



CLOSED CASE SUMMARY

ISSUED DATE: JULY 25, 2018

CASE NUMBER: 2018OPA-0177

Allegations of Misconduct & Director’s Findings

Named Employee #1

Allegation(s):		Director’s Findings
# 1	15.370 - Sexual Assault Investigation 4. Officers Complete a GO Report and an Officer Statement	Not Sustained (Inconclusive)

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 he attempted to report a sexual assault at the East Precinct but that the Named Employee failed to take a report and simply told him that the Sexual Assault Unit was closed and gave him a card with the unit’s contact information.

ADMINISTRATIVE NOTE:

The complainants in this case are a victim of sexual assault and his parents. However, for the purpose of clarity, only the son will be referred to as the Complainant in this DCM.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

15.370 - Sexual Assault Investigation 4. Officers Complete a GO Report and an Officer Statement

Early in the morning on February 4, 2018, the Complainant called 911 to report that he had been sexually assaulted by an Uber driver. After a discussion with the 911 dispatcher regarding the timing of when an officer would arrive to take a report, the Complainant, who was clearly shaken, indicated that he wanted to go to sleep and that he would “rather do this tomorrow.”

The Complainant reported to OPA that, later on February 4, he went to the East Precinct to make a report concerning the sexual assault. He stated that he spoke to someone at the front desk and told that officer that he wished to make a formal report to follow up from his earlier 911 call. He stated to the officer that he had been sexually assaulted. The Complainant told OPA that the officer said that the Sexual Assault Unit (SAU) was closed on the weekend and gave him a business card. The officer did not take a preliminary report.

The Complainant told OPA that he did not know that the officer’s actions were wrong until his father informed him that the officer should have taken a report based on his allegation of a sexual assault. He said that, as a result, his parents wrote to the Mayor.



The Complainant's parents emailed a complaint to the City of Seattle's Customer Service Bureau concerning this matter and particularly regarding the fact that no report was taken and, instead, the Complainant was simply told that SAU was closed. This emailed complaint was transmitted to SAU. A SAU sergeant contacted the Complainant, as did a SAU detective. The detective, who was interviewed by OPA as a witness officer, conducted an investigation that was memorialized in a General Offense Report and a Case Investigation Report. The General Offense Report was completed on February 9 and stated: "SPD received an email alleging that a sexual assault had occurred on 02-03-18. The details were very minimal and stated that the victim had been assaulted by an UBER driver. No other details of the assault were offered." It also noted information concerning the Uber driver who was alleged to have been the perpetrator.

That same day, the SAU detective interviewed the Complainant. The Complainant relayed further detail concerning the incident. The SAU detective also spoke to two witnesses identified by the Complainant. The first witness was interviewed on February 21, and recalled that he, the Complainant, and the other witness were driven from a bar to his home by the Uber driver. Once they arrived, the three passengers went inside of his home where they remained for approximately one hour. When they were all getting ready to leave, the Complainant told the first witness that he was going to take an Uber home and leave his car at the first witness's home. The first witness stated that the Complainant seemed to be in "control" when he left and did not appear to be overly intoxicated. The second witness was interviewed on March 13. She provided a substantially similar account to that conveyed by the first witness. She indicated that she did not have any concerns about the Uber driver during the ride and that she did not know what occurred after the Complainant left the first witness's home.

The SAU detective attempted to contact the Uber driver on several occasions but was unsuccessful. He memorialized his investigation in the Case Investigation Report and, on March 29, he referred the case to the King County Prosecuting Attorney's Office for review.

At the time that SAU initiated its investigation, it also referred this matter to OPA. OPA determined that the officer who was working the front desk of the East Precinct on the date in question was Named Employee #1 (NE#1). OPA further determined that, if the Complainant's allegations were accurate, NE#1's conduct would have violated SPD Policy 15.370-POL-4, which requires that, when conducting a sexual assault investigation, officers must complete a General Offense Report and an officer statement.

As part of its investigation, OPA interviewed NE#1. NE#1 confirmed that he was assigned as the East Precinct desk clerk on that date and that he recalled interacting with the Complainant. NE#1 told OPA that he was equipped with Body Worn Video (BWV) and that his practice was to: "typically activate it when someone comes in, and then when I've had a conversation with then and determined if I'm...going to be some policy activity or some action, taking a report, yes, I then turn it on." OPA did not locate any BWV for this incident.

NE#1 recounted that the Complainant asked about SAU and stated that he wanted to speak with someone in that unit. While he did not recall using the terminology "closed," NE#1 stated that he told the Complainant something along those lines. He also gave the Complainant a card with SAU's contact information. NE#1 told OPA that the Complainant did not make any report or ask to make a report. NE#1 further relayed to OPA that the Complainant did not provide any details as to why he wanted to speak with SAU or indicate that he was a victim of a sexual assault. NE#1 said that, had the Complainant done any of the above, he would have summoned a different officer to take a report from the Complainant in a more private setting, as opposed to while the Complainant was standing in a lobby



open to the public.

Here, there is a dispute of fact between the parties. The Complainant asserted that he explicitly indicated that he was there to make a report and was a victim of a sexual assault. If this could be established, NE#1 would have violated policy by not generating the report or, in the alternative, by not finding another officer to do so. If, however, NE#1's recounting is accurate, he would not have violated policy as the Complainant never informed NE#1 that he was a victim of crime and never asked for a report to be taken. That being said, even under NE#1's iteration, it would have been advisable for NE#1 to ask some follow up questions to more fully flesh out why the Complainant was seeking SAU. However, his failure to do so did not violate policy.

Ultimately, the contrary accounts of the parties and the absence of any other objective evidence prevent me from reaching a conclusive determination on this allegation. It is certainly regrettable that a report was not timely taken; however, SAU did complete what appeared to be a thorough investigation of this matter and the case was referred to a prosecutor for review. For these reasons, and applying a preponderance of the evidence standard, I recommend that this allegation be Not Sustained – Inconclusive.

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