



To: Andrew Myerberg, OPA Director
CC: Mark Grba, Deputy Director of Investigations; Grainne Perkins, Investigations Supervisor
From: Lynn Erickson, Public Safety Auditor/Investigator
Date: 12/30/2020
Re: 2020OPA-0489

CERTIFICATION:

OIG is certifying this investigation as timely and objective. However, the investigation is not being certified as thorough.

On 12/4/2020, OPA routed this case to the OIG indicating it was ready for certification. However, after reviewing the case, on 12/10/2020, OIG found that there was missing information and therefore submitted a request to OPA for additional investigation. OPA responded to that request and OIG has re-reviewed the new information provided.

Central to OIG's 12/10/2020 request was the fact OPA did not appear to have investigated allegations made by the Complainant that SPD lacked probable cause for his arrest and falsely claimed he had assaulted an officer. That assault claim was made by Named Employee #1 (NE#1) who wrote in a report that he observed the Complainant assault another officer by throwing his bicycle into the other officer, knocking the officer backwards.

The Complainant denied he assaulted an officer and indicated he was not doing anything wrong when he was knocked over and then physically tackled by multiple officers who used excessive force against him. The concerns related to probable cause and SPD "lying" were raised by the Complainant in his initial web-based complaint and he can be heard making similar claims on SPD Body Worn Video (BWV). The Complainant again restated these allegations when interviewed by OPA.

However, OPA did not investigate these allegations nor did they appear to critically examine the statement of NE#1 that the Complainant threw his bicycle into another officer against what can be seen (or not seen) on BWV to assess whether or not the Complainant did in fact assault an officer. From the BWV reviewed by OIG, the Complainant is never seen throwing their bicycle or otherwise engaging in behavior that could be construed as felony assault.

In OPA's response to the OIG's request for additional investigation into the lack of probable cause and false statements, OPA indicated that because NE#1 no longer worked for SPD, they could not question him about which officer was assaulted. OPA also indicated they too



were unable to locate an incident on BWV where the Complainant may have assaulted an officer. No further explanation was offered.

In summary, OIG finds that the failure to investigate the Complainant's additional allegations has resulted in our inability to certify the investigation as thorough. This is in large part because in OIG's estimation, the Complainant's additional allegations were integral to the sequence of events that occurred and the resulting force that was used.

OIG also finds the missed allegations problematic because while not examining the probable cause for the Complainant's arrest or NE#1's assertion, OPA did include allegations against two other Named Employees that they violated SPD policy when they failed to write statements related to what NE#1 reported as a felony assault. Thus, the resulting impact of the missed allegations not only affects the possible procedural justice outcome for the Complainant, but also for the two other SPD Officers who are facing additional counts of misconduct in this case.

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