Model Policy

Investigating Sexual Assaults

Updated: October 2017

I. PURPOSE

The purpose of this policy is to provide employees with guidelines for responding to reports of sexual assault.[1]

II. POLICY

It is the policy of this agency that employees take a professional, victim-centered approach to sexual assaults and to proactively investigate these crimes and prosecute the perpetrator in a manner that helps restore the victim's dignity and sense of control, while decreasing the victim's anxiety and increasing the understanding of the criminal justice system and process. In addition, agencies must understand that a large number of sexual assault reports are delayed, a fact that will affect the response.

III. DEFINITIONS

Consent: Words or overt actions by a person who is legally and functionally competent to give informed approval, indicating a freely given agreement to engage in sexual acts.

Medical Forensic Examiner: The health care provider conducting a sexual assault medical forensic examination.

Sexual Assault: As used in this policy, all felony crimes of sexual violence. Specific statutory definitions of sex crimes vary by state.

Sexual Assault Medical Forensic Examination: An examination of a sexual assault patient by a health care provider, ideally one who has specialized education and clinical experience in the collection of forensic evidence and treatment of these patients.

Victim Advocate: A service provider, rape crisis counselor, social worker, victim witness provider within a prosecutor's office, or law enforcement officer, including an agency victim assistant, who is trained to assess and address the needs of the victim as well as to provide counseling, advocacy, resources, information, and support.[2]

IV. PROCEDURES

A. Special Considerations—Minors and Incompetent Adults

1. Prior to receiving calls for service involving the sexual assault of minors or incompetent adults, this agency shall identify the appropriate agency or organization with the necessary knowledge and resources to respond to these situations. This entity shall be notified as soon as reasonably possible when reports of potential sexual assaults of minors and incompetent adults are received.
2. Officers responding to reports of sexual assaults involving these sensitive population groups shall limit their actions to the following:
   a. ensuring that the scene is safe;
   b. safeguarding evidence where appropriate;
   c. collecting any information necessary to identify the suspect; and
   d. addressing the immediate medical needs of individuals at the scene.
3. Officers should never attempt to interview the victim in these situations, but should instead await the arrival of individuals with specialized training and experience.

[1] This document is based in large part on information found in the IACP's Violence Against Women Project's *Sexual Assault Response Policy and Training Content Guidelines* available at http://www.theiacp.org/Portals/0/documents/pdfs/IACPSexualAssaultResponsePolicyandTrainingContentGuidelines.pdf.

[2] Note: Depending upon state statutes, some community based or rape crisis victim advocates may have privileged communications with a victim.

B. Communications Personnel Response
When a caller reports a sexual assault, communications personnel should follow this agency's standard incident response policy. In addition, communications personnel should inform the victim of ways to ensure critical evidence is not lost, to include the following:[3]
1. Advising the victim not to bathe, urinate, or clean him- or herself if the assault has been recent (less than 24 hours).
2. In the case of an assault that occurred within 24 hours, if the victim indicates he or she must urinate, instructing him or her to use a clean jar or container with a lid to collect a urine specimen and then bring the jar with them to the exam site, if possible.
3. Asking the victim to collect any clothing that was worn during the assault and, if possible, place in a paper bag and bring them to the exam site—and instructing the victim not to wash the clothing.
4. Informing the victim that other evidence may still be identified and recovered even if he or she has bathed or made other physical changes.

C. Initial Officer Response
When responding to a scene involving a sexual assault, officers shall follow standard incident response procedures. In addition, when interacting with victims, officers shall do the following:
1. Recognize that the victim experienced a traumatic incident and may not be willing or able to immediately assist with the criminal investigation.
2. Clearly explain the reporting process including the roles of the first responder, investigator, and anyone else with whom the victim will likely interact.
3. Offer to contact local support or advocacy agencies for the victim. If none are available, provide information regarding national resource agencies that provide sexual assault support.
4. Make reasonable efforts to allow the victim to determine the location, time and date where the initial report is made.[4]
5. Explain the statute of limitations for criminal charges, if applicable, to victims who choose not to participate in the investigation and that a victim can contact the agency within that time to reopen the investigation.
6. Collaborate with victims during the investigative process and respect a victim's right to decline future participation in the investigation.
7. Offer to contact a victim advocate as soon as practicable.
8. Limit the initial interview, conducted by the responding officer, to questions that will establish only the basic facts of the assault and provide the information necessary for the immediate needs of the investigation and safety of the victim, such as the suspect identity and elements of the crime, when reasonable and practical. Questions should be tailored to the victim's emotional and physical state. Where resources are available, inform the victim that a second interview might occur at a later time and be conducted by a trained investigator.
9. Record via video and audio the initial statement and all subsequent interviews, when reasonable and practical. However, if the victim indicates that he or she does not wish to be recorded, this should be noted in the officer's report and the recording should stop if permitted by policy and law.
10. Ask about and document signs and symptoms of injury, to include strangulation.[5]
11. Arrange for transportation to the designated facility if a forensic medical exam is needed and the victim consents. Consider the victim's body a crime scene; ensure the chain of custody remains intact during transportation.
12. Identify and interview anyone the victim told about the sexual assault.
13. Understand that recantation of any or all aspects of the initial disclosure is not necessarily indicative of a false report. Victims who recant or decline participation in the investigation should not be asked to sign a non-prosecution statement. In addition, the facts of the case, as provided by the victim may change over time. Officers should understand that this does not indicate deception.

