



To: Andrew Myerberg, OPA Director
CC: Mark Grba, Deputy Director of Investigations; Grainne Perkins, Investigations Supervisor
From: Lynn Erickson, Public Safety Auditor/Investigator
Date: 11/4/2020
Re: 2020OPA-0305

CERTIFICATION:

OIG has reviewed the INV for 2020OPA-0305 and is certifying the investigation as timely, but not as thorough or objective.

This case was submitted by OPA to OIG for review on 10/27/2020 and the 180-day deadline for the investigation is 11/10/2020. Additional information is needed to for OIG to fully certify this case, not only for thoroughness, but objectiveness. Per Ordinance 125315 and the OPA Manual, when submitting investigations to OIG, OPA is required to allow sufficient time for additional investigation and re-review to occur. However, this case, along with a number of other cases submitted by OPA recently, falls so closely to the 180-day deadline, there is no time direct additional investigation and thus, no means by which OPA can remedy the deficiencies. In such cases, OIG can only make a certification decision based upon what has been submitted.

In this case, the complaint was premised upon information provided during an EEO interview with a Complainant on 5/14/2020. Although the Case Summary indicates the investigator outreached to the Complainant on 5/20/2020, there is no documentation of any such efforts in IAPro (no emails, no voicemails, no notes under the Complainant's information as required). Contradictorily, IAPro contains an email from the Complainant dated 8/27/2020 to the OPA investigator noting that to date, she had not been contacted to provide a statement in this case. While OPA did engage in an interview with the Complainant, not only did it occur after the Named Employees had been interviewed, but OPA did not ask the Complainant a single question relevant to the underlying allegations of this case.

A Witness Employee interviewed by OPA on 8/11/2020 provided additional specifics and details that aligned with the information provided by the Complainant on 5/14/2020 and therefore supported the three different policy violations lodged against both Named Employees. However, despite having those additional details which help to form the basis for the allegations upon which this investigation is premised, and being required by the OPA Manual to do so, OPA did not ask either Named Employee to respond to all aspects of the allegations during their interviews (this was even noted by a SPOG representative present at the interview). Substantive follow up questions were also not asked by OPA to challenge or confirm the testimony provided by the Named Employees.

Contradictory testimonial evidence therefore exists in the record, but OPA did not engage in any efforts to resolve the conflicting evidence by examining other evidence, to include an analysis of Named Employee 2's training records, SPD policy regarding whether reprimands are required to be documented by supervisors, the relevant details of the criminal investigation in which Named Employee 2 allegedly was untruthful, what information was relied upon in the search warrant, etc.



OPA was thus in possession of evidence that supported the allegations but failed to ask Named Employees questions relevant to the allegations against them and also failed to follow up on other means by which documentary evidence could have been gathered and assess to help resolve some of the contradictions in the record. This is the third case involving this Complainant and her supervisor (Named Employee 1) that has been submitted to OIG recently and which could not be fully certified. At this point, the above deficiencies with regard to thoroughness, combined with the failure to resolve contradictory evidence and submission just prior to the 180-day deadline (when there is no opportunity to remedy the failure) are being interpreted by OIG as a lack of objectivity by OPA in this investigation

Respectfully,

Lynn Erickson

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