



MEMORANDUM

TO: INTERNAL AFFAIRS FILE 2021-03
FROM: ROBERT L. TICER, CHIEF OF POLICE
SUBJECT: CHIEFS SUMMARY REVIEW OF INTERNAL AFFAIRS CASE FILE 2021-03
DATE: JANUARY 5, 2022

Chief's Summary Review of Internal Affairs (IA) Case #2021-03

On April 14, 2021, I was contacted by the Loveland Police Department (LPD) Training Sergeant and shown a video via YouTube of the Karen Garner arrest from June of 2020, alleging that she received a fractured shoulder during the incident. The Department was notified at this time that Ms. Garner was suing Officers Hopp and Jalali, Master Sergeant (MSgt.) Metzler, and the City of Loveland as a result of this case. I placed Officer Hopp on administrative leave the following day.

This case had previously been reviewed by the District Attorney's Office in the summer of 2020 and the LPD had not been notified of the allegation of serious bodily injury caused by officers to Ms. Garner at that time, or before April 14, 2021. Additionally, Ms. Garner's attorney failed to notify LPD of the alleged injury to Ms. Garner or alleged criminal behavior by LPD employees, having held that information for months from the Department. If LPD had received that information from either the District Attorney's Office or Ms. Garner's attorney, immediate and quick actions would have been taken to address the conduct of employees involved, and the Critical Incident Response Team (CIRT) would have been consulted, at a minimum.

As a result of this notification and initial investigation, I directed an IA investigation to be opened. Additionally, I notified the District Attorney on April 16, 2021 and requested that this case be criminally investigated through the CIRT. This request was accepted and the Fort Collins Police Services were requested by the team to conduct the investigation. I placed MSgt. Metzler on administrative leave during the CIRT investigation, where he remained until the finalization of this report. In addition to Officer Hopp and MSgt. Metzler, I placed Officer Jalali and Community Services Officer (CSO) Blackett on administrative leave on April 19, 2021.

On April 26, 2021, the LPD was notified that Sergeant Antolina Hill and CSO Blackett were also named in the lawsuit. CSO Blackett was already on administrative leave at this time. After an initial review of Sergeant Hill's involvement in this case, I saw no evidence to support putting her on administrative leave.

After Ms. Garner's attorney released a second enhanced video of the booking room footage on April 26, 2021, I contacted the Human Resources Director the following day and advised that I had made my

decision to terminate Officers Hopp, Jalali, and CSO Blackett. As Human Resources prepared the termination documents to be served on April 30, 2021, all three employees tendered their resignations to me on April 29, 2021.

Within the first several days after April 14, 2021, the Loveland City Manager, Loveland Human Resources Director, and I collectively agreed to have the IA investigation into this matter be directed to a third-party investigator.

On May 20, 2021, the District Attorney filed felony charges and misdemeanor charges on Hopp and misdemeanor charges on Jalali related to the Garner case. No other LPD employees or former LPD employees were charged at this time. This criminal case is on-going as I complete this summary document.

The City Manager decided to conduct the IA case into the matters of MSgt. Metzler during the on-going criminal investigation. This investigation was assigned to a third-party firm, Jensen Hughes, at the request of the Human Resources Department. The City Manager's Office decided to not investigate former Officers Hopp, Jalali, or CSO Blackett until the completion of the criminal case.

On August 31, 2021, I received this IA report from Jensen Hughes, which included their investigative summary and findings memorandum. Additionally, I received access to the supporting documents in this case from the Human Resources Department.

