

CASE SUMMARY AND FINDINGS

Complaint:

This complaint was referred to me by Captain Paul Garrison in May of 2018. Captain Garrison forwarded an email dated April 13, 2018 received originally by Lieutenant Ty Rupert from a Gretchen Ladd. In the email, Ladd alleges that a Deschutes County Sergeant, Kent VanderKamp, made false statements in an EMT refresher course in March of this year that she also attended. Ladd claimed that VanderKamp claimed to be the DRE (Drug Recognition Expert) on a criminal case involving a collision between a vehicle driven by a Lisa Ann Niehaus and several members of the Gypsy Joker Motorcycle Club near Fossil, Oregon in May of 2017. The incident was being discussed in the class at the time VanderKamp allegedly made his claims and Ladd knew his claims, specifically that he was the DRE and that Niehaus was "high on alcohol and pills" to be false as Ladd is the Wheeler County District Attorney and prosecuted the case. I also received information regarding the allegation from Sheriff Shane Nelson, specifically that VanderKamp is a DRE and had been involved in a recent case involving an auto collision with a cyclist, and that the incidents may have been confused by Ladd.

I decided to follow up by interviewing Ladd to ensure, at least in her mind, that there was no confusion involving the two incidents and that VanderKamp's statements were specific to the Fossil incident. Ladd affirmed that in her recollection VanderKamp's statements were in specific reference to the Fossil incident. I then moved forward with the investigation, titled Internal Affairs File 2018-3.

On August 3, 2018, a Notice of Investigation was served to Sergeant VanderKamp by Captain Paul Garrison. The letter states:

"This letter is to inform you with written notice of the Internal Affairs investigation being conducted for the following allegation:

On March 25, 2018 you attended an EMT refresher class where there was a discussion regarding a Wheeler County auto/motorcycle crash and subsequent criminal case involving Lisa Niehaus and several members of the Gypsy Joker Motorcycle Club. During that discussion you identified yourself as the Drug Recognition Evaluator (DRE) for that criminal case and stated the auto driver was "high on alcohol and pills," neither of which was true. You later in the day identified yourself as a member of the Deschutes County Sheriff's Office to another class member.

The Internal Affairs investigation will determine if the following Deschutes County Sheriff's Office policies was violated:

DCSO Policy 1.02, Section XI, Letter A, subsection (1):

"Members shall conduct themselves both on and off-duty in a manner that does not damage or have the probable expectations, in the mind of a reasonable and prudent person, of damaging or bringing the agency's public image, integrity or reputation into discredit or disrepute.

1. Members, at all times, shall conduct themselves in such a manner as reflects favorably upon the agency. Conduct unbecoming includes any act or conduct that brings discredit upon the member or the agency or impairs the effective operation or efficiency of the agency.

Based on the nature of the alleged action or behavior, Sheriff Nelson has directed an Internal Affairs investigation be conducted."

