



CLOSED CASE SUMMARY

ISSUED DATE: NOVEMBER 4, 2024

FROM: DEPUTY DIRECTOR BONNIE GLENN ON BEHALF OF DIRECTOR GINO BETTS, JR.
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2024OPA-0259

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties POL-10. Employees Will Strive to be Professional	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:

In October 2023, the Complainant reported being sexually assaulted to SPD. A criminal investigation was opened, and a Sexual Assault Nurse Examiner (SANE) completed a Physical Evidence Recovery Kit (PERK) for the Complainant. Named Employee #1 (NE#1) is a supervisor in SPD's Sexual Assault Unit (SAU).

The Complainant alleged NE#1 called her months later and stated, "you probably weren't raped."

ADMINISTRATIVE NOTE:

On October 3, 2024, OIG certified OPA's investigation as thorough, timely, and objective.

SUMMARY OF INVESTIGATION:

OPA investigated the complaint, reviewing the OPA complaint documents and interviewing NE#1. Both the Complainant and NE#1 acknowledged the two spoke on the phone, but this call was not recorded.

OPA interviewed the Complainant on May 28, 2024. The Complainant reported NE#1 called her sometime in February or March of 2024. The Complainant felt it was unprofessional that NE#1 took so long to contact her. The Complainant also stated NE#1 told her the rape kit came back negative, so she probably was not raped. The Complainant alleged this statement was also unprofessional and that NE#1 was injecting her opinion into the investigation.¹

OPA interviewed NE#1 on July 16, 2024. NE#1 explained she is a sergeant in SAU. NE#1 explained the Complainant's case was not assigned to a detective for several reasons. Among other things, NE#1 explained that the Complainant reported that she was "unsure" if she had been sexually assaulted because she was passed out at the time of the alleged crime. NE#1 also recalled the Complainant believed she may have been assaulted because she noticed specific

¹ The Complainant also alleged that SPD officers did not retain or submit certain items she provided as evidence. These allegations were investigated under OPA Case 2024OPA-0221.



parts of her body felt different.² NE#1 also recalled the Complainant was transported to the hospital for a SANE exam and accused emergency room staff and the SANE nurse of sexually assaulting her.

NE#1 recalled that the SANE nurse explained the following to the Complainant:

the SANE nurse had explained to [the Complainant] that there may not be injuries when you have a SANE exam, and it doesn't mean that you were or were not sexually assaulted when there's no injuries. And then it also doesn't mean that we don't believe you that you were not sexually assaulted. And the [Complainant] had a really hard time understanding that concept and was extremely frustrated with the SANE nurse.

NE#1 described telling the Complainant that she would not immediately assign her case to an investigator. Instead, NE#1 described telling the Complainant that she would reevaluate the viability of the Complainant's case after the lab results came back. NE#1 said she called the Complainant after the lab results came back:

And so, I talked to [the Complainant] after [the lab results came back] and let her know that there was no male DNA anywhere in her exam. And so therefore, I still wasn't going to be able to assign out her kit just because of the probability of solvability of the exam would be--or of the case would be pretty low. And again, she stated in her, even in her initial report that she didn't know if she was sexually assaulted or not. And even the crime lab report would indicate to me that she likely was not sexually assaulted. But I did not tell her that.

NE#1 indicated that SAU did not have a set "callback" procedure or policy, but indicated an administrative staff member or case advocate would normally contact sexual assault victims. NE#1 noted that the case advocates work for Human Services and are not SPD employees. NE#1 stated that it is her practice to do an advocate referral when a decision is made not to assign an investigator to a case so that a crime victim can still receive services.

NE#1 recalled that the assigned case advocate did not want to provide the Complainant with the lab results, so NE#1 agreed to call the Complainant. NE#1 denied telling the Complainant that she was not raped. NE#1 recalled their conversation as follows:

I would have never used those words with a victim. I probably read [the Complainant] exactly, you know that there was no male DNA on any of the swabs that were collected from the report. And, you know, told her that there was, you know, there was no injury during the SANE exam, and reminded her that she in her initial report, she wasn't sure that she was sexually assaulted or not. And acknowledge that yes, there was [] him touching her, [description of sexual assault]. But she wasn't sure that there was penetration, and she was very clear about that with both SPD and with the SANE nurse.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

5.001 - Standards and Duties POL-10. Employees Will Strive to be Professional

² NE#1's description of the Complainant's criminal allegations was consistent with the Incident Report.



The Complainant alleged that NE#1 was unprofessional because NE#1 did not call the Complainant for several months. The Complainant also alleged NE#1 told her she “probably was not raped.”

SPD Policy 5.001-POL-10 requires that SPD employees “strive to be professional.” The policy further instructs that “employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers” whether on or off duty. SPD Policy 5.001-POL-10.

There is insufficient evidence to prove or disprove this allegation. OPA notes that the crux of the allegation concerns the precise wording of a phone call between NE#1 and the Complainant. The phone call was not audio recorded and neither the Complainant nor NE#1 provided any other evidence—such as contemporaneous notes or non-party witnesses—to corroborate their accounts. If true, waiting months to contact a sexual assault victim without reason or explanation, and telling a sexual assault victim they “probably weren’t raped,” would tend to undermine public trust. NE#1 denied these allegations, explaining that she told the Complainant she would call her when lab results were available and that other individuals, such as administrative staff or case advocates, may have spoken to the Complainant. NE#1 also described providing the Complainant with her lab results, which did not show any male DNA, and reminding the Complainant that the SANE exam showed no physical evidence of a sexual assault. NE#1 also described reminding the Complainant that, during her initial report, she stated she was unsure whether she was sexually assaulted. NE#1 stated she would “never” have told a crime victim that they were not raped.

OPA appreciates that the resolution of this allegation is sensitive. The Complainant feels she was treated unprofessionally after reporting her sexual assault; NE#1 feels she handled a delicate call appropriately, professionally explaining the state of the criminal evidence. Unfortunately, there is no evidence to confirm whose recollection is more likely.

Accordingly, OPA recommends this allegation be Not Sustained – Inconclusive.

Recommended Finding: **Not Sustained - Inconclusive**