D. Role of the Supervisor
Supervisors shall do the following:
1. Respond to assist officers investigating incidents of sexual assault when possible or if requested by an officer.
2. Ensure that polygraph examinations are never conducted on sexual assault victims.
3. Review all sexual assault reports for accuracy and consistency and conduct after action reviews and sexual assault case audits.

[3] Note that these instructions generally apply to recent sexual assaults and might not be applicable to sexual assaults that are reported after a significant amount of time has passed.

[4] For example, some victims might not want to come to the police station.

[5] For specific signs and symptoms of strangulation, please see the IACP's Violence Against Women Project's *Sexual Assault Response Policy and Training Content Guidelines*.

4. Encourage officers to look for co-occurring and interconnected crimes when responding to sexual assault.
5. Ensure officers and investigators understand case coding and appropriately code sexual assault cases.

E. Evidence Collection
   1. Considerations for Evidence Collection
      Officers shall follow this agency's policy on crime scene response. In addition, officers shall do the following:
      a. Collect clothing worn at the time of the assault and immediately afterward, especially the clothing worn closest to the genitals, including undergarments, pants, and shorts. Each item of clothing must be packaged separately in a paper bag.
      b. Follow this agency's standard protocols for the collection of DNA evidence.
      c. If the victim has declined or a medical forensic exam will not be conducted, take photographs of visible physical injuries, including any healing or old injuries.
         (1) Ideally photos should be taken 24, 48, and 72 hours later, in the event the injuries become more visible and pronounced.
         (2) Descriptive and specific documentation of the injuries should accompany the photos.
         (3) Officers should be sensitive to the victim's need for privacy, which can include the use drapes or other techniques or summoning an officer of the same sex as the victim.
         (4) Photographs of the victim's genitals should be obtained as part of the forensic examination and should never be taken by officers.
         (5) Strict control and confidentiality shall be maintained of any photographs. Such photos shall be viewed only by personnel directly involved in the investigative process.
      d. Collect evidence regarding the environment in which the assault took place, including indications of isolation and soundproofing.
      e. Recognize that evidence can be collected directly from items like wheelchairs or assistive devices. Officers should collect samples directly from these devices, but should not remove them.
      f. Document any evidence of threats made by the suspect, to include those made to individuals other than the victim.
      g. In situations where it is suspected that drugs or alcohol may have facilitated the assault, officers should assess the scene for evidence such as drinking glasses, alcohol bottles or cans, or other related items.
   2. Response to Suspect Claims of Consent
      In situations where suspects do not deny that sexual intercourse occurred, but rather assert that it was voluntary and with the consent of the victim, officers shall do the following:
      a. Collect evidence of
         (1) Indications of past assaults or abuse, coercion, threats, or stalking between the suspect and victim.
         (2) The suspect's course of conduct, including selection and grooming processes and pre- and post-assault behaviors, including any communication.
         (3) Coercive behavior displayed by the suspect.
      b. Identify events that transpired prior to and after the assault in an effort to locate additional witnesses and physical locations that might lead to additional evidence.
   3. For sexual assaults involving strangers, officers should focus investigative efforts on the collection and analysis of DNA and other trace evidence used to identify the perpetrator.

