



Kansas Sexual Assault Kit Initiative

INVESTIGATING SEXUAL ASSAULT

Kansas Model Policy

Implementation, Training, and Policy

DEFENDANT'S
EXHIBIT

X-3

The Kansas Sexual Assault Kit Initiative

INVESTIGATING SEXUAL ASSAULT

Kansas Model Policy

Policy, Implementation and Training Guide

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This policy and related documents were developed as a project of the Kansas Sexual Assault Kit Initiative.

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The development of this *Kansas Model Policy for Investigating Sexual Assault: Implementation, Training and Policy* was through the collaboration of the Kansas Sexual Assault Kit Initiative Multidisciplinary Working Group, composed of twenty-two experienced professionals – some agency policy makers, others practitioners – from across the state. Together, they represent disciplines of law enforcement, prosecution, community and system-based victim advocacy, forensic nursing, and forensic science laboratory.

Contents for all of the provided documents were developed partly on the basis of material from the following sources:

International Association of Chiefs of Police. *Investigating Sexual Assault: Model Policy, Concept & Issues Paper and Need to Know...*, 2017.

Ottawa, Kansas Police Department. *Investigating Sex Crimes*, Criminal Investigation Policy, 2016.

Michigan Domestic and Sexual Violence Prevention and Treatment Board. *Michigan Model Policy: The Law Enforcement Response to Sexual Assault Adults and Young Adults*, 2015.

Chief (Ret.) Tom Tremblay, Consultant and Trainer. *Trauma-Informed Sexual Assault Investigations Training*, 2016.

North Dakota Department of Health, Division Injury Prevention and Control Division. *North Dakota Model Sexual Assault Policy*, 2011.

Commonwealth of Massachusetts Executive Office of Public Safety and Security. *Adult Sexual Assault Law Enforcement Guidelines*, 2009.

State of New Hampshire Governor's Commission on Domestic and Sexual Violence. *A Model Protocol for Response to Adult Sexual Assault Cases*, 2012.

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Kansas Sexual Assault Kit Initiative
IMPLEMENTATION GUIDE

Investigating Sexual Assault: Kansas Model Policy

GUIDING PHILOSOPHY

Law enforcement is responsible for identifying the person(s) responsible for criminal acts and bringing them to justice through complete, impartial and constitutional investigation practices. They are also responsible for conducting the investigative process in a manner to ensure all steps are taken to remove suspicion from those not responsible for the criminal act.

HOW WE GOT HERE

The provided model policy and training guide for sexual assault investigations were developed in response to findings from the Kansas Sexual Assault Kit Initiative (SAKI) publication of the *Underlying Factors Contributing to the Accumulation of Sexual Assault Kits in the State of Kansas*. In particular, these documents are designed to create consistency across the state for law enforcement response to sexual assault cases, from dispatch through investigation and referral to prosecution.

The development of this policy and training guide was through an evaluation of National best practices and Kansas statutes by the Kansas SAKI Multidisciplinary Working Group, which was created by the Kansas Bureau of Investigation. The working group includes representatives from disciplines of law enforcement, prosecution, community and system-based victim advocacy, forensic nursing, and the forensic science laboratory.

RECOMMENDATION

The Kansas SAKI Multidisciplinary Working Group recommends every Kansas Law Enforcement Agency adopt a written policy for topics covered by the offered *Kansas Model Policy for Investigating Sexual Assault*. To facilitate the implementation of the model policy, the working group also recommends providing training to all law enforcement personnel involved in call-taking, initial response and investigations of sexual assault cases. This training should include topics covered by the offered *Kansas Training Guide for Investigating Sexual Assault*.

IMPLEMENTATION

The *Kansas Model Policy for Investigating Sexual Assault* is not intended to be a “plug-and-play” solution, but rather should serve as a guide to assist law enforcement in internal discussions and discussions with local prosecutors, victim advocacy, and others representing your jurisdiction in furtherance of a final agency policy. Your final policy, which may or may not result in modifications to the provided model policy, should be a derivative of those discussions.

If your agency already has a written policy for sexual assault investigations, we encourage you to use the provided documents to review your existing policy and perhaps find opportunities for improvement or additions.

If you do not have a written policy for investigating sexual assaults, we encourage you to use the provided documents to implement one for your agency. You should closely examine all aspects of the model policy to identify:

1. Any recent best practices research on the topic of sexual assault that is useful in clarifying the purpose of the policy content.
2. Critical points of the procedure that should remain intact.
3. Areas already covered by other agency written policy that can be referenced instead of duplicative direction provided in the model policy.
4. Points that should be discussed with appropriate local leadership (prosecution, agency legal representatives, victim advocacy, etc.) to determine if modifications to the model policy should be made based on local needs, resources, judicial preferences, prosecutorial preferences, and other community based issues.

Your agency's resulting written policy for investigating sexual assaults, primarily aimed at providing guidance to law enforcement employees, should remain constructed in a manner to facilitate clarity for those intended users. Successful policy implementation will also include training for employees who will carry out the agency policy, which should include topics as described in the provided *Kansas Training Guide for Investigating Sexual Assault*. We encourage you to develop a plan for such training in conjunction with implementation of the policy.

Kansas Sexual Assault Kit Initiative

TRAINING GUIDE

Investigating Sexual Assault: Kansas Model Policy

Purpose

This paper was developed to accompany the *Kansas Model Policy for Investigating Sexual Assault* developed by the Kansas Sexual Assault Kit Initiative (SAKI) Multidisciplinary Working Group. The paper provides essential background material and supporting documentation to provide a greater understanding of the developmental philosophy and implementation required for the model policy. It also addresses field investigative procedures and best practices for working with victims of sexual violence. This material is designed to assist law enforcement agencies in tailoring the model policy to the requirements and circumstances of their own communities and agencies.

Model Policy Development

The *Kansas Model Policy for Investigating Sexual Assault* was developed in response to the findings from the Kansas SAKI Multidisciplinary Working Group’s effort to identify the underlying factors contributing to the accumulation of sexual assault kits in the state of Kansas (Whisman & Roberts, 2017). In particular, this model policy is designed to create consistency across the state for law enforcement response to sexual assault cases, from dispatch through investigation. The development of this policy was through the collaboration of the Kansas SAKI Multidisciplinary Working Group, composed of twenty-two experienced professionals – some agency policy makers, others practitioners- from across the state. Together, they represent disciplines of law enforcement, prosecution, community and system-based victim advocacy, forensic nursing, and forensic science laboratory.¹

Recommendations

The Kansas SAKI Multidisciplinary Working Group recommends every Kansas Law Enforcement Agency provide training specific to investigating sexual assault that incorporates topics covered by the offered model policy. Our goal is for this training document to facilitate that process. This training guide is not intended to be a substitute for a trauma-informed sexual assault investigations training course, but should instead be used to assist in the development and deployment of such training.

Training Considerations

The provided *Kansas Model Policy for Investigating Sexual Assault* is not intended to be a “plug-and-play” solution, but instead should serve as a guide to assist law enforcement in internal discussions and discussions with local prosecutors, victim advocacy, and others representing your jurisdiction in furtherance of a final agency policy. Your final policy, which may or may not result in modifications to

¹ Represented organizations and agencies include Kansas Bureau of Investigation, Kansas Association of Chiefs of Police, Kansas Sheriffs’ Association, Kansas County and District Attorneys’ Association, Office of the Kansas Attorney General, Kansas Coalition against Sexual and Domestic Violence, Kansas Chapter of the International Association of Forensic Nurses, Sedgwick County Regional Forensic Science Center, and Johnson County Sheriff’s Office Criminalistics Laboratory.

the provided model policy, should be included in the development and deployment of your agency's training for investigating sexual assault.

I. Background – Dispelling the Myths around Sexual Assault

Sexual assault is a complex crime that can make investigations sometimes challenging. Estimates of the prevalence of sexual assault in the United States vary due to differences in data collection, definitions and calculations. However, whether the estimate is 1 in 6 women or 1 in 33 men (RAINN, 2018), any victim² of sexual violence is one too many and the criminal justice system must be prepared to respond accordingly.

One of the most common cultural myths surrounding sexual assault involves the perception of what constitutes “real” rape. Most people assume that “real” rape is committed in a sudden and violent manner by someone unknown to the victim. Contrary to this stereotype of a stranger with a weapon using a great deal of physical force, research and law enforcement experience demonstrates that the following represents some of the realistic dynamics of sexual assault crimes (International Association of Chiefs of Police, 2017):

- Most sexual assault victims are acquainted with the suspect in some way.
- Most sexual assaults are not reported to law enforcement authorities.
- Victims of sexual violence include both men and women.
- Victims rarely report to law enforcement first; usually they go first to a close friend or relative, a health care provider, or a victim advocate.
- Victims often struggle with a range of emotions³ following a sexual assault; this can lead to delays and reluctance in reporting.
- Law enforcement is more likely to be notified of sexual assaults that are committed by strangers than by someone the victim knows.
- Sexual assault perpetrators rarely use weapons and might not use physical force, relying instead on verbal threats, intimidation, and a victim's vulnerability.
- Sexual violence can have long-term effects on victims, including post-traumatic stress disorder, thoughts of suicide, increased drug use, and problems with friends, family and coworkers.
- Few victims are physically injured to a point that emergency medical attention is needed.
- Alcohol and/or drugs are involved in a high percentage of sexual assaults.
- The prevalence of false reports of sexual assault is between 2%-10% (Lisak et al., 2010).

