Policy and Procedures Report and Recommendations

C21-002

OFFICE OF THE POLICE OMBUDSMAN

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Table of Contents

Mission Statement

The Office of Police Ombudsman exists to promote public confidence in the professionalism and accountability of the members of the Spokane Police Department by providing independent review of police actions, thoughtful policy recommendations, and ongoing community outreach.

Staff Information

Bart Logue, *Police Ombudsman*
Bart Logue began serving in this capacity in September 2016, after serving as the Interim Police Ombudsman. Bart is a Certified Practitioner of Oversight through the National Association for Civilian Oversight of Law Enforcement (NACOLE). Bart has a Master of Forensic Sciences from National University and a Master of National Security Affairs from the Naval Postgraduate School. Bart is a graduate of the Federal Bureau of Investigation National Academy, Session 239, and is also a certified Advanced Force Science Specialist.

Luvimae Omana, *Deputy Police Ombudsman*
Luvimae Omana has dual degrees in Business Administration and Political Science from the University of California, Riverside and a Juris Doctorate from Gonzaga University School of Law. Luvimae is licensed to practice law in Washington. Luvimae is also a certified Advanced Force Science Specialist.

Christina Coty, *Administrative Specialist*
Christina began working at the City of Spokane in 2015 for the ITSD department in contract procurement. Prior to her work at the City of Spokane she worked for Sony Electronics as a Regional Sales Manager managing the retail store operations in Southern California.

Tim Szambelan, *OPO Attorney*
Tim works in the Civil Division of the City Attorney's Office and currently represents the Ombudsman Office and other departments within the City of Spokane. Tim is licensed to practice law in Washington and Arizona.

This document was reviewed by the City Attorney's Office as to form prior to submission for review by the Spokane Police Guild pursuant to the requirements provided in Article 27 of the Agreement between the City of Spokane and the Spokane Police Guild (2017-2021).

Authority and Purpose

The mission of the Office of the Police Ombudsman (OPO) is to promote confidence and accountability in the members of the Spokane Police Department (SPD). The OPO does so through providing independent and thorough oversight of matters that impact the community and the department. We desire to help bridge the gap between the community and the SPD by writing closing reports in cases that are of public concern in order to increase accountability and transparency into the matter as well as closing reports that may lead to recommendations for improving police policies or practices. By insisting on transparency, our goal is to help eliminate similar incidents in the future and ensure that the practices contained herein are limited and/or never happen again. It is also our intent to highlight effective police practices in order to give the community a better understanding as to why those practices were utilized, although this is limited by provisions within the 2017-2021 Collective Bargaining Agreement (CBA).

Spokane Municipal Code (SMC) §04.32.030 and the CBA provide authority for the OPO to publish closing reports on a case once it has been certified by the Police Ombudsman and the Chief of Police has made a final determination in the matter. The OPO can also publish policy and procedure reports regarding cases the OPO reviews during a review board process. The OPO's recommendations will not concern discipline in specific cases or officers and shall not be used in disciplinary proceedings of bargaining unit employees. Reports are solely meant to further discussion on aspects of incidents that may be improved upon.

Reports also provide opportunities for policy and procedure recommendations that can result in improved police performance through their eventual implementation. Writing this report allows us to provide a more thorough review of what occurred in this incident in order to offer recommendations for improving the quality of police investigations and practices, including the Internal Affairs (IA) investigative process, policies, and training or any other related matter.

The OPO may recommend mediation to the Chief of Police at any time prior to certifying a case. Should all parties agree, and the officer(s) participate in good faith, the OPO must publish a report following a mediation including any agreements reached between parties. Mediations are governed by the Revised Code of Washington (RCW) 7.07. The content of the mediation may not be used by the City or any other party in any criminal or disciplinary process.

