



OMBUDSMAN'S REPORT

Complaint Investigation & Findings

OMB02/0261 - August 25, 2003

EXECUTIVE OVERVIEW

A complaint was filed with the ombudsman alleging that Boise Police Department (BPD) detectives did not thoroughly and vigorously investigate the rape of a fifteen-year-old girl because the police disbelieved her story. The complainants were particularly upset because, five and six months later, the same rapist assaulted two other teenage girls.

The ombudsman's investigation of this complaint found that the police had several questions about the specifics of the crime and considered the possibility that the victim was withholding key information from them. The day after the first detective who was assigned to the case initiated his investigation he began a combination of vacation, compensatory time off, and a training seminar that kept him away from work for four weeks. Despite the fact that the investigation was not completed that day, the first detective made no arrangements for anyone else to continue the investigation in his absence. For his lack of adequate follow-through, the ombudsman sustained a policy violation against the detective.

As a result of phone calls made by a friend of the victim to the police, a second detective became involved in the investigation the day after the first detective went on vacation. This second detective came to the conclusion that, due to perceived inconsistencies in the case, it was very possible that the victim was either being untruthful or was withholding key information. The victim was interviewed by the second detective in an effort to get her to divulge the truth of what had happened. Nonetheless, the victim replied that she had told the police everything.

The ombudsman concluded that the second detective concentrated the majority of his investigative efforts on trying to resolve the questions he had with the victim's account. Until a second, similar rape occurred in November of 2002, minimal effort was put into finding clues or developing leads in the case, beyond what the victim herself had provided.

As a result of this complaint investigation, the ombudsman and BPD will be conducting an in-depth review of BPD's practices, procedures, and training regarding sexual assault investigations.

THE SITUATION

During the early morning hours of Sunday, June 9, 2002, a fifteen year-old female (the Victim) was sexually assaulted by an adult male. Also present in the apartment when the assault took place were the younger sister of the Victim and their parents. Several hours after the assault, the Victim's family called 911 to report the crime. Two uniformed patrol officers responded to the scene, Officer #1 and Officer #2. A crime scene investigator (CSI) was requested and Officer #3 responded to the scene. Officer #2 asked that a detective be activated and sent immediately to the scene. Detective #1 was called out and arrived at the scene a short time later. The Victim gave the police the name of a man she believed to be the perpetrator (the Suspect). The day after the crime was reported Detective #1 went on vacation. Two days later, Detective #2 began work on the case.

On November 9, 2002, a second teenage girl was raped. This assault took place in the same general area as the June 9th assault. On December 12, 2002, a third rape of a teenage girl was committed in the same neighborhood. At about the same time, DNA evidence collected in the first two rapes showed that the same person committed both rapes. In

January, 2003, DNA evidence from the December assault showed that the same perpetrator had committed all three rapes.

The Complainant first contacted the ombudsman's office on December 16, 2002. She stated that she is a close family friend of the girl who was raped on June 9, 2002. The Complainant felt that the detectives assigned to the case had not taken the investigation seriously. As a result, said the Complainant, the perpetrator had raped two other young girls, one in November and one in December. The Complainant claimed that the first detective assigned to the case went on vacation the next day, and that no one was immediately assigned to follow-up in his absence. She alleged that a detective told her that the evidence collected from the Victim during a hospital examination was not immediately turned into the crime lab for processing because of "limited resources." The Complainant also claimed that the detectives assigned to the case did not appear to take the case seriously, as evidenced by their lack of investigative action.

The Victim, the Victim's father (the Dad), and the Victim's mother (the Mom) all repeated similar complaints. On the basis of these complaints, an ombudsman's complaint investigation was conducted.

THE COMPLAINT

Based on interviews with the Complainant, the Victim, and the Victim's parents, the following allegations were investigated:

1. It is alleged that one or more officers and/or detectives failed to take necessary, reasonable, and timely measures to adequately investigate the crimes committed against the Victim. If proven to be true, such behavior would be a violation of § 21.0102 of the Policy and Procedures Manual of the Boise Police Department.

