

Jones Sexual Intercourse Without Consent/Sexual Assault Report

SOURCE OF ACTIVITY:

I, Senior Officer Frank Bren, Badge #100, am assigned to the patrol division working the day shift. On May 7, 2020 around 0800 hours, dispatch requested I meet a female at the Law and Justice Center wanting to report a sexual assault that occurred the night prior. I responded to the LJC to meet with the female.

OBSERVATIONS:

I arrived at the LCJ shortly after being dispatched. I entered the lobby of the LJC and located the female, later identified as Nicki JONES. I could see Jones appeared to be distraught and upset. I noticed she had closed body posture, with her arms around her as if to protect herself. She was clutching a tissue in her hand. I could see on her face it appeared she had been crying, given her red and puffy eyes. She did not make eye contact with me initially, showing she seemed to be pre-occupied and in thought.

I took a moment and said nothing, waiting for Jones to acknowledge my presence. Not to startle her. She looked up and I introduced myself to her. I told her to call me by my first name. In trying to make Jones comfortable, I asked her if it would be okay to come to the interview room where she could have some privacy to talk about the matter. Jones said it would be okay. I asked Jones for her name at this time. I asked her what she would like me to call her. Jones responded by saying "Nicki."

I watched Jones as she walked into the interview room. It appeared she was walking very deliberately as if in pain. I could tell by her facial expressions, she appeared to "wince" as she walked, leading me to believe she was injured. I allowed Jones to dictate the pace in which we walked and allowed her to sit where she felt comfortable. I could see as Jones sat, she looked uncomfortable leading me to believe she was injured somewhere near the midsection.

I began the interview, attempting to establish rapport with Jones. I noticed no outward signs of injury on the exposed portions of her body. I noticed no injury to her face. I could not see any signs of struggle from the clothing she was wearing. Her clothing appeared clean and kept. I asked Jones if she needed anything. Jones declined.

I began the interview and asked Jones if she was injured anywhere. Jones immediately offered up she had suffered "bruising to her breasts and had bruising on the inside of her thighs." I offered immediate medical attention to Jones, ensuring her well-being and making sure the injury didn't require immediate treatment. Jones assured me she was fine. I advised Jones if she felt any time during the interview, she needed medical attention she could let me know and I would make sure she was taken to the hospital to receive it. Jones stated she was fine. I offered Jones to have an advocate or someone she felt comfortable with to be with her during the interview. Jones declined to have anyone with her during the interview.

Jones told me the incident took place in a pickup truck in the parking lot of a hotel in downtown Helena on 05/06/20 around 10 p.m. I was able to get Jones to clarify what happened. Jones said she met a male by the name of John SMITH on the dating site “doyouwanttodateme.com.” While Jones described how she met Smith, Jones commented how she felt “stupid” and “should have known better” appearing to blame herself for the situation. She began to get upset with herself as she started to cry and breath heavily. I reassured Jones it was not her fault and to continue.

Jones continued by saying she didn’t know if Smith was his real name or not, but they conversed for a few weeks through the dating site until finally agreeing to meet at the Rialto Bar. Jones said during the conversations with Smith, there was nothing to suggest he was aggressive or asking to engage in sex. Jones physically described Smith as a while male in his 40’s, about 6 feet tall, brown hair, blue eyes, short beard with tattoos on his arms. Jones said she still had his profile on her phone and only communicated through the dating application. Jones said when she agreed to meet Smith, Jones felt she should have a friend go as well just for safety reasons. Jones said her best friend Katie Doe came to the Rialto as her safety plan.

Jones said Smith was supposed to be at the Rialto around 6:00 p.m. Jones said Smith was late by about 30 minutes. Jones said the three sat at the bar for about an hour. Jones said they talked about numerous things, but sexual interaction was not one of the topics. Jones said Smith gave no indication he was a threat and told Doe she could leave if she wanted. Jones said Doe left, leaving both her and Smith at the bar.

As Jones continued with the information, she sat in a closed, defensive position with her hands in her lap and wringing her hands together. At times, Jones would pause and cry and sigh. I often reassured Jones she was safe. I told her she could take her time and take a break if needed.

Jones continued describing how she and Smith continued to have a “couple” of beers and played pool. I asked Jones who purchased the alcohol. Jones said she bought the first one and Smith bought the last two. Jones indicated she did not feel out of control nor did she feel impaired by what she consumed.

