I. INTRODUCTION

A. Purpose of Document

This paper was developed to accompany the Model Policy on Investigating Sexual Assaults developed by the IACP Law Enforcement Policy Center. 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 executives in tailoring the model policy to the requirements and circumstances of their own communities and agencies.

For the purposes of the policy and this paper, the suspect in a sexual assault case will typically be referred to as male. While this terminology is problematic in that it excludes female sex offenders, it is used for simplicity in recognition of the fact that most sexual assault perpetrators are men. In addition, this document is intended to provide overarching guidelines and information for responding to and investigating sexual assaults where the victim is an adult who is legally capable of consent.

B. Background

Estimates of the prevalence of sexual assault in the United States vary due to differences in data collection, definitions, and calculations. Accurate estimates of rape are difficult to obtain because many victims are reluctant to disclose the experience to other people. Additional factors that hinder an accurate estimation include different ways of defining and measuring rape; population groups measured; time frames; and units of analysis in reporting statistics.

However, based on numbers from the National Crime Victimization Survey (NCVS), 284,350 victims ages 12 and older were raped or sexually assaulted in 2014. Contrary to the stereotype of sexual assault as an assault by a stranger committed with a weapon and a great deal of physical force, research and law enforcement experience demonstrate that the following represent some of the realistic dynamics of sexual assault crimes:

- Most sexual assault victims are acquainted with the suspect(s) in some way.
- Most sexual assaults are not reported to law enforcement authorities.

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1 For the purpose of the policy and this paper, those victimized by sexual assault are referred to as “victims” because this is the term most often recognized and used by professionals in the criminal justice system. Members of the medical community may refer to the same person as a “patient,” whereas rape crisis centers may prefer to use the term “survivor” or “client.”

2 For more information on statistics on rape and sexual assault, see Dean G. Kilpatrick, Making Sense of Rape in America: Where Do the Numbers Come From and What Do They Mean? (National Crime Victims Research Center, Medical University of South Carolina, 2004). Also see “Limitations” in Prevalence and Characteristics of Sexual Violence, Stalking, and Intimate Partner Violence Victimization—National Intimate Partner and Sexual Violence Survey, United States, 2011 (Centers for Disease Control and Prevention), https://www.cdc.gov/mmwr/preview/mmwrhtml/ss6308a1.htm?s_cid=ss6308a1_e.


• Men are also affected by sexual violence; 1 out of every 10 rape victims are male.6
• 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.7
• Victims often struggle with a range of emotions following a sexual assault, leading to delays in reporting.8
• Law enforcement is more likely to be notified of sexual assaults that are committed by strangers than by someone the victim knows.9
• Sexual assault perpetrators rarely use weapons10 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 family, friends, and coworkers.11
• Few victims are injured to the point that emergency medical attention is needed.12
• Alcohol and drugs are involved in a high percentage of sexual assaults.13

It is important to remember that one of the most critical responsibilities of the responding officer and investigator is to assure the victim that he or she will not be judged and that the complaint will be taken seriously. Responding officers and investigators are expected to take a professional, victim-centered approach to sex crimes and to investigate these crimes in a manner that restores the victim’s dignity and sense of control, while decreasing the victim’s anxiety. Virtually all sexual assault victims want validation that the crime occurred, and this can be a more critical element of a successful response and investigation than a criminal prosecution or conviction. Regardless of the investigative results, responding officers and investigators have the power to help a person begin to heal from sexual assault.

II. INVESTIGATIVE STRATEGY: DENIAL, IDENTITY, AND CONSENT DEFENSES

The framework provided in this paper is designed to help officers and investigators determine which category of sexual assault case they are handling, predict the defense most likely to be raised, and guide an investigative strategy toward overcoming that particular defense. A well-thought-out investigative strategy can do the following:

• Define what issues are likely to be raised in court
• Prioritize evidence and its impact on the investigation
• Determine the probative value of statements made by the victim, witness, and offender

Denial Defense. When a suspect is charged with a sex crime, one primary element of the offense will always be the sexual act involved. Because the sexual activity constitutes an element of the offense, it therefore provides the grounds for one particular defense strategy—denial. If the suspect denies that the sexual activity took place, and he can create reasonable doubt to that effect, he might be acquitted of the charge(s). For this reason, the investigative strategy in every sexual assault case must first focus on establishing whether or not the sexual activity took place. Once the sexual activity is stipulated or proven (and is alleged to have been committed using force or threat), there are two additional defenses available to suspects.