While I support the findings in this internal affairs report, it is important to articulate mitigating factors specifically related to the Department supervisory review of the incident by MSgt. Metzler, Lieutenant (Lt.) Shaffer, and Assistant Chief (AC) Butler. During this internal investigation, the investigators did not focus on the initial reporting of this case by former officer Hopp specific to alleged criminal behavior of attempting to influence a public servant. The charging document filed by the District Attorney on Hopp stated:

*"On or about June 26, 2020 Austin Scott Hopp unlawfully and feloniously attempted to influence Phil Metzler and/or Loveland Police Department, a public servant, by means of deceit, with the intent thereby **to alter or affect the public servant's decision, vote, opinion, or action** concerning a matter which was to be considered or performed by the public servant or the agency or body of which the public servant was a member; in violation of section 18-8-306, C.R.S."*

With this charging document, Metzler, Shaffer, and Butler should not have been subject to this investigation specific to the Blue Team review. Metzler, Shaffer, and Butler were reviewing a document and incident where the District Attorney charged the arresting officer with criminally covering-up the injury to Ms. Garner. The following is important to note for this specific point:

- Hopp never articulated serious bodily injury in any report.
- Hopp did not mention any injury in his official police report.
- Hopp did not mention any injury in his arrest affidavit.

- Hopp did not color in the shoulder area of the person diagram in the use of force report to show where a person has injury.
- Ms. Garner was accepted into the County Jail during booking by LPD without a medical clearance.
- The only note of injury known to the reviewers was in the paragraph of the initial Blue Team written by Hopp who stated that there was a “possible shoulder injury.”
- Assistant Chief Butler stated that it would have taken 12 hours to review all footage of this arrest, which was not practical.

I noted in this IA report that the investigators stated the LPD requested the IA on Shaffer and Butler, which was not accurate. The decision was made between the investigators and the Loveland Human Resources Department.

On September 14, 2021, I placed Officer Ashe and Lt. Shaffer on administrative leave in person pending potential discipline related to the findings of this IA. MSgt. Metzler was also notified of potential serious discipline related to his sustained findings. MSgt. Metzler was not available to respond to the Department for service, therefore, the LPD IA Sergeant responded to his personal residence to serve the paperwork. I ensured all three employees and Assistant Chief Butler received the IA final report and access to attachments.

Serious Discipline meetings were scheduled and conducted at the Loveland Civic Center on September 24 for Lt. Shaffer, MSgt. Metzler, and Officer Ashe separately.

Shaffer:

During the serious discipline meeting with Lt. Shaffer, he provided the following statements and input for consideration related to the IA findings:

- His decisions were based on what elements he had leading up to the review, not hindsight after the fact.
- He should have reviewed the arrest video, but did note there were superficial injuries (wrist/possible shoulder injury) but did not know about “serious injury.” He further articulated that these injuries described are common during arrests and do not lead you to serious injury conclusions.
- There was no indication of serious injury in the reports and he did not have that information. Nothing in the reports led him to “serious injury” and he believed the clues were not there.
- His review was 46-days after the event and because of that length of time, the case lost significance. He stated that MSgt. Metzler was consistently late with paperwork and he had been addressing that with him.
- There was nothing in his failures of review that were malicious or with bad intentions and his actions were well intentioned.

- He was denied information intentionally, noting that the arresting officer has been charged with “Attempt to Influence a public servant-unlawfully and feloniously attempted to influence Phil Metzler and/or Loveland Police Department, a public servant, by means of deceit, with the intent thereby to alter or affect the public servant’s decisions, vote, opinion, or action....”
- Sometime after the review, he had a verbal conversation with MSgt. Metzler about his concerns that the arresting officer went hands on with this arrest and it could have been handled differently.
- In “hindsight” a full review of this case would have taken approximately 3 days if he listened to all audio and examined everything, which was not practical.

As we closed this meeting, Lt. Shaffer articulated that he had dedicated 35-years of his life to people through his work, including coaching. He further stated that since he became aware of the serious injury involved in this incident he took steps to ensure stronger and more detailed Blue Team reviews and pledged to stay with this practice.

Metzler:

Prior to MSgt. Metzler’s hearing, his attorney, on his behalf, submitted his letter of resignation/retirement to the City Attorney’s Office. MSgt. Metzler did not show or attend the scheduled meeting. I accepted the resignation upon receipt from the City Attorney’s Office and had no communications with MSgt. Metzler.