Jones said they opted to go outside and smoke. Outside the Rialto, Jones indicated Smith asked about taking a walk. Jones agreed to the walk and the two walked west on the Walking Mall. Jones said they passed the hotel when Smith asked about going to his pickup truck to continue “talking and warm up.” Jones agreed and the two walked past what I learned was the Double Tree and into the parking lot on the west side.

Jones said she wasn’t good with describing pickup trucks but did so by saying it was a “red older boxy style pickup truck.” Jones said she got into the front passenger side of the truck. Jones said Smith started the truck and turned on the radio. Jones said Smith leaned over and the two kissed. Jones said she was fine with that, but Smith began to grab her arms and then her “breasts” quite hard causing her “pain.” Jones hadn’t said anything prior to Smith grabbing her “breasts” but was very vocal towards Smith telling him numerous times she “was not okay with that.” Jones also attempted to “pull away from Smith to put distance between her and Smith to avoid the contact.” Jones said Smith ignored her verbal pleas of saying “no” and “to stop,” continuing to “grab” and “pinch” her “breasts causing extreme pain.”

As Jones began describing the sexual contact, she was getting increasingly emotionally upset which was evidence by her voice cracking, nearly on the verge of tears and clutching her hands. I assured Jones she was “okay” and again provided an opportunity to take a break if she needed. Jones stated she did not and wanted to continue.

Jones continued, saying that’s when Smith “turned into an asshole.” I asked Jones to describe what she meant. Jones indicated after “grabbing her breasts, Smith physically took her to the back seat and pinned her down on her back.” Jones tried to get away by opening the back door to the pickup but found them to be locked. She couldn’t unlock them. Jones said Smith continued by “forcibly removing her pants and panties”. Jones described trying to “keep her legs together,” but Smith was “too strong” and “pried her legs apart.” Jones described Smith prying her legs apart as “painful” and “couldn’t do it.” Jones said as a result of Smith prying her legs apart, she had “noticeable bruising in the shape of fingers.”

Jones was crying and breathing heavily as she continued describing the incident. Jones said once Smith got her lower clothing off, Smith forcibly “inserted his fingers into her vagina” causing pain. Jones said she was still telling him “hell no,” “fuck no” that she wanted “no part of it.” Jones said Smith continued to ignore her and knew Smith was listening because Smith would tell her “your mine bitch,” “shut up bitch,” during the assault.

Jones said Smith then “raped her.” I asked Jones to explain in her own words what she meant and described Smith “forcibly putting his penis inside her vagina.” Jones said she knew it was over after he “came inside me” then kicked me out of the truck. Jones explained the “kicking” as Smith yelled at her to “get the fuck out,” which Jones complied. Jones said Smith threw her clothes onto the ground and immediately left.

Jones said she was able to put her clothing back on and walked to her car that was parked close to the Rialto. Jones knew she was in pain and could tell she was bleeding from her vagina. Jones said she got into her car and drove home. Jones said she looked at the clock and could see it was around 11 p.m. Jones said she took her clothes off, with the exception of her bra and panties that were on her at the time of the assault, and put them in the hamper in her bathroom. Jones said she went to bed and went to sleep.

Jones indicated she got up around 7 a.m. on this date to “pain on her body and bleeding from her vagina.” She could see where her “breasts and thighs were injured.” Jones said she called Doe and told her what happened. Jones said Doe encouraged her to come to the police department to report the matter. Jones was still emotional and upset and wanted to “be done.”

I assured Jones we were done. I encouraged Jones to seek medical attention and requested she submit to a sexual assault examination, which included a sexual assault kit. I explained to Jones it was to ensure her wellbeing and to help with evidence collection for this case. Jones indicated she was willing to submit to the sexual assault examination. I asked Jones if she had anyone that could take her. Jones said she would get Doe to give her a ride. I advised Jones I would meet her at the hospital.

I asked Jones if we could go to her home to get the clothing she was wearing during the time of the incident before heading to the hospital. Jones stated "yes." I also explained to Jones hospital staff would be taking the clothing she was currently wearing and needed an extra set of clothing for her to have the hospital.