It is important to remember that one of the most critical responsibilities of responding officers and investigators in a sexual assault case is to assure the victim that he or she will not be judged and that their report will be taken seriously. Law enforcement agencies are expected to maintain a professional, trauma-informed approach to sex crimes. Additionally, these crimes are expected to be investigated in a manner

² The term “victim” is used throughout this document as well as the *Kansas Model Policy for Investigating Sexual Assault* since it is the term most commonly used by the criminal justice system. However, we recognize that some stakeholder communities may use the terms “survivor,” “patient,” or “client” to emphasize empowerment that individuals can experience throughout the recovery and healing process.

³ The neurobiological and psychological trauma experienced by a victim of sexual assault may impact memory, behavior, and emotions, similar to the impact of trauma experienced by law enforcement during and/or after an officer-involved shooting. Demonstrating patience and understanding while building trust with a victim will assist in overcoming these traumatic barriers.

that restores the victim's dignity and sense of control while addressing the victim's concerns and decreasing their anxiety.

Virtually all sexual assault victims want validation that the crime occurred, and this can be a more critical component to a successful response and investigation than a criminal prosecution or conviction. This can be accomplished with a statement as simple as "I am sorry this happened to you."

Regardless of the investigative results, responding officers and investigators have the power to help a victim begin to heal from sexual assault.

II. Law Enforcement Interactions with the Victim

The first impression of your agency, from the initial phone call through investigations, can make or break a victim's decision to report a sexual assault or continue their participation throughout the process. Dispatchers or call-takers, initial responding officers and investigators all play a significant role in a victim's ability to cope with the emotional and psychological after-effects of a sexual assault. Therefore, it is especially important that these cases be handled with a trauma-informed approach that is objective and without bias; emphasizing physical, psychological, and emotional safety for victims; and treating victims with respect, dignity and sensitivity. Employing a consistent message of compassion, support, and consideration for the victim has shown to not only improve the willingness of victim engagement in the criminal justice process (Busch-Armendariz et al., 2015), but can also greatly impact the healing process of victims (Campbell & Raja, 1999).

A. Dispatch or Call-Takers

Regardless of when the crime occurred, sexual assaults should always be a priority call. A victim reaching out for assistance may be in crisis due to the trauma experienced by a sexual assault. This trauma can result in behaviors ranging from, but not limited to, hysteria, crying, rage, laughter, calmness, and/or unresponsiveness (Campbell & Raja, 1999). There is no one typical reaction to trauma and these behaviors are likely to change over time. Therefore, it is critical to refrain from negative personal judgements and to continuously treat the victim with respect, sensitivity, and consideration.

B. Initial Responding Officer

Responding officers and investigators must make every effort to keep an open mind by remaining objective and refrain from bias or judgement regarding the information obtained from the victim. Remember that your tone when speaking to victims carries weight and it is important to remain calm and understanding during all interactions with a victim.

Officers and investigators should recognize that a victim may or may not have prior interactions with law enforcement that can influence their feelings of safety and well-being. In accordance with a trauma-informed approach, all personnel responding to a sexual assault should emphasize physical, psychological, and emotional safety for victims. Once the scene is secure, officers and investigators can begin to build emotional and psychological safety by communicating empathy and support. This can be accomplished by telling the victim:

- I am sorry for what happened to you...
- I am sorry we are meeting under these circumstances...

- I commend you for reporting to the police...
- Your health, safety, and wellness are a priority for me...

Responding officers should limit the initial interview of the victim to collecting only the necessary information about the assault for the immediate needs of the investigation and safety of the victim.

Responding officers should also recognize that because the victim experienced a traumatic event, he or she may not be able or willing to immediately assist with the investigation. Victims should be reassured and empowered to report at their own pace, and be reminded that their memory of the incident may become clearer over time. Law enforcement must be willing to allow victims to re-engage with the investigation at any time, even if the victim is initially unable or unwilling to participate. While it is common for victims to delay reporting of a sexual assault, officers should be aware of the victim's emotional and physical state and should tailor questions appropriately.

C. Formal/Follow-up Victim Interview

Sexual assault is a traumatic event that can impact victims' memory, behavior and emotions (Campbell et al., 2009). It is important for investigators to be aware of these impacts, recognize the various ways in which trauma can present in victims of sexual assault, and incorporate trauma-informed practices when interviewing victims to build trust and facilitate cooperation.

The formal or follow-up victim interview is recommended to occur at least one to two sleep cycles after the incident to allow the victim to rest and recover from some of the trauma experienced by the assault. Delaying the formal interview is also critical if the victim is still intoxicated or under the influence of drugs or alcohol at the time of reporting as their ability to provide information can be impaired. However, some victims may prefer to conduct the in-depth interview immediately and law enforcement should be prepared to accommodate the interview to meet the victim's abilities and requests.

Before beginning the formal interview, investigators must build a sense of emotional and psychological safety for the victim. To begin this process, investigators should communicate empathy and support of the victim by reiterating:

- I am sorry for what happened to you...
- I commend you for reporting to the police...
- I know this is difficult...
- Your health, safety, and wellness are a priority for me...

When conducting the formal interview, it is important to allow the victim to provide an uninterrupted report of the incident. The investigator should encourage the victim to begin wherever they are able in their memory of the event and should display patience and active listening throughout the victim's narrative. Questions for clarification and understanding should be held until the victim has completed their full narrative. Investigators must also be receptive and accommodating to stopping or taking breaks as needed by the victim.

Regardless of the facts present in a particular assault, the phrasing of questions posed to the victim can imply blame. For example, for purposes of evidence collection it may be necessary to know what the victim was wearing during the time of assault or whether alcohol was present.

However, if the necessity of the question is not explained to the victim, he or she may perceive this question to imply that the assault occurred because of their clothing choice or consumption of alcohol.

Questions posed to the victim should always avoid language that implies blame, including questions that involve the phrases “why did you...?” or “why didn’t you...?” Additionally, the tone utilized when asking the question is important to communicate safety and compassion rather than doubt and scrutiny. Using a trauma-informed approach to collect the necessary information from a victim should focus on clarifying and understanding the experience of the victim. This can be accomplished by using the following phrases:

- What are you able to tell me about...
- Can you tell me more about...
- Can you help me understand your thoughts when...
- How did that make you feel when...

Additionally, victims should be reassured that the focus of the investigation is the reported assault and not to prosecute the victim for use of drugs or underage drinking. The presence or use of such substances shall never be used to discredit or discourage the victim from reporting the assault, even if the victim previously lied or did not disclose this information during the initial interview. It is vital to reassure victims throughout the reporting process and remain patient.

Because of the impact trauma can have on the way memory is formed and recalled, victims may have difficulty detailing the sequence of events or may not recognize the significance of certain aspects of their report. A trauma-informed approach relies on exploring sensory details to assist with memory recall and identify corroborative evidence. This includes asking the victim what they are able to tell you about what they smelled, tasted, saw, felt, or heard before, during and after the assault. These sensory details may trigger additional memories for the victim or provide additional investigative leads that can further assist with determining the facts of the case.

Remember that the trauma experienced by a victim of sexual assault may never fully go away and that the process of reporting and detailing their experience can be triggering. Investigators should continue to reassure victims by exhibiting patience and compassion while acknowledging the difficulty in discussing the event in such detail. At no point should the victim interview turn into an interrogation.

The conclusion of the interview can be a vulnerable and isolating time for victims. They have just relived a traumatic event in detail and are likely experiencing a variety of emotions and concerns. It is vital that investigators work with victim advocates and local support services to ensure that the victim does not feel abandoned at the conclusion of the interview. Every attempt should be made to arrange a warm handoff or make direct contact with a victim advocate.

Investigators should encourage the victim to contact them with any additional information that they may recall over time and be receptive to that information when it is available.

III. Special Considerations

While every sexual assault case will pose unique challenges and require special considerations, there are some specific situations that require law enforcement to identify appropriate resources and partnerships

prior to receiving a call. These situations may include, but are not limited to, child victims, special needs victims, cases involving domestic violence or offenders residing with the victim, assaults that occur on a military or college campus, and cases in which a law enforcement employee is a suspect. The protocol for handling these specialized cases may be different than that outlined by the model policy, which was designed to serve as guidelines for investigating sexual assault of competent adults. Considerations should be given to utilize individuals with specialized training and experience whenever reasonably possible for victims in these situations. Agencies that do not have the internal capabilities to effectively respond to these specialized population groups are urged to identify and contact local, regional, state, or national organizations that can provide a working relationship with the nearest agency. This effort must be made prior to receiving a call for such cases so that the resources can immediately be called upon to prevent delay in the investigation.