Identity Defense. First, the suspect can raise a defense of identity. This defense is primarily used in cases where the suspect is a stranger to the victim. This defense can thus be characterized as, “You’ve got the wrong guy. Someone else might have raped her (or him), but it wasn’t me.” In these cases, the investigative strategy is not that different from the one used with other crimes, such as burglary or robbery, because it focuses on a complete physical description of the suspect provided by the victim or other witnesses, as well as any DNA or trace evidence linking the suspect to the victim or the crime scene.

Consent Defense. Alternatively, the suspect can raise a defense of consent. The consent defense is used when the victim and suspect know each other to some degree. This defense usually stipulates that the sexual activity took place but argues that it did not involve force or threat.

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10 RAINN, “Perpetrators of Sexual Violence.”
11 RAINN, “Victims of Sexual Violence.”
When a consent defense is raised, the investigation should focus primarily on evidence to establish that consent was absent and that force, threat, coercion, compliance, or submission were present. Evidence of injury or physical resistance on the part of the victim can be useful in establishing that force or threat was present in the situation. On the other hand, the absence of injury or resistance cannot be used as proof of consent. In such cases, it can be particularly useful for investigators to document any information about the event that is inconsistent with the character of a consensual sexual act. Although much of the evidence collected in a sexual assault case, such as biological and trace evidence, is traditionally used to identify the assailant, some of it can also be used to establish the presence of force and overcome a consent defense. For example, both the victim’s and suspect’s clothing should be examined for biological and trace evidence, as well as tears, missing buttons, or other signs of force. Photographs or video are especially critical to establishing the context of force if they depict the crime scene according to the first responding officer, including the condition of the site and the location of recovered evidence.

In a consent case, the issues at trial will likely focus on the victim’s and suspect’s behavior as well as their perceptions of events. They might also center on challenges to the victim’s credibility and how much risk the victim took. Any evidence to corroborate the victim’s account can be useful, as well as any information that demonstrates inconsistencies between the victim’s and suspect’s descriptions of events. Such information can be particularly persuasive in addressing a consent defense, especially when both the victim’s and suspect’s accounts of events are entirely consistent up to the point of the sexual assault.

III. SPECIAL CONSIDERATIONS

The procedures found in this paper are intended to serve as guidelines for law enforcement to investigate sexual assaults of competent adults. They are not designed to provide the level of detail and specialized response for investigations involving minors or incompetent adults, such as individuals with intellectual or developmental disabilities. Agencies who do not have the internal capabilities to effectively respond to these specialized population groups are urged to identify and contact local, regional, state, or even national organizations that can provide the necessary resources. This may include developing a working relationship with the nearest law enforcement agency with this ability or the state policing agency so that they are available on an as-needed basis. This should be accomplished before an event occurs so that the resources can immediately be called upon to prevent any delay in the investigation.

However, first responders to these events must be provided with guidance on how to proceed until the specialists arrive. This includes such actions as ensuring the scene is safe; safeguarding evidence, where appropriate; obtaining the necessary information to identify the suspect; and obtaining any necessary medical care for individuals at the scene. At no time should untrained officers attempt to interview minors or incompetent adult victims. In addition, there are specialized protocols for obtaining evidence of a sexual assault from minor victims that differ from those for adults.14

IV. INVESTIGATIVE PROCEDURES

When responding to sexual assault calls, officers and communications personnel must make every effort to keep an open mind and refrain from judging the information obtained from the victim or reporting party. Each victim will respond differently, depending on his or her own background, personality, and the circumstances of the assault. For example, most sexual assault victims are female, but assumptions should be avoided if the caller is male. Also, in particular, victims of a drug-facilitated sexual assault may report blackouts, gaps in memory, and general uncertainty as to whether or not an assault occurred.

A. Communications Personnel Response

When a caller reports a sexual assault, communications personnel should follow standard emergency response procedures. This includes eliciting the initial facts of the situation; determining whether the victim or others are in life-threatening danger or in need of emergency medical attention; and dispatching emergency medical assistance as necessary. If the call is about a crime in progress or a crime that just occurred, communications personnel should obtain information from the caller to assist in identifying and apprehending the suspect.

Communications personnel should also inquire as to whether a relationship exists between the victim and suspect, if there is a history of violence, whether a weapon was involved, and whether the suspect possesses or has access to any weapons. In order to minimize victim frustration, it is important for communications personnel to explain that the questions being asked will not delay the dispatch of an officer to the caller’s location. Communications personnel should remain on the phone with the victim until officers arrive on the scene.

