



CLOSED CASE SUMMARY

ISSUED DATE: JANUARY 29, 2020

CASE NUMBER: 2019OPA-0680

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)
# 2	15.080 - Follow up Unit Notification & Follow up Investigation 1. Follow-Up Investigations Shall Include Certain Minimum Components	Not Sustained (Lawful and Proper)

Named Employee #2

Allegation(s):		Director's Findings
# 1	6.010 - Arrests 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest	Not Sustained (Lawful and Proper)
# 2	5.140 - Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing	Not Sustained (Unfounded)
# 3	6.180 - Searches-General 1. Officers Will Serve All Search Warrants in Accordance with Seattle Police Manual Section 6.185 - Search Warrants	Not Sustained (Lawful and Proper)

Named Employee #3

Allegation(s):		Director's Findings
# 1	1.110 - Public Information 2. Employees Shall Not Release Information to the Media or Related Outlets Other Than as Prescribed by This Policy	Not Sustained (Unfounded)

This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.

EXECUTIVE SUMMARY:

The Complainant alleged that Named Employee #1 and Named Employee #2 violated multiple Department policies and subjected her son to biased policing during an investigation. The Complainant further alleged that an unknown SPD officer made defamatory statements concerning her son.

ADMINISTRATIVE NOTE:

This case was designated as an Expedited Investigation. This means that OPA, with the Office of Inspector General's review and approval, believed that it could reach and issue recommended findings based solely on its intake investigation and without interviewing the Named Employees. As such, the Named Employees were not interviewed as part of this case.

SUMMARY OF INVESTIGATION:

The Complainant filed an OPA complaint concerning the arrest and prosecution of her son – who is referred to here as the Subject – for rape. The Complainant made several allegations, including that: (1) the officers lacked a warrant to arrest the Subject or to search his apartment and seize his property; (2) the investigation was biased as it was impermissibly based on the Subject's race and gender; (3) the Complainant was falsely arrested and convicted when the medical evidence suggested that no rape had occurred; (4) detectives improperly discussed religion during the interview of the victim and did so to coerce the victim's statement against the Subject; (6) inaccurate information was included in the reports that were generated; and (7) an unknown SPD employee assigned to the Public Affairs Unit "slandered" the Subject when making public statements about the case.

After receiving this complaint, OPA commenced its investigation. As part of that investigation, OPA attempted to conduct an interview of the Complainant. The Complainant did not agree to a recorded interview and, instead, asked that OPA send her written questions. However, she ultimately did not respond to the questions that were sent to her. OPA further reviewed various documentation, video and audio recordings, and media coverage concerning the Subject's arrest and prosecution. Lastly, OPA spoke with employees assigned to the Public Affairs Unit and the King County Prosecuting Attorney's Office (KCPAO).

OPA's investigation revealed that, on February 8, 2019, patrol officers responded to Harborview Medical Center to interview the victim of a rape. They spoke with the victim, who told them that the rape had occurred on February 8, 2019. The victim alleged that a male suspect paid her for sex and that she went to his apartment and engaged in sexual activity for one hour. She said that, after the hour expired, the male wanted to continue having sex. She refused to do so without additional compensation. At that time, the male struck her in the face, strangled her to unconsciousness, and refused to let her leave his apartment. She told officers that he continuously raped her over the next three to four hours. She said that she suffered a number of injuries from the assault, including the loss of a tooth. She said that she informed her roommate that she was being held against her will and that the roommate called the police. However, when the police arrived, they did not hear any noise coming from the apartment and they left without taking any action. The victim was treated at HMC. Officers documented that she had severe facial injuries, including a broken jaw and a lost tooth. She further had bruising around her neck. HMC staff administered a sexual assault kit. Ultimately, Washington State Patrol (WSP) issued a report that confirmed that no physical evidence was recovered from the sexual assault kit.

The investigation was routed to the High-Risk Victim's Unit (HRVU). Detectives, including Named Employee #1 (NE#1) and Named Employee #2 (NE#2), were assigned to the case. Based on information received from the victim, which was fully detailed in the Case Investigation Report for this case, the Detectives identified the Subject as a potential suspect. They put together a photographic montage and the victim positively identified the Subject as the perpetrator. NE#2 drafted a certification of probable cause and a search warrant application. She subsequently obtained a search warrant for the Subject's apartment that was signed by a judge. The warrant permitted the seizure of various property, including the Subject's electronic devices.

The search was effectuated by officers assigned to SPD Anti-Crime Teams. They arrested the Subject pursuant to a valid arrest warrant and then searched the apartment consistent with the search warrant. Among the items removed by the officers were an Apple iPhone and a LG digital tablet.

After the Subject's arrest on February 22, 2019, NE#1 and NE#2 attempted to conduct a recorded interview of him. The Subject declined to participate in the interview and the recording was terminated. The Subject was booked in the King County Jail the following day and was later criminally charged by the KCPAO.

NE#1 and NE#2 also interviewed the victim. She reiterated her allegations against the Subject. At one point, the victim said that she did not know how she was going to go on with her life. NE#1 responded that god had a plan for her. This statement was not in reference to any question and did not compel or coerce a response from the victim. Moreover, NE#1 did not reference god or religion at any other point during the interview.

NE#1 and NE#2 also interviewed the victim's friend who confirmed that she called him to tell him that she was being held in the apartment against her will. The friend further confirmed that he heard a struggle, the victim scream, and the victim saying that she was being choked before the phone call ended.