Required Disclosures

Under Article 27 of the current CBA between the City of Spokane and the Spokane Police Guild, this report must provide the following disclosures:

1. Any closing report from an IA investigation shall clearly state the information expressed within the report is the perspective of the OPO, that the OPO does not speak for the City on the matter, and the report is not an official determination of what occurred;
2. The report will include the current policy practice, policy, and/or training as applicable and shall expressly state the policy recommendations that follows reflect the OPO's opinion on modifications that may assist the department in reducing the likelihood of harm in the future;

they do not reflect an opinion on individual job performance under the current policy, practice, or training;

3. A report shall not comment on discipline of an officer(s). This prohibition includes a prohibition on writing in a report whether the OPO or OPOC agrees with or differs from the Chief's findings, whether the officer acted properly, whether the officer's actions were acceptable, or whether the officer's actions were in compliance with training or policy. Additionally, no report will criticize an officer or witness or include a statement on the OPO or OPOC's opinion on the veracity or credibility of an officer or witness.
4. The OPO's closing report shall not be used by the City as a basis to open or re-open complaints against any bargaining unit employees, or to reconsider any decision(s) previously made concerning discipline.
5. The report may not be used in disciplinary proceedings or other tangible adverse employment actions against bargaining unit employees, but not limited to decisions regarding defense and indemnification of an officer; and
6. The names of officers or witnesses may not be disclosed.[1]

Additional information and records regarding this matter are available through the City Clerk's Office by Public Records Requests.

Summary

This case was selected to be the subject of a closing report to highlight SPD's analysis and critical examination of officer response to domestic violence calls. The department holds officers to a high standard in conformance with the Washington legislature's intent to provide victims of domestic violence maximum protection from abuse, as it views domestic violence as a serious crime against society. The Domestic Violence (DV) Unit reviews DV calls after officers have responded and written a police report and was able to bring charges against the suspect in this case. The officers' supervisors were proactive in mentoring an involved officer and initiated a formal investigation process with Internal Affairs once they identified potential misconduct. The chain of command, and in this case the Administrative Review Panel (ARP), conducted a thorough review and identified some potential issues and requested follow up interviews from IA.

Procedural History

This was an internal complaint initiated by the officers' sergeant in agreement with the officer's lieutenant. The case included two incidents. The first incident occurred on January 5, 2021 and the second incident occurred on January 14, 2021. The first incident was reviewed by the DV Unit and then forwarded to the officers' lieutenant. The lieutenant assigned the sergeant to conduct a preliminary review before sending it to IA for a formal investigation. IA conducted its investigation and sent the case to the ARP for analysis on May 18, 2021. The ARP completed their analysis on June 17, 2021 and sent this case back to Internal Affairs after a discussion with Chief Meidl and added an additional allegation of making a false or misleading statement for investigation. IA re-interviewed Officer B on July 27, 2021 to clarify the misleading statement identified by the ARP.

[1] In addition to not mentioning officer or witness names, every effort was made to remove identifying pronouns throughout this report. The same standard was used for the complainant and involved persons.

IA re-interviewed Officer A regarding Incident #2 on April 6, 2021.

After Incident #2, but prior to forwarding the complaint to IA, the sergeant sent Officer A to ride along with the DV unit and also mentored the officer on responses to DV related calls.

OPO Summary of Facts

Incident #1

On January 5, 2021, Officers A & B responded to a DV call. After interviewing the victim, suspect, and a couple of witnesses, officers determined there was no probable cause to make an arrest on this incident. They did determine they had probable cause against the suspect for a different charge and decided to arrest them for that charge.

Incident #2

On January 14, 2021, Officers A & C responded to a DV call. Officer A was informed by dispatch about a potential DV no-contact order in place between the parties. Upon arriving on scene, both parties were still present. Officers A & C took statements from each party then got together to discuss their investigation before making a decision. In this conversation, Officer A told Officer C that, "by letter of the law it's a violation." Officer A was asked if they should call the DV Unit and they declined as Officer A felt it was not necessary to call the DV Unit or a supervisor. Officer A did not make an arrest on a violation of a domestic violence order for protection (DVOPV). When asked in the IA interview why Officer A did not make the arrest, they said they got "hung up on the [victim] coming to the [suspect]'s place of residence knowing there was an order in place." Officer A believed it was a mitigating circumstance that the victim was aware of the protection order but still showed up to be there with the suspect.

Investigation and Department Findings Summary

Pertinent policies

1. **Incident #1**
    - **SPD Policy Manual 340.3.5(K) – Demeanor (Officer B)**
    - **SPD Policy Manual 340.3.5(Q) - Inadequate Response (Officers A & B)[2]**
2. **Incident #2**
    - **SPD Policy Manual 340.3.5(Q) - Inadequate Response (Officer A)**
3. **SPD Policy Manual 340.3.5(P) – Making a false or misleading statement**
    - Failure to disclose material facts or the making of any false or misleading statement on any application, examination form or other official document, report, form, or during the course of any work-related investigation.

