues the following Management Action Recommendation:

- **Management Action:** SPD should update and revise their Rifle Program Operators Manual and Patrol Rifle Program training to address, at minimum:
 - the secure storage of patrol rifles in SPD vehicles and other fleet;
 - the appropriateness of deploying to demonstrations with patrol rifles; and
 - requirements to remain with vehicles containing patrol rifles or other firearms.

Recommended Finding: **Not Sustained (Management Action)**

Named Employee #2 - Allegation #1

5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy (Patrol Rifle Manual)

The Complainant alleged that NE#2 failed to secure his patrol rifle in a manner consistent with the Patrol Rifle Manual.

NE#2 stated that he secured his patrol rifle in a locked PIU in the trunk area inside of a drawer.

For the reasons set forth above at Named Employee #1, Allegation #1, OPA issues the following Management Action Recommendation:

- **Management Action:** SPD should update and revise their Rifle Program Operators Manual and Patrol Rifle Program training to address, at minimum:
 - the secure storage of patrol rifles in SPD vehicles and other fleet;
 - the appropriateness of deploying to demonstrations with patrol rifles; and
 - requirements to remain with vehicles containing patrol rifles or other firearms.

Recommended Finding: **Not Sustained (Management Action)**

Named Employee #3 - Allegation #1

5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy (Patrol Rifle Manual)

The Complainant alleged that NE#3 failed to secure her patrol rifle in a manner consistent with the Patrol Rifle Manual.



NE#3 stated that she secured her patrol rifle in a rifle bag in the trunk of an SPD PIU.

For the reasons set forth above at Named Employee #1, Allegation #1, OPA issues the following Management Action Recommendation:

- **Management Action:** SPD should update and revise their Rifle Program Operators Manual and Patrol Rifle Program training to address, at minimum:
 - the secure storage of patrol rifles in SPD vehicles and other fleet;
 - the appropriateness of deploying to demonstrations with patrol rifles; and
 - requirements to remain with vehicles containing patrol rifles or other firearms.

Recommended Finding: **Not Sustained (Management Action)**

Named Employee #4 - Allegation #1

5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy (Patrol Rifle Manual)

The Complainant alleged that NE#4 failed to secure her patrol rifle in a manner consistent with the Patrol Rifle Manual.

NE#4 stated that she left her patrol rifle in its carrying case in the trunk of an SPD PIU.

For the reasons set forth above at Named Employee #1, Allegation #1, OPA issues the following Management Action Recommendation:

- **Management Action:** SPD should update and revise their Rifle Program Operators Manual and Patrol Rifle Program training to address, at minimum:
 - the secure storage of patrol rifles in SPD vehicles and other fleet;
 - the appropriateness of deploying to demonstrations with patrol rifles; and
 - requirements to remain with vehicles containing patrol rifles or other firearms.

Recommended Finding: **Not Sustained (Management Action)**

Named Employee #5 – Allegation #1

5.001 - Standards and Duties 2. Employees Must Adhere to Laws, City Policy and Department Policy (Patrol Rifle Manual)

The Complainant alleged that NE#5 failed to secure her patrol rifle in a manner consistent with the Patrol Rifle Manual.

NE#5 stated that she left her patrol rifle in the trunk area of an SPD PIU.

For the reasons set forth above at Named Employee #1, Allegation #1, OPA issues the following Management Action Recommendation:

- **Management Action:** SPD should update and revise their Rifle Program Operators Manual and Patrol Rifle Program training to address, at minimum:



- the secure storage of patrol rifles in SPD vehicles and other fleet;
- the appropriateness of deploying to demonstrations with patrol rifles; and
- requirements to remain with vehicles containing patrol rifles or other firearms.

Recommended Finding: **Not Sustained (Management Action)**