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POLICE OMBUDSMAN
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August 24, 2011

Mr. Timothy Connor
Center for Justice
35 W Main Street
Spokane, Washington 99201

RE: Request to Reopen Closing Report IA # 11-003

Dear Mr. Connor:

In a correspondence dated June 30, 2011, you requested that the referenced complaint be reopened because “a medical report directly contradicts a central finding relayed in the OPO closing report.” You advised that the complainant gave you consent to represent her in this request.

Pursuant to Spokane Municipal Code Section 04.32.030 (M); any complaining party who is not satisfied with the findings of the department concerning their complaint may contact the office of police ombudsman to discuss the matter further. However, unless persuasive and probative new information is provided, the investigation will remain closed.

In support of your request for the investigation to be reopened you provided the following documents for review and consideration:

- Intake document
- OPO Closing report 11-003
- Spokane Police Department Incident report # 11-000121
- Medical documents from Rees-Stealy Medical Group
- Medical documents from Providence Holy Family Hospital
- Holy Family Hospital Patient Visit Information document
- A photo of a bruise on the complainant
- Two emails received by the complainant
- A question list from the complainant with questions asked of the complainant by the ombudsman
- A 3-page excerpts list from the police report
- A closure letter from the Chief of Police

In reviewing the information provided and the completed investigation, I agree that the Office of Police Ombudsman Closing Report could have been more detailed. In this review I did not find new information that was persuasive or probative that would warrant a recommendation to the

Chief of Police that the investigation be reopened pursuant to Spokane Municipal Code Section 04.32.030 (M).

Regarding your review of the complainant's medical report Doctor Chiu stated, "the exam shows evidence of an early bruise which **does appear to be consistent with what appears to be a gun butt, this is what the patient describes to me** and it does seem to be consistent with the overall bruise and contusion and is consistent with the same."

It is my opinion that the doctor's statement is influenced by what the complainant told the doctor. The doctor's conclusion was not arrived at independently.

The medical information provided by Doctor Chiu was part of the completed internal affairs investigation and is not new information.

In further review of the medical records provided at the time complaint was investigated, and in your documents supplied, there is a portion of the report that is redacted in the Rees-Stealy documents. It is my understanding that the information was redacted at the request of the complainant.

I have been told that the redacted information contains the results of the complainant's blood work. While it is certainly within the complainant's right to have that information redacted I can only conclude that it was redacted because the results would affirm the involved officers' observations that the complainant was intoxicated at the time of the incident.

The internal affairs investigation also included interviews with the accused officer and three witness officers.

In the accused officer's interview, the officer indicated that he advised the complainant to get back. The officer advised that the complainant got so close to him that he had to tuck his rifle and secure it against his side with his left arm. The officer advised that he shoved the complainant away with his right arm.

The three witness officers' accounts of the incident were similar. None of the witness officers observed the complainant being struck with a rifle.

At the time of the incident the accused officer had a 3-point sling on his rifle that would have made it physically impossible for the officer to have struck the complainant with the butt of the rifle.

Photographs of the butt of the rifle were taken to compare against the photographs of the complainant's bruise. The shape of the butt of the rifle is oval. The complainant's bruise pattern is a right angle. The rifle pattern and bruise pattern do not match.

The technique used to stop the complainant in her approach to the accused officer was described by the accused officer as just below the complainant's collarbone about center of her chest with

the heel and flat of the accused officer's palm. The witness officers also acknowledged pushing the complainant back.

The complaint's sister-in-law indicated that she witnessed the confrontation. Her account of the incident contradicts the officer's account of the incident. She advised that she saw the accused officer physically strike the complainant. She also advised that another individual who was arrested with the complainant witnessed the officer's actions.

That individual was contacted and he advised that he did not see the complainant get arrested and did not see any officer strike anyone in the head with the butt of their rifles.

In an email that was provided by Mr. Hughes and is included in your document packet Mr. Hughes stated that he saw an officer strike the complainant with his rifle. In Mr. Hughes internal affairs interview he said, "...well I didn't actually see the strike but I saw Amanda fly to the ground. That's why I couldn't believe that you know Amanda was shoved down."

In the complainant's internal affairs interview she advised that she stumbled after she was struck with the rifle and took two to four steps backwards and then caught her balance. She advised she did not fall to the ground. This statement contradicts Mr. Hughes statement.

In the original email complaint filed with internal affairs the complainant alleged that, "we were all standing with our hands up in the air when I was hit in the back of the head with the butt of a rifle. I was arrested with absolutely no justification. I was not part of the call. I was an innocent bystander."

During the internal affairs interview the complainant confirmed that the complaint was filed on her behalf by her stepfather. The complainant advised that she was not struck in the back of the head with a rifle.

In response to the questions the ombudsman asked the complainant, I reviewed the complainant's interview transcript and I asked the complainant the following questions:

- Did you have any illness or injury prior to this incident?
- Have you had any prior injuries to your wrist or shoulder area?
- What were you doing before you were struck with the rifle butt?
- Do you recall what the officer said when they pulled up, got out of their car and the encounter occurred?
- Did you keep your arms up? Did you comply with the officer's directions?
- Did you advance on the officer at any time?
- After you were struck with the butt of the rifle did you say anything?
- Did you tell the officer(s) that transported you to jail that you were injured and needed medical attention?
- Did any the officers use profanity?
- With regards to your complaints involving the correctional officers do you want me to forward those complaints to the Sheriff's Office?
- Did your stepfather file the initial complaint on your behalf?

With regard to the Stipulated Dismissal document referred to in the Intake interview the document is actually called a Stipulated Order of Continuance. Court records indicate that on June 14, 2011 the complainant agreed to the terms and conditions of the agreement and that the complainant stipulated to the accuracy and admissibility of the police report(s).

Having reviewed the completed investigation and the packet of information submitted requesting that the investigation be reopened, I am satisfied that the investigation was timely, thorough, and objective as I certified. I do not believe that there is any new information that has been provided that would suggest or warrant that the investigation be reopened.

Sincerely,



Tim Burns
Police Ombudsman

cc: Mary Verner, Mayor
Ted Danek, City Administrator
Anne Kirkpatrick, Chief of Police
Jim Nicks, Assistant Chief of Police