

NORTH PORT

Officer subject of inquiry, legal action

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Published: Saturday, May 28, 2016 at 5:36 p.m.

The Florida Department of Law Enforcement is determining whether it will criminally investigate a North Port police officer who is also the subject of a legal complaint involving allegations of false arrest and injuries to a 54-year-old North Port man who had been evicted from his home.



FILE PHOTO / NICK ADAMS

Officer Cody Long, center, and Officer Keith Bush are shown in a training exercise with a North Port police dog.

Officer Cody Long has been on administrative leave with pay since April 6, North Port Police Department records show.

Sarasota attorney Andrea Mogensen said she plans to sue North Port after Long and another NPPD officer allegedly injured her client, Terry Mowery.

Mogensen's notice of claim, submitted Jan. 5, states that Officer Long and fellow NPPD Officer Kevin Lyon falsely arrested Mowery for three misdemeanors, including assaulting a law enforcement officer.

Mowery was arrested in 2013 and spent a night in jail, but the State Attorney's Office dropped the charges before the case went to trial.

Assistant State Attorney William Greiner, the prosecutor assigned to the case, said he made the call after reviewing police dashboard camera footage that captured the arrest.

"After viewing that video I no longer had a good faith basis to believe I could prove the charges beyond a reasonable doubt," Greiner said.

Mowery's defense attorney for the case, Adam Tebrugge, said he would have gladly taken the case to trial because the dash cam footage contradicted Officer Long's official report.

"I would say that the charges were completely without merit," he said. "To me the video shows Mr. Mowery was having a fairly formal conversation with law enforcement and all of the sudden one of them hits him, for no reason that I could discern."

Mogensen said that a lawsuit against North Port will be filed in July, after a six-month waiting period required by Florida law.

FDLE records show Mowery has never been charged with any other crimes in the state. He declined to be interviewed.

The allegations come as North Port is facing three lawsuits alleging abuse by its police K-9 unit, of which Officer Long has been a member since February 2014.

About 10:16 p.m. on Oct. 24, 2013, Long was dispatched to a suspicious incident at the intersection of Marilyn Lane and Joann Terrace.

According to an arrest report, Long found Mowery crouched next to a tarp-covered trailer with a lit flashlight in hand.

Approximately 40 minutes later, Mowery was handcuffed, face down on the ground with Officers Long and Lyon on top of him. He had injuries to his cheek, hand and elbow, police reported.

Long alleged that Mowery was aggressive, lurched toward him and, by resisting arrest, pulled him to the ground. Long listed himself as a victim of assault.

But police dashcam footage, provided to the Herald-Tribune by Mogensen's law office, appears to contradict that report.

The video is taken at night and from a distance, diminishing its clarity. But it appears to show Long and Lyon surrounding Mowery and grabbing him while his arms are at his side. They struggle for a moment and then pull Mowery face-first into the street.

Mogensen said the footage disproves Long's claim.

"There's some significant differences between what's alleged in the probable cause affidavit and what's observed in the video," she said. "The video clearly shows the two men are talking and there are no aggressive acts."

The Herald-Tribune requested a copy of the dashcam footage, as well as other documents provided to Mogensen's law firm, from the North Port Police Department. As of close of business on Friday, the police department had not provided the documents.

Mogensen said that there was "no probable cause of any crime," and therefore the officers had no authority to arrest Mowery.

Police records provided by Mogensen's office show that Mowery had been evicted from nearby 1414 Marilyn Lane the same week. On the afternoon of Oct. 23, police made contact with him on the same street while he was trying to catch his pet cats.

Mowery said he was near the home again the night of his arrest, to find his cats, according to a court document.

Long wrote that after he arrived on scene he began talking to Mowery, who "maintained an agitated demeanor" throughout their conversation. When Lyon arrived, Long wrote, Mowery became "very irate."

Long wrote that he and Lyon grabbed Mowery, who resisted and brought himself and the officers to the ground. Once on the ground the officers cuffed Mowery.

Mowery was taken to North Port's emergency room where he received treatment for a scratch on his cheek, an abrasion on his elbow and a laceration on his left hand. The officers searched his car and reported finding a marijuana joint.

Police charged Mowery with three misdemeanors: possession of 20 grams or less of marijuana, resisting arrest without violence and assaulting a law enforcement officer. He was released after posting \$2,500 bond the next day.

If Mowery had been found guilty of the charges, he could have faced jail time, hundreds of dollars in fines and a year's suspension of his driver's license, Tebrugge said.

Tebrugge, now an attorney for the ACLU, said an outside investigation into Long is warranted.

“You just have to wonder: what was the officer thinking? Was the officer assuming that no one was ever going to look into this?” he said. “You wonder whether the charges were brought and the report written to cover up the injury.”

Mogensen agreed.

“It’s clear that the allegations of aggression were meant to cover for the fact that it was excessive force,” she said. “They’re not supported in fact.”

Long, 30, has worked for the North Port Police Department since January 2009. Lyon has been with the department since October 2011.

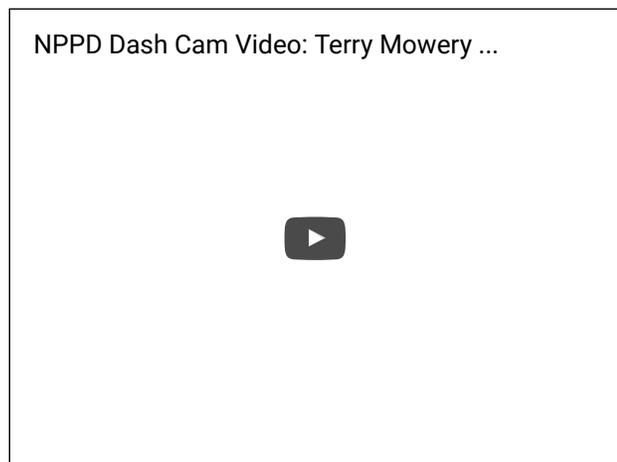
FDLE spokesman Molly Best said the North Port Police Department requested the FDLE conduct a preliminary review of Long. She declined to answer questions about the nature of the investigation.

“Since there is the potential that (the review) could lead to a criminal investigation it is treated like an active case,” she wrote in an email. “If a criminal investigation is opened the case will not be available for public records request until that investigation has closed.”

North Port spokesman Josh Taylor confirmed that the city’s police department asked the FDLE to “investigate and review the actions” of an NPPD officer.

“It is important for the public to know it was our department which reached out to FDLE for assistance and review,” Taylor wrote in an email. “Those involved and the basis will be available in due time.”

NPPD DASH CAM VIDEO: TERRY MOWERY ARREST VIDEO



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