

Core Standards for Sexual Assault Investigations

Purpose of This Guide

This National Sexual Assault Kit Initiative (SAKI) training and technical assistance guide is designed to assist you in employing fundamental, evidence-based standards of practice to investigate and resolve sexual assaults. Standards of practice can help to improve agency and individual investigator performance and ensure that nationally accepted practices are used consistently and appropriately applied (Illinois Law Enforcement Training and Standards Board, 1996; International Association of Chiefs of Police, 2005; Michigan Sexual Assault Model Policy Working Group, 2015; National Centre for Policing Excellence, 2005). Nationally, we acknowledge the bigger need to address police response in multiple areas of practice. Creating consistent, evidence-based standards of practice in sexual assault response is one task that aligns with this need, and this document can be a part of that effort. We have referenced research that supports a specific investigative task (see References at the end of this brief). Some topics and specific investigative steps have less research backing. In these instances, experts from the SAKI Law Enforcement Working Group (LEWG) have assisted in identifying recommended practices.

This guide is intended to identify and reinforce fundamental principles and best practices and to address some aspects of sexual assault investigations that are often overlooked or not properly documented. The guide also provides you and your agency with information that can assist you in following applicable federal, state, and local laws and legal requirements, including those directing search and seizure and the detention and arrest of offenders. However, the document is not designed to supplant any federal or state law, department policies, or training.

Definitions

Although titles and roles vary from one agency to another, the guide uses the following terms.

- ◆ “Investigator ” can be interchanged with “detective.”
- ◆ “Police officer” or “officer” can be replaced with “sheriff’s deputy” or with any term for sworn personnel in a law enforcement agency.

Overview of Investigator Responsibilities

As an investigator, you are generally responsible for ensuring appropriate and professional follow-up on a criminal case. The variety of ongoing and emerging tasks required can include crime scene investigation; evidence management; crime analysis; and interviews with victims, witnesses, and suspects. Recommended practices for conducting investigations provide useful information and support, and they serve as reminders to investigators, supervisors, and administrators responsible for oversight and review of criminal case files. This foundational guide aims to support agency policy by ensuring that you apply core investigative standards to each case.

Fundamental Actions

First Responder Investigative Role

The first law enforcement officer who responds to a reported crime plays a key role in a successful investigation and resolution. The first responder *must* take prompt action to safeguard the integrity of the investigation, regardless of whether the investigation is initiated immediately after the incident or is delayed. These actions include the following (National Forensic Science Technology Center, 2013):

- ◆ Ensuring public safety.
- ◆ Rendering or summoning medical assistance.
- ◆ Identifying witnesses and suspects.
- ◆ Locating the crime scene, if other than the location from which the report was made.
- ◆ Exhaustively documenting all observations and actions taken. Detailed and comprehensive case files aid in both investigations and departmental reviews of agency practices.

Assigned Investigator Role and Response Standards

As the assigned investigator, you are responsible for overall management and progression of the case—for ensuring that you complete all critical tasks, exhaust all leads, and completely follow up all germane information.

An investigator should be **assigned at the earliest possible time** after the initial report. Agency resources may be a factor in meeting this standard. At times you may be assigned on the next business day, and this response may be appropriate if the initial report is delayed or there is no imminent public safety risk.

Once you are assigned, **respond promptly in person** to the active crime scene, if you can, to enhance opportunities for identification of key elements for investigative action. Research supports that investigative scene response can help to improve overall clearance rates (Lum, Wellford, Scott, Vovak, & Scherer, 2018). Your agency should assess resources; create well-defined, written policies; and address when and how you should respond directly to the scene. Policies should also provide you with clear guidance for case assignment methods and investigative timing.

Communicate! If you are the assigned case investigator, recognize you are part of a larger team. You need to identify and effectively deploy resources and personnel with specialized skills and training. Skillfully understanding, using, and communicating internally and externally with available resources and partner organizations provides the best opportunity to successfully resolve a case.

Core Investigative Follow-up Steps

Although sexual assault investigations do not always follow the same case flow, be sure that you do all of the following. These foundational steps apply regardless of whether the offender is known to the victim. Making them your regular practice can lead to better case resolution. The last page of this brief lists these steps in a checklist format.

