



INVESTIGATIVE REPORT

Lori Torres, Inspector General

OFFICE: INDIANA STATE POLICE (ISP)
TITLE: ISP FALSE REPORTS
CASE ID: 2017-04-0073
DATE: October 5, 2018

Inspector General Lori Torres, after an investigation by Special Agent Chuck Coffin, reports as follows:

The Indiana General Assembly charged the Office of Inspector General (OIG) with addressing fraud, waste, abuse, and wrongdoing in the executive branch of state government. Ind. Code § 4-2-7-2(b). The OIG also investigates criminal activity and ethics violations by state officers, employees, and special state appointees. *See* Ind. Code § 4-2-7-3. The OIG may recommend policies and carry out other activities to deter, detect, and eradicate fraud, waste, abuse, mismanagement, and misconduct in state government. Ind. Code § 4-2-7-3(2).

On April 17, 2017, the OIG received an initial complaint regarding an investigation conducted by the Indiana State Police (ISP) into the shooting death of Lucius Washington, Jr. (Washington) by ISP Trooper Seth Mann (Mann) in Fort Wayne, Indiana on March 18, 2012. The Reporting Party alleged that someone had altered an ISP Firearms Review Board (FRB) Statement of Finding (Finding) after it had been sent to ISP Superintendent Doug Carter. The OIG received a second complaint from the same Reporting Party on June 28, 2017. The second complaint alleged that Washington was the victim of discrimination in his wrongful death. It also alleged that ISP

“intentionally falsified and forged” the original FRB Finding to “cover up and conceal this abuse of governmental power and racial discrimination.” The OIG opened an investigation to review the limited question of whether someone had altered the FRB Finding.

Special Agent Chuck Coffin conducted an investigation. During the course of the investigation, he interviewed a number of witnesses, including several current and former employees of ISP. He also reviewed a large volume of documents, including ISP policies, emails, meeting minutes, and other materials. He obtained multiple versions of the FRB Statement of Finding from three different sources: the Reporting Party, ISP, and a former ISP employee’s personal files. He obtained two versions of the FRB Finding from the Reporting Party. The first version is dated April 4, 2013, and the second version is dated April 29, 2013.

I. Background

On March 18, 2012, Mann shot and killed Washington as Mann was trying to apprehend Washington. According to media reports, Mann saw an altercation between multiple individuals, including Washington, prior to Mann’s altercation with Washington. ISP conducted an investigation into the shooting and presented its findings to the Allen County Prosecutor’s Office and to the FRB. On February 22, 2013, the Allen County Prosecutor’s Office declined to file criminal charges against Mann citing “insufficient evidence of criminal liability to prove guilt beyond a reasonable doubt.”

On February 28, 2013, ISP Superintendent Carter ordered the FRB to convene and review the shooting per Standard Operating Procedure (SOP) ENF-048, “Firearms Discharge Report and Review.” This SOP requires the FRB, through its chairperson, to issue a Statement of Finding to the Superintendent after an FRB hearing. At this time, Major Brent Johnson, then Commander with the Training Division of ISP, chaired the FRB. Captain Danny Price, Lieutenant Peter Wood, First Sergeant Kevin Rees, and Sergeant Terry Treon also served on the FRB during this time period.

II. FRB Actions and Findings

A. First FRB Finding

The FRB met on March 18 and 19, 2013 to review Mann's shooting of Washington. After these meetings, the FRB deliberated via email for seventeen days and then reached consensus for its Statement of Finding (3-20-2013 Finding¹). According to emails that Special Agent Coffin reviewed, Lieutenant Peter Wood created a first draft of this Finding, and other members of the FRB commented on the Finding. The FRB discussed via email what details were relevant to the shooting itself and what details should be included in the Finding. Major Johnson finalized the 3-20-2013 Finding on April 3, 2013 and emailed other members of the FRB that he planned to submit this Finding to the Superintendent on the following day. The 3-20-2013 Finding was the first of six versions of the Finding that Special Agent Coffin discovered as part of his investigation.

On or about April 4, 2013, Superintendent Carter reviewed the 3-20-2013 Finding and had concerns. According to Special Agent Coffin's interview with Superintendent Carter, this Finding was a draft finding and not a formal document. Superintendent Carter rejected this Finding. Superintendent Carter stated that he believed that the 3-20-2013 Finding was too broad and went beyond the narrow question of whether the force Mann used was objectively reasonable. Consequently, Superintendent Carter ordered ISP Major Steven Hillman to reconvene the original FRB and serve as its Chair. Superintendent Carter considered this to be a continuation of the original FRB consideration for the purpose of narrowing the review to whether the force Mann used was objectively reasonable. Superintendent Carter stated that he considered Major Hillman well-qualified to serve as FRB Chair because of Major Hillman's past, long tenure as the Training Division Commander and his extensive, prior experience as FRB Chair.

¹ This Finding is titled "Firearms Review Board Statement of Finding." The signature page is dated 3-20-2013 so the OIG has used "3-20-13 Finding" to distinguish this Finding from later versions.

B. Second FRB Finding

On April 4, 2013, Major Johnson created a new Finding, which was dated April 4, 2013 (First April 4, 2013 Finding). Special Agent Coffin discovered this Finding through a search of Major Johnson's computer files at ISP and through Major Johnson's personal notes that he presented to Special Agent Coffin. This Finding is very similar to the 3-20-2013 Finding, but with a new signature added to the signature page² and other small changes. Special Agent Coffin found no evidence that Major Johnson consulted the other FRB members on the First April 4, 2013 Finding or that ISP leadership authorized this Finding. Special Agent Coffin also found no direct evidence that Major Johnson shared this version of the Finding with anyone else; however, the Finding dated April 4, 2013 that the Reporting Party submitted to the OIG was consistent with the First April 4, 2013 Finding. The First April 4, 2013 Finding was the second of six versions of the Finding that Special Agent Coffin discovered as part of his investigation.