2. It is alleged that one or more officers and/or detectives made statements and/or asked questions indicating a belief that the Victim was either making false statements to the police or was withholding information from the police that would be material to their investigation and that these statements and/or questions were accusatory, insensitive and antagonistic. If proven to be true, such behavior would be a violation of § 21.0306 of the Policy and Procedures Manual of the Boise Police Department.

THE COMPLAINT INVESTIGATION

The investigation into this complaint was conducted over the span of seven months, between January and the end of July, 2003. In the course of this investigation, the following individuals were interviewed.

1. The Complainant.
2. The Complainant's spouse.
3. The Victim.
4. The Victim's mother (the Mom).
5. The Victim's father (the Dad).
6. A translator used by the victim's parents (the Translator).
7. A neighbor and friend of the Victim's family (the Neighbor).
8. Officer #1.
9. Officer #3.
10. The victim/witness coordinator for BPD assigned to this case (the Coordinator).
11. Detective #1.
12. Detective #2.
13. A BPD administrative employee (the Secretary).

All available police reports and investigators' notes associated with BPD's investigation

into the sexual assault of the Victim were reviewed. Also reviewed were all audio and video recordings made by BPD in association with their criminal investigation of the sexual assault.

WHAT THE COMPLAINT INVESTIGATION FOUND

Based on the preponderance of the evidence from this investigation, the following facts have been established.

1. Officer #1 was first on the scene. He secured the area where the assault took place, obtained brief and general statements from the Victim, her parents, and her younger sister. Officer #1 immediately told his supervisor (Officer #2) what he had learned. Officer #2 arranged for a detective to be called out and sent to the scene.

2. Detective #1 responded to the crime scene and began his investigation. He took or caused others to take the following actions in connection with the investigation into the sexual assault of the Victim on Sunday, June 9, 2002:
 - a. Interviewed the Victim, the Victim's sister, and the Victim's parents.
 - b. Arranged for the collection of evidence at the scene, i.e., photographs, latent fingerprints, and physical evidence.
 - c. Arranged for a forensic medical examination of the Victim and the collection of physical evidence associated with the examination.
 - d. Activated the Coordinator that same day to respond to the hospital and begin providing victim's services to the Victim and the Victim's family.
 - e. Interviewed the Suspect that same day.
 - f. Collected physical evidence and stored it according to policy.
 - g. Dictated a supplemental report documenting all investigative steps taken on June 9, 2002.

3. On June 9, 2002, Detective #1 took no investigative actions other than those listed above.
4. On June 9, 2002, Detective #1 informed the Victim and her family that he was beginning a vacation the next day and that this vacation would last for more than two weeks. He further informed the Victim and her family that he would continue his investigative work on this case when he returned from vacation. He told them that no additional investigative work would be done on this case while he was away from work.
5. Detective #1 was away from his assigned duties as a detective and took no investigative action regarding this case from June 10, 2002, through July 7, 2002, a total of 28 calendar days.
6. Detective #1 arranged for the Coordinator to be the contact between BPD and the Victim, as well as the Victim's family, during Detective #1's absence from June 10, 2002, through July 7, 2002.
7. Detective #1 made no arrangements for other detectives or officers to conduct investigative work on this case from June 10, 2002, through July 7, 2002.
8. The Complainant contacted both the Coordinator and the Secretary on either June 10 or 11, 2002.
9. Both the Coordinator and the Secretary notified Detective #2, who was acting supervisor, that the Complainant had called and wanted to speak with a detective about the case. This notification took place on Tuesday, June 11, 2002, the first full day that Detective #2 was at work following Sunday, June 9, 2002.