IV. Victim Advocates

Victim advocates are an invaluable component to the investigation of sexual assaults and should be included as soon as possible to provide emotional support and assist victims throughout the criminal justice process. Research has shown that the presence of a victim advocate can significantly improve the ability and willingness of a victim to participate through the investigative and prosecutorial process (Lonsway & Archambault, 2008). In fact, victims are three times more likely to continue with an investigation of a sexual assault when working with a victim advocate. Additionally, victims who work with an advocate have also reported fewer negative emotions regarding their experience with law enforcement such as lowered feelings of guilt and depression (Campbell, 2006). Connecting victims to local resources and support is critical to establishing safety and stabilization following a traumatic experience.

Law enforcement agencies should familiarize themselves with the available services within their community⁴ and understand the differences between community and system-based advocates.⁵ Whenever possible, law enforcement is encouraged to utilize both types of advocacy as each can provide different services and support to the victim throughout the criminal justice process and beyond. Maintaining a strong relationship between law enforcement and victim advocacy programs is necessary to ensure the victim's safety and well-being are appropriately addressed. These relationships should be established prior to responding to a sexual assault and must be continually worked on by both law enforcement and victim advocates to facilitate collaboration.

When requesting an advocate, officers should relay information regarding any special needs of the victim, including language difficulties, mental or physical impairment, and any request for an advocate of the same gender as the victim. Victim advocates should not be used as interpreters for law enforcement and should instead focus on their role as a support system for the victim. Law enforcement agencies must work with victim advocacy to ensure comprehensive services for special populations are provided, such as the hearing impaired and those with limited English proficiency.⁶

⁴ For a list of local advocacy resources in your community, visit <http://kcsdv.org/>

⁵ See Appendix A "Understanding Advocate Roles" for further understanding of the difference between community and system-based advocacy.

⁶ See Appendix B "Language Line and Translation Services Resource List."

V. Drug and/or Alcohol Facilitated Sexual Assaults

Officers should collect any evidence of drug and/or alcohol use by the suspect and victim to potentially assist with determining ability to consent and victim vulnerability. This includes any voluntary consumption as well as the possibility of unknown consumption of drugs and/or alcohol.

It is important to understand that, due to its accessibility and social acceptance, alcohol is the most commonly utilized drug for committing sexual assaults. It is estimated that approximately 50% of sexual assaults involve the use of alcohol (Zawacki et al., 2003). Unfortunately, victims may be reluctant to report consuming alcohol for fear of prosecution for underage drinking or concern that somehow their decision to drink led to their assault. Officers and investigators must reinforce that the focus of the investigation is on the reported sexual assault and victims will not be prosecuted for their use of drugs and/or alcohol. Officers should also reassure victims that sexual assault is never the fault of the victim, regardless of intoxication levels, clothing choices, etc.

Officers should be aware of the various levels of intoxication and the effects alcohol can have on memory. Blood alcohol content is impacted by a wide range of factors, including age, body weight, gender, rate and amount of alcohol consumed, use of other drugs (prescription, over-the-counter, or illicit), prior experience with alcohol, etc. As a result, victims may experience various side-effects after consuming alcohol, including complete or partial memory loss. Victims experiencing complete or partial memory loss may maintain consciousness and be active, but will often also display significant impairments to speech, coordination and balance and may result in vomiting or other signs of alcohol poisoning (White, 2004). It is important to recognize and document the side-effects of alcohol experienced by the victim in order to understand their ability to consent. Additionally, officers should investigate the intoxication levels of the suspect to identify possible disparities in awareness and control between the suspect and victim.

Other common drugs utilized to commit sexual assaults may include, but are not limited to (Tremblay, 2016):

- Benzodiazepines
- Flunitrazepam (Rohypnol®)
- Diazepam (Valium®)
- Alprazolam (Xanax®)
- Tetryzoline (Visine®)
- Barbiturates
- Antidepressants
- Gamma Hydroxybutyrate Ketamine (GHB)
- Over-the-counter drugs
- Sleep aids or sleeping pills
- Antihistamines

Evidence of these types of drugs in a sexual assault case can range from a victim's blood and urine samples to drug packaging and receipts of purchase in the suspect's possession. It is recommended that medical personnel collect a urine sample from the victim if less than 120 hours (5 days) have elapsed since the incident. If possible, 100 milliliters of urine should be collected. Although most drugs will be undetectable in the blood more than 24 hours after ingestion, blood may prove useful in a suspected drug

or alcohol facilitated sexual assault case if collected by medical personnel less than 24 hours after the incident. At a minimum, 10 milliliters of blood should be obtained in a grey-top test tube containing the preservative sodium fluoride and the anticoagulant potassium oxalate.

Blood and urine specimens should be collected by a medical professional with the victim's consent and be marked with the victim's name, date and time of collection as well as the collector's initials. The urine and blood samples should be stored in a refrigerated space. If possible, a complete and accurate drug history of the victim to include over-the-counter medications, prescriptions, and illicit drugs should be included with the samples when submitting to a laboratory for analysis. Evidence should be properly packaged and sealed and should be submitted for analysis as soon as possible for toxicological testing.

Due to the complexity of drug and/or alcohol facilitated sexual assaults, law enforcement should work with a toxicologist or doctor to understand the impact and symptoms that drugs and/or alcohol can have on the victim's capacity to consent. This understanding can benefit an investigation in various ways, such as identifying other potential sources of evidence, determining power/control differentials between the suspect and victim, recognizing how a victim's behavior or memory may be impacted by drugs and/or alcohol, and thoroughly documenting for investigation reports.

VI. Sexual Assault Medical Forensic Examinations

The safety and well-being of the victim should be a priority for all personnel responding to a sexual assault. A medical examination of the victim should be encouraged for purposes of ensuring the victim's health needs are addressed, including testing and/or prevention medication for pregnancy and sexually transmitted infections. The collection of evidence as part of a forensic examination is important, but should be secondary to ensuring the health and wellness of the victim. Keep in mind that the victim has the right to decline any or all parts of a medical exam, which should not deter from a full investigation by law enforcement. Law enforcement agencies should identify and coordinate with local medical professionals to ensure the victim has access to the appropriate medical care and examinations.

Law enforcement must also be aware that each sexual assault case is unique and a forensic examination alone cannot diagnose if an assault occurred. The forensic examiner should provide copies of the medical report to the investigator, but the medical examiner should never be asked by an officer if the exam confirms a sexual assault.

Forensic analysis of all sexual assault evidence collection kits is important and necessary for sexual assault cases. Submissions to a laboratory for processing can prove useful not only to identifying serial offenders and linking cases, but testing can also build trust between law enforcement and the victim that their case is being treated with urgency. Therefore, any evidence collected from the medical forensic exam should be properly sealed and labeled by the examiner.

Law enforcement is expected to retrieve all exam evidence from the medical facility as soon as practical but no more than 30 days after the exam, and should be stored in accordance with agency evidence policy. Evidence collection kits shall be submitted to the appropriate forensic laboratory within 14 days from collection for processing.

VII. Contacting and Interviewing Suspects

Investigators should collect evidence surrounding the suspect's course of conduct. This includes behaviors or statements made prior to and after the assault that may suggest planning, the selection and grooming process to identify and isolate the victim, communications between the suspect and victim, and coercive behavior. Witness statements may also corroborate these behaviors or statements by the suspect.

Research has shown that the majority of sexual offenders have committed more than one sexual and/or other violent act (Lisak & Miller, 2002). Therefore, investigators should examine the suspect's criminal history for additional acts of sexual and/or other violent offenses and determine the presence of any co-occurring and interconnect crimes such as domestic violence, stalking, strangulation, threats and harassment. This may include other accusations, warrants, criminal charges, and convictions of the suspect.

Perpetrators of sexual assault typically demonstrate entitlement, power, control, and manipulation. Sex offenders are often able to identify victim vulnerability, such as intoxication, mental illness, or reputation within the community, and they are able to manipulate both the victim and those around them to discredit the victim's account. Investigators should be aware of these behaviors and take note of if and how the suspect displayed them.

The most common defenses to sexual assault are denial, mistaken identity, and consent. An investigator should be prepared to address each of these possibilities by focusing on:

- Establishing whether or not the sexual activity took place;
- Determining if evidence exists that establishes a link between the suspect and the victim; and
- Establishing the absence of consent in place of force, threat, coercion, compliance or submission.

