



To: Andrew Myerberg, OPA Director
CC: Mark Grba and Grainne Perkins, OPA Assistant Directors
From: Lynn Erickson, OIG Public Safety Auditor/Investigator
Date: 7/2/2021
Re: 2021OPA-0017

PARTIAL CERTIFICATION:

OIG has reviewed the Investigation for Case Number 2021OPA-0017 and is certifying the investigation as timely and objective. OIG is not certifying the investigation as thorough.

On 6/14/2021, this case was routed by OPA to OIG requesting certification. On 6/24/2021, after finding the case was not yet ready to be certified, OIG directed additional investigation pursuant to 3.29.260.D. OPA was thus provided with the opportunity to remedy identified deficiencies with the investigation and was also notified of the potential impact on full certification if not remedied.

On 6/28/2021, OPA routed the investigation back to OIG noting that the investigative record had been updated to include a 3-page memo in response to the OIG directed additional investigation. Based upon a review of the OPA response and the quickness of the response, it appears only minimal additional investigation was conducted.¹ A partial certification is being issued because upon further review, OIG has determined that OPA did not remedy most of the deficiencies identified.

Background

After receiving notification from the chain of command that a Temporary Restraining Order (TRO) had been issued against the Named Employee (NE) due to alleged domestic violence, including the requirement for the NE to surrender his firearms, OPA investigated the allegations that the NE failed to adhere to SPD policy Conformance to Law (5.001.2) and Professionalism (5.001.10). OPA informed the NE during his interview “the reason we are here today because of (sic) a complaint which originated with the Office of Police Accountability, which alleged that you may have engaged in domestic violence against your spouse. And as a result of this alleged behavior, you’re (sic) subject of a domestic violence protection order.”

¹ The only additional investigative action taken by OPA was to contact Edmonds Police Department to enquire as to whether prior reports existed involving either the Named employee or their partner.



Investigative Deficiencies

According to 3.29.260.F.2, criteria OIG shall consider include “whether witnesses were contacted, interviewed, and all other material evidence was timely collected.” Here, OPA failed to collect perishable evidence. Three months elapsed between the date the complaint was referred to OPA by the NE’s chain of command (1/5/2021), and when the first effort was made to contact the NE’s partner (4/9/2021). By the time OPA reached out to her, she had moved out of state. OPA confirmed they had her local contact information (current address and phone number) from the Renton PD report, and the ROI indicates that report was received by OPA on 1/20/2021. Given the nature of this allegation and intake, it is unclear why OPA did not act quickly to preserve this perishable evidence.

Also, according to 3.29.260.F.2, criteria OIG shall consider includes “whether additional clarifying information would strengthen the investigation.” Here, the Investigation Plan developed by OPA identified the top priority as collecting additional information about an alleged prior DV incident that occurred in Edmonds. However, upon initial review of the investigation, no information could be found to document any OPA action(s) taken in response to this supervisory direction. Instead, it appeared that information related to any prior incident in Edmonds was intentionally omitted during the investigation. Specifically, during the OPA interview with the NE on 4/20/2021, the NE referred to an incident that is specified in the TRO, but OPA stopped him and asked if he was talking about “the incident that was out at Edmonds (sic)?” When the NE confirmed, OPA stated “I’m not asking any questions about that.” While OPA did contact the Edmonds PD after OIG directed further investigation, it is unclear why OPA did not address this incident more thoroughly during the investigation, or why the NE was prevented from providing additional information. The OPA response to the OIG directed additional investigation indicates OPA focused their investigation on the allegations in the TRO that occurred while the NE lived in Renton but does not offer explanation as to why the scope was narrowed in that manner.

According to 3.29.260.F.2, in reviewing investigations, criteria OIG shall consider include “whether interviews were thorough and unbiased and conflicting testimony was sufficiently addressed.” Here, OPA did not thoroughly question the NE on the allegations of domestic violence contained in the TRO or sufficiently address conflicting testimony. The TRO includes several incidents and descriptions of physical assault that the NE was not asked about during his interview. For example, the TRO includes the allegations that “Several nights ago, he pushed me out of the room on my side and my chest with milk (breastfeeding mom)....and he was pushing me on my side and in my chest but I screamed because it hurt” and “earlier this past year pulling me with force to the ground on my hip shortly after I gave birth”. Given that OPA failed to interview the NE’s partner, the narrative



portions of the TRO were the most relevant and detailed source of the allegations of domestic violence against the NE. The OPA response to OIG directing additional investigation in this area was to indicate Renton PD found that no crime occurred and OPA had to “respect what previous criminal investigations have found prior to receipt.” However, the Renton PD report references a single incident in November 2020 and states the report was informational only. There is no indication in the record that any criminal investigations were conducted into any of the incidents referenced in the TRO. OPA also did not thoroughly question the NE regarding other information he started to provide during his interview related to repeated contacts with the Renton PD. OPA instead changed the subject, and shortly thereafter ended their questioning entirely.

Additionally, OPA indicated in their response to the OIG directed additional investigation that they have “to be conscious this is not a criminal investigation.” Clearly, OPA conducts administrative investigations, not criminal investigations. The stated SPD policy under administrative investigation in this case is 5.001.2 “Employees Must Adhere to Laws, City Policy and Department Policy”.

Based upon the information described above and as outlined in the OIG memo directing additional investigation, this investigation does not meet the criteria outlined in 3.29.260.F.2 for the element of thoroughness.

Respectfully,

Lynn Erickson

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