IA investigation

- The day after Incident #1, a sergeant in the Domestic Violence Unit reviewed this incident. The DV Unit determined there was probable cause for 2nd degree assault (strangulation) to arrest the suspect in this case and the DV Unit sergeant also identified demeanor related concerns and forwarded it to the officers' lieutenant for follow up. The lieutenant then sent the case to officers' sergeant for review. The sergeant conducted a preliminary investigation by reviewing the officers'

[2] The ARP also mentions RCW 10.99.030 (officer duties when responding to a DV) and RCW 10.99.010 (intent of DV law is to protect victim, maximum enforcement of law etc.) but per IA request this all falls under Inadequate Response. *See* ARP Memo at 6-7.

reports and available body worn camera (BWC) footage. The sergeant identified potential policy violations including failure to conduct an unbiased investigation and take reasonable action when required by domestic violence laws. The sergeant sent the case to IA for investigation.

- The IA Additional provides the following information from the responding corporal:
    - Officer A flagged down the corporal on scene to discuss the case. The corporal advised Officer A that it sounded like they had probable cause for 4th degree assault DV. The corporal mentioned that they believed Officer A had further investigation to conduct and that probable cause may change.
    - When investigators asked the corporal whether this case was complicated, they replied, "the call was convoluted in that there were conflicting statements, which is nothing new…there was one party that had injuries consistent with statements taken, and [o]fficers then have to make a decision based on the facts that they have."
- The IA Additional provides the following information from the DV sergeant:
    - The camaraderie Officer B had with the suspect in this case was obvious.
    - Officer B was badmouthing the victim with the suspect, which goes against all the teaching they do on trauma informed interviewing.
    - Officer B changed Officer A's mind regarding making the arrest. The officers had probable cause to make an arrest but did everything they could not to.
    - Officer B's interview of the suspect and the witness together contaminated the investigation.
- In the sergeant's interview transcript, they identified the following issues:
    - Officer safety concern (p.10) – "Sitting on a park bench while dealing with a DV suspect… allow[ing] that person to wander around after you've notified them that they're going to be arrested and they're getting flustered about that, and they're putting their hands in their pockets and half paying attention to them, and maybe you're the second officer who responded back to the scene [and] doesn't know that you didn't pat them down at this point."
    - Objectivity in the investigation (p.10) – "Some of the conversation…on the way to the jail…and had some statements…it seemed like he…felt for the guy on what the guy was going through or…and maybe applying that a little bit to other things in his own life or something."
    - Interview of a witness with the suspect present (p.10-11) – "I saw some of it and it was done with the witness right there…you've given them both the chance to hear what the other person's saying, so they can get in sync with their stories."
    - Officer discussion during an interview (p.11)
        - "We always separate and both officers step aside and have a conversation about what the two sides are saying, so we can try to dig through who could be providing false information and get the correct story as best as we can."
        - "[Officer A] wanted to step away at first and was like oh okay, well, I guess we're going to have this conversation here. Let's do it. And he was very accepting of the way that Officer B wanted to have it."

Chain of command review

After the completion of an IA investigation, the case may be sent to the involved officer's chain of command or to the Administrative Review Panel (ARP) for review. The IA Lieutenant has the authority

to make this determination. Generally, cases go to the ARP that involve a potential loss of property rights of a bargaining member and/or the level of complexity of the investigation. This case was sent to the ARP following the conclusion of the IA investigation rather than the route of sending the case to the involved officers' chain of command for review. The ARP is chaired by a captain and comprised of captains and/or lieutenants.[3] The panel has review/recommendation authority as well as the authority to direct additional investigation by IA into specific facets of a case. Review/recommendation responsibilities will include reviewing the investigation for thoroughness and objectivity.[4] Panel members review IA's investigation individually before convening as a group to review the members' opinions and discuss outstanding issues.[5] The panel documents its findings in a memo and then submits it to IA.[6] IA then forwards the case to the Assistant Chief and Chief of Police for review and/or administration of discipline or *Loudermill* hearing.[7]

Administrative Review Panel[8]

The ARP memo provided the following comments on the allegation of Inadequate Response in Incident #1 for Officers A & B:

- Initially the officers responded to the DV call as they were trained in the basic law enforcement academy. They separated the involved parties and interviewed them to determine what occurred. Officer A did an adequate job of interviewing the victim and documenting their injury/damaged clothing. Officer A called for a corporal to photograph the evidence and then completed the DV Lethality Assessment Program (LAP) card and strangulation assessment.
- Officer B contacted the suspect at a park and directed them to a picnic table. Officer B shook hands with the suspect and the two sat down next to each other at the table. Officer B did not pat frisk the suspect and proceeded to discuss the incident with them.
- Witness 1 is closely related to the suspect and was allowed to stand of to the side and listen to their conversation. Witness 1 was also present at the house during the incident and interviewed by Officer B within earshot of the suspect.
- During the interview, the suspect admitted to grabbing the victim's wrist and said, "it's obviously going to leave a mark," and admitted to also grabbing the victim's phone. The suspect said they were "tussling," and admitted to "pushing" the victim to tell them to stop. As the suspect pushed the victim away, their shirt ripped because it was a "weak fabric." The suspect demonstrated to Officer B how their forearm was on the victim's upper body while the suspect was trying to get up. The suspect denied squeezing or trying to choke the victim. Officer B then paraphrased to the suspect that the suspect had no intent to assault the victim but remove themselves from the scene. The suspect agreed.
- Officer A arrived at the park to discuss the results of their interviews, the different versions they were told and whether probable cause existed, in front of the suspect and the witness. The two

[3] *See* SPD Policy Manual 1020.8.2 – Administrative Review Panel (version updated July 19,2021).
[4] *Id.* at "Responsibilities of the panel"
[5] *Id.* at "Process"
[6] *Id.*
[7] *Id.*
[8] Per the agreement between the City and the Police Guild in the current CBA, the OPO is prohibited from mentioning whether or not the officer(s) acted properly, whether the officer's actions were acceptable, or whether or not the officer's actions were in compliance with training or policy. As such, the final determination by the chain of command cannot be mentioned.

versions are very similar but differ in intent. Officer B sided with the suspect despite not speaking with the victim. Officer A then went back to the home to speak with the corporal about the incident.

- Officer B interviewed Witness 2, the victim's sibling who is also the suspect's boss. Witness 2 was not present during the assault but was called in by the suspect. Officer B did not get Witness 2's name and even said they didn't want it but interviewed Witness 2 as a character witness and for what they heard on the phone.
- Witness 2's statements were relied on for determining probable cause but were not included in the police report.
- After speaking with the corporal, Officer A interviewed the victim a second time. Officer A advised they have probable cause for 4th degree assault DV and re-contacted Officer B who were at the park. The officers determined the suspect will be arrested on prior probable cause from a separate domestic violence issue. When the suspect was notified of this impending arrest, they were still permitted to walk around on the phone while the officers discussed the investigation.
- Officer B said, "everything lines up against [the victim," despite not interviewing them, physically seeing their injuries, or damaged shirt. Officer A said, "see, I feel like it is the other way," since the victim was the only one with injuries and a ripped shirt. Officer B said they understand but then brought up the "tussling," the suspect mentioned earlier. Officer B cited Witness 2 overheard the victim say, "You're not fucking leaving, you're not leaving." This was enough for Officer A to change their mind.
    - The ARP strongly felt that the comment attributed to what Witness 2 overheard the victim say was not made to Officer B as reported to Officer A.
    - The ARP requested IA to re-interview Officer B regarding the misleading statement. IA interviewed Officer B on July 27, 2021 at 10:07am for the sole purpose of clarifying the misleading statement identified by the ARP.
    - In IA's follow up with Officer B, they explained they must have combined statements from Witness 1, Witness 2, and the suspect in their comments to Officer A.
- BWC video, IA interviews, reports, and DV Unit follow up supported the notion that probable cause existed to charge the suspect with at least 4th degree assault DV.
- The officers discussed that since they were going to take the suspect to jail on another charge, they felt it was sufficient to write up the current DV investigation and clear the call.
- Against best practice, Officer did not separate the suspect and witnesses while interviewing them. Allowing a suspect and multiple witnesses listen to each other's interviews undermines a thorough and impartial investigation. Officer A also chose not to separate the suspect and witness while discussing the case with Officer B.