Summary of Investigation

Ladd Interview

I interviewed Gretchen Ladd by telephone on June 6, 2018. I noted that I had received a copy of the email dated April 13, 2018 she had sent to Lieutenant Rupert and asked her to tell me about what was said regarding the incident. Ladd stated the conversation was one of many that had taken place regarding EMT's responding to crashes that day, but that this conversation was one that was ongoing in several communities and that students in the class offered up mostly inaccurate information regarding the Wheeler County incident. Ladd then stated that VanderKamp "...said that he had been the DRE and that she (Niehaus) was high on alcohol and pills." Ladd went on to say that while the other comments were "pretty innocuous...knowing this one was from law enforcement and seeing how I'm Wheeler County District Attorney, it was disturbing to me, especially since there was at least one student in the class who was a sympathizer with, um, the Jokers. And getting information that was inaccurate, which is exactly, uh, this man said, would encourage, um, that person to believe that this had been handled poorly and that people were, um, not, um, responsive to the Jokers' needs as ordinary victims of a crime." Ladd then clarified that Wheeler County had their own DRE and that the driver was, in fact, not high on alcohol and pills. Ladd stated she also noted that when the class broke for lunch that day, she wrote the actual facts of what had occurred on the board in the classroom (a picture of which she also faxed to the Sheriff's Office and is contained in this file). Ladd said she did this while the classroom was empty and never identified herself as the Wheeler County DA during the class. Ladd also made notes (a picture of which was also sent and included in this file) regarding student comments regarding the case and that VanderKamp had explained what a DRE was accurately. When asked if it was clear to everyone in the group that they were talking about the Wheeler County case when VanderKamp identified himself as the DRE, Ladd said, "Yes, it was. Because, um, that, it was kind of a subject quite a long discussion..." I asked Ladd to discuss her conversation with VanderKamp after the class was over. Ladd described asking VanderKamp his name and what agency he was with, but didn't discuss the Niehaus case at that time, rather the conversation focused on search and rescue. Finally, I referenced the case VanderKamp had been involved in regarding the cyclist and the auto collision involving Chantelle Witt to further ensure the cases had not been confused. Ladd stated affirmatively, "Oh, it was definitely the Niehaus case...we had such a long conversation about it and so many students offered information. And his was just kind of stuck in the middle of the rest of these..." Ladd followed by stating her belief as a District Attorney that it is important that law enforcement officers be accurate as we have to believe they are always accurate, and that it was a "shock" to hear otherwise. Ladd also provided me with the name and email contact for the class instructor, a [REDACTED], whom I added to my witness list for this investigation.

[REDACTED] Contacts

I sent two separate emails to the email address provided by Ladd for [REDACTED], explaining who I was and requesting a short conversation regarding the class she taught. I received no reply, nor any indication that my email had not been delivered. Later in the investigation, when I received training records from Sergeant VanderKamp regarding the EMT class he had in fact attended, I discovered a phone contact for [REDACTED] on the F-6 DPSST training form for the class. I suspected that [REDACTED] had received my emails but was not interested in an interview since she had not responded, but in the event she had not received my request I attempted one final contact on August 15, 2018 to the phone number listed on the F-6. Being thoughtful of the likelihood [REDACTED] did not want contact, but wanting to ensure she received my request, I formatted a text message referencing my previous emails and requesting a conversation. I also assured [REDACTED] that should she not be interested in an interview, there would be no further attempt at contact on my part, as [REDACTED] is not a member of the Sheriff's Office and is therefore cannot be compelled to participate in an administrative investigation conducted for the Sheriff's Office. As of the date of submission of this file (August 22, 2018) I have received no reply.

VanderKamp Interview

I interviewed Sergeant VanderKamp on August 7, 2018. VanderKamp noted receiving his Notice of Investigation and was unaccompanied in the interview. VanderKamp identified himself as the only medic for the SWAT Team as well as one of two DRE's for DCSO, as well as being a DRE instructor for the county. VanderKamp went on to explain what DRE's do in the field. VanderKamp put his overall experience as a DRE at approximately three years, and his experience as an instructor at one year. When asked if he had ever provided testimony or done an evaluation in a criminal case as a DRE VanderKamp responded, "Many times." I asked VanderKamp about his EMT training, and specifically if he had attended the training on the dates listed in the complaint and he confirmed that he had in fact attended. He also stated he typically sits by "a last row corner" at trainings, and specifically noted as the instructor looks out he would be on the right, consistent with Ladd's recollection of VanderKamp's position in the classroom. VanderKamp did recall a conversation regarding the Fossil incident involving the auto collision with members of the Gypsy Jokers, but didn't remember the driver's name specifically. VanderKamp then referred to the class syllabus when asked when the conversation took place and said, "...the conversation took place during a trauma session which would have been in the morning..." I asked VanderKamp to describe his recollection of the discussion. VanderKamp said, "The conversation was, uh, taking place about trauma management...there were people in the room that were giving examples...I used the Fossil example in my training here at the Sheriff's Office so I had some working knowledge of it. Plus, in some of my, uh, conversations with DRE's I had some working knowledge of it...explained that I had some...knowledge of it from talking to other people involved and I had been to some debriefings about it and heard some of the moving parts to it, but that tourniquets were critical to people being saved in this situation. Uh, somebody had asked the question, uh, about drug impairment or impairment. Uh, what I said was that there was belief that there was because there was marijuana found in the car, which was again, nothing that wasn't already in the papers, and that, uh, the DRE that was there didn't have, uh, enough probable cause for DUI and so they asked for search warrants." VanderKamp said the conversation followed with someone asking what a DRE was, saying, "...I believe I was they only law enforcement person in the room and somebody had asked, well, what's a DRE? How

