

AN INCIDENT IN SANTA ROSA



SUMMARY

In March 2009, the 2009/2010 Grand Jury received a citizen's complaint against the Santa Rosa Police Department (SRPD) regarding the way the SRPD had responded to her allegation that she had been raped. The complaint was held over for the 2010/2011 Grand Jury to investigate.

The complainant alleged that she was interviewed by members of the SRPD who were insensitive to her situation, and that on Christmas Eve, there was no detective on duty within the SRPD who had experience investigating sexual assault matters. Furthermore, she complained that the office of the Sonoma County District Attorney (SCDA) did not pursue a case against the alleged rapist.

The Grand Jury's investigation of the complaint disclosed that the allegations were unfounded and that all usual and customary procedures were followed. The investigating detective was fully trained, qualified, and displayed appropriate sensitivity to the complainant. Both the SRPD and the SCDA made independent decisions not to pursue the rape allegations.

GLOSSARY

DVSA - Domestic Violence Sexual Assault Unit

SART - Sexual Assault Response Team

SCDA – Sonoma County District Attorney

SRPD – Santa Rosa Police Department

UASA – United Against Sexual Assault

BACKGROUND

On December 24, 2009, at 6:39 AM, a recorded 911 call was received from a woman (the complainant) reporting a rape and asking for police assistance. While keeping the alleged victim on the phone, the 911 operator notified the SRPD of the call. A patrol car was immediately dispatched to her location, arriving to find her in the locked bathroom of a local restaurant.

The responding patrol officers conducted an initial interview with the complainant who declined medical attention at that time. Subsequently, they drove her to a nearby apartment complex and she was able to identify the specific apartment where the alleged rape had occurred. The patrol officers reported the status of the incident to their patrol sergeant who, following standard operating guidelines, notified the SRPD's Domestic Violence Sexual Assault Unit (DVSA) of the incident at approximately 7:00 AM. The DVSA of the SRPD is a unit of nine officers specially trained in the area of sexual assault, one of whom is on duty around the clock, 365 days a year. The DVSA detective on duty immediately responded to the scene and took charge of the investigation. Additionally, the supervising Sergeant of the DVSA also responded to the scene.

During the DVSA detective's initial interview with the complainant, she again declined medical attention, however the DVSA detective noticed that her neck had "... a light scratch which ran vertically and was approximately 4 inches in length." This was the only visible sign of injury noted. After a brief conversation between the complainant and the DVSA detective, the patrol officers transported her to Sutter Hospital for a medical examination and to receive any treatment that may have been needed.

A medical examination and treatment are part of the standard Sexual Assault Response Team (SART) procedure. The SART procedure also requires that a sexual abuse victim advocate be notified of the incident in order to be present during the medical examination to provide a victim with any assistance required. The advocate, from the advocate organization "United Against Sexual Assault (UASA)," responded and was in attendance during the medical examination. The role of the advocate is to provide a victim of sexual assault with someone who is independent of law enforcement, can answer questions a victim may have, and to provide support during an examination. Per SRPD policy, the DVSA detective was not in attendance during the medical examination. The results of the medical examination, or of any injury, were not included in the SRPD Incident/Investigation Report.

The DVSA detective conducted a more formal, recorded interview with the complainant regarding the background and circumstances of the alleged rape as they waited for the medical examination to begin. During the interview, she stated that she had been "okay with sex," but that it became "too rough" and she said, "stop," but he didn't. Following the medical examination, the complainant was transported to the SRPD where the interview continued for a brief period. This portion of the interview was not recorded. During the interview, the complainant identified the suspect from a six-person photo line-up. The photo of the suspect was obtained from a system known as iLeads, a standard identity tool based on name, address and other known information used by the SRPD. A pretext phone call by the complainant to the suspect was then made. The pretext call was both recorded and videotaped. (A pretext phone call is a standard procedure in cases such as this when there are no witnesses. The purpose of the call is to assess the responses of the suspect and, potentially, to obtain an admission of guilt.) In this instance, no admission of guilt was made and, in fact, the suspect responded in part by saying, "No, that is wrong." Shortly after the pretext phone call was completed, the complainant left police custody at approximately 12:10 PM to begin a pre-planned trip out of California.

On December 30, 2009, the DVSA detective interviewed the suspect. He was told that he was not under arrest and that any statement he made was voluntary. The interview was not recorded. During the interview, the suspect

agreed with the alleged victim about the background of their original and subsequent meetings. He also agreed about the number of occurrences and approximate times that intercourse had occurred, but denied raping the alleged victim and stated that everything they had done was consensual. His account of the intimate details of the event differed greatly from the account given by the complainant.