10. Detective #2 contacted the Complainant by phone on June 11, 2002, the same day he was told that she had called.

11. Between June 11, 2002, and November 8, 2002, Detective #2 took or caused others to take the following actions in connection with the investigation into the sexual assault of the Victim:
 - a. On Tuesday, June 11, 2002, contacted the Suspect's supervisor in order to check on the Suspect's alibi. The supervisor confirmed the alibi.
 - b. On Wednesday, June 12, 2002, interviewed the Victim.
 - c. Reviewed the CID "rape summary book" to look for similar reported sexual assaults that might provide clues. Entered this case in the book.
 - d. Contacted other BPD detectives to ask if they had any leads.
 - e. On June 18, 2002, contacted the Suspect and offered him the option of taking a polygraph. The Suspect declined.
 - f. On June 19, 2002, found the physical evidence that had been collected during the forensic examination of the Victim on June 9, 2002. Detective #2 found this evidence stored at CID where Detective #1 had put it on June 9, 2002. Detective #2 then transported it to the Idaho State Police (ISP) Crime Lab.
 - g. On June 19, 2002, requested a crime analysis report of past calls for police service to the area of the Victim's apartment complex.
 - h. On June 20, 2002, interviewed the Suspect, received written permission to obtain confidential information from the Suspect's employer, and took the Suspect's photograph.
 - i. On June 20, 2002, obtained "elimination fingerprints" from the Victim and her family. Also conducted further interviews with the Victim's family and inspected the place that the family thought was a possible point of entry.
 - j. Caused the BPD Crime Lab to compare the "elimination fingerprints" obtained from the family to the latent prints lifted by the CSI at the crime

- scene on June 9, 2002.
- k. On June 25, 2002, Detective #2 found two more bags of evidence that had been collected at the scene of the crime on June 9, 2002. Detective #2 took this evidence to the ISP Crime Lab.
 - l. On June 26, 2002, contacted the Victim's family through the Neighbor to inform them that the Suspect's employer had video showing him at his place of employment past the time of the sexual assault.
 - m. On June 29, 2002, made contact with security at the Suspect's place of employment to verify times of electronic entry and exit for the Suspect on June 8 and June 9, 2002.
 - n. Worked with the Neighbor to communicate with the family and attempt to learn more about the Suspect's and the Victim's activities immediately before the sexual assault.
 - o. Re-contacted the Complainant by phone on July 17, 2002, to update her on the progress of the investigation.
 - p. Re-contacted the Neighbor by phone on July 22, 2002, to see if he had obtained any new information about the Suspect or from the Victim's family. Nothing new was learned.
 - q. On or after August 13, 2002, informed the Victim's family, through the Complainant, that the ISP Crime Lab had discovered DNA, potentially that of the perpetrator, in the evidence.
 - r. Caused the ISP Crime Lab to classify the DNA evidence and enter it into the national DNA database.
12. The Coordinator provided victim's services to the Victim and the Victim's family beginning on June 9, 2002, and continuing to the present day.
 13. On Wednesday, June 12, 2002, during a 42 minute interview of the Victim conducted by Detective #2 and another detective, the following took place:
 - a. The Victim was asked six separate times if, perhaps, she had either given

- the police incorrect information or withheld information from the police. During the interview, the two detectives suggested to the Victim that, perhaps, she had let an acquaintance into the apartment, or had an encounter with a boyfriend, or had invited someone she met on the internet over to her apartment, or had been molested by a family member.
- b. It was suggested to the Victim that the police could recover email messages and “chat” from her computer, thus showing who she was corresponding with and what was said.
 - c. The Victim was asked if she was willing to take a polygraph examination regarding the details of the sexual assault.
 - d. The Victim was reminded that her testimony could put the Suspect in prison for a long time.
 - e. The Victim was given false information to see if she would provide the detectives with the information they thought she might be withholding. Examples of this false information included (1) indicating that they had been told that the Victim had a boyfriend and that she did not want her parents to know about him, (2) saying that their supervisor wondered if the Victim would be willing to take a polygraph, and (3) indicating that numerous security video cameras had been put up around the Victim’s apartment complex that might show if the perpetrator broke into the Victim’s apartment or was let in voluntarily.
14. Detective #2 told the Complainant, on June 12, 2002, immediately after his interview of the Victim, that he believed the Victim’s claim that she had been sexually assaulted, but felt that the Victim may not be telling the police everything she knew about the incident. It was suggested to the Complainant that the Victim may have been assaulted by an acquaintance she invited over to her family’s apartment.
 15. Between June 9, 2002, and November 9, 2002, no composite drawing of the

perpetrator in the June 9th sexual assault was produced by BPD.