OPA further inquired with the Public Affairs Unit concerning any public statements that were made by the Department concerning this case. No such statements were located. Moreover, OPA reviewed media articles concerning this case and all were based on investigative and court documents that were part of the public record, not on statements made by or interviews with SPD employees.

At the time of this investigation, the Subject's criminal prosecution was pending.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

5.140 – Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing

SPD policy prohibits biased policing, which it defines as “the different treatment of any person by officers motivated by any characteristic of protected classes under state, federal, and local laws as well other discernible personal characteristics of an individual.” (SPD Policy 5.140.) This includes different treatment based on the race of the subject. (*See id.*)

OPA's investigation yielded the conclusion that the Complainant's allegation of bias against NE#1 and NE#2 is without basis. Notably, there is no evidence that either officer ever used racial slurs towards the Subject or took any actions due to his race or membership in any protected class. Moreover, OPA conclusively finds that the Subject's arrest and later prosecution was based on his actions and the victim's identification of him as the perpetrator, not on any inappropriate conduct by NE#1 or NE#2.

For these reasons, OPA finds that the Complainant's allegation of bias is unsupported conjecture with no grounding in fact. As such, OPA recommends that this allegation be Not Sustained – Unfounded as against both NE#1 and NE#2.

Recommended Finding: **Not Sustained (Unfounded)**

Named Employee #1 - Allegation #2

15.080 - Follow up Unit Notification & Follow up Investigation 1. Follow-Up Investigations Shall Include Certain Minimum Components

The Complainant generally criticized the investigation conducted by NE#1. As discussed above, she asserted that it was biased, that it inaccurately stated information, and that NE#1 made statements in the interview of the victim that coerced responses damaging to the Subject.

SPD Policy 15.080-POL-1 sets forth the Department's expectations for follow-up investigations, such as the one that occurred in this case.

Based on OPA's review of this policy and evaluation of the totality of the evidence in this case, OPA deems the Complainant's claims in this regard to be without merit. First, as discussed above, the claim that NE#1 and NE#2 engaged in biased policing is wholly unsubstantiated. Second, all of the purported inaccuracies identified by the Complainant are not supported by the actuality of the evidentiary recorded and the substance of the documentation generated by NE#1, NE#2, and patrol officers. While there were some inconsistencies in the statements provided by the victim, this was not due to any malfeasance by NE#1 and NE#2. Moreover, there was never any official finding that no rape occurred, as the Complainant contended. Though WSP concluded that no physical evidence could be recovered from the sexual assault kit, this did not mean that no such crime took place. Indeed, this conclusion is not surprising given the time that elapsed between the rape and the application of the kit. In any event, this has no

bearing on the conduct of the Named Employees. Third, NE#1's reference to god during the interview of the victim was meant to be empathetic and did not compel or coerce the victim to make an adverse statement towards the Subject. Indeed, the victim had already alleged that the Subject engaged in multiple violations of law prior to religion being invoked by NE#1.

Contrary to the Complainant's allegations, OPA finds that the documentation generated by NE#1 and NE#2 and the investigation they conducted were consistent with policy and with the expectations of the Department. As such, OPA recommends that this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained (Lawful and Proper)**

Named Employee #2 - Allegations #1

6.010 - Arrests 1. Officers Must Have Probable Cause That a Suspect Committed a Crime in Order to Effect an Arrest

SPD Policy 6.010-POL-1 requires that officers have probable cause to believe that a suspect committed a crime when effectuating an arrest. Stated differently, where an arrest is not supported by probable cause, it violates law and Department policy.

Here, there was abundant probable cause to arrest the Subject. The record is clear that the victim alleged that she was raped, assaulted, and falsely imprisoned by the Subject. She further positively identified him as the perpetrator after viewing a photographic montage. Moreover, even had she not positively identified him, the Subject had an active warrant for his arrest. Given this, his arrest was clearly justified as a matter of law.

As such, OPA recommends that this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained (Lawful and Proper)**

Named Employee #2 - Allegation #2

5.140 – Bias-Free Policing 2. Officers Will Not Engage in Bias-Based Policing

For the same reasons as stated above (see Named Employee #1, Allegation #1), OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**

Named Employee #2 - Allegation #3

6.180 - Searches-General 1. Officers Will Serve All Search Warrants in Accordance With Seattle Police Manual Section 6.185 - Search Warrants

The Complainant asserted that the Subject was arrested, and his apartment searched, without valid warrants. She further claimed that, as a result, the Subject's electronic devices were improperly seized.

Again, and as with the Complainant's other claims, this allegation is without a basis in fact. The officers obtained a search warrant for the Subject's apartment that specifically permitted them to seize his electronic devices. Moreover, there was an open warrant for the Subject's arrest at the time he was taken into custody.

For these reasons, OPA recommends that this allegation be Not Sustained – Lawful and Proper.

Recommended Finding: **Not Sustained (Lawful and Proper)**

Named Employee #3 - Allegations #1

1.110 - Public Information 2. Employees Shall Not Release Information to the Media or Related Outlets Other Than as Prescribed by This Policy

As discussed above, there is no evidence that the Public Affairs Unit made any statements concerning this matter, let alone those that were defamatory. Moreover, even had they done so, the statements identified by the Complainant were part of the public record and would not have violated policy.

Accordingly, OPA recommends that this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained (Unfounded)**