Digital evidence such as internet search histories, recordings, messages, and social media postings can prove to be vital in establishing these aspects of the suspect's behavior. Ensure that your agency has identified resources to assist with digital evidence collection and preservation.

VIII. Protecting Victim Rights

Law enforcement officers must make every effort to protect rights afforded to victims of crime by law and policy, including the confidentiality of the victim's information to the maximum extent possible. The investigator should ensure the victim's ongoing safety, including response to harassment and intimidation by the suspect or other parties. When necessary and appropriate, law enforcement should partner with victim advocacy and local services to develop safety planning for the victim.

IX. Report Writing

It is important that all sexual assault cases have a written report, regardless of whether an arrest is made. This report should be detailed and accurately capture direct statements made by victims, witnesses, and suspects. A timeline should be created to show the effects of the traumatic event on post-assault behavior and actions of the victim as compared to previous behavior (e.g., victim avoids places where they know the suspect typically spends time, or the victim drops out of school, etc.). The report should be free of opinion or judgement regarding the credibility of a witness.

Written reports by law enforcement should be consistent within the agency. To assist with ensuring consistency in reporting, the Sexual Assault Supplement Report Form developed by the International

Association of Chiefs of Police (IACP) is recommended in addition to the narrative report (see Resources).

X. Prosecutorial Review

Prosecutors are responsible for assessing reports of sexual assault to determine if enough evidence exists or could be obtained to file criminal charges. As such, it is crucial that law enforcement formally submit all sexual assault cases for prosecutorial review. This formal submission should be reflective of a thorough investigation and may include supplemental documents and information, such as medical exam paperwork, witness interviews and statements, and laboratory reports from evidence analysis. Law enforcement officers should be prepared to follow-up on any gaps in evidence or incomplete information identified by the prosecutor. Officers should also consult with prosecutors to understand charging decisions.

XI. Case Coding/Classification

It is vital that officers and investigators understand and appropriately use case coding for sexual assault cases. Case coding decisions should be based on careful analysis of evidence identified through investigation. All reports of sexual assault should be taken as valid unless evidence collected through a thorough investigation proves otherwise.

Note that “Unfounded” should not be used for cases in which the crime was “Unsubstantiated” or unable to be proven. This coding is reserved only for cases in which evidence was obtained through investigation that shows a crime was not committed or attempted. Additionally, “Unfounded” cases include “Baseless reports” and “False reports,” so it is important to identify the appropriate coding.

The prevalence of false reports for sexual assault has been found to be between 2%-10% (Lisak et al., 2010). While law enforcement officers may encounter cases in which a false report of sexual assault is made, considerations should be given regarding false report charges as this can potentially impact not only the victim, but also the larger community. Media attention to false reports of sexual assault often result in public exposure of the reporting person’s identity and can inadvertently discourage other victims of sexual assault from reporting to law enforcement. It is important to recognize that sexual assault is one of the most underreported crimes; with between 64%-96% of victims never reporting to law enforcement (Fisher et al., 2000). The primary reason victims identified for not reporting is the fear of not being believed or that their report will be met with suspicion (Jordon, 2004).

A report should not be labeled as “False” or “Unfounded” as a result of the initial victim interview or perceived victim reaction to the sexual assault, as this may be the result of trauma. Additionally, victims of sexual assault may recant or decline prosecution for various reasons, such as fear of retaliation by the offender, concern about not being believed, loss of privacy, etc. A victim’s reluctance to participate in the criminal justice system is not indicative of a false report.

XII. Self-Care

A critical, and often ignored, element to investigating sexual assault cases is practicing self-care. It is important that all those involved in sexual assault cases maintain their own health and well-being in order to best serve victims and their communities. Self-care is unique to each individual, but it is important to take time away from these cases. There are several online resources for evaluating and identifying self-

care, but it is important to find what you are comfortable with and what will work best for your lifestyle. We have provided a link to an online self-assessment tool in the Resources section.

Training Materials

Training is crucial to ensure that a trauma-informed approach is utilized in every sexual assault investigation. The video trainings below are highly recommended for all personnel involved in sexual assault cases. Additionally, specialized training regarding trauma-informed sexual assault investigations should be offered to investigators and responding officers; such training should include topics on the realities, dynamics, and investigations of these crimes and legal developments pertaining to sexual assault. Victim advocates and prosecution should be encouraged to attend and participate in these trainings with law enforcement to increase awareness of victim rights, existing protocols, and trends associated with responding to, investigating, and prosecuting sexual assault cases.

Sexual Assault: A Trauma Informed Approach to Law Enforcement First Response (22 min)
<https://www.youtube.com/watch?v=gtWD1XJrhNo>

- *Law Enforcement Facilitator's Guide* – designed to assist discussions with officers after watching the *Sexual Assault: A Trauma Informed Approach to Law Enforcement First Response* video
https://www.michigan.gov/documents/mdhhs/Trauma_Informed_Approach_to_Law_Enforcement_First_Response_550598_7.pdf

Bringing Sexual Assault Offenders to Justice (40 min)
<http://fcadv.org/law-enforcement/video-bringing-sexual-assault-victims-justice>

Forensic Experiential Trauma Interview (FETI): A Trauma Informed Experience
Part I: Overview of FETI (90 min)
<http://www.evawintl.org/WebinarDetail.aspx?webinarid=1036>
Part II: Practical Applications of FETI (90 min)
<http://www.evawintl.org/WebinarDetail.aspx?webinarid=1037>

The Neurobiology of Sexual Assault: Implications for First Responders in Law Enforcement, Prosecution, and Victim Advocacy (95 min)
<https://www.nij.gov/multimedia/presenter/presenter-campbell/Pages/welcome.aspx>

State-Level Contact Information

Members of the Kansas SAKI Multidisciplinary Working Group are available to assist local agencies with questions regarding the *Kansas Model Policy, Implementation and Training Guide for Investigating Sexual Assault*.

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Training Resources

There are a number of available online resources for responding to and investigating sexual assault cases. The following list is meant to provide law enforcement with additional tools to support a trauma-informed approach to sexual assault. This list is not meant to be comprehensive, but instead should be utilized to assist your agency in building available resources.

National Sexual Assault Kit Initiative Training and Technical Assistance Website – webinars, training, and toolkit of resources as developed by the National SAKI project

www.sakitta.org

<https://www.sakitta.org/toolkit/index.cfm>

EVAWI Training Bulletin: Words Matter – language considerations for sexual assault investigation report writing

<http://www.evawintl.org/library/DocumentLibraryHandler.ashx?id=344>

EVAWI: Online Training Institute Successfully Investigating and Prosecuting Sexual Assault – free online classes with continuing education credits available for sexual assault investigations

<http://www.evawintl.org/onlinetraining.aspx>

EVAWI Webinar Archives – free online webinars addressing a range of topics around sexual assault investigations

<http://www.evawintl.org/WebinarArchive.aspx>

FBI CODIS Fact Sheet – general information about CODIS and how it works

<https://www.fbi.gov/services/laboratory/biometric-analysis/codis/codis-and-ndis-fact-sheet>

IACP Sexual Assault Guidelines and Investigative Strategies - guidelines and interview strategies for law enforcement conducting sexual assault investigations

<http://www.theiacp.org/portals/0/pdfs/SexualAssaultGuidelines.pdf>

IACP Sexual Assault Report Review Checklist – Basic checklist for supervisors to consider for sexual assault investigation written reports

<http://www.theiacp.org/Portals/0/documents/pdfs/ResponsetoSexualAssaultChecklist.pdf>

IACP Violence Against Women Project: Sexual Assault Response Policy and Training Content Guidelines – issues, procedures and recommendations to consider when developing sexual assault policy and training content.

<http://www.theiacp.org/Portals/0/documents/pdfs/Communications/IACP%20Sexual%20Assault%20Response%20Policy%20and%20Training%20Content%20Guidelines.2017.3.23.pdf>

IACP Sexual Assault Supplemental Report Form – editable supplemental report form for sexual assault investigations

<http://www.theiacp.org/portals/0/pdfs/SexualAssaultSupplementalReportForm.pdf>

IACP Violence Against Women Website

<http://www.theiacp.org/Violence-Against-Women>

Kansas Bureau of Investigation SAKI Website – publications, information and resources developed by the Kansas SAKI Multidisciplinary Working Group

<http://www.kansas.gov/kbi/saki.shtml>

Kansas Model Policy for Sexual Assault Evidence Collection Kit Submission, Retention & Disposal

<http://www.kansas.gov/kbi/saki.shtml>

Online Self Care Assessment – example of an online, self-assessment tool to evaluate self care.

<https://www.justbalance.ca/self-assessment/>

Kansas Sexual Assault Kit Initiative
INVESTIGATING SEXUAL ASSAULT
Kansas Model Policy

This policy is intended to allow for the individual needs of law enforcement agencies in the State of Kansas, regardless of size or resources. Law enforcement agencies are encouraged to customize these protocols to meet their local needs. This policy is non-binding upon agencies and is meant to serve as a guide to be used in developing a department's individual policy. Any deviations or variations from this policy do not invalidate a sexual assault investigation.