C. Third FRB Finding

On April 19, 2013, Major Johnson sent an email to Major Hillman with a second Finding dated April 4, 2013 (Second April 4, 2013 Finding). This Finding is consistent with the First April 4, 2013 Finding, except for the signature page. The First April 4, 2013 Finding has the added name on the signature page, but the Second April 4, 2013 Finding does not include the added name. The Second April 4, 2013 Finding was the third of six versions of the Finding that Special Agent Coffin discovered as part of his investigation.

D. Fourth FRB Finding

On April 23, 2013, Major Johnson created another version of the Finding, this one dated April 29, 2013 (First April 29, 2013 Finding). Special Agent Coffin discovered this Finding through a

² The 3-20-2013 Finding is signed by Major Johnson, Captain Price, Lieutenant Wood and First Sergeant Rees. The April 4, 2013 Finding is signed by the same FRB members, along with Sergeant Terry Treon.

search of Major Johnson's computer files at ISP and through Major Johnson's personal notes that he presented to Special Agent Coffin. Special Agent Coffin found no evidence that Major Johnson consulted the other FRB members on the First April 29, 2013 Finding or that he submitted it to Superintendent Carter. Special Agent Coffin also found no direct evidence that Major Johnson submitted this version to anyone else; however, it also appears to be consistent with the April 29, 2013 Finding that the Reporting Party submitted to the OIG. This Finding is similar to, but does not exactly match, the 3-20-2013 Finding. The First April 29, 2013 Finding was the fourth of six versions of the Finding that Special Agent Coffin discovered as part of his investigation.

E. Fifth FRB Finding

On April 23, 2013, Major Johnson emailed a second version of the April 29, 2013 Finding (Second April 29, 2013 Finding) to Major Hillman, who Superintendent Carter ordered to be the new Chair of the FRB. In the email, Major Johnson wrote, "I have amended the Mann FRB. I believe this will get you closer to where you want to be, but I am unsure exactly what Superintendent Carter wants." The signature page on the Second April 29, 2013 Finding does not include one of the FRB member's signatures that is included on the First April 29, 2013 Finding. Otherwise, the Second April 29, 2013 Finding is consistent with the First April 29, 2013 Finding. The Second April 29, 2013 Finding was the fifth of six versions of the Finding that Special Agent Coffin discovered as part of his investigation.

F. Sixth FRB Finding

On April 29, 2013, the FRB reconvened under the chairmanship of Major Hillman. The FRB met to reconsider the evidence in light of Superintendent Carter's direction to narrow the review to whether the force used was objectively reasonable.

On May 1, 2013, Major Hillman drafted a new Finding (May 1, 2013 Finding) based on the information obtained in the FRB's April 29, 2013 reconvened meeting. Hillman dated this Finding May 1, 2013. He included several new elements in this Finding that were not in previous versions, including a photograph of a yard and a chain link fence on the title page, photographs of the victim's injuries in the battery case against Washington, and other photographs of the scene. Hillman emailed the May 1, 2013 Finding to other members of the FRB on May 2, 2013. Special Agent Coffin obtained emails from two of the FRB members who reviewed the May 1, 2013 Finding and provided Major Hillman with their approval.

On May 2, 2013, Major Hillman emailed Mark French, the Assistant Superintendent of ISP, and copied Superintendent Carter to let them know that the FRB Finding was in their office and that ISP's Legal Division had signed off on it. Superintendent Carter reviewed and accepted the May 1, 2013 Finding as the final product of the FRB. The Final FRB Finding was the sixth of six versions of the Finding that Special Agent Coffin discovered as part of his investigation.

III. ISP Policies

During the course of its investigation, the OIG learned that ISP has revised its policies and procedures for review of use of force. On May 31, 2018, ISP issued a new SOP, with the Reference Number ENF-043, that establishes the Police Action Review Board (Board). According to ISP staff, the Board replaces the FRB, as described in SOP ENF-048.

SOP ENF-043 gives the Board authority to review a variety of police actions, including firearms discharges that result in injury or death or were intended to strike a human being. The SOP defines the membership of the Board, how the Board will make its policy determinations and what the Board should include in its policy determinations. It specifies that the Board shall convey its determination to the Superintendent in a memorandum from the Chair, and once the Superintendent

receives the determination, the Superintendent can either request additional information, accept the determination, or reject the determination and direct further action as needed. Finally, the SOP defines the documentation and retention requirements for Board actions.

IV. Conclusion

Special Agent Coffin discovered six versions of the Finding during his investigation. Although multiple versions of the Finding exist, each version appears to be a draft. Only three of the versions were submitted to others within ISP for review.

FRB Chairman Hillman constructed the official Final Finding of the reconvened board based on FRB deliberations on April 29, 2013. Special Agent Coffin found no evidence that anyone intentionally falsified or altered the official Final Finding of the FRB.

Furthermore, the OIG found no evidence to explain how the Reporting Party obtained the two versions of the Finding that he/she provided to the OIG. The Reporting Party declined to respond to OIG requests for additional detail on how he/she obtained the versions. As a result, the OIG found insufficient evidence to support an ethics complaint against any specific ISP employee or former employee for divulging confidential information.

As a result, the OIG is closing this case with no further action.

Dated: October 5, 2018

APPROVED BY:



Lori Torres, Inspector General