



CLOSED CASE SUMMARY

ISSUED DATE: MARCH 16, 2018

CASE NUMBER: 2017OPA-1138

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	12.080 - Department Records Access, Inspection & Dissemination 4. Officers/Detectives Must Ask Victims, Witnesses and Complainants if They Want Their Identifying Information Disclosed or Not Disclosed	Not Sustained (Training Referral)
# 2	15.180 - Primary Investigations 5. Officers Shall Document all Primary Investigations on a General Offense Report	Not Sustained (Training Referral)

Named Employee #2

Allegation(s):		Director’s Findings
# 1	12.080 - Department Records Access, Inspection & Dissemination 4. Officers/Detectives Must Ask Victims, Witnesses and Complainants if They Want Their Identifying Information Disclosed or Not Disclosed	Not Sustained (Training Referral)
# 2	15.180 - Primary Investigations 5. Officers Shall Document all Primary Investigations on a General Offense Report	Not Sustained (Training Referral)

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 the Named Employees failed to ask her if she wanted her information to be disclosed and did not correctly document her request for non-disclosure in the General Offense Report, which resulted in her personal information being publicly disseminated.

STATEMENT OF FACTS:

The Named Employees investigated a sexual assault claim that was made by the Complainant. The officers documented their primary investigation into the Complainant’s allegations in a General Offense Report. There were a number of significant shortcomings with the General Offense Report, and this report and other deficiencies in the Named Employees’ investigation were the subject of a prior OPA investigation under case number 2017OPA-0040. This OPA investigation resulted in a Sustained finding against both Named Employees for deficiencies in the General Offense Report and discipline was imposed.

In the context of another OPA case evaluating the follow-up investigation into the Complainant’s allegations (see 2017OPA-1015), the Complainant asserted to OPA that she told the Named Employees that she did not want her personal information to be disclosed but that she later found out that the media obtained copies of documents



through public disclosure and had learned her name. OPA reviewed the Named Employees' In-Car Video (ICV), which documented their contact with the Complainant. The ICV confirmed the Complainant's account that she asked that the Named Employees mark "do not disclose" with regard to her personal information. OPA further determined that the Named Employees failed to mark "do not disclose" on the General Offense Report. This was further verified with the Department's public disclosure unit and the OPA investigator assigned to this case informed the Complainant how she could change her designation so that no further personal information would be publicly disclosed. It is further clear from OPA's investigation that documents and other materials containing the Complainant's personal information were, in fact, publicly disclosed and obtained by the media.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

12.080 Department Records Access, Inspection and Dissemination 4. Officers / Detectives Must Ask Victims, Witnesses and Complainants if They Want Their Identifying Information Disclosed or Not Disclosed

SPD Policy 12.080-POL-4 requires that officers ask victims if they want their identifying information disclosed or not disclosed. Here, the Named Employees asked this question of the Complainant; however, they failed to note that she asked that her information not be disclosed on the General Offense Report. This was in violation of policy.

The Named Employees clearly made a significant mistake by failing to note on the General Offense Report that the Complainant asked that her personal information not be disclosed. As previously determined in the prior OPA investigation, the General Offense Report was deficient and fell below the Department's expectations. Similarly, the Named Employees' failure to mark "do not disclose" represented another shortcoming of the General Offense Report and of the officers' conduct. It caused the Complainant's personal information to be publicly disclosed and widely disseminated. This was unacceptable and, based on the Complainant's statements to OPA, caused her pain and embarrassment.

That being said, the Named Employees have already been subjected to discipline for the mistakes concerning the General Offense Report. I find that subjecting them to discipline again for the same basic conduct – a General Offense Report that fell well below the Department's expectations for a number of reasons – would not represent procedural due process and would be inconsistent with the principles of just cause for employee discipline. This should not be construed to suggest that I am in any way condoning the Named Employees' conduct. I believe it to be contrary to policy and disappointing, but, for the reasons stated above, I recommend that both of the Named Employees receive a Training Referral rather than a Sustained finding.

- **Training Referral:** The Named Employees should be re-trained concerning the requirements of SPD Policies 12.080-POL-4 and 15.180-POL-5. They should be counseled concerning their failure to properly note in the General Offense Report that the Complainant, who was the victim in a sexual assault investigation, did not want her personal information to be disclosed and the negative consequences that resulted from their conduct. The Named Employees should be directed to be more careful when completing General Offense Reports and that this type of behavior results in the loss of public trust and confidence. This re-training and associated counseling should be memorialized in a PAS entry. I further request that the Named Employees' chain of command call or write a letter to the Complainant and inform her of the Department's regret



concerning the disclosure of her personal information and the steps that the Department plans to take to make sure that this does not occur again in the future.

Recommended Finding: **Not Sustained (Training Referral)**

Named Employee #1 - Allegation #2

15.180 Primary Investigations 5. Officer Shall Document all Primary Investigations on a General Offense Report

SPD Policy 15.180-POL-5 requires that officers document all primary investigations on a General Offense Report. It further mandates that General Offense Reports be “complete, thorough and accurate.” (SPD Policy 15.180-POL-5.)

I find that the Named Employees failed to properly note that the Complainant did not want her information to be disclosed and, thus, the General Offense Report they completed was not complete, thorough, or accurate. However, as discussed above, they have already been previously disciplined for this violation.

As such, I refer to the Training Referral set forth in Allegation #1 for both Named Employees.

Recommended Finding: **Not Sustained (Training Referral)**

Named Employee #2 - Allegation #1

12.080 Department Records Access, Inspection and Dissemination 4. Officers / Detectives Must Ask Victims, Witnesses and Complainants if They Want Their Identifying Information Disclosed or Not Disclosed

For the same reasons as stated above (see Named Employee #1, Allegation #1), I recommend that this allegation be Not Sustained – Training Referral.

Recommended Finding: **Not Sustained (Training Referral)**

Named Employee #2 - Allegation #2

15.180 Primary Investigations 5. Officer Shall Document all Primary Investigations on a General Offense Report

For the same reasons as stated above (see Named Employee #1, Allegation #2), I recommend that this allegation be Not Sustained – Training Referral.

Recommended Finding: **Not Sustained (Training Referral)**