



ICMS #: 2021-0350

April 20, 2021

Complaint: An anonymous complainant submitted an online complaint to the Office of Police Oversight stating:

“I am a Sexual Assault Victim Advocate for the Texas Army National Guard. I was notified one of our Soldiers was in the hospital (Seton NW) due to a sexual assault. This incident was in early morning hours of [REDACTED] and I was directed to the hospital approximately [REDACTED]. My understanding is the Hospital called APD due to the situation. When I arrived the detectives had just gone into the room with the Soldier. The case number is [REDACTED]. Shortly after the detectives left, the victim and APD victim advocate relocated to Safe Place so that a forensic exam could be performed and medical care further provided (necessary due to the force of the assault pushing a tampon so far that it could not be removed without help). The detectives stated they would perform a search of the hotel room where the assault took place. The offender was local for the next 2 to 3 days. He is also a Soldier and they were on State Active Duty Orders for civil disturbance. My Survivor was notified the morning of [REDACTED] that this case was being suspended as the offender said everything was consensual and there was nothing that could be done. This is very confusing to me as there was a SANE just hours after the assault, it was reported and the room made available within hours of the assault. The offender was not questioned while still in the area and it took months for detectives to find and question him. It's very difficult for assault victims to ever come forward and now, with all the right steps taken, she is being told there isn't any evidence to show consent was not given. I don't feel this case was handled properly and request a review of evidence gathered, forensic collection, and of the procedures followed by detectives on scene.”

This notice of formal complaint is a request for Internal Affairs to initiate an investigation in order to determine if the employee conduct is within compliance of APD policy, Civil Service Rules, and Municipal Civil Service Rules.

Recommended Administrative Policies to Review (to include but not limited to):

403.2 FOLLOW-UP INVESTIGATIONS

Follow-up investigations may include, but are not limited to:

- (c) Seeking additional information from complainants, witnesses, neighbors, informants, officers and Department employees.
- (d) The incident may require contact with the victim(s) and witness(es) by the assigned personnel to obtain information not uncovered during the preliminary investigation.
- (f) Conducting interviews and interrogations. Arranging for the dissemination of information, as appropriate.
- (i) Collecting physical evidence.
- (n) Reviewing the results of laboratory examinations.



403.3 CASE ASSIGNMENT AND RESPONSIBILITY

Generally, follow-up investigations shall be the responsibility of the Investigative Unit assigned to the case. Report routing to an Investigative Unit is an automated process that is controlled by the title code(s) used. Unit ownership of a title code is programmed into the current reporting system and updated as needed.

- (c) When assigned to a case for follow-up investigation, investigators shall proceed with due diligence in evaluating and preparing the case for appropriate clearance or presentation to court personnel for the filing of criminal charges.

403.4 STATEMENTS AND CONFESSIONS

The purpose or objective of a statement or confession is to take lawful and accurate statements that corroborate the elements and details of an incident. In doing so, investigators and supervisors will be cognizant of such factors as the mental and intellectual abilities of the subject being interviewed and the duration of the interview itself. Written and oral statements or confessions should not be utilized as the sole basis for the filing of charges; any statement or confession should be corroborated by other legally obtained evidence or verified in an appropriate manner.

900.4.3 NEGLECT OF DUTY

Employees will satisfactorily perform their duties.

Recommended Classification: *The OPO is permitted to make a preliminary recommendation on the classification of administrative cases.*

The OPO recommends that this allegation receive an A classification.