16. Between June 9, 2002, and November 9, 2002, BPD made no news release or other notification to the public regarding the June 9, 2002, sexual assault.
17. Between June 9, 2002, and November 9, 2002, no BPD officer and/or detective conducted an investigative canvas of residents and those working in the area of the Victim's residence in order to uncover leads or information relating to the June 9, 2002, sexual assault.

OMBUDSMAN'S ANALYSIS AND FINDINGS

Allegation #1: It is alleged that one or more officers and/or detectives failed to take necessary, reasonable, and timely measures to adequately investigate the crimes committed against the Victim (§ 21.0102 of the Policy and Procedures Manual of the Boise Police Department).

BPD Policy and Procedure Manual § 21.0102 says, in part:

“Officers shall perform their duties in a manner which will maintain the highest standards of efficiency in carrying out the functions and objectives of the Department. Satisfactory performance and competence is demonstrated by:

- (1) Adequate knowledge of the application of laws required to be enforced.
- (2) Willingness and ability to perform assigned tasks properly.
- (3) Conformance to the work standards established for the officer's rank, grade, or position.
- (4) Taking appropriate and timely action when a crime, disorder, or other condition requiring police action occurs.”

Officer #1

Officer #1 followed established Patrol Division procedure for a reported sexual assault. His actions on June 9, 2002, were appropriate and complete, given his rank and status as a first responder.

Detective #1

Detective #1 followed established BPD practice in his initial investigation on June 9, 2002. While he could have taken additional steps that day (e.g., neighborhood canvas, composite drawing, media release, etc.), it was reasonable for Detective #1 to delay, at least for a day or two, any further search for clues of the perpetrator's identity. This was reasonable because the Victim identified the Suspect as the perpetrator, the Suspect provided an easily verifiable alibi, and there was no unambiguous sign of forced entry. The delay remained reasonable so long as timely steps were taken to confirm the Suspect's alibi. Once the alibi was confirmed and the Suspect was no longer considered to be the perpetrator, it was no longer reasonable to delay taking additional investigative steps to try and identify the adult male who entered the Victim's residence and sexually assaulted her.

Detective #1 failed to take reasonable steps to ensure that the investigation into this assault continued during his 28 days of absence from the job. At the time Detective #1 completed his work on June 9, 2002, he had no confirmation of the Suspect's alibi and no plans to verify the alibi until he returned to work on July 7, 2002. Although the Victim's account raised questions for the police and no obvious point of forced entry could be found, Detective #1 had not ruled out the possibility that the Victim was sincerely mistaken in her identification of the Suspect and that the sexual assault was a violent act by a stranger. While it is possible that a supervisor or someone else at BPD might have taken action on this case independent of any initiative on the part of Detective #1, he created a situation such that, based solely on his actions, no investigative activity would have occurred in this case between June 10, 2002, and July 7, 2002. At a minimum, Detective #1 had a professional obligation to make arrangements for another

detective to verify the Suspect's alibi and take whatever investigative steps were prudent to determine the facts of what happened, bring the perpetrator to justice, and protect the community.

Detective #1 interviewed the Victim and her younger sister on June 9, 2002, the day of the assault. He considered arranging for either or both of the girls to participate in a forensic interview at the CARES unit at St. Luke's Regional Medical Center. The CARES unit is specifically designed to help gather testimony and evidence related to the abuse of children. While CARES is not typically involved in cases where the victim is over 14 years-old, exceptions can be made. Since Detective #1 had questions about the Victim's testimony and only spoke with her younger sister for a brief time, it might have been advisable for him to arrange CARES interviews for them. While the decision to use CARES was up to the discretion of Detective #1, if he believed that a CARES interview would aid in the investigation, he ought to have made arrangements for it as soon as possible. Detective #1's decision to postpone a possible CARES interview for at least 28 days was unreasonable, given the nature of the crime and the need to identify and pursue the perpetrator as quickly as possible.

Detective #1 also made no provision for crime lab analysis of the physical evidence collected at the scene and at the hospital. Had Detective #2, or someone else, not looked for the evidence and taken it upon himself to get it to the crime lab, it appears likely that no analysis would have taken place for at least 28 days.