Prior to leaving the interview room, I asked Jones if she would show me the dating app, Smith's profile and the communication. Jones showed me Smith's profile. I found his username to be "johnnyonthespot." His profile showed a white male in his 40's. The profile information provided from the profile was a "pickup man" and according to Smith may be driving a red Ford pickup. The profile also contained the cell phone number 406-815-2274. I had Jones provide a screen shot of the profile and text my department phone with the information. While waiting for Jones to send the text, I searched Google for the phone number 406-815-2274 and found the wireless carrier to be AT&T. I will be send preservation requests to AT&T for the number and the dating app for the username Jones provided.

Jones left the LJC. I met Jones at her home, and she directed me to her bedroom where the hamper containing her clothing was. I found a pair of blue jeans and dark colored long sleeve shirt in the hamper. I took photos of the two items. Using sterile gloves, I took the jeans and placed them into a clean paper sack. I sealed the sack with evidence tape and identified the item. I took the shirt and placed it in its own clean paper sack, sealed the sack and identified the item. I took the two items and placed them in my patrol car to be placed into APD evidence.

I met Jones at St. Peter's Emergency Room. She checked in and was escorted back to an examination room by emergency room nurse Jill BERRY. Berry is a Sexual Assault Nurse Examiner. Prior to Berry examining Jones, I advised Berry of the situation surrounding Jones' assault. I asked Berry to look for injuries to Jones' breasts and thighs. I indicated to Berry there was no evidence of drug use and alcohol intoxication was not an issue. I asked Berry to inform me if there was anything else Jones may have provided during the exam. Berry completed the exam and spoke to me. Berry indicated the bruising was very pronounced outlining the shapes of fingers on both thighs. Berry stated Jones had some significant injuries to her vagina requiring stitches. Berry also stated she was able to recover what appeared to be DNA material under the fingernails of Jones. Berry said she would seal the sexual assault kit and provide it to me.

While Berry completed the kit, I spoke again to Jones. Doe was now in the room with Jones. I advised Jones I would be leaving to continue my investigation of the case but provided her with my business card and the case number. I advised Jones it was possible she would remember more details of the assault after she had time to sleep and to process what happened. I asked Jones it was normal for further details to be remembered after the assault. I asked Jones to keep a notebook and write them down so she would not forget. I advised Jones I would have several things to do and would let Jones know when I went to speak to Smith. I provided Jones with a notice of victim's rights and explained the process of obtaining an order of protection if she felt she needed one. I asked Jones to call me if she had questions or just to check on the status of the case. I advised Jones I may be needing to conduct a second interview in case she remembers new information or if the investigation provides new information needing her corroboration. I advised Jones this was a normal follow up procedure and not to alarm her when I called back. I also provided Jones with

her Sexual Assault Kit Number, 148668, and explained she could track the progress of her sexual assault kit by going to the State of Montana Kit Tracking website.

I spoke to Doe and arranged to interview her once she was able to leave the hospital. This is an active investigation with urgency needed to locate Smith.

EVIDENCE:

One Sirchie Sexual Assault Kit, number 148668, taken from Berry and placed into APD Evidence locker #1.

One digital recording of Jones' interview in APD Interview Room #1. Stored in the Watchguard evidence tracking system.

I logged into my Montana E-Pass Account and entered the Sexual Assault Kit into the Sexual Assault Kit Tracking system with a status of it's been placed into evidence waiting transport to the State Crime Lab.

FOLLOW UP:

I will be speaking with Doe. Once the interview is complete, I will attempt to positively identify Smith and conduct an interview with him.

Further follow up will include going to the Rialto and obtain video inside the bar, looking for video from the Double Tree to see if they captured the parking lot, providing preservation requests to AT&T and "doyouwanttodateme.com" for subscriber information for the cell phone number and username information.

I will be applying for an arrest warrant for Smith in case other patrol officers locate Smith. I will actively seek out Smith to conduct follow up. The offenses will include two (2) counts of Sexual Assault, both misdemeanors unless a criminal history check shows any prior sexual assault convictions, in violation of MCA 45-5-502, two (2) counts of Aggravated Sexual Intercourse Without Consent, felonies in violation of MCA 45-5-508. Other offenses may be considered once Smith is located and further investigation takes place.

Once Smith is located, I will be impounding Smith's truck and applying for a search warrant for the vehicle. I will be seizing Smith's phone to be searched via search warrant for communication. When Smith is located, I will apply for a search warrant to search Smith's body since Jones had material under her fingernails looking for scratches and other injury. Included in the body search warrant I will be obtaining a buccal swab for Smith's DNA.

This case remains active.

Senior Officer Frank Bren, Badge #100

Acme Police Department