14 For more resources pertaining to responding effectively to sexual assaults of these specialized population groups, please refer to the IACP Policy Center webpage related to Investigating Sexual Assaults at http://www.theiacp.org/model-policy/model_policy/sexual-assault/.
In sexual assault cases, it is useful to determine whether a victim has bathed, douches, urinated, or engaged in any activity that may have contaminated or destroyed probative evidence such as semen, saliva, or hair. However, when collecting this information, communications personnel should be careful not to cause further emotional trauma to the victim and must be mindful that sexual assault victims often feel ashamed or guilty. Victims might evade these questions or answer in the negative, because they are afraid to say that they did something “wrong.” If the victim has taken any of these actions, he or she should be informed that additional evidence might still be identified and recovered.

However, if the victim has not engaged in any of these activities, it is important for communications personnel to request that he or she not do so and to clearly explain the reason for the request. For example, if the victim needs to urinate and cannot wait for the officers to respond with a urine collection container, he or she should be instructed to urinate in a clean jar or container with a lid and keep it until the officer responds. In addition, the victim should be asked to refrain from washing any clothing and, instead, to collect any clothing that was worn during the assault and, if possible, place it in a clean paper bag.

B. Initial Officer Response

When responding to a scene involving a sexual assault, officers should follow standard incident response procedures, including ensuring that the victim is safe and initiating a search for the suspect, when appropriate. Once the safety of the victim has been ensured, officers should make reasonable efforts to allow the victim to determine the location, scene, time, and date where the initial report is made. The victim should be offered local advocacy services and, if those are not available, provided with information regarding available national and local support agencies. The officer should clearly explain the reporting process, to include the roles of the first responder, investigator, and anyone else with whom the victim will likely interact.

After ensuring that there is no indication that the victim needs immediate transportation to a health care facility, the responding officer is often responsible for conducting the initial, preliminary interview. This interview should contain only those questions that will establish the basic facts of the assault and provide the information necessary for the immediate needs of the investigation, such as the suspect identity and elements of the crime. Questions should be tailored to the victim’s emotional and physical state. The victim should be informed that a second interview might occur at a later time and be conducted by a trained investigator.

When reasonable and practical, the initial statement and all subsequent interviews should be recorded. However, an agency should consult with the local prosecutor and its legal counsel to explore both the advantages and disadvantages to this practice. Advantages include the fact that a recording is more reliable than handwritten notes in capturing the exact words spoken and allows the victim’s account to be heard by the prosecutor, judge, and jury. Disadvantages include the fact that the victim may react to the traumatic event in a way that can be different than what a jury expects and the victim’s account might be inconsistent with subsequent information gathered by investigators. In all situations, if the victim does not wish to be recorded, this should be noted in the officer’s report and the recording should stop, if allowed by agency policy and law.

During the initial interview, the victim should be questioned about anyone he or she told about the sexual assault. In particular, the first person the victim told must be identified and interviewed because such an “outcry witness” can be used to confirm the credibility of the victim. This can be particularly important in the case of a delayed report or a consent defense raised by the suspect. Officers should interview these individuals as soon as possible.

Officers should make note of any physical injuries and ask about and document any signs or symptoms of strangulation. These can include the following. However, the absence of any does not disprove strangulation.

- Changes in the voice ranging from hoarseness to complete voice loss (if unsure if this is present, ask the victims if their voice is “normal” to them)
- Wheezing
- Difficulty swallowing
- Difficulty breathing
- Scratches, abrasions or discoloration of the neck
- Impressions in the skin, which might indicate use of a ligature or similar object
- Swelling of the tongue
- Petechiae (ruptured capillaries in the eyes, under the eyelids, on the face or neck)

For more in-depth discussion, please see the IACP Violence Against Women Project’s Sexual Assault Response Policy and Training Content Guidelines.

For more discussion regarding strangulation, please refer to the IACP Concepts & Issues Paper on Domestic Violence.
If a forensic medical exam is needed and the victim agrees, the officer should arrange for transportation to the designated facility. The officer should consider the victim’s body a crime scene and ensure the chain of custody remains intact during transportation.

When interacting with a victim, officers should recognize that he or she just experienced a traumatic incident and might not be willing or able to immediately assist with the criminal investigation. In some instances, the victim may choose not to participate in the investigation. It is important to recognize that prosecution might not be a viable option for all victims of sexual assault. Many victims feel that concerns about confidentiality, safety, and emotional well-being outweigh the risk and energy it takes to withstand the stress of an investigation and trial. In these situations, officers should explain the statute of limitations, if applicable, for criminal charges and that a victim can contact the agency within that time to reopen the investigation. In most situations, a sexual assault victim should not be asked during the preliminary investigation whether he or she wants to prosecute the suspect.