The Complainant and the Victim's parents also raised questions in their complaint about the adequacy of the search for evidence at the suspected point of entry and in the yard around the apartment. Based on a review of the evidence and my interviews with Detective #1, Officer #1, and Officer #3, I am convinced that adequate steps were taken in this regard. The evidence seen on the floor inside the apartment was noted and photographed by Officer #3. He also made a thorough search outside the apartment for signs of collectable footprints and/or other evidence. It appears that the footprints

observed by the Victim and her parents after they returned from the hospital were made by officers as they walked around the apartment searching for evidence.

Detective #1 wrote in his narrative report that there were no apparent signs of forced entry. However, the police noticed some marks on the outside of the Victim's apartment that might have been connected with the crime. Detective #1, Detective #2, Officer #1, and Officer #3 all recalled seeing marks on the outside of the apartment, near a possible point of entry. Officer #3's photographs confirm the existence of these marks. In addition, Detective #1 told me that he considered these marks to be possible, but not certain, signs of forced entry. Given the existence of these marks, Detective #1's written statement about the lack of any apparent signs of forced entry may have misled Detective #2. There is no reason to believe that Detective #1 meant his report to be misleading. However, because Detective #1 was away from work for four weeks, Detective #2 had no way to verify exactly what Detective #1 meant. For this reason, I believe that Detective #1's failure to mention the marks in his report may have caused Detective #2 to incorrectly conclude that the perpetrator might have been let into the Victim's apartment.

Based on the preceding information and analysis, it is my finding that Detective #1 violated PM § 21.0102 by not performing his duties to the standards established for his position.

Detective #2

Detective #2 became involved in the investigation as a result of the Complainant's intervention on behalf of the Victim's family. It is not possible to determine if Detective #2 or some other detective would have become involved without the Complainant's intervention. Detective #2 immediately and fully involved himself in the investigation, once he realized the nature of the crime and the planned absence of Detective #1 for two or more weeks.

By the time Detective #2 interviewed the Victim on Wednesday, June 12, 2002, one day

after taking over the investigation, he suspected that the Victim was hiding something and that the perpetrator was probably known to her. The recording of Detective #2's interview of the Victim, along with my subsequent interview with Detective #2, demonstrate this fact. Detective #2 took the following factors ("red flags" as they were referred to by more than one police employee) into consideration in reaching his early conclusion that the Victim was withholding information and knew more about the perpetrator:

- The Victim was adamant that the Suspect was the perpetrator, but the Suspect had an easily verifiable alibi and did not display certain physical characteristics reported by the Victim.
- The Victim reported the time of the assault to be more than one hour earlier than when the Suspect left his place of employment.
- The Victim's actions immediately following the departure of the perpetrator were not consistent with Detective #2's expectations regarding typical victim behavior.
- The Victim waited several hours before notifying her parents and/or checking on their welfare.
- Detective #1's narrative reported that there were no apparent signs of forced entry, even though the Victim's parents were certain that the apartment had been locked the night before the assault.

Given the factors listed above, it was reasonable for Detective #2 to consider the possibility that the Victim knew more than she was telling the police. It was also reasonable for him to try and resolve these "red flags." However, by the end of his interview with the Victim on June 12, Detective #2 had moved beyond merely having questions, he had concluded that the Victim was concealing information. This is evidenced by his statements to the Complainant following the interview, his subsequent

investigative actions, and his statements to me.

To what extent did this conclusion affect Detective #2's decisions regarding possible investigative actions? When perceived conflicts arose between the Victim's account of the sexual assault and other evidence, Detective #2's investigative energy became focused on "resolving" these inconsistencies. Within three days of the assault, the Victim was interviewed by two detectives whose questions suggested that the Victim was either being untruthful or withholding information. They used standard interview and interrogation techniques in an effort to convince the Victim that any concealment of information would eventually be detected by the police.