On February 5, 2010, the complainant was re-interviewed by the DVSA detective to discuss the differences in the statements made by her and the suspect. Again, the interview was videotaped. A victim's advocate was also in attendance. During the interview, she was asked if she had indeed been raped and whether or not she contributed to the situation by being rough herself. She remained adamant that she had said, "stop," and that the subsequent sexual activity had not been consensual. At the completion of the interview, the DVSA detective informed the complainant that he would forward his report to the Sonoma County District Attorney for review. The SCDA declined to prosecute the case.

INVESTIGATIVE PROCEDURES

The 2009/2010 Grand Jury interviewed the complainant and the UASA advocate.

The 2010/2011 Grand Jury took the following steps to investigate this complaint:

- Read and discussed all the SRPD Incident/Investigation Reports associated with the complaint,
- Reviewed and discussed all SRPD audiotapes of interviews with the alleged victim associated with the complaint,
- Viewed and discussed the videotapes of the pretext phone call made by the alleged victim and her subsequent interview with the DVSA Detective,
- Interviewed the supervising Sergeant of the SRPD's DVSA unit regarding standard response procedures to 911 calls and whether or not they had been followed in this case,
- Reviewed the SRPD's written operating procedures used in response 911 calls, titled C-19, Call-Out-Special Assignment Personnel,
- Reviewed the SRPD's written operating procedures regarding uniform procedure for the investigation and documentation of allegations of sexual assault involving adult victims, titled R-11 Adult Sexual Assault Investigation Procedure,
- Reviewed the Special Assignments – Investigations Training Plan for the SRPD's DVSA unit. The Training Plan requires the following training within one year of assignment to the DVSA: Sexual Assault Investigation, 40 hours; Child Abuse Investigations, 40 hours; Criminal Investigations, 80 hours; Interview & Interrogation, 40 hours; and Search Warrant Investigations, 40 hours. Two additional training classes are required within two years of assignment to the DVSA: Homicide Investigations, 80 hours; and Officer Involved Shootings, 40 hours,
- Reviewed the SART medical examination report,
- Reviewed the SCDA Report on the disposition of this case, and
- Read and discussed an article written by the complainant and published in a local newspaper.

DISCUSSION OR NARRATIVE

The complaint addressed to the Grand Jury did not ask it to determine whether or not a rape had actually happened. That determination does not fall within the jurisdiction of the Grand Jury. The Grand Jury was asked to review whether the investigating detective was experienced and trained in investigating sexual assault matters, whether or not the alleged victim was treated with appropriate sensitivity, and to determine why the SRPD did not

arrest the suspect. The Grand Jury was also asked to review the SCDA's decision not to prosecute the matter.

The Grand Jury found all appropriate procedures were promptly followed within the guidelines specified in the SRPD's written procedures. The investigating detective was both experienced and trained. The Grand Jury was impressed with the degree and speed of the SRPD response, which included two uniformed officers and two trained detectives. The time from the 911 call at 6:39 AM until the complainant left police custody at 12:10 PM, less than six hours later, demonstrates the SRPD's effort to promptly address the allegations and ensure the safety of the complainant.

Based on its review of the recordings and videos of the interviews with the complainant, the Grand Jury found that the DVSA detective displayed appropriate sensitivity to the complainant. The Grand Jury did not note any instances of intimidation, force or use of abusive language. Throughout the interviews, the investigating detective appeared to be focused on gathering as much factual information as possible. His actions and questions were professional and appropriate.

The SRPD did not arrest the suspect because his statement did not support the complainant's allegations.

The SCDA's decision to prosecute, or not to prosecute, any case is discretionary, and in the absence of abuse, such discretion is not subject to review. In this case, there was no factual evidence, one way or the other, that would allow the SCDA to successfully prosecute the case. Essentially, the case came down to one person's word against another.

FINDINGS

- F1. The SRPD has a trained and qualified officer on duty around the clock, 365 days a year to deal with allegations of sexual abuse.
- F2. The procedures employed by SRPD in sexual abuse matters are comprehensive and professional.
- F3. The response by the SRPD to the 911 call was immediate with the prompt arrival of two uniformed officers. This was supplemented by the arrival of two additional officers from the DVSA to the scene.
- F4. The initial steps taken by the SRPD, from receipt of the 911 call to release of the complainant, were promptly completed and follow established procedure.
- F5. The responding DVSA detective was fully trained and experienced in responding to, and dealing with, allegations of rape and sexual violence. His background included 240 hours of specific, focused training.
- F6. All recordings and videotapes demonstrate that the DVSA detective acted with appropriate sensitivity and care toward the alleged victim.

RECOMMENDATIONS

- R1. All future SRPD's Incident/Investigation Reports shall include the results of any required medical (SART) examination.
- R2. All future SRPD's Incident/investigation Report of sexual assault/abuse shall state whether or not the interview with the suspect was recorded. If not, that information should be included, together with the reason.

REQUIRED RESPONSES

Santa Rosa Police Department – R1, R2