F. Sexual Assault Medical Forensic Examinations
   1. Prior to the sexual assault medical forensic examination the investigating officer shall do the following:
      a. Coordinate with professionals such as forensic examiners to determine whether an exam is indicated.
      b. Explain to the victim the purpose of the exam and its importance to his or her general health and wellness, and to the investigation.
      c. Provide the victim with general information about the procedure, and encourage him or her to seek further detail and guidance from the forensic examiner. Officers and investigators cannot deny a victim the opportunity to have an exam.
      d. If not already completed, and with the victim's consent, notify a victim advocate.
      e. Inform the victim that he or she has the right to decline any or all parts of the exam.

f. If not previously collected, advise the victim that the forensic examiner might collect all clothing that was worn during or immediately after the sexual assault. Assist in arranging for clothing the victim may need after the exam.
g. Inform the victim that he or she will not be charged for the cost of administering the exam, however charges may apply for medical treatment required beyond the exam. Should the victim receive an invoice for the exam, he or she should not provide payment, but instead forward it to the agency.
h. Encourage a victim who is unwilling to undergo an exam to consider seeking medical attention, including testing for pregnancy and sexually transmitted infections. This testing should be completed as soon as possible after the assault, as well as later, as positive results for pregnancy and some infections might not appear until later.
i. Ask the victim whether there is anyone who should be called to accompany him or her to the exam site and facilitate contact.
j. Address any special needs of the victim, such as communication or mobility.
k. If possible, transport or arrange transportation for the victim to the designated medical facility.
l. Obtain a signed release from the victim for access to medical records from the exam.
m. Brief the forensic examiner about the details of the sexual assault, as they are known at that time.

2. Officers should not be present during any part of the exam, including during the medical history.
3. Upon conclusion of the exam, the officer should request copies of any findings that may assist with the investigation.
4. The police report shall contain a copy of the exam report and a summary of the findings that note significant information or details of injury; these are not for public release based on medical privacy concerns.
5. After the exam, evidence collected during the exam shall be turned over to law enforcement. It is critical to ensure that the evidence has been properly collected, sealed, and labeled.
6. If the assault occurred within 120 hours, and there is a suspicion of drug- or alcohol-facilitated sexual assault, or that the victim was not able to consent to sexual activity, a urine sample should be collected from the victim, with his or her consent. If it is less than 24 hours since the assault, then a blood sample should also be collected with the victim's consent. Toxicological testing should be performed to determine if the event was a drug- or alcohol-facilitated sexual assault. Routine toxicological testing of victims of sexual assault is not recommended.
7. Because of the delay in reporting most sexual assaults, the agency should work with laboratories capable of identifying in blood and urine very low levels of drugs commonly used in sexual assault.
8. Illegal substance abuse by victims, including underage drinking, shall never be used to discredit or discourage the victim from reporting the assault. The agency's priority is to thoroughly investigate sexual assault, not prosecute victims for drug or alcohol violations.
9. The exam evidence shall be impounded in accordance with this agency's evidence policy and sent to the appropriate laboratory in a timely manner, but ideally no later than seven business days from the collection of the kit, for processing.
10. Proceeding with or conducting a thorough investigation shall not be contingent upon laboratory findings. To the extent possible, investigations should be ongoing while awaiting laboratory results.

G. Forensic Examination for the Collection of Evidence from the Suspect
1. Prior to or immediately after the preliminary suspect interview, investigators should photograph any injuries.
2. The investigating officer shall determine whether a sexual assault medical forensic examination should be conducted.
3. Officers shall ask for the suspect's consent to collect evidence from his or her body and clothing. However, a search warrant, with specific details about what evidence will be collected, should be prepared in advance to eliminate the opportunity for the suspect to destroy or alter evidence if consent is denied.
4. During the suspect's sexual assault medical forensic examination, the investigator, evidence technician, or forensic examiner should do the following:
a. Strongly consider penile swabbing, pubic hair combings, and collection of other potential DNA evidence

b. Collect biological and trace evidence from the suspect's body
c. Document information about the suspect's clothing, appearance, scars, tattoos, piercings, and other identifiable marks
d. Seize all clothing worn by the suspect during the assault, particularly any clothing touching the genital area
e. Document the suspect's medical history and any injuries

5. Whenever possible, the suspect's examination should not take place in the same location or by the same examiner as the victim's forensic examination.

H. Victim Interviews

During victim interviews, officers shall note the following information:

1. If the suspect was known by the victim, determine the following facts.
   a. How long the victim knew the suspect
   b. The circumstances of their meeting
   c. The extent of their previous or current relationship
   d. Any behavioral changes that led the situation from one based on consent to one of submission, coercion, fear, or force
2. The location where the assault took place, including any isolation strategies used by the suspect.
3. Actions, threats (real, perceived, or implied), gestures, coercion, and other behaviors used by the suspect to cause the victim to submit.
4. Ways in which the victim resisted or indicated non-consent, both verbally and nonverbally.
5. The victim's actions and responses before, during, and after the sexual assault including indications of his or her state of mind during the assault.
6. The victim's thoughts and feelings during the assault.
7. Sensory evidence and peripheral details of the victim's experience.
8. The victim's behavior and thoughts since or after the assault, including changes in routine, depression, mood instability, sleep and diet disturbances, flashbacks, nightmares, and stress.
9. Circumstances that may indicate the use of drugs or alcohol to facilitate the sexual assault, including memory loss, disorientation, severe illness, or hallucinations.
10. If any prescription drugs were taken.
11. Any pre- or post-assault contact, monitoring, stalking, or other behaviors of the suspect.