does that work? And I explained...gave them the same definition I gave you. Said, uh, there's a DRE there. Smaller counties generally don't have a lot of people. The scene was very dynamic...very fast scene with a lot of people bleeding. And then somebody started telling a story next to me, uh, it was a couple I believe. They were, I want to say, from Stockton or Fresno, that, uh, were unaffiliated EMT's and they were sharing a story about a similar situation in Stockton and then the conversation kind of went off from there." VanderKamp did say he spoke briefly with the DRE involved in the Fossil case, but clarified that his comments that day were primarily about "tactical care class for bleeding control scenario rather than a law enforcement scenario, which was the way I presented it was, hey, use tourniquets. Be prepared to make a tourniquet. Have more than one tourniquet was the message being delivered that day. I asked VanderKamp if he had been involved in the incident or criminal case in any way and he replied, "No." I asked VanderKamp specifically if he had identified himself as the DRE in the case involving Lisa Niehaus and the Gypsy Jokers and he replied, "No. That's absurd." When asked if he made the claim Niehaus was high on alcohol and pills, VanderKamp said, "No. In fact, uh, the conversation was that marijuana was found in the car." I asked VanderKamp if he knew anyone in the class that was present during the discussion about the Fossil incident and he replied, "No. The room was all strangers to me." In closing, VanderKamp said that he had identified himself as a member of the Deschutes County Sheriff's Office by way of introductions at the beginning of the class and recalled having a few conversations about search and rescue, even providing contact information for the DCSO search and rescue coordinator, Bryan Husband.

Findings

DCSO Policy 1.02, Section XI, Letter A, subsection (1) – I am ***not sustaining*** this allegation as the totality of the investigative file lacks a sufficient preponderance of evidence to sustain the allegation. It is corroborated by training records and testimony of both parties interviewed that VanderKamp was, in fact, in the class, seated in the back on the right from the instructor's view, and that there was a specific discussion regarding the Fossil collision referred to in the allegation, and that Sergeant VanderKamp did identify himself as a member of the Deschutes County Sheriff's Office, and as a DRE who had knowledge of the incident. However, VanderKamp's testimony falls short of a confession identifying himself as *the* DRE in the Fossil incident or of making a reference to alcohol and pills being involved, in fact, VanderKamp specifically denies making either of those claims. And short of any other witness testimony or statements of another students or the instructor present in the class corroborating Ladd's allegation, of which I have sought and been unsuccessful in acquiring, I must find the evidence present insufficient to sustain the allegations in this file.

It is notable that Ladd took the trouble to not only take copious personal notes of the conversation that day but to also write the facts of the case on the board in the classroom, likely coming from a want of the correct facts being taken away from the classroom that day by her fellow students, and as a reaction to the shock of hearing a law enforcement officer offer inaccurate information. This, along with her position as the Wheeler County District Attorney, certainly has weight with regard to her testimony, but does not allow me to discount what was a plausible and to some degree corroborated recounting of the discussion of the Fossil incident provided by Sergeant VanderKamp.

Further Considerations

In seeking additional witnesses in this investigation I interviewed Sergeant VanderKamp with the hope that he could identify someone in the classroom to corroborate his version of events. Unfortunately, the only person he recognized was the instructor, who he claimed he "knew but didn't know," and with whom I have been unable to make contact. I would further offer that in this administrative investigation, as an investigator contracted with Deschutes County and identified specifically as doing business for the Sheriff's Office, I feel that to "stake out" or try further attempts at contact with Ms. [REDACTED] would be an overreach and not reflect well upon the Sheriff's Office, and unnecessary as I cannot compel her to testify, and as I have a plausible enough version of events related to the allegation with no clear indication that misconduct took place.

Training records also indicate that while the class was held at Central Oregon Community College through their continuing education program, the completion certificates were signed by [REDACTED] and indicate that any class roster (naming other potential witnesses) is likely to reside with her.

Finding – not sustained.