Apart from confirming the Suspect's alibi, no other significant investigative steps were taken by Detective #2. The surrounding apartment residents and business people were not contacted in an effort to determine if suspicious persons or vehicles were seen in the area that might provide a clue to the perpetrator's identity. No composite drawing of the perpetrator was prepared and distributed in the neighborhood and through the media in the hope that someone might recognize the perpetrator and come forward with information. No effort was made to conduct an in-depth interview of the Victim's younger sister, either at CARES or through some other means, to discover what additional information she might have about the perpetrator. In effect, the case was treated in a manner consistent with Detective #2's conclusion that this was not a home invasion and rape by a stranger, but was, instead, a sexual assault committed by someone known, in some fashion, to the Victim. It was not until after the perpetrator's DNA in both the June and November rapes were matched, that BPD detectives began to take investigative steps consistent with a rape by a stranger.

In fairness, it must be noted that the Victim's identification of the Suspect as the perpetrator and the Suspect's verifiable alibi added a certain amount of confusion to this case. As noted previously, it was legitimate for Detective #2 to consider the possibility that the Victim was withholding information. However, it appears that Detective #2 did

not equally consider and explore the possibility that the Victim was telling the police everything she knew and had simply misidentified the Suspect.

The Complainant and the Victim's parents wondered if Detective #2 had some bias towards immigrants or people of their national origin. Based on my interview with Detective #2 and my review of all the case documents and recordings, I found no evidence to suggest any personal bias on the part of Detective #2. There is not even the slightest hint of prejudice against the Victim and/or her family. On the contrary, it is clear that Detective #2 had appropriate empathy for the Victim, that he wanted to help her, and that he was motivated to identify the person who had assaulted her and bring that person to justice.

The Complainant and the Victim's parents also mentioned that the police did not provide an interpreter to facilitate communication between them and the police. However, the parents themselves arranged for two different individuals (the Translator and the Neighbor) to help with communication. It was reasonable for the police to assume that the parents were satisfied with the process of communication provided by these two "interpreters."

The Complainant also criticized Detective #2 for not obtaining a DNA sample from the Suspect in the weeks following the sexual assault (June and July of 2002). Clearly, once Detective #2 verified the Suspect's alibi with the Suspect's supervisor on June 11, 2002, there was no basis to obtain a court order forcing the Suspect to provide a DNA sample. The Suspect was not asked to provide a voluntary sample until January 14, 2003, after two other teenagers were raped by the same perpetrator, and following pressure from the Complainant. Once a sample of the Suspect's DNA was obtained, the ISP crime lab verified that the Suspect was not the perpetrator. Comparing the Suspect's DNA to the evidence found at the crime scene provided scientific proof of what Detective #2 had already determined through his contacts with the Suspect's employer. This, in turn, gave the Victim and her family some much needed closure. However, the testing of the

Suspect's DNA was not, strictly speaking, a necessary investigative step. The Suspect's alibi and other information gathered by Detective #1 and Detective #2 clearly ruled out the Suspect.

The BPD Policy and Procedure Manual requires that officers conform, "to the work standards established for the officer's rank, grade, or position [§ 21.0102 a (3)]." The policy also requires that officers take, "appropriate and timely action when a crime, disorder, or other condition requiring police action occurs [§ 21.0102 a (4)]." Did Detective #2 fail to conform to the work standards established for detectives in his unit or to take appropriate and timely action in connection with his investigation of the June 9, 2002, sexual assault?

Based on anecdotal information from other victims of sexual assaults who have contacted the ombudsman's office, as well as from BPD employees, it appears that Detective #2 acted in a manner consistent with an accepted practice at BPD. Detectives at BPD appear to have the discretion to resolve perceived inconsistencies and other issues with victims' accounts before they proceed with additional investigative efforts. While detectives appear to be careful not to directly accuse a victim of lying or withholding material information, they sometimes re-interview a victim to point out areas of perceived inconsistency and discuss different possibilities that might explain what happened and why the victim withheld certain details. Such an interview can take place at any time, even within hours or days of the assault itself. In other words, when issues arise with a victim's account of a sexual assault, it appears that, at times, BPD detectives work on the initial hypothesis that the victim is either fabricating part of her account and/or is withholding material information. In some cases, a minimum amount of investigative resources are deployed until these issues are resolved. In light of what appears to be an accepted practice at BPD, it would be unreasonable to hold Detective #2 accountable for his decision not to pursue other investigative options in this case while he was working to resolve the questions he had with the Victim's account of what happened.