I. Contacting and Interviewing Suspects

Prior to contacting the suspect, officers should do the following:

1. Conduct a background and criminal history check specifically looking for accusations, criminal charges, and convictions for interconnected crimes, especially crimes involving violence.
2. Consider conducting a pretext or confrontational call or messaging depending on jurisdictional statutes. Involvement of a victim should be based on strong consideration of the victim's emotional and physical state. A victim advocate should be present whenever possible to offer support.

J. Protecting Victim Rights[6]

Officers shall explain to victims the limitations of confidentiality, as well as the agency's dedication to protecting the confidentiality of the victim's information to the maximum extent possible by law and policy. Victims should also be provided information regarding the following:

1. Protections afforded to crime victims by the state.
2. The possibility of media coverage and information regarding sexual assault crimes available to the media. If applicable, officers should provide victims with information regarding local media agreements or policies preventing them from disclosing the names of sexual assault victims.
3. What to do in the event that the victim, witnesses, or third parties are harassed or intimidated by the suspect or others.
4. The crime report number, as well as contact information for the reporting officer and lead investigator or person handling the follow-up.
5. Arrest decisions, victim compensation, emergency protective orders, court dates, and parole or release dates.
6. For victims who are initially undecided as to whether to continue with an investigation, information regarding who to contact in the event they change their mind.

[6] If the victim is a student of an institution of higher education, the institution is federally mandated to conduct administrative inquiries and take required steps to correct discriminatory impact. These responsibilities can conflict with criminal investigations. Local and college and university police departments should work collaboratively with institutions of higher education to avoid potential conflict between criminal investigations and the laws that govern the institution.

K. Report Writing for Sexual Assault Cases

When documenting sexual assault cases, officers should take the following actions:

1. Complete a Sexual Assault Supplemental Report Form to augment the narrative report.[7]
2. Capture details necessary to establish any
   a. premeditation or grooming behavior by the perpetrator;
   b. coercion, threats, and force used; and
   c. attempts by the perpetrator to intimidate or discourage the victim from reporting the assault.
3. Document details regarding the victim's reaction during and after the incident (e.g., victim demeanor, emotional response, changes in routines or habits).
4. Fully document fear by recording all fight, flight, freeze, or submit reactions the victim expressed or exhibited before, during, and after the assault.
5. Create a timeline to show the effects of the traumatic event on post-assault behavior and actions of the victim as compared to previous behavior (e.g., in a case where the suspect is known to the victim, the victim no longer goes to the gym that the suspect belongs to, will not be in the same room as the suspect, or the victim drops out of school)
6. Unless they are direct quotes (in which case, place them in quotation marks) avoid using terms that indicate consensual behavior (such as participated or engaged in) when describing the specific actions of the suspect.
7. If a consensual encounter turned nonconsensual, clearly document the details of how and when the suspect's behavior changed and how the victim expressed or demonstrated non-consent to the continued acts.

L. Training

Periodic training should be provided to all personnel, to include victim advocates, who have contact with sexual assault victims. This training should specifically address the provisions of this policy, as well as the realities, dynamics, and investigations of these crimes and legal or scientific developments pertaining to sexual assault.[8]

Every effort has been made to ensure that this document incorporates the most current information and contemporary professional judgment on this issue. Readers outside of the United States should note that, while this document promotes procedures reflective of a democratic society, its legal basis follows United States Supreme Court rulings and other federal laws and statutes.

Law enforcement administrators should be cautioned that no "model" policy can meet all the needs of any given law enforcement agency. Each law enforcement agency operates in a unique environment of court rulings, state laws, local ordinances, regulations, judicial and administrative decisions and collective bargaining agreements that must be considered, and should therefore consult its legal advisor before implementing any policy.

This document is not intended to be a national standard.

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[7] See Appendix A of the IACP Violence Against Women Project's *Sexual Assault Response Policy and Training Content Guidelines*.

[8] For specific topics that should be included in training, please refer to the IACP Violence Against Women Project's *Sexual Assault Response Policy and Training Content Guidelines*.