I. Purpose

- A. The purpose of this policy is to provide dispatchers, officers, and investigators with guidelines for responding to reports of sexual assaults, assisting victims, collaborating with local health and service agencies, and conducting interviews with victims, witnesses, and suspects. Because of the special needs involved in sexual assault investigations, this policy covers first response, preliminary and follow-up investigations.

II. Policy

- A. It is the policy of this law enforcement agency that all dispatchers, officers and investigators take a professional, trauma-informed approach to sexual assault investigations. Officers and investigators play a significant role in both the victim's willingness to cooperate in the criminal justice system and ability to cope with the emotional and psychological trauma of the crime. Therefore, it is important 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 their understanding of criminal justice system processes.
- B. It is the policy of this law enforcement agency that no personnel shall discourage victims from reporting or participating in a sexual assault investigation. Officers must understand that a large number of sexual assault reports are delayed due to trauma experienced by the victim, which may create a psychological barrier or an unwillingness to fully assist at the beginning of an investigation. Victims may decide to re-engage with the criminal justice process at a later time and this law enforcement agency shall thoroughly investigate all reported incidences. It is especially important that these cases be handled from a nonjudgmental perspective so as not to communicate in any way to the victim that the victim is to blame for the crime.
- C. It is the policy of this law enforcement agency that all sexual assault evidence collection kits that result in a report to law enforcement shall be collected from medical facilities and submitted to a forensic laboratory for analysis.⁷ Thorough investigations shall not be delayed or postponed due to laboratory processing time of evidence.

⁷ See Training Guide Resources for the *Kansas Model Policy for Sexual Assault Evidence Collection Kit Submission, Retention & Disposal*.

- D. It is the policy of this law enforcement agency that victim advocacy or support services be offered to the victim and allowed to support the victim throughout the criminal justice process.
- E. It is the policy of this law enforcement agency that for all sexual assault investigations a written report is completed and a formal report is submitted for prosecutorial review.

III. Definitions

- A. CODIS: The Combined DNA Index System of federal, state and local databases that contain DNA profiles from both known offenders and crime scenes.⁸
- B. 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. Consent can be withdrawn at any time.
- C. Sexual Assault: As used in this policy, all crimes of sexual violence as defined by article 55 of chapter 21 of the Kansas Statutes Annotated.
- D. 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.
- E. Trauma-Informed: Attending to victims' emotional and physical safety; strengthening victims' capacity to recover from the traumatic effects of abuse and violence by providing information, resources, services and support; and educating victims about the impact of trauma on their health and well-being.
- F. Unfounded: An investigation shows that an offense was not committed or attempted. Cases can be coded as either "baseless" or "false" depending on the evidence of the investigation. Note that "unfounded" does not necessarily mean "false."

Baseless Report: A case does not meet the elements of a crime or was improperly coded as a sexual assault.

False Report: Evidence obtained through an investigation shows that a crime was not committed or attempted.

- G. Unsubstantiated: Cases in which insufficient evidence is available to determine whether or not a crime occurred.
- H. Victim Advocate: This term may apply to a wide range of service providers, rape crisis counselors, social workers, victim witness providers within a prosecutor's office, including civilian law enforcement victim assistants. Confidentiality and privilege will vary depending on the primary function of the advocate and should, therefore, always be understood by each member of the sexual assault response team and communicated with the victim.

Community-based advocate: Provides the victim with a variety of free and confidential advocacy services often needed by a victim to process their experience effectively. Community-based advocates' federal confidentiality requirements prohibit them from

⁸ See Training Guide Resources: *FBI CODIS Fact Sheet* for additional information about CODIS and DNA profiles.

sharing victim information with anyone, including the prosecutor, law enforcement, and other criminal justice professionals.

System-based advocate: Primarily works with the victim during the pendency of the case to avoid further traumatization due to the criminal justice process. System-based advocates provide information on the criminal justice process and victim rights; assist with strategies regarding safety; and identify victim's needs in order to refer them to appropriate resources and services. System-based advocates' confidentiality requirements allow them to collaborate and share information with the prosecutor, law enforcement, and other criminal justice professionals.

IV. Procedure

A. Dispatch or Call-Taker Response

When a caller reports a sexual assault, the dispatcher or call-taker should follow agency standard incident response policy. In addition, the caller should be informed of ways to ensure critical evidence is not lost, including the following:⁹

1. Show understanding, patience, and respect for the victim's dignity and attempt to establish trust and rapport.
2. Explain to the caller that these questions will not delay an officer's response to the caller's location and are being asked in the interest of preserving critical evidence.
3. Ask whether the victim has bathed, douched, urinated, or made other physical changes and advise against doing so.
 - a. Should the victim have to urinate, ask them to use a clean jar to collect the urine.
4. Ask the victim to not disturb clothing, bedding or any other evidence and inform the victim that other evidence may still be identified and recovered, even if the victim has bathed or made other physical changes.
5. If requested by the victim, provide an officer of the same gender if available.
6. Considerations should be made for potential cultural or language barriers that may exist between the victim and responding officer. This may include being knowledgeable of services available for limited English proficiency such as third party translation services.¹⁰

B. Initial Officer Response

When responding to take a report of a sexual assault, officers shall follow standard incident response protocols. In addition, when interacting with victims, officers shall do the following:

1. Make contact with the victim as soon as possible to address safety concerns and summon emergency medical assistance if needed.

⁹ Note that these instructions generally apply to recent sexual assaults and may not be applicable to sexual assaults that are reported after a significant amount of time has passed.

¹⁰ See Training Guide Appendix B: *Translation Services Resource List*.

2. 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 suspect identity, elements of the crime and location of evidence, when reasonable and practical. Questions should be tailored to the victim's emotional and physical state.
3. Understand the impact of trauma on a victim may result in recantation of any or all aspects of the initial disclosure and 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 or be told that this precludes the case from future prosecution. In addition, the memory and recall of the case, as provided by the victim, may change over time. Officers should understand that this does not indicate deception.
4. Ask about and document signs and symptoms of physical injury, including strangulation¹¹ or those that may quickly dissipate.
5. Ask about and document signs and symptoms of trauma¹² or other non-physical injuries, including memory loss.
6. Determine the time and location of the incident as soon as possible.
7. Secure the crime scene to ensure that evidence is not lost, changed or contaminated.
8. If it is determined that the assault occurred in a different jurisdiction than that of the responding law enforcement agency, the responding agency shall notify that jurisdiction as soon as practical and relay information to assist them in securing the scene and preserving evidence.
9. Contact local support or advocacy agencies for the victim. If none are available, provide information regarding national resource agencies that provide sexual assault support.
10. Recognize that a victim experienced a traumatic incident and may not be able or willing to immediately assist with the criminal investigation.
11. Clearly explain the reporting process including the roles of the first responder, investigator, and anyone else with whom the victim will likely interact.
12. Illegal substance abuse by victims, including underage drinking, shall never be used to discredit or discourage the victim from reporting the assault. Communicate that the agency's priority is to thoroughly investigate sexual assault, not prosecute victims for drug or alcohol violations.
13. Be aware of and respect victims' needs when requesting a change in location.¹³
14. Document observations of the crime scene, including the demeanor of the suspect and the victim.

¹¹ For specific signs and symptoms of strangulation, please see the Training Guide Resources: *IACP Violence Against Women Project: Sexual Assault Response Policy and Training Content Guidelines*.

¹² For specific signs and symptoms of trauma, please see the Training Guide Training Materials: *The Neurobiology of Sexual Assault: Implications for First Responders in Law Enforcement, Prosecution, and Victim Advocacy*

¹³ For example, some victims might not want to come to the police station.

15. Where resources are available, inform the victim that a second interview might occur at a later time and be conducted by an investigator.
16. Arrange for, or provide, transportation to the designated facility if a forensic medical exam is needed and the victim consents.
17. Identify and interview witness or anyone the victim told about the sexual assault.
18. A victim shall not be expected or encouraged to make decisions regarding the investigation or charges related to the offense as part of the initial response.

C. Special Considerations

1. Minors and Special Needs Victims
 - a. This agency shall identify the appropriate agency or organization with the necessary knowledge and resources to respond to incidents of sexual assault of minors or special needs victims.¹⁴ This entity should be notified as soon as reasonably possible when these reports are received.
 - b. Officers responding to reports of sexual assaults involving these sensitive population groups shall attempt to do the following:
 - i. Ensure that the scene is safe;
 - ii. Address the immediate medical needs of individuals at the scene;
 - iii. Safeguard evidence where appropriate;
 - iv. Collect any information necessary to identify the suspect; and
 - v. Be aware of requirements for reporting entities under statutes K.S.A. 38-2223¹⁵ relating to minors and K.S.A. 39-1430¹⁶ relating to vulnerable adults.
 - c. Considerations should be given to utilizing individuals with specialized training and experience whenever reasonably possible for victims in these situations.
2. Domestic Violence and Offenders Residing with the Victim
 - a. An offender may be present at a crime scene or during the initial response to a sexual assault. Special considerations should be given for how the initial response and interviews are conducted in these instances to ensure the safety and security of the victim.