For these reasons, it is my finding that Detective #2 conducted his investigation in a manner consistent with the training and supervision provided to him by BPD and that he did not violate § 21.0102 of the Policy and Procedures Manual.

Please see the section below entitled “Ombudsman’s Recommendations” for further discussion of this issue.

Allegation #2: It is alleged that one or more officers and/or detectives made statements and/or asked questions indicating a belief that the Victim was either making false statements to the police or was withholding information from the police that would be material to their investigation and, furthermore, that these statements and/or questions were accusatory, insensitive and antagonistic, thereby causing the Victim, her parents, and the Complainant emotional distress and embarrassment (§ 21.0102 of the Policy and Procedures Manual of the Boise Police Department).

BPD Policy and Procedure Manual § 21.0306 (in effect between June 9, 2002 and September 12, 2002) states, “an employee shall treat all other persons in a civil and respectful manner. He/she shall not use profanity or uncomplimentary speech in the presence of members of the public, prisoners, or other people he/she has contact with nor shall he/she intentionally antagonize any person.”

The evidence demonstrates that no officer directly accused the Victim of either lying or withholding information from the police. There is no evidence to suggest that Detective #1, the Coordinator, or any of the three officers who responded to the Victim’s residence on the day of the assault said or did anything that would lead a reasonable person to conclude that they thought the Victim was being untruthful. However, the evidence does show that Detective #2, and the detective who helped him with the June 12th interview, clearly suggested to the Victim that they thought she was being untruthful and/or withholding information. Based on these suggestions, the Victim drew the conclusion that the detectives did not believe her. A reasonable person subjected to the same

questions and suggestions could hardly have concluded otherwise. In addition, the detectives told the Complainant that they suspected that the Victim was either withholding information or had not told the police the truth about what happened. Finally, Detective #2 shared with the Neighbor that he had questions about the Victim's truthfulness.

In comparing Detective #2's behavior to the requirements of § 21.0306, I find no evidence that Detective #2 was uncivil or disrespectful to the Victim, the Complainant, or any member of the Victim's family. While it is understandable that the Victim and the Complainant felt insulted or antagonized by Detective #2's June 12th interview of the Victim, his questions and statements were not intended to antagonize the Victim and/or the Complainant. Detective #2 was using the interview and interrogation techniques in which he had been trained.

Based on the preceding information and analysis, it is my finding that Detective #2 did not violate the provisions of Policy Manual § 21.0306.

POLICY FINDINGS

Detective #1

Policy Manual § 21.0102	Performance of Duty	SUSTAINED
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Detective #2

Policy Manual § 21.0102	Performance of Duty	EXONERATED
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Policy Manual § 21.0306	Relationships with Others	EXONERATED
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OMBUDSMAN'S POLICY RECOMMENDATIONS

The evidence reviewed by the ombudsman points to established practices and an organizational culture that may result in delayed rape investigations when detectives determine that perceived inconsistencies and questions about a victim's account point to the falsification and/or concealment of information by the victim. These same organizational conditions may place rape victims, even those who are children, in the position of having detectives challenge their statements and indirectly suggest that they have withheld and/or provided false information to the police.

How should the Boise Police Department, or any law enforcement agency for that matter, respond when the available evidence in a sexual assault case raises doubts about the veracity and/or completeness of the victim's account? The answer to this question involves weighing many factors. The needs, rights, and vulnerability of the victim are important, along with public safety considerations, the allocation of limited police resources, the interests of justice, and the standards of the local community. Whatever the response, on-going efforts must be made to avoid police actions that, however unintentionally, offend victims or add to their distress.