The ARP recommended a finding of "Sustained" for the allegation of Demeanor in Incident #1 for Officer B and noted the following reasons:

- Officer B said the victim was "in a mood" and referred to them as being "theatrical," "dramatic," and escalated."
- Officer B used profanity throughout the investigation.
- Officer B's demeanor and language does not line up with the department's mission, vision, and values.

The ARP recommended a finding of "Sustained" for the allegation of Inadequate Response in Incident #2[9] for Officers B and noted the following reasons:

- The computer aided dispatch systems (CAD), officer reports, and charging documents support the notion that the suspect was in violation of the no-contact order.

Policy Recommendations

Trauma Informed Interviewing Training

During the complaint investigation, the following was noted by the DV sergeant in the IA Additional:

- The camaraderie Officer B had with the suspect in this case was obvious.
- Officer B was badmouthing the victim with the suspect, which goes against all the teaching they do on trauma informed interviewing.
- Officer B changed Officer A's mind regarding making the arrest. The officers had probable cause to make an arrest but did everything they could not to.
- Officer B's interview of the suspect and the witness together contaminated the investigation.

While discussing trauma informed interviewing with a couple of officers, they relayed that they had not received formal training on trauma informed interviewing. In fact, an officer went on google to find out if there was any such thing. According to the International Association of Chiefs of Police, trauma informed policing involves:[10]

> *It is necessary for law enforcement and others in the criminal justice system, such as prosecutors, to ask the victim questions that they may find difficult to answer, in order to establish the facts and circumstances of a reported crime. To build rapport and trust with victims when starting the interview, it is effective for law enforcement to acknowledge that some of the questions might seem unusual and to explain that all of the questions serve to help the interviewer understand the victim's experience of the event. Victims should also be encouraged to ask questions at the beginning and throughout if they need clarification regarding the process or the purpose of interview questions. The phrasing of questions during victim interviews is important. Depending on how a question is asked, it might be perceived by a victim as blaming them for their actions, or for what they may be unable to recall.*

[9] Generally, when officers respond to DV calls with a protection order in place, officers are required to enforce an order issued by any court in the state under RCW 10.99.055. Additionally, *State v. Dejarlais* provides, it is not a defense that the person protected by the order initiated the contact, the respondent must still ensure he/she is not in violation of the order or remove him/herself from the location of contact or call the police for assistance.

[10] https://www.theiacp.org/sites/default/files/2020-06/Final%20Design%20Successful%20Trauma%20Informed%20Victim%20Interviewing.pdf (accessed November 15, 2021).

The document goes on to describe opportunities for reframing questions and providing rationale. As officers are routinely dispatched to DV and other traumatic events, I recommend that training be widely conducted with officers on trauma informed interviewing. While more seasoned officers such as the DV Sergeant may have had the opportunity to attend this training, it follows that the training should be offered to officers if the officers are subject to critique of whether they are following the training or not.

***RECOMMENDATION R21-17**: AS OFFICERS REGULARLY RESPOND TO TRAUMATIC EVENTS, I RECOMMEND SPD PROVIDE TRAUMA INFORMED INTERVIEW TRAINING TO ALL OFFICERS IN AN APPROPRIATE UPCOMING TRAINING EVENT.*

Summary of Recommendations

RECOMMENDATION R21-17: As officers regularly respond to traumatic events, I recommend SPD provide Trauma Informed Interview Training to all officers in an appropriate upcoming training event.

Successful Trauma Informed Victim Interviewing

When gathering evidence during the investigation of sexual assault crimes, it is necessary for law enforcement and others in the criminal justice system, such as prosecutors, to ask the victim questions that they may find difficult to answer, in order to establish the facts and circumstances of a reported crime.

To build rapport and trust with victims when starting the interview, it is effective for law enforcement to acknowledge that some of the questions might seem unusual and to explain that all of the questions serve to help the interviewer understand the victim's experience of the event. Victims should also be encouraged to ask questions at the beginning and throughout if they need clarification regarding the process or the purpose of interview questions..

The phrasing of questions during victim interviews is important. Depending on how a question is asked, it might be perceived by a victim as blaming them for their actions, or for what they may be unable to recall. The following examples demonstrate how trauma-informed interview techniques can be used to reframe these questions in a manner that helps victims retrieve memories from a traumatic event and assists law enforcement in gathering more information while making the victim feel more supported and increasing the likelihood that they stay involved in the criminal justice process.