Ashe:

During the serious discipline meeting with Officer Ashe, he stated that after reviewing the IA report over the weekend he now understood the severity of the report, which he did not understand when initially placed on administrative leave. During this meeting, Officer Ashe stated the following:

- After a phone call with MSgt. Metzler regarding mislabeling issues of MSgt. Metzler’s body worn camera (BWC), he went to the Records Division in July of 2021 to inquire about the issues specific to the date of June 26, 2020.
- He wanted to find out if “Phil” messed it up or if it was a system issue. If it was a system issue with the camera, he needed to look into it and if there was a problem with labeling, this should be addressed for the Department.
- MSgt. Metzler did not direct him to make an inquiry into the mislabeling and he did not advise him against involving himself in the issue.
- He attempted to secure the case and incident numbers and went to Records on his own accord.
- He was not trying to “fix” anything, which he believed was alleged in the IA investigation.
- At no time did he bring the alleged labelling problem to the attention of his supervisors or the department.

Officer Ashe admitted:

- He knew MSgt. Metzler was on paid administrative leave, was subject to an IA investigation related to the Garner arrest, and that the date he was inquiring about for MSgt. Metzler was the date of that arrest.
- He secured the information from Records and provided the report and case numbers to MSgt. Metzler.
- He didn't recall the conversation with MSgt. Metzler when he provided the information.
- In answering my question, Why did you provide the information to MSgt. Metzler? Officer Ashe said, "Don't have a good answer for that."

When examining, MSgt. Metzler's IA interview transcripts, he stated that he didn't give Officer Ashe an order or ask him to secure the information reference the mislabeling of BWC footage from the Garner arrest. MSgt. Metzler stated that when Officer Ashe told him that he would go check it out, he told Officer Ashe, "Don't do that." MSgt. Metzler was aware that Officer Ashe did not take his advice. MSgt. Metzler stated that he received the report numbers from Officer Ashe and provided them to his attorney.

Officer Ashe provided me with a copy of a polygraph report that was conducted on his own. LPD was not involved in this polygraph examination, therefore, the questions would have been developed and approved by Officer Ashe. On question R8, Officer Ashe answered "No" = Truthful to the following question: "Did Phil Metzler suggest or direct you to do anything other than determine how his body cam video was labeled?" This supporting documentation Officer Ashe provided for my consideration indicates a conflict with statements made that he went to Records on his own accord and was not asked or directed to involve himself in the issue. The question on the polygraph that was answered truthfully stated, "*other than*" determine how his body cam video was labeled. From the IA investigation and subsequent meeting, it is clear that Officer Ashe secured and accessed information having no official purpose to access, provided that information related to an IA case to MSgt. Metzler, who was on administrative leave at the time, and could not provide a reason for doing so.

Butler:

During my preliminary disciplinary meeting with Assistant Chief (AC) Butler, he affirmed the statements he provided to the investigators and further stated that if the serious bodily injury was known during the review, a CIRT would have been implemented. AC Butler articulated that based upon the charges filed on Hopp, reviewers in the case had to complete their reviews based upon documents that were not accurate and were criminally covered up by Hopp. AC Butler stated that he did not have information that Ms. Garner received serious bodily injury from this case until the April 14, 2021 notification to the Department.

Final Summation:

Hopp, Jalali, and Blackett should have reported this incident immediately to their supervisors concerning the potential serious bodily injury to Ms. Garner and should have summonsed immediate medical attention to evaluate her. They failed to do so, and their supervisor, MSgt. Metzler failed to supervise this incident properly and by policy. If these four former employees would have properly

managed this incident and reported it properly, a CIRT could have been enacted immediately, as it should have.

Any discipline that I administered in this case are recorded with the City of Loveland and are part of the applicable personnel files.

I plan to direct an additional IA investigation to complete this case regarding the other named employees and former employees upon the completion of the criminal investigation.

Robert L. Ticer
Chief of Police