¹⁴ A list of resources for sexual assault cases involving minors and special needs victims should be developed by local agency and included as an attachment to this policy.

¹⁵ Pursuant to [K.S.A. 38-2223](#) (a)(1), when any persons providing medical care or treatment, persons licensed by the state to provide mental health services, persons employed by an educational institution, emergency services personnel, and any person employed by or who works as a volunteer for any organization that provides social services to pregnant teenagers “has reason to suspect that a child has been harmed as a result of physical, mental or emotional abuse or neglect or sexual abuse, the person shall report the matter promptly.”

¹⁶ [K.S.A. 39-1430](#) (a) “‘Adult’ means an individual 18 years of age or older alleged to be unable to protect their own interest and who is harmed or threatened with harm, whether financial, mental or physical in nature, through action nor inaction by either another individual or through their own action or inaction.”

- b. Care should be taken to ensure the victim is not asked questions in the presence of the offender.
 - c. Be aware of requirements under statutes K.S.A. 21-5414¹⁷ and this agency's policy relating to domestic violence calls.
3. Military and College Campus Assaults
- a. If during the course of investigation it becomes apparent that the suspect is enlisted in any branch of the military, it is recommended that the involved person's specific branch commanding officer and/or investigative section be contacted. Local law enforcement and military investigation departments should work collaboratively to avoid potential conflict between criminal investigations and the laws that govern the military branches.
 - b. If the victim is enlisted in any branch of the military, the responding law enforcement agency should be aware of military victim support services available to the victim in addition to other community support services.
 - c. Any educational institution, pre-school through higher education, receiving federal funds is required by Title IX¹⁸ to conduct administrative inquiries and take required steps to correct discrimination on the basis of sex, including sexual assault. They are also required to have a Title IX Coordinator. These responsibilities can conflict with criminal investigations; however this should not interfere with a lawful and thorough criminal investigation by law enforcement. When law enforcement is conducting a criminal investigation with a connection to a covered educational institution, either by location or the people involved, it is essential to work collaboratively with the institution's authorities to avoid potential conflict between criminal investigations and the laws that govern the institution. It is especially important to let the Title IX Coordinator know if there is reason to believe the administrative investigation will interfere with the criminal investigation.
4. Law Enforcement Employee is a Suspect
- a. If during the course of investigation it becomes apparent that the suspect is employed by the responding agency, the agency shall avoid potential conflict of interest and request another law enforcement agency to investigate. When possible, the other agency should either be the Kansas Bureau of Investigation or an agency from another county.
 - b. It is critical to treat administrative inquiry separate from criminal investigations.

¹⁷ [K.S.A. 21-5414](#) (a) defines domestic battery as “(1) Knowingly or recklessly causing bodily harm to a person with whom the offender is involved or has been involved in a dating relationship or a family or household member; or (2) knowingly causing physical contact with a person with whom the offender is involved or has been involved in a dating relationship or a family or household member, when done in a rude, insulting or angry manner.”

¹⁸ Title IX is part of the Education Amendments of 1972 under [Public Law No. 92-318, 86 Stat. 235](#).

D. Role of 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. Exhibit sensitivity to victims and ensure that victims are dealt with properly by clarifying their expectations of line officers.
3. Assist in locating resources to investigate sexual assault crimes.
4. Review all sexual assault reports for accuracy and consistency and conduct after action reviews and sexual assault case audits.
5. Encourage officers to look for co-occurring and interconnected¹⁹ crimes when responding to sexual assault.
6. Ensure officers and investigators understand case classification and appropriately classify sexual assault cases in accordance with section M of this policy.
7. Encourage problem-solving partnerships to enhance cooperation between the department and community organizations such as rape crisis centers and forensic examination programs using a trauma-informed approach.
8. Work to increase interagency communication between law enforcement and prosecutors to ease the transition for victims moving from the investigation phase to prosecution.
9. Recognize officers for rendering effective victim services.

E. Evidence Collection

Officers shall follow this agency's policy on crime scene response. In addition, officers shall do the following:

1. Responding officers shall protect the integrity of the evidence and guard the chain of custody by properly marking, packaging, and labeling all evidence collected.
2. Collect clothing worn at the time of 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.
3. Follow this agency's standard protocols for the collection of DNA evidence. In addition to the victim's and suspect's bodies and clothing, there are many other potential sources for DNA, such as condoms, feminine hygiene products, tissues, sheets, blankets, pillows, potential weapons and bottles that may contain biological evidence such as semen, blood, sweat, tissue, saliva, hair and urine.

¹⁹ Co-occurring and interconnected crimes are those crimes often committed by sex offenders. This may include, but is not limited to, domestic violence, stalking, harassment, threats, and other acts of sexual or violent offenses. For additional information on co-occurring and interconnected crimes, refer to the Training Guide section Contacting and Interviewing Suspects.

4. Photograph or videotape the victim's physical injuries (if any), suspect's injuries (if any), and the crime scene prior to processing. Photographs of visible physical injuries may include any healing or old injuries.
 - a. Ideally, photos should be taken 24, 48, and 72 hours later, as injuries can become more visible and pronounced.
 - b. Photos of injuries should be taken with a scale for size reference.
 - c. Descriptive and specific documentation of the injuries should accompany the photos.
 - d. Officers should be sensitive to the victim's need for privacy, and consider the use of drapes or other techniques, or summon an officer of the same sex as the victim.
 - e. Photographs of the victim's genitals should be obtained as part of the medical forensic examination and should never be taken by officers.
 - f. Strict control and confidentiality should be maintained of any photographs. Such photos shall be viewed only by personnel directly involved in the investigative process.
5. Document and collect evidence regarding the environment in which the assault took place, including indications of isolation and soundproofing.
6. 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 collect the device itself.
7. Collect and preserve electronic or digital evidence which may contain important information about the case whenever possible. This may include information and data from sources such as security cameras, social media and messaging, cell phones, cameras and recording devices, computers, or other electronic devices that transmit, receive, or store messages, images, or recordings from both the victim and the suspect.
8. Collect any evidence of threats made by the suspect, to include those made to individuals other than the victim.
9. Collect and preserve any evidence of drugs or alcohol consumption and, when appropriate, collect blood and urine samples and other evidence such as drinking glasses, alcohol bottles or cans, or other related items.
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.
11. If the assault occurred in a different jurisdiction than that of the responding law enforcement agency, ensure the transfer of evidence and case information to the appropriate jurisdiction be completed as soon as practical, but ideally no longer than 14 days after notifying that jurisdiction.

F. Sexual Assault Medical Forensic Examinations

1. If an investigating officer is responding to a scene, prior to the sexual assault medical forensic examination, the officer shall do the following:
 - a. Coordinate with professionals, such as forensic examiners, to conduct an exam,²⁰ regardless of the time elapsed since the assault.²¹
 - 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.²² The victim should be encouraged to discuss any questions regarding payment with the forensic examiner.
 - h. Encourage a victim who is unwilling to undergo an exam to consider seeking medical attention, including testing and/or prevention medication 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. Address any special needs of the victim, such as communication, mobility, or cultural considerations.
 - j. If possible, transport or arrange transportation for the victim to the designated medical facility.
2. Once at the medical facility:

²⁰ A list of resources for local medical facilities, contact information and SANE programs should be developed by your agency and included as an attachment to this policy.

²¹ Pursuant to [K.S.A. 65-448](#) (a) "Any refusal by a physician, licensed physician assistant or registered professional nurse to perform an examination which has been requested pursuant to this section shall be reported by the county or district attorney to the state board of healing arts or the board of nursing, whichever is applicable, for appropriate disciplinary action."

²² Pursuant to [K.S.A. 65-448](#) (c) The fee chargeable for conducting an examination of a victim, including the cost of the sexual assault evidence collection kit, shall be charged to and paid by the county where the alleged offense was committed. This fee shall not be charged or billed to the victim or to the victim's insurance carrier.

