



To: Andrew Myerberg, OPA Director
CC: Mark Grba and Grainne Perkins, OPA Assistant Directors
From: Lynn Erickson, OIG Public Safety Auditor/Investigator
Date: April 29, 2021
Re: 2020OPA-0673

PARTIAL CERTIFICATION:

This case was routed by OPA to OIG requesting initial certification review on April 10, 2021. On April 22, 2021, OIG provided OPA with the opportunity to resolve identified deficiencies and directed additional investigation. As noted in the OIG memo directing additional investigation, OPA was on notice that not resolving the identified deficiencies could lead to an impact on the OIG certification decision. OPA routed the case back to OIG on April 26, 2021 essentially indicating that the OIG request for additional investigation was considered but not implemented.

Based upon the information provided in the OPA response, and the request from OPA to complete a final certification review prior to the 180-day deadline of May 3, 2021, OIG certifies this investigation as timely and objective, but not as thorough.

The primary issue impacting certification is outlined below. This memo is not exhaustive as other concerns with the investigation have already been documented.

Delays to Investigation Impacting Thoroughness:

- Based upon the Report of Investigation, the OPA investigation was inactive between November 19, 2020 and early February 19, 2021.
- NE2 left SPD in December 2020.
- The OPA Investigator did not engage in efforts to contact NE2 to interview him until March 31, 2021.
- NE2 responded promptly to OPA and, after requesting information to refresh his memory (the incident at issue occurred six months prior by that time), on April 5, 2021, he agreed to provide a written statement.
- After NE2 agreed to provide a written statement, he was told he had four business days within which to respond and to complete his statement, which was due on April 9, 2021.
- Thereafter, NE2 wrote "...I am unable to devote the time necessary to reconstruct this matter and provide you with a full and complete (sic) information about my involvement in the events of September 23, 2020 *in the timeline that you set forth in your email*. Accordingly, I am going to respectfully decline to participate in your investigation" (emphasis added).



- On April 10, 2021, OPA routed the investigation to OIG requesting certification review.

Because the expected testimony of the involved employee also included gathering information from him as a witness employee, the delay in contacting him resulted in perishable evidence not being preserved and thus, had an impact on the thoroughness of the investigation. The ordinance indicates that when certifying an investigation, OIG should consider “whether witnesses were contacted, interviewed, and all other material evidence was *timely collected*” (emphasis added). OIG finds that the failure of OPA to timely act to collect evidence resulted in the inability to include a primary source of testimony, which could have served to clarify and strengthen the investigation.

Respectfully,

Lynn Erickson

Lynn Erickson