



To: Andrew Myerberg, OPA Director
CC: Mark Grba, Deputy Director of Investigations; Grainne Perkins, Investigations Supervisor
From: Danielle Fifis, Public Safety Auditor/Investigator
Date: December 22, 2020
Re: 2020OPA-0533

CERTIFICATION:

OIG has reviewed the Investigation for 2020OPA-0533. This case was initially routed to the OIG on 11/12/2020, and on 11/23/2020, OIG requested additional investigative steps in order to assess the thoroughness element of the pending certification. The request for additional information provided OPA with an opportunity to address concerns in regard to medical screening, Use of Force reporting, retaliation allegations, and TAC9 audio. A follow up discussion with OPA was held on 12/1/2020 to clarify OIG's request. On 12/16/2020, OPA routed the case back to OIG and provided additional information responsive to the OIG's requests.

OIG appreciates the willingness of OPA to address multiple issues raised by OIG. However, ultimately, after reviewing the additional information provided by OPA, OIG cannot certify the investigation as thorough. OIG does certify the investigation as timely and objective.

With regard to thoroughness, OPA received multiple complaints asserting officers may have been retaliating against demonstrators. Four SPD employees were then interviewed by the OPA. Pertaining to the retaliation allegations, the officers were simply asked if they were aware of any officers who retaliated against these protestors. There were no further questions asked or investigative efforts made by OPA relevant to the allegations of retaliation. In conducting a review of Body Worn Video (BWV), OIG discovered several clips not referenced in the Report of Investigation that OIG assessed as potentially relevant because they appear to express retaliatory intent on the part of officers. It was in light of the comments heard on BWV and concerns with the depth of the investigation that OIG requested OPA conduct a more detailed exploration of the retaliation allegations.

In OPA's 12/16/2020 response to OIG's request, OPA claimed they could not advance their inquiries to investigate the allegations of retaliation against SPD. While acknowledging "it is obvious how such comments could be perceived by the public as a form of retaliation," OPA further stated there was an intentional focus on the investigation into excessive force allegations (not into the retaliation allegations) and stressed limitations relating to current OPA resources. The comments heard on BWV that were pointed out by OIG as relevant were dismissed by OPA as "being contributed to an individual officer and as such don't speak to the larger overarching



complaints received of retaliation en masse.” For these reasons, amongst others, the OPA declined to further investigate the retaliation allegation.

OIG understands the OPA is dealing with challenges stemming from a heavier than normal caseload and limited resources. However, in this case, there were complaints from multiple sources alleging retaliation, which is considered by SPD policy to be serious misconduct. The investigative record indicates OPA did not ask officers detailed and probing questions concerning the retaliation allegations when they were interviewed, even though there are relevant and potentially revealing officer statements captured on BWV. OIG is not directing additional investigation at this time because OPA has specifically articulated they made an investigative resource-based decision to not conduct a full investigation into the retaliation allegations. It is for the reasons stated above that OIG is not able to certify this investigation as thorough.

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