- a. Officers should not be present during any part of the exam, including during the medical history.
 - b. A victim advocate or a support person of the victim's choosing shall be allowed to be present in the room and during the interview, unless it would be harmful to the investigation. The officer shall take responsibility for excluding a support person, when appropriate, and provide an explanation to the victim and support person.
 - c. Brief the forensic examiner about the details of the sexual assault, as they are known at the time.
 - d. Pursuant to K.S.A. 65-448,²³ forensic examiners must report the exam of a minor to the parent/legal guardian unless the parent/legal guardian is a suspect or there is reason to believe the child will be harmed if notice is given. For this reason, it is important to notify the forensic examiner if the parent/legal guardian of the minor is the suspect.
3. Upon conclusion of the medical exam the officer should obtain a signed release from the victim for access to medical records from the exam and request copies of the medical report.²⁴
 4. An officer should never ask a forensic examiner if an exam confirms an assault. Sexual assaults are unique to each case and cannot be diagnosed by a medical exam alone.
 5. 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.
 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 blood and urine sample should be collected from the victim, with his or her consent. Evidence should be submitted as soon as possible for toxicological testing to determine if the event was a drug- or alcohol-facilitated sexual assault. Ensure that all evidence collected is properly packaged and stored to preserve integrity.²⁵ 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.
 7. After the exam, it is critical to ensure that the evidence has been properly sealed and labeled. Law enforcement shall collect all exam evidence from the medical facility as

²³ [K.S.A. 65-448](#) (a) "The hospital or medical facility shall give written notice to the parent or legal guardian of a minor that such an examination has taken place, except when: (1) The hospital or medical facility has information that a parent, guardian or family or household member is the subject of a related criminal investigation; or (2) the physician, licensed physician assistant or registered professional nurse, after consultation with law enforcement, reasonably believes that the child will be harmed if such notice is given."

²⁴ HIPPA allows entities to cooperate with law enforcement in the investigation of crimes to obtain medical records. See Appendix C: Demand for Information and/or Documentation for Law Enforcement Investigative Purposes.

²⁵ Exam evidence that includes whole blood samples requires the evidence to be refrigerated as soon as possible. Urine samples collected should be packaged separately and also be refrigerated.

soon as practical, but no more than 30 days after the date of the exam. The exam evidence shall be stored in accordance with this agency's evidence policy.

8. All sexual assault evidence collection kits shall be sent to the appropriate laboratory within 14 days from the collection of the kit for processing.²⁶

G. Formal/Follow-up Victim Interviews

1. The victim may be experiencing trauma and can exhibit a range of behaviors that will likely change over time. Due to possible trauma, in-depth interviews should be conducted one or two sleep cycles after the assault.
2. The victim's response to trauma of a sexual assault shall not be used in any way to measure credibility. When drugs or alcohol are involved, the victim may have limited recollection or be unable to give a complete account of the crime.
3. Kansas State statutes (K.S.A. 22-4614) prohibit law enforcement and prosecutors from requesting or requiring any person reporting to be a victim of sexual assault to submit to a polygraph or other truth-telling devices as a condition of proceeding with the investigation or prosecution.
4. Prior to initiating the interview, the investigator/officer will attempt to:
 - a. Interview any witnesses who may have seen or spoken with the victim before, during, or after the assault.
 - b. Accommodate the victim's request for a victim advocate or support person whenever possible.
 - c. Secure a private location for the interview that is free from distractions. Record via video or 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.
 - d. Express sympathy to the victim for what happened to them and indicate an interest in their well-being.
 - e. Discuss the purpose and scope of the interview and explain the victim's rights, including confidentiality.
 - f. Inform the victim of the need and importance of full disclosure of all recent alcohol and/or drug use and reassure them that they will not be prosecuted for illegal drug or alcohol use nor shall the use of drugs or alcohol undermine the investigation or prosecution process.
5. During the interview, the investigator/officer shall:

²⁶ Forensic analysis of all sexual assault evidence collection kits is important and necessary for all sexual assault cases. Submission to a laboratory for processing not only builds trust between law enforcement and the victim that their case is being treated with urgency, but testing can also prove useful to identifying previously unknown suspects and linking cases of serial offenders.

- a. In order to build trust and rapport with a victim, begin with open-ended questions²⁷ and provide clarification to the victim for why certain questions are being asked.
- b. Allow the victim to describe what occurred without interruption.
- c. If the suspect was known by the victim, determine the following facts:
 - i. How long the victim knew the suspect.
 - ii. The circumstances of their meeting.
 - iii. The extent of their previous or current relationship, including any previous acts of violence or abuse.
 - iv. Because consent may be withdrawn at any time, it is important to note any behavioral changes that led the situation from one based on consent to one of submission, coercion, fear or force.
- d. Identify the location where the assault took place, including any isolation strategies used by the suspect.
- e. Document actions, threats (real, perceived, or implied), gestures, coercion, and other behaviors used by the suspect to cause the victim to submit.
- f. Understand ways in which the victim resisted or indicated non-consent, both verbally and nonverbally. Note that a victim may consent to some sexual activity, but this does not mean they have consented to all acts.
- g. Document 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.
- h. Document the victim's thoughts and feelings before and during the assault.
- i. Ask for sensory evidence and details of the victim's experience. This may include what the victim saw, smelled, heard, felt or tasted.
- j. Ask about potential identifying characteristics of the suspect, such as birthmarks, scars, tattoos, etc.
- k. Document circumstances that may indicate the use of drugs or alcohol to facilitate the sexual assault, including memory loss, disorientation, severe illness, or hallucinations.
- l. Document if and when any prescription drugs were taken.
- m. Document 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.

²⁷ Open-ended questions such as the following can be effective when interviewing victims: "Help me understand what you are able to remember about your experience." or "Tell me what happened, starting wherever you think makes sense to start."

- n. Document any pre- or post-assault contact, monitoring, stalking, or other behaviors of the suspect.
6. At the conclusion of the interview, the investigator/officer shall:
- a. Give the victim the investigator's/officer's contact information.
 - b. Encourage the victim to contact the investigator/officer with any additional information or evidence.
 - c. Remind the victim that visible evidence of injury may appear later and to contact the investigator/officer for additional photographs or other documentation.
 - d. Ensure that requests for victim protection orders are made.
 - e. Provide written referrals for victim service organizations.
 - f. If justified, assist the victim in developing a safety plan by contacting a community-based victim advocate in the event safety concerns exist, and encourage the victim to call the police if the suspect violates any existing criminal or court orders, or if the suspect contacts the victim in any way.
 - g. Provide or arrange transportation when reasonably possible.
 - h. Inform the victim about next steps in the investigation and encourage their continued support. Explain to the victim future investigative and prosecutorial activities that may require their involvement.

H. Contacting and Interviewing Suspects

1. Prior to interviewing the suspect, investigators/officers should:
- a. Conduct a background and criminal history check²⁸ specifically looking for accusations, criminal charges, and convictions for interconnected crimes, especially crimes involving violence.
 - b. Understand common tactics used by offenders, including:
 - i. Choice of victim based on a perceived lack of credibility or vulnerability such as age, status, alcohol or drug consumption, or other circumstances that can cause others to doubt the victim's report of the assault.
 - ii. Testing victim's boundaries for vulnerability and ease of access.
 - iii. Using manipulation, cunning, and/or threats to accomplish the assault while using only enough force of violence to frighten or intimidate into compliance.
 - iv. Using drugs or alcohol purposefully to make victims more vulnerable and lower inhibitions.

²⁸ Ideally, criminal history checks would include a review of prior offense records in addition to arrests and/or conviction records.

- v. Isolating the victim.
 - vi. Common defense strategies, such as claims of consent, mistaken identity, and denial.²⁹
- c. Consideration of pretext phone calls:
- i. The purpose of a pretext phone call is to solicit and record potentially incriminating statements from the suspect.
 - ii. A pretext phone call cannot be conducted if the suspect has invoked their Fifth Amendment rights.
 - iii. When involving the victim in a pretext phone call to the suspect, carefully consider the victim's emotional and physical state. A pretext phone call can result in additional trauma to the victim.
 - iv. Under no circumstances should a victim be required to participate in a pretext phone call.
 - v. The investigator/officer should discuss potential outcomes for the call with the victim, emphasizing that it is not their fault if the call does not go well or as planned.
 - vi. A victim advocate should be present whenever possible to offer support.
- d. Decide on an appropriate location and time to interview the suspect with consideration for the following:
- i. Suspect's relationship with and access to the victim.
 - ii. Whether the suspect is a flight risk.
 - iii. Possible destruction or loss of evidence.
- e. Record via video and audio the initial statement and all subsequent interviews, when reasonable and practical per agency policy. Note that pursuant to K.S.A. 22-4620,³⁰ all law enforcement agencies shall adopt a detailed written policy requiring electronic recording of any custodial interrogation conducted at a place of detention.
- f. Always attempt to interview the suspect, even if the investigator/officer believes the suspect will deny the allegations, claim consent, or will decline to be interviewed. The suspect may corroborate small details of the victim's account which may have a significant impact on charging and prosecution decisions.