Beginning with questions such as "Where would you like to start?" or "Would you tell me what you are able to about your experience?" sets a supportive tone for the interview. Asking questions in this way also invites the victim to describe what happened, their thoughts, and their feelings in their own words, which is valuable evidence to document in the case report.

In general, law enforcement should consider reframing

- questions that start with "why";
- directives such as "explain to me…"; and
- requests for a chronological account with prompts such as "and then what happened?"

Using open-ended questions and requests when possible gives the person being interviewed the opportunity to share more information about what they are able to recall. For victims, this method helps their brain retrieve information from a traumatic event and offers them more control as they recount a time when they were violated and had no control.

This document should be used in conjunction with IACP's *Sexual Assault Guidelines and Investigative Strategies*, *Sexual Assault Supplemental Report Form*, *Sexual Assault Report Review Checklist*, *Sexual Assault Policy and Training Content Guidelines*, and *Model Policy on Investigating Sexual Assaults* (*Members Only*).

Interview Questions to Avoid	Trauma-Informed Reframing	Rationale
"Why did you…?" or "Why didn't you…?"	**"When (specific event happened), what were your feelings and thoughts?"** **or** **"Are you able to tell more about what happened when…?"**	The original questions are asking for clarification of what happened, which could be perceived as faulting the victim for taking or not taking a certain action. Asking a victim about their thought process provides an opportunity for them to explain what they did or did not do and why. The use of "Are you able to…" reduces the pressure on the victim to fully articulate what they did and why they did or did not act in a certain way. When experiencing trauma, victims do not consciously choose their reactions or what they are able to remember, the survival part of the brain takes over and victims might not understand why they reacted the way that they did. When asking about thought processes, the question should be tied to a specific event, such as, "When he locked the door, how did that make you feel?"
"Start at the beginning and tell me what happened." or "How long did the assault last?" and Other questions asking for a chronological account.	**"Where would you like to start?"** **or** **"Would you tell me what you are able to remember about your experience?"** **or** **"What are you able to tell me about what was happening before/during/after the assault?"** **or** **"If anything, what do you remember hearing during the event?"**	The original question may be difficult for the victim to answer because experiencing a traumatic event can impact the storage of memories, which may make it difficult for the victim to remember the length of time that the assault lasted or the chronological order of events. Asking the victim to state the exact timeframe/timeline may increase the confusion and self-blame they experience. As a result, they may come up with their best estimate of a timeframe that may become problematic afterward. Reframing the questions and opening with "What are you able to…" can reduce the pressure on the victim to recall specifics given the impact of trauma on memory. Additionally, asking sensory-based questions can lead to additional evidence that can help law enforcement to begin building a timeline and placing events in chronological order (e.g., hearing the suspect's phone ring during the assault can give investigators a timeline when compared to the suspect's phone records).

Interview Questions to Avoid	Trauma-Informed Reframing	Rationale
"What were you wearing?"	**"Sometimes we can get valuable evidence from the clothes you were wearing, even if you've put them through the laundry. We would like to collect the clothes you were wearing at the time of the assault as evidence. Can we pick up those items at a time and place that is convenient for you?"**	The original question could be perceived as blaming the victim for the assault due to their attire, i.e., that the suspect chose victim because of what they were wearing. Explaining that gathering clothing, sheets, towels, etc., is part of the evidence collection process removes the victim's specific experience from the equation and instead focuses on the process.
"Were you drinking or taking drugs?"	**"Can you tell us if you had been drinking or taking drugs at the time of the assault? We are not investigating your drinking/drug use. We are concerned for your safety and about what happened to you. This helps us to establish an element of the crime and get a better picture of what was happening during the assault and provide you with additional support."**	The original question could be perceived as implying that what happened to the victim happened to them because they were drinking alcohol or taking drugs. Additionally, victims may be afraid that there will be ramifications, possibly criminal, for their actions and so hesitate to admit it to law enforcement, especially if they are underage and/or the drug use was illegal. The use of drugs and/or alcohol can also greatly increase the victim's experiencing of self-blame, guilt, and shame. It is recommended that law enforcement communicate to the victim that any voluntary consumption of drugs or alcohol does not justify a sexual assault.
"Why did you go with the suspect?" or "Do you think you led them on?" or "Do you think you contributed to this happening?"	**"Can you describe what you were thinking and feeling when you went with the suspect?"** **and** **"Did the suspect's behavior change after you went with them? How did this make you feel?"**	The original questions could be perceived as blaming the victim for choosing to go with the suspect or implying that it was a consensual encounter because the victim initially engaged with the suspect. Reframing the question clarifies the victim's decision-making process without judgement or blame. These questions also set the stage for asking about what the suspect did, how the suspect's actions and demeanor may have changed, and how this may have made the victim feel threatened, afraid, or helpless. Information from this question can assist in identifying the suspect's tactics, approaches, and strategies as well.