1. Assess the information

This is one of the first steps in the investigation and a critical step to continue throughout its duration. This threshold assessment may take into account factors or actions that have already occurred, such as an active crime scene, timing of the initial report, custodial status of one or more suspects, the need to issue search warrants or involve investigative expertise, and ongoing danger to the community. Carefully analyze the information given by the first responders or documented in the initial written report, and be prepared to continually reassess the case as facts emerge. Even when the report of an assault is delayed, perishable evidence might still exist; if so, collect it as soon as possible. Whether you are called to the initial scene or assigned the case later, complete the following:

- Review and document any initial briefing or information provided by the first responders.
- Observe and document physical conditions, witnesses, and anyone else involved.
- Identify what information is known and what information is unknown.
- Create a checklist and prioritize the next steps.

2. Complete the interviewing fundamentals

Obtaining information from victims, witnesses, and suspects is a foundational step in the investigative response. Accurate and complete statements are important to any case, and interviews are enhanced by establishing trust and rapport with anyone who has case information.

Seek training in one or more advanced interviewing techniques. Sexual assault cases require you to account for the victim's emotional state at the time of the crime and during the subsequent police interviews (Campbell, 2006). You should understand trauma and be properly trained in conducting interviews with this understanding. Apply a cognitive-based, trauma-informed interview method to enhance the information obtained and minimize the impact of trauma. The fundamental principle is that you allow the interviewee to provide an uninterrupted narrative of the event. One study found that investigators who have proper training in applying this type of interview strategy are able to elicit 55% more information than those without training (Fisher, Ross, & Cahill, 2010). Strive to establish a connection with the victim (and any other interview subjects) that allows them to see you as more than just a fact collector.

Victim interviews

Carefully consider which investigator is best suited for completing the victim interview, where it should take place, and how it will be conducted. Conducting the interview early in the investigative process may help keep the victim engaged by conveying a feeling of support and the need for ongoing contact. On the other hand, conducting the interview too quickly after the assault, while the victim may still be under the effects of the traumatic event, could result in the statement's appearing disjointed, incomplete, or confusing. To help mitigate these challenges, employ victim advocates before, during, and after the interview process to enhance victim interactions throughout the investigation (Campbell, 2006).

The fundamental steps and minimal standards of information in a *victim interview* are as follows:

- Consider consulting with the district attorney before interviewing the victim and inviting the prosecutor for a joint interview.
- Make arrangements to record the interview (audio or audio-video).
- Identify a private and safe location for the interview.
- Obtain contact information (e.g., home and e-mail addresses, telephone numbers).
- Establish elements of the crime or crimes.
- If the offender is known to the victim, establish their relationship history.
- If the offender is not known to the victim, obtain information about the offender's identifying physical characteristics.
- Establish any potential crime scenes and evidence.
- Identify any potential witnesses.
- Identify one or more suspects.
- Enhance communication by employing a cognitive approach to the interview. Open-ended, non-accusatory questions allow the victim to explain events in his or her own words.

Witness interviews

Thoroughly interview all identified witnesses. Note that "witnesses" may include persons who were not at the scene of the assault but have valuable information about events before or after the crime incident. For case purposes, witnesses can include those with third-party information, although their testimony may not be allowed in a trial. Follow these recommended steps for conducting a *witness interview*:

- Conduct the interview in a private location and away from other potential witnesses.
- Record the interview whenever possible, using audio or audio-video.

- Obtain contact information (e.g., home and e-mail addresses, telephone numbers).
- Establish the witness's role in the events.
 - ◆ Witnesses may provide links to other evidence.
 - ◆ Witnesses may have additional information and not realize its relevance, such as information about normal behavior of people or vehicles typically in an area.
- Identify the relationship the witness has with the victim, suspects, or other key persons.
- Determine the identity of one or more suspects or obtain the most accurate descriptions available.
- Use open-ended questions to allow witnesses to describe events in their own words.
- Ask witnesses whether they can identify one or more other people to talk to or sources of evidence to consider.
- Ensure that all interviews, and any unsuccessful attempts to contact witnesses, are documented in the case file.

3. Locate and process relevant crime scenes and evidence

A thorough investigation includes a response to and an assessment of the crime scene. You or your designee is responsible to ensure that evidence or information discovered is documented and collected (Ballou et al., 2013). During a crime scene investigation, you must remain aware of, and act in accordance with, all federal and state laws regarding searching and seizing of property. Completing the following steps can ensure that the evidence collected can be used in any future court proceeding:

- If the case is acute, follow up immediately. Consider factors such as whether the incident just occurred and police were immediately notified, or the suspect is on the scene or in custody.
 - ◆ Physically locate the crime scene.
 - ◆ Secure and control access to the scene.
- Observe the scene.
- Assess the scene for processing needs.
- Process the scene.
 - ◆ Follow agency policy and procedures.
 - ◆ Ensure that photographs depicting the scene, and forensic photography of the victim's condition and injuries, are completed.
 - ◆ Ensure that forensic and physical evidence is properly collected.
 - ◆ Properly impound and store all items collected.
 - ◆ When on scene, conduct an area canvass. Note locations of surveillance equipment or other video monitoring systems that may be analyzed later.
 - ◆ Document people who were contacted and locations where no one was available.
 - ◆ For an in-depth discussion of specific crime scene processing and recovery techniques, see *Crime Scene Processing and Recovery of Physical Evidence from Sexual Assault Cases* (Ware & Archambault, 2017).
- Collect and preserve any 911 calls and tapes.
- Preserve additional electronic communications, including text messages, photographs, and social media.

4. Obtain and process a sexual assault evidence kit

A significant piece of potential evidence in a sexual assault is the sexual assault kit, or SAK. The SAK offers you one more potential source of critical information for the case, including the potential of forensic linkage to other crimes. Investigators are responsible for the handling, impounding, and processing of this evidence. Specifically, if you are the lead case investigator, ensure these things:

- Agency policy is in place for kit management.
- SAKs are secured immediately and submitted to the agency with jurisdiction within 14 days.
- Requests for laboratory kit analysis and the actual analysis are made in a timely manner.
- All transfers and movements of the kit, along with any results, are tracked and documented in the case file.
- Additional DNA elimination samples are collected, if applicable, from suspects and witnesses.

5. Connect or refer the victim to an advocate

Victims who have the assistance of an advocate are more likely to receive supportive services after the crime, remain engaged in the criminal justice process, and report lower levels of distress after interactions with the legal system. Victim advocates can also provide a means to incorporate personal knowledge of victims' rights, along with thoughtful plans for educating and assisting victims in exercising those rights (International Association of Chiefs of Police, 2019). Familiarize yourself with the role of victim advocates and incorporate their skills and training throughout the investigative process. Stay in contact with victims throughout the investigative and court processes and maintain a supportive role.

6. Reassess all the information known

Carefully review all information and evidence collected during the investigation to determine investigative strategies and to weigh case continuance. This step is important to avoid developing tunnel vision or missing key steps. This assessment, which is appropriate for both known and unknown offender cases, can also be helpful in creating a further investigative strategy and potential interview strategy for when you contact a suspect.

After you have processed the crime scene and conducted initial interviews, do the following:

- Re-evaluate the available information.
 - ◆ Convene a case status debriefing with additional investigators.
 - » The next investigative steps and your strategy may depend on evidence uncovered during the initial response and statements collected from all parties.
 - ◆ Seek out any missing information or try to answer questions so far unanswered.
- When evidence is collected, assess its investigative value and submit appropriate evidence to a crime laboratory for analysis (Wells, Fansher, & Campbell, 2019).
- Work to corroborate specific details from the victim and witness interviews with details at the crime scene.
- Consider whether to conduct additional follow-up interviews with witnesses, the victim, or both to determine the value and meaning of the evidence and to locate other potential sources.

7. Contact the suspect (if one has been identified)

Obtaining the suspect's statement is a key element of a thorough investigation. No matter what you may anticipate that the suspect will say or not say, any information you get can be helpful in resolving a case. How to conduct the interview and when to make contact are dependent on the known facts and circumstances of the case. Consider whether the suspect has a prior relationship to the victim or is a stranger, the victim has safety concerns, or the suspect is a present danger to the community.

Interviewing a suspect allows you to ask the suspect critical questions about facts of the case, gives the suspect the opportunity to explain actions and events, and may elicit a confession or an admission about specific details. **Be sure** that all your actions in relation to the suspect follow all applicable legal rules. Seek training in one or more advanced interviewing techniques. You must also consider any forensic evidence obtained from the suspect. This potentially valuable evidence could assist in supporting or refuting any investigative statements. Be prepared for a variety of responses and potential options when you contact the suspect. The fundamental steps and minimal standards of information in **suspect interviews** are as follows:

- Ensure officer safety.
- Record all interview conversations.
- Ensure legal custody or establish consensual contact elements.
- Provide a private room and location.
- Using open-ended questions, apply the cognitive interview strategy, allowing the suspect to explain what he or she knows about the assault.
- Build rapport while you identify themes about the assault and victim.
- Identify and preserve any potential evidence presented from the suspect in a manner that satisfies all legal requirements.
- Consider setting up a recorded pretext phone call or a text message exchange if the victim is willing to contact the suspect. Keep in mind that many victims will not be emotionally willing or able to participate in such an effort. Contact should be initiated only by the victim and only when she or he is ready to participate.
- After the interview, engage victim advocacy for safety planning with the victim.

