

April 9, 2013

To: Jonathan M. Smith, Chief, Special Litigation Section. Civil Rights Division, U.S. Department of Justice

**RE: Investigation of the Omaha Police Department**

We are writing to you for the third time to request an investigation of the Omaha Police Department for a pattern or practice of violating peoples' rights.

We and others previously wrote you on March 11, 2012. We are attaching a copy of that letter. The March 11, 2012 was signed by a broad coalition of community groups in the City of Omaha and the State of Nebraska.

This letter is prompted by an incident that occurred on Thursday, March 21, 2013 which was video recorded by a by-stander. We sent the web link to that video on Friday, March 22, 2013.

The March 21, 2013 incident includes several separate apparent violations of law, Omaha police department policy, or principles of professional policing. As we will explain later in this letter, the violations in this incident are typical of the pattern and practices of the Omaha Police Department documented in our March 11, 2012 letter.

- (1) Omaha police officers appear to have escalated a minor incident – the towing of an allegedly unregistered expired plates vehicle -- into a major confrontation involving apparent excessive force and other violations of law. This is a common occurrence with the Omaha police.
- (2) As can be clearly seen early in the video recording, excessive force appears to be used against Mr. Octavious Johnson. There was no evident reason for the officer to grab him from behind in a choke hold and throw him to the ground. The video also shows him being struck while in handcuffs at least three times by an Omaha police officer.
- (3) While Mr. Johnson was on the ground, an officer reportedly had his knee on the back of his neck. If true, act was unnecessary and dangerous to the individual. There have been previous incidents, documented in our March 11m 2012 letter, of Omaha police officers apparently using excessive force in this manner that resulted in serious injury or death to the suspect.

- (4) The video shows a man on the sidewalk running into his house. He is Juaquez Johnson, brother of Octavious Johnson who is seen on the video taken down and evidently beaten by the police. Juaquez was video recording the incident and reportedly ran into his house to avoid having the police seize his camera and possibly being arrested. His fears were justified. We have heard many stories of Omaha police officers unlawfully seizing cameras and either smashing them or not returning them. This is part of a widespread pattern of officers reportedly violating the First and Fourth Amendment rights of citizens by either ordering them away from the scene of a police-citizen encounter, ordering them not to record the encounter, or seizing the camera.
- (5) About ten police officers can be seen following Mr. Juaquez Johnson into the house. We believe they had no legal grounds for entering the house. Mr. Juaquez Johnson we believe had violated no law; the police had no search warrant or exception for a warrantless search, or reasonable suspicion that he was about to commit a crime.
- (6) Inside the house, police officers knocked over Sharon Johnson, Aunt of Octavious and Jacquez Johnson, who is disabled and was in her wheel chair. Ms. Johnson has publicly stated this in the days since the incident, and her account has been widely covered in the news media. We believe that what happened to Ms. Johnson represents a collateral injustice arising from what we believe are illegal actions by Omaha police officers.
- (7) The entire incident involved an estimated 25 Omaha police officers. There is no evident justification for this many officers responding to the scene. The video provides no evidence of any supervisor taking command and control of the incident. We believe this is evidence of the failure of the Omaha Police Department to provide proper training in "help officer" calls, and we are aware of similar incidents in the past.
- (8) The lack of command and control evident in the video violates Omaha Police Department General Order #11-92, 22-96, "Help and Officer / Firefighter Calls." We believe this is evidence of a pattern of Omaha officers failing to follow established departmental policies in critical incidents, as we argued in our March 11, 2012 letter.
- (9) The reference to Omaha Police Department General Order above is possible only because one of the signatories to this letter obtained a copy of the Omaha Police Department Standard Operating Procedure Manual. The police department withdrew from public libraries copies of the SOP Manual about seven years ago. They had been publicly available at public libraries for many years. In response to specific requests from signers of this letter, several Omaha police chiefs in recent years have refused to make the SOP Manual publicly available, including placing the manual on its web site.

In conclusion, the March 21, 2013 incident includes what we believe is a number of violations of law, department policy, and principles of good policing. We want to emphasize that the entire incident was apparently provoked by Omaha police officers was completely unnecessary.

We also want to emphasize that all of the major elements of this incident are characteristic of other incidents that we reported to you in our previous two letters.

In a separate letter we will document incidents that occurred between August 2012 and the March 21<sup>st</sup> incident.

The March 21, 2013 incident involves what we believe is a pattern or practice of violations of peoples' rights by the Omaha Police Department as defined in Section 14141 of the 1994 Violent Crime Control Act, which authorizes you to investigate local police departments.

We thank you for your consideration of this letter.

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