Interview Questions to Avoid	Trauma-Informed Reframing	Rationale
"Why were you out at this time and at this location?"	**"What are you able to tell me about what brought you to the location at this time/day?"**	The original question could be perceived as blaming the victim for being in a place where they could be assaulted. Reframing the question can invite the victim to explain the circumstances that brought them to a particular location, which helps fill in details of the incident without laying blame on the victim for the actions of the suspect.
"Why didn't you leave?"	**"Are you able to describe what was happening while you were in… (the room, the car, the house, etc.)?"** **or** **"What were your thoughts and/or feelings while you were in… (the room, the car, the house, etc.)?"**	The original question could be perceived as blaming the victim for not removing themselves from the situation and implying that they had the opportunity and ability to do so but chose not to. When experiencing a traumatic event, the brain goes into survival mode and logical, rational, conscious thought is inhibited. The survival mode directs the body to either flight, fight, or freeze. Reframing can allow the victim to describe the circumstances of the assault, what they were thinking, if they felt they could move, and if they felt attempting to leave would increase danger. This provides context to their account. Reframing the question may also uncover tactics and/or threats the suspect used to restrict the victim's movement.
"Did you say no?"	**"What are you able to recall doing or saying during the incident?"** **and** **"How did the suspect respond to your words or actions? Do you remember how that made you feel?"** **or** **"Do you remember smelling/hearing/feeling/ tasting/seeing anything when…? Tell me more about that."**	The original question could be perceived as blaming the victim for what happened to them by not saying "no" or not saying it clearly or loudly enough for the suspect to understand. It could also be perceived as not believing the victim when they say what happened was nonconsensual. The absence of a verbal "no" does not mean "yes" or that consent was given. Reframing the question to ask what they were able to do or say also provides an opportunity for the victim to expand on what happened beyond the original yes/no question. Documenting what the victim did, said, felt, thought, smelled, heard, tasted, and saw can lead to discovering important evidence that can be corroborated by subsequent investigation.

Interview Questions to Avoid	Trauma-Informed Reframing	Rationale
"Did you fight back?"	**"What did you feel like you were physically capable of doing during the incident?"** **or** **"What was going on in your mind when you realized you were in danger?"** **or** **"What can you tell me about what you remember feeling during the incident?"**	The original question could be perceived as implying that the victim did not do enough to prevent the assault. Reframing the question to ask what they were thinking, and feeling can provide an opportunity for them to explain what they did or did not do and why. This can also allow the victim to provide more information than the original yes/no question. Flight, fight, and freeze are involuntary survival reactions. Victims sometimes experience tonic immobility (frozen fright) and cannot move. However, there are times a victim may choose not to fight back. For example, because they may fear greater injury or death if they try or they believe the suspect's threats to themselves or others.
"Why didn't you report right away?"	**"Did anything in particular cause you to come tell us about this incident today?"** **or** **"Would you tell me about your thoughts leading up to reporting this incident?"** **or** **"Was there someone you trusted to tell about the incident after it occurred? When you told them, what were you thinking and feeling?"** **or** **"What were you feeling—physically and emotionally—immediately after the assault?"**	The original question could be perceived, to the victim, as expressing a lack of belief because of the delay in reporting or asking for justification for the delay. There are many reasons a victim may not immediately report, and delayed reporting is extremely common in sexual assault cases. Victims often turn to a trusted family member or friend initially, though they might not tell anyone. An initial disclosure that did not go well can also discourage victims from reporting immediately to law enforcement. They often believe that they can ignore and move past the assault and not experience painful consequences. Reframing the question to ask about how they felt after the assault may elicit more information about their decision to not report immediately and why they are choosing to report now. Reframing the question can also invite victims to explain what they were thinking and feeling after the assault.