8. Continue case assessment and evaluation

Over the course of the investigation, routinely assess the case to ensure that you are not missing key details or inferring information that is not contained in the data you have gathered. Confirm that all areas of inquiry have been completed and evaluate the likelihood that the case will move forward. This may also be a key time to consider using additional investigative techniques, such as making a controlled or pretext telephone call, conducting surveillance, or polygraphing a suspect. As in previous stages, use a standardized investigative checklist to do the following:

- Confirm that all crime scene evidence was collected and document its status if known.
- Ensure that perishable or transient evidence, such as surveillance video, is identified and collected.
- Confirm that all witnesses, including the suspect, have been contacted (the suspect may have said something that warrants going back to the crime scene and completing additional areas of inquiry).
- Review any results from crime laboratory analysis of evidence (Wells et al., 2019).
- Identify investigative needs and gaps for follow-up assignment.
- Fully inform the victim and provide him or her with advocacy (Campbell, 2006) for support and engagement.

9. Support the investigation through intelligence analysis and research

Thoroughly investigating sexual assault cases can be complex and resource dependent. Deploy team members effectively to ensure that all investigative information—including from witnesses, suspects, and the crime scene—is properly reviewed, assessed, evaluated, and disseminated. A crime analyst can fill this critical need and assist in furthering the investigative process. Coordinating this effort is a key in completing fundamental case analysis. The fundamental steps and minimal standards of information at this stage are as follows:

- Complete a background and criminal history on everyone known in the investigation and involved.
- Analyze the crime location and history and offender methods. Identify possible linkages to other offenders or incidents.
- Identify crime trends and case linkages and use them to direct various investigative resources and case strategies.
- Organize both case and offender information and regularly disseminate it internally and across agencies.
- Collect and analyze electronic evidence and social media.
- Add case information to the Violent Criminal Apprehension Program (VICAP) database. This important step can help identify potential serial offenders.

10. Complete the written report and documentation

Documenting investigative actions is critical to preserving the work you have completed. The final report is a key factor in downstream case decisions that include prosecutorial review, judicial review, and trial, as well as future case connectivity. Take care when completing the written report. Arrange for oversight and supervisory review on each case. Document the following fundamental facts and information in your report:

- All case activity you completed and tasks that were attempted but not completed.
- All interviews of key individuals (**do not include opinions**), as well as all failed attempts to interview subjects and reasons that any given interview was not possible.
- Actions taken by all involved police personnel.
- Observations of the scene by officers and witnesses, along with any evidence collected.
 - ◆ Include all available supporting documentation and records, including whether tasks were completed successfully or were attempted but not completed. For example, record any attempts made to speak to a witness or suspect, even if no contact was ultimately made.
 - ◆ Add a scene description and a list of items observed and collected. If the scene was not processed, explain why processing was not possible.
 - ◆ Document all laboratory reports received and file them appropriately. Include evidence regardless of whether it was processed or not. Document any results.
- Contact or interaction with victim advocacy or support services.

11. Follow procedures for final case disposition and investigative closure

When you have completed all investigative tasks, closing and finalizing the case is an important part of your agency's strategy. Follow national case clearance standards established by the FBI (refer to the *National Incident-Based Reporting System User Manual*, Federal Bureau of Investigation, 2018). These standards should be included in your department's written policy. Include the role of the supervisor in conducting case oversight to ensure that consistent clearance standards are being met.

Ensuring a Professional Law Enforcement Response

Developing and following standards of practice are fundamental aspects of all professional disciplines. In policing, such standards draw investigators a map of core expectations that guides them and officers to a consistent, professional response. The investigation of sexual assaults is no exception. Conducting a comprehensive, intelligent investigation of a sexual assault is essential in ensuring justice for the victim and accountability for the offender. To achieve this goal, investigators must be able to follow developed standards of investigative practice.

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Reminder Checklist

- 1. Assess the information
- 2. Complete the interviewing fundamentals
- 3. Locate and process relevant crime scenes and evidence
- 4. Obtain and process a sexual assault evidence kit
- 5. Connect or refer the victim to an advocate
- 6. Reassess all the information known
- 7. Contact the suspect
- 8. Continue case assessment and evaluation
- 9. Support the investigation through intelligence analysis and research
- 10. Complete the written report and documentation
- 11. Follow procedures for final case disposition and investigative closure