In June of 2000, two 14 year-old girls were sexually assaulted in Ada County's Barber Park. The initial response and investigation of this crime was handled by BPD. Within two days, the investigation was handed over to the Ada County Sheriff's Office because it was determined that the crime had taken place outside of Boise City limits. In a complaint filed with the Office of the Community Ombudsman, the family of one of the victims alleged that BPD officers quickly dismissed the girls' report as false, made insensitive statements, and failed to investigate the crime in a timely and complete manner. The ombudsman's investigation into that complaint found these allegations to be true. The Boise Police Department's own review of the situation determined that a patrol officer made insensitive statements and came to a hasty conclusion regarding the veracity of the victims' accounts. However, BPD concluded that their detectives followed

department protocols and established practice.

At the conclusion of its investigation into the complaint related to the Barber Park rapes, the ombudsman's office issued a public report in January of 2001 and recommended that BPD establish clear, written guidelines for patrol officers and detectives to follow when investigating sexual assault reports. The ombudsman also recommended that BPD undertake a thorough review of its policies, procedures, practices, and training related to sexual assault investigations. It was suggested that BPD enlist the help of other local agencies, health care professionals, and women's advocates in order to accomplish this recommended review.

The Boise Police Department responded to these recommendations by reminding uniformed patrol officers that specifically trained detectives, not patrol officers, are to conduct in-depth interviews of sexual assault victims. In addition, any questions or concerns patrol officers had regarding the victim's account of what happened were to be shared privately with detectives, not with the victim or other non-law enforcement parties. With respect to the ombudsman's call for additional written policies and directives, BPD indicated that it considered existing policies sufficient and saw no need for further written directives. BPD also reported that it maintained close working relationships with other agencies in the area and engaged in regular dialogue with groups that provide support to sexual assault victims.

Based on the ombudsman's current investigation into BPD's response to the June 9, 2002, sexual assault of a 15 year-old girl, it appears that BPD has applied some of the lessons learned in the Barber Park case. The patrol officers who responded to the Victim's apartment followed established patrol procedures and kept their questioning of the Victim and her family to a minimum. A detective was called out immediately and provisions were made for the collection of evidence. The patrol officers and detective were sensitive and respectful in their interactions with the Victim and her family. The detective took reasonable and appropriate steps to immediately begin the investigation of the reported

crime. The second detective, who became involved two days later, also displayed genuine sensitivity towards the Victim. He clearly wanted to help her as best he could. No officer or detective directly accused the Victim of being untruthful or suggested that she might be charged with filing a false report. At the same time, the actions and statements of the detectives made it clear that they thought she was withholding information. The Victim, her family, and the Complainant all concluded, based on what the detectives said and did, that the police thought the Victim was either being untruthful or was withholding important information from them.

In both the Barber Park case and the incident currently under review, resolving so-called “red flags” and finding out what the victims were withholding or being untruthful about became the detectives’ early and primary investigative focus. Both cases presented the investigators with data that appeared inconsistent or lacked credibility. It appears that the desire to resolve questions and perceived inconsistencies may have delayed investigative steps that otherwise might have been considered routine, had there been no question about the victim’s truthfulness or candor.

In summary, progress has been made in the months following the release of the ombudsman’s findings in the Barber Park case. Credit must be given to the Boise Police Department for improving their initial response and handling of sexual assault reports. BPD personnel appear to be sensitive to the victims’ needs and the potential impact of police officers’ statements or questions on the victims of sexual assault.

This investigation also indicates that additional improvements may still be possible, particularly with respect to how perceived inconsistencies and doubts about the statements of sexual assault victims are addressed. In light of this opportunity, the Office of the Community Ombudsman and the Boise Police Department have agreed to conduct a joint review of BPD’s response to sexual assaults. We will analyze BPD’s current procedures, practices, training, and organizational philosophy in order to gain a complete understanding of the current state. We will conduct research, searching for best practices

in the field of sexual assault investigations. We will look for other agencies who are known to have innovative and effective methods to respond to reported sexual assaults. We will also consult with national and local experts. Part of our work will be to seek the input of victims themselves and to listen carefully to the expectations and concerns of our own community, here in the Treasure Valley. At the conclusion of this review, the Office of the Community Ombudsman may make specific recommendations for improvement by the Boise Police Department. Any recommendations made by the ombudsman would then be considered for implementation by the Boise Police Department.