²⁹ For strategies to address these common suspect defenses, see Training Guide section Contacting and Interviewing Suspects

³⁰ [K.S.A. 22-4620](#) (e) "Policies adopted pursuant to this section shall include the following: (1) A requirement that an electronic recording shall be made of an entire custodial interrogation at a place of detention when the interrogation concerns a homicide or a felony sex offense; (2) a requirement that if the defendant elects to make or sign a written statement during the course of a custodial interrogation concerning a homicide or a felony sex offense, the making and signing of the statement shall be electronically recorded; (3) a statement of exceptions to the requirement to electronically record custodial interrogations."

2. When conducting the interview of a suspect:
 - a. Begin with an introductory statement and initial questions that build rapport and gather background information about the suspect.
 - b. Transition to the reported assault and allow the suspect to provide their narrative freely, with as little interruption as possible. Follow up to clarify ambiguous or unclear information and fill in gaps of the narrative.
 - c. Elicit as much detail as possible, including the suspect's activities prior to, during, and after the assault occurred.
 - d. Lock-in the suspect's narrative and have them confirm the accuracy and completeness of the narrative before confronting inconsistencies, inaccuracies, admissions, or conflicting information.
 - e. Recognize common strategies or defenses utilized by potential suspects, including:
 - i. If the suspect is claiming that the victim consented to the sexual contact, find out the basis for that belief, including words or actions indicating that victim consented.
 - ii. If the suspect denies that any sexual contact occurred between the suspect and victim, it is important to collect and document evidence to establish that sexual contact did occur.
 - iii. If the suspect claims mistaken identity, or insists that the crime was committed by someone else, it is important to collect and preserve DNA samples from the victim and suspect, and other physical evidence from the crime scene, as well as documenting witness statements.
3. Transitioning from the suspect interview to interrogation:
 - a. When appropriate, the investigator/officer should proceed to an interrogation based on the facts of the case and the outcome of the interview.
 - b. Even if the suspect presents a credible narrative, it does not necessarily discredit the initial report of the crime.
 - c. Be persistent and expect that it may take time to reach admission during the interrogation. Do not end the interrogation early based on the suspect's initial denials.
 - d. Validate any confessions by having the suspect recap the incident and provide additional details.
4. Polygraph considerations for suspects
 - a. A polygraph is not a substitute for a thorough investigation or suspect interview/interrogation.
 - b. A polygraph is not admissible in court, but the polygraph interview process may be a useful investigative tool to gauge the suspect's reactions.

- c. Provide the polygraph examiner with a copy of the police report and ensure that the polygraph questions developed cover the relevant topic/crime.

I. 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 by a medical forensic examiner. When possible, officers should consult with a medical forensic examiner to assist this decision.
3. A search warrant, with specific details about what evidence will be collected, should be secured in advance of initiating a suspect exam. The intent of the exam should be to collect evidence from his or her body and clothing as soon as possible after the assault in order to eliminate the opportunity for the suspect to destroy or alter evidence.
4. During the suspect's sexual assault medical forensic examination, the investigator, evidence technician, or forensic examiner should do the following:
 - a. When supported by facts, strongly consider penile swabbing, pubic hair combings, and collection of other potential DNA evidence. Cotton-tipped swabs or other buccal DNA collectors shall be readily available to investigators in the field.
 - 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, unless appropriate precautions are taken to avoid cross-contamination.
6. After the exam, it is critical to ensure that the evidence has been properly collected, sealed, and labeled. Law enforcement shall collect all exam evidence from the medical facility as soon as practical. The exam evidence shall be stored in accordance with this agency's evidence policy. All sexual assault evidence collection kits shall be sent to the appropriate laboratory within 14 days from the collection of the kit for processing.

J. Protecting Victim Rights

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.

1. Victims should also be provided information regarding the following:

- a. Protections and victim compensation afforded to crime victims pursuant to K.S.A. 74-7333.
 - b. The possibility of media coverage and information regarding sexual assault crimes available to the media. If applicable, officers should notify victims of what information may be released to the media and ensure victims understand local media agreements or policies preventing the media from disclosing the names of sexual assault victims.
 - c. What to do in the event that the victim, witnesses, or third parties are harassed or intimidated by the suspect or others.
 - d. The crime report number, as well as contact information for the reporting officer and lead investigator, or person handling the follow-up.
 - e. Arrest decisions, emergency protective orders, court dates, and parole or release dates.
 - f. 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.
2. This department shall not discourage victims from reporting or participating in an investigation. This department will also respect a victim's inability or decision not to be involved in the criminal justice proceedings and always be willing to offer continued assistance and referrals.
 - a. Victims may choose to re-engage with the criminal justice process at a later time, at which point this department shall conduct a thorough investigation.

K. Report Writing

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

1. Fully document the elements and details of the incident.
2. Capture details necessary to establish any of the following:
 - a. Premeditation or grooming behavior by the perpetrator;
 - b. Coercion, threats, and force used;
 - c. Attempts by the perpetrator to intimidate or discourage the victim from reporting the assault;
 - d. Presence of injuries;
 - e. Use of drugs or alcohol and the effects on the victim and suspect; and
 - f. Victim's capacity to consent and state of consciousness.
3. Document details regarding the victim's reaction during and after the incident (e.g., victim demeanor, emotional response, changes in routines or habits, etc.).

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, etc.).
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 between the suspect and victim.³¹
7. Avoid using the term “alleged” when referring to the crime or victim, and consider instead using the term “reported” for documentation.
8. Document only the facts of the case as reported by witnesses and do not insert opinions regarding witness credibility.
9. 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. Prosecutorial Review

1. All investigations of sexual assault shall be formally submitted for prosecutorial review and should include supporting investigative documents, such as the medical exam paperwork, results from laboratory analysis of evidence, interviews and statements from witnesses, and the final written investigative report.

M. Case Coding/Classification

1. Classification of the status of a case should follow agency guidelines.
2. Case Disposition Coding
 - a. Cases should never be coded as Unfounded unless evidence obtained through investigation shows that a crime was not committed or attempted. Unfounded coding should not be used for cases in which the crime is unsubstantiated or unable to be proven.

N. Training

1. This agency is responsible for providing training to carry out this policy. Personnel should be made aware of this policy and its contents.

³¹ For language considerations for report writing, please see Training Guide Resources: *EVAWI Training Bulletin: Words Matter*

Appendix

Appendix A: Understanding Advocacy Roles



System-Based Advocates

Provide support for the victim initially, and throughout the criminal justice process. This includes:

- Assist with initial contact
- Provide ongoing supportive services and information
- Assist the victim in understanding the court processes
- Provide notification of court hearings
- Serve as a liaison between victim and criminal justice personnel
- Explore victim needs and makes appropriate referrals
- Connect victim to community-based resources

Community-Based Advocates

Provide confidential, free, voluntary advocacy and safety services to victims of sexual violence. This includes:

- 24-Hour Crisis Hotline
- Crisis Intervention
- Personal Advocacy
- Medical Advocacy
- Court Advocacy
- Law Enforcement Advocacy
- Emergency Accommodations
- Shelter
- Supportive Counseling
- Support Groups
- Child/Youth Advocacy
- Community Awareness and Education

What are the differences between advocacy roles?

System-based advocates (SBA) provide victim notification, support, information, and connection to community-based resources. They are a critical conduit between the victim and the criminal justice system, and share necessary information.

Community-based advocates (CBA) provide the victim with a variety of advocacy services they often need to process their experience effectively. Information the victim shares with a CBA cannot be disclosed to anyone outside the organization unless the CBA is required to disclose the information by law, or the victim signs a release allowing them to disclose the information. The CBA can provide the victim with more information about confidentiality.

To connect with the sexual assault or domestic violence community-based advocacy organization nearest you, contact the Kansas Crisis Hotline at:
1-888-END-ABUSE (1-888-363-2287)

Appendix B: Translation Services Resource List

Third Party Translation Services

Subscription Based

Language Line Services www.language.com or 1-800-523-1786

Voiance Language Services <http://www3.voiance.com/contact>
or 1-866-742-9080

Pay by the Minute

Language Line Solutions <https://www.language.com/interpreting/personal-interpreter>
or 1-800-752-6096

Appendix C: Demand for Information and/or Documentation for Law Enforcement Investigative Purposes

**DEMAND FOR INFORMATION AND/OR DOCUMENTATION
FOR LAW ENFORCEMENT INVESTIGATIVE PURPOSES**

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) allows covered entities to cooperate with law enforcement in the investigation of crimes and protection of victims. 45 C.F.R. §164.512(f)(1)-(6). Pursuant to that authorization, this is an investigatory demand for information regarding _____.

The undersigned investigator, being of lawful age and upon oath, does solemnly state as follows:

1. The information sought is relevant and material to a legitimate law enforcement inquiry.
2. The investigator is making a specific request and it will be limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought.

The specific information is as follows:

3. De-identified information cannot reasonably be used.

Investigator Signature

Date

Investigator Name: _____

Investigating Agency: _____

Phone Number: _____

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