

CHEYENNE POLICE



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Leigh Anne Manlove, District Attorney
310 W. 19th St, Suite 200
Cheyenne, WY 82001

July 2, 2021

RE: [REDACTED] (20-47759)

Dear Ms. Manlove,

I was recently made aware of a sexual assault of minor case investigation that was submitted to your office in late October of 2020. The case investigation highlighted charges of 1st Degree Sexual Abuse of a minor, 2nd Degree Sexual Assault and Abuse. A detailed Affidavit of Probable Cause (5 pages) was submitted to your office on October 29, 2020. Thereafter, a full 32-page investigative report was completed by Detective Baca.

On or about June 8, 2021, (approximately 7 ½ months after you received the Affidavit of PC) the Cheyenne Police Department received a "DECLINATION OF CASE" letter signed by you.

I disagree with the declination and/or extraordinary delay in charging this dangerous suspect.

Upon review, the case investigation clearly identifies the suspect [REDACTED] [REDACTED] knowingly sexually assaulted and abused his live-in girlfriend's [REDACTED] daughter repeatedly from January through August of 2020.

These multiple assaults were clearly described in the documentation of a medical forensic exam (SANE) at CRMC on August 30, 2020 and again on September 1, 2020; during a certified forensic interview conducted by [REDACTED] at Safe Harbor. The victim's disclosure was consistent throughout and described in detail multiple incidents of [REDACTED].

[REDACTED]

In your DECLINATION OF CASE letter, dated June 8, 2021, you indicated; "our office has received the investigative reports from your department relating to the above case. We are returning the attached report in that we believe the case is unable to be prosecuted at this time for the following reason(s):" Thereafter the "Additional information needed" line has been marked with a "X."

In the "Additional Explanation" section you annotate several notes and/or questions directed towards Detective Baca. I have confirmed with Detective Baca that she has received NO inquiries, requests, or any information regarding this case prosecution until she received an email from you dated June 7, 2021. This email highlighted the same information that was included in the DECLINATION OF CASE letter.

1. You inquire about the two prior accusations that the victim made that were found to be untrue that is documented in Officer Johnston's report.

Detective Baca learned that these prior accusations were made in other states by the victim in early childhood and involved other children (not this adult suspect) Based on this finding, it is not relevant to probable cause in this case and/or in this jurisdiction.

2. You inquire about DNA testing on some [REDACTED] that were seized during the investigation.

This DNA comparison (mother/victim/suspect) samples and [REDACTED] were sent to the WSCL on November 3, 2020. The results were posted in the BEAST software on January 12, 2021. It is concerning that you do not have the results in the prosecutor's module and that you did not raise concerns about the results over 6 months ago.

3. You inquire about some bodycam footage and/or a report from Sgt. Malatesta and Officer Hutchinson who were on the scene of the initial call on August 30, 2020. You state, ["Can you please advise if there is a report from Malatesta and Hutchinson and if the answer is no, can you tell me why?"]

Sgt. Malatesta is a Patrol Sergeant. His duties are that of supervision and not primarily taking calls/writing reports. Officer Hutchinson was a cover officer for Officer Johnston and routinely would not write a report on this type of call and/or circumstances. Officer Johnston was the primary patrol

officer who took the report and completed a thorough written case report. Thereafter, Detective Baca was assigned to investigate. This is nothing new and very routine for the CPD. Sgt. Malatesta and/or Officer Hutchinson writing a report would be redundant and a waste of police resources.

4. You inquire about the electronics seized and the forensic analysis from the laptop, computer, tablet, and phone.

This analysis was completed (in house) by Forensic Detective Girany. There was nothing identified as pertinent to the case and therefore it was not included in the Affidavit of Probable Cause. I agree that often times this is pertinent evidence, however; this was never a focus of this case and was ruled out.

5. You inquire about some medical records from [REDACTED] that are posted in LERMS.

Detective Baca uploaded what she was provided by the hospital. She reviewed this matter and has not found any discrepancies.

6. You inquire about a potential interview of [REDACTED].

[REDACTED] was not considered a key witness as it relates to probable cause. The victim did not disclose about the matter directly to [REDACTED], but rather through her mother, who then communicated to [REDACTED]

How would items 1-6 change or cause you to delay charging the suspect for 7 months based on the significant probable cause identified by Detective Baca on October 29, 2020?

You then state "at this point I am not able to charge this case. I am going to return the Affidavits and wait to hear back from you on the evidence that I do not yet have. If all of the digital forensics and WSCL forensics are complete, assuming they corroborate the Victim's statements, can you please include that evidence in a new Affidavit?"

I have several concerns with this statement and apparent philosophy as follows;

Why are you not able to charge this case "at this point?" [REDACTED]

[REDACTED]

Your statement of [If all of the digital forensics and WSCL forensics are complete, assuming they corroborate the Victim's statements....] This notion and philosophy are a direct contradiction to W.S. 6-2-311 Corroboration unnecessary: Corroboration of a victim's testimony is not necessary to obtain a conviction for sexual assault. Furthermore, how were these factors not considered until 7 months after the crime was investigated?

There is no need for a new Affidavit of Probable Cause, and one will not be completed. We will re-submit the original five-page affidavit submitted by Detective Baca on October 29, 2020 as there is more than sufficient probable cause. There is very little information that could be added now almost 8 months later. This appears to be a tactic to restart the clock after a case was seemingly ignored for prosecution.

Detective Baca, Jessica Fritz (CPD Victim Advocate) and I met with [REDACTED] on June 25, 2021. Needless to say, Ms. [REDACTED] was very angry and frustrated as to why her daughter's assailant had not been charged with a crime and brought to justice. Ms. [REDACTED] strongly voiced her concerns regarding [REDACTED] history of sexual deviance and criminal actions to include prior allegations of sexual assault on other juvenile victims. Ms. [REDACTED] articulated that [REDACTED] is a sexual predator and will likely continue to prey on young girls such as her daughter. Ms. [REDACTED] clearly indicated that he is a threat to public safety.

After she provided historical information about [REDACTED] and this case, I provided her the facts as I knew them about the case submission to your office. Additionally, Ms. [REDACTED] provided a stream of emails that she had sent to your office regarding the case status. See attachment.

In summary, I am very concerned that you have ignored this case for prosecution. You had more than ample probable cause and facts to charge [REDACTED] with several horrible felonies. As such, he remains free to walk the streets and will likely or already has victimized another child.

Your words in the DECLINATION LETTER and email to Detective Baca infer that you have been waiting on "evidence" and/or the action of law enforcement. Emails to the victim's mother from your staff even lend to this blame as well. On June 8, 2021, [REDACTED] wrote *[I talked with Leigh Anne and she reviewed it and is reaching out to the Detective to get*

some things that we will need to charge this case. So hopefully we will get answers from the Detective soon.]

As I have pointed out, your recent information and task requests are either needless and/or lack any substance that would have prevented charging [REDACTED]. This is not a law enforcement shortfall; we did our job. Rather, this appears to be a stall tactic; it is my belief that you were given everything you needed in October, 2020 to file several felony charges. The disclosure, facts and probable cause in this case is one of the most substantial I've seen in 20 years of law enforcement.

We are approaching a full year since this [REDACTED] girl reported being sexually assaulted on a continual basis. This predator has not been prosecuted (or even charged). I believe this victim deserves justice and this man is a public danger.

Sincerely,


Rob Dafoe, Lieutenant,
Detective Bureau Commander
Cheyenne Police Department

Cc: Mark Francisco, Chief
Jared Keslar, Captain
Brett Durante, Sgt
Allison Baca, Detective