Interview Questions to Avoid	Trauma-Informed Reframing	Rationale
"Did anyone see this happen?"	**"Can you tell me about any people or witnesses who might have seen you and the suspect together or who might have seen the incident?"** **and** **"Can you tell me about any people or witnesses who might have seen you after the event?"** **or** **"Can you identify anyone who was at the party/bar (any location)?"** **and** **"Can you share information with me on any friends/ colleagues/classmates that might have noticed a change in your physical appearance or behavior (withdrawn/sad/ angry) after the assault?"**	The original question may be perceived as disbelief that the incident occurred absent witnesses. Society sometimes has the perception that the only evidence in sexual assault cases is the victim's statement that it occurred. The reality is that while most of these crimes occur in isolation without witnesses, there may have been witnesses to events leading up to or after the incident that can corroborate details. Additionally, acquaintances of the victim can provide evidence of the impact of trauma from the assault on the victim, such as changes in the victim's physical appearance or behavior. To obtain evidence in addition to the victim's statement, suspect forensic exams and sexual assault kit exams can also be conducted to gather physical evidence. As most sexual assaults do not result in anogenital or other injuries, a lack of these injuries does not mean an assault did not occur. It is important however for investigators to ask about physical effects that they cannot see, such as internal injury from strangulation or suffocation. It is also necessary to document evidence of non-consent to corroborate any DNA evidence.
"Have you had sex with this person before?" or "Are you dating/in a relationship with this person?" or "Why does this keep happening to you?"	**"Has this person done anything like this to you in the past?"** **and** **"Can you tell me how this instance was different from previous consensual sexual acts?"** **There is no need to ask about prior sexual assaults committed by other suspects.**	The common questions could be perceived as implying that the incident could not be sexual assault if there were prior consensual sexual acts. The new question gives the victim the opportunity to disclose prior assaults by the same individual, which can be used as evidence of course of conduct, and/or explain how this instance was different from previous consensual occasions. Investigations can be opened regarding any prior assaults by the same individual that the victim discloses. Whether the victim has previously been assaulted by another person does not impact the present investigation.

Quick Reference Guide to Trauma Informed Interviewing

Instead of….	Try…
"Why did you…?" or "Why didn't you…?"	"When (specific event happened), what were your feelings and thoughts?" or "Are you able to tell more about what happened when…?"
"Start at the beginning and tell me what happened." or "How long did the assault last?" and Other questions asking for a chronological account.	"Where would you like to start?" or "Would you tell me what you are able to remember about your experience?" or "What are you able to tell me about what was happening before/during/after the assault?"
"What were you wearing?"	"Sometimes we can get valuable evidence from the clothes you were wearing, even if you've put them through the laundry. We would like to collect the clothes you were wearing at the time of the assault as evidence. Can we pick up those items at a time and place that is convenient for you?"
"Why did you go with the suspect?" or "Do you think you led them on?"	"Can you describe what you were thinking and feeling when you went with the suspect?" and "Did the suspect's behavior change after you went with them? How did this make you feel?"
"Why were you out at this time and at this location?"	"What are you able to tell me about what brought you to the location at this time/day?"
"Why didn't you leave?"	"Are you able to describe what was happening while you were in… (the room, the car, the house, etc.)?" or "What were your thoughts and/or feelings while you were in… (the room, the car, the house, etc.)?"
"Did you say no?"	"What are you able to recall doing or saying during the incident?" and "How did the suspect respond to your words or actions? Do you remember how that made you feel?"
"Did you fight back?"	"What did you feel like you were physically capable of doing during the incident?" or "What was going on in your mind when you realized you were in danger?"
"Why didn't you report right away?"	"Did anything in particular cause you to come tell us about this incident today?" or "Was there someone you trusted to tell about the incident after it occurred? When you told them, what were you thinking and feeling?" or "What were you feeling—physically and emotionally—immediately after the assault?"
"Did anyone see this happen?"	"Can you tell me about any people or witnesses who might have seen you and the suspect together or who might have seen the incident?" and "Can you tell me about any people or witnesses who might have seen you after the event?" and "Can you share information with me on any friends/colleagues/ classmates that might have noticed a change in your physical appearance or behavior (withdrawn/sad/angry) after the assault?"
"Have you had sex with this person before?" or "Are you dating/in a relationship with this person?"	"Has this person done anything like this to you in the past?" and "Can you tell me how this instance was different from previous consensual sexual acts?"

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