In situations where the victim agrees to participate, officers should work with him or her during the investigative process. In addition, officers must understand that recantation of any or all aspects of the initial disclosure is not necessarily indicative of a false report. The facts of the case, as provided by the victim might change over time; officers should understand that this does not indicate deception. Victims who recant or decline participation in the investigation should not be asked to sign a non-prosecution statement.

**Drug-Facilitated Sexual Assault.** Sexual assaults have long been linked to the abuse of substances—primarily alcohol—that can decrease inhibitions and render the victim incapacitated or physically helpless. In addition to alcohol, other drugs are implicated in the commission of drug-facilitated sexual assaults including gamma-hydroxybutyric acid (GHB), Rohypnol, Ketamine, Ecstasy, Soma, and Ambien, although others are used as well, including benzodiazepines and other sedative hypnotics. To facilitate a sexual assault, a drug is given to the victim surreptitiously by the suspect. In some instances, the victim may have voluntarily taken the drug, which could cause reluctance to turn to law enforcement. These drugs often render victims unconscious, an effect that is quickened and intensified when the drugs are ingested with alcohol. Because of the sedative properties of these drugs, victims might have no memory of an assault, only an awareness or sense that they were violated.

These cases present distinctive challenges to both law enforcement and prosecutors, and the responding officer plays a particularly crucial role—especially in the collection, identification, and preservation of critical perishable evidence. A victim of a drug-facilitated sexual assault may display a range of symptoms that could include memory loss, dizziness, vomiting, confusion, drowsiness, slurred speech, impaired motor skills, impaired judgment, and reduced inhibition. The victim may also appear intoxicated or hung over.

**Delayed Reports.** Some victims of sexual assault postpone reporting the incident. The reasons are distinct for each individual and may include the victim’s feelings of shame, embarrassment, shock, denial, self-blame, uncertainty regarding whether the event constitutes a sexual assault, fear of not being believed, concern regarding family members and friends finding out what happened, fear of the criminal justice system, and fear of the consequences and how they will affect the victim’s life. Because of these reasons, officers must be patient with any hesitancy on the part of the victim.

Officers must remain sensitive to the fact that questions about the delayed report may lead victims to feel the officer does not believe their account of events or blames them for the assault. While the reasons for a delayed report need to be documented, a delay in reporting should be considered normal and not seen as evidence that the victim is lying about the assault.

**C. Role of the Supervisor**

In addition to following standard incident response protocols, when a sexual assault is reported, it is important that supervisors are involved to ensure that the investigation is conducted properly and with a victim-centered approach. Specifically, the supervisor should

- Respond to assist officers investigating incidents of sexual assault when possible or if requested by an officer.
- Ensure that polygraph examinations are never conducted on sexual assault victims. Under the Violence Against Women Act, agencies will lose funding if they require a victim of sexual assault to submit to a polygraph examination.
• Review all sexual assault reports for accuracy and consistency and conduct after-action reviews and sexual assault case audits.
• Encourage officers to look for co-occurring and interconnected crimes when responding to sexual assault.
• Ensure officers and investigators understand case coding and appropriately code sexual assault cases.\(^{20}\)

**D. Victim Advocates**

Victim advocates can prove invaluable in sexual assault investigations and should be notified as soon as possible to provide emotional support and to assist the victim in making informed decisions throughout the investigative process. When requesting an advocate, the officer should relay information regarding any special needs of the victim, to include language difficulties, mental or physical impairment, and the need for an advocate of the same gender as the victim.

Victim advocates work both inside and outside the criminal justice system. As such, their titles and functions vary considerably. One typical distinguishing difference is whether the advocate has counselor communication privilege. In most cases, advocates within the criminal justice system are not covered under counselor privilege laws because of their connection to the government. In contrast, community-based advocates typically do enjoy counselor communication privilege. Victims should be informed of privilege status prior to interacting with the advocate.

Specifically, privilege laws may prevent counselors from testifying or being compelled to testify in court, and many even extend that ban to written records.\(^{21}\) Because communications may be privileged, investigating officers must understand that unless there is a written waiver, a victim advocate cannot disclose information from the victim, even if it would significantly impact the investigation or prosecution of the case.

Should the victim request an advocate at any point in the investigation, the investigating officer should facilitate the referral. However, the victim has the option to decline the services of the advocate, and this decision must be supported by members of the responding team, including the investigating officer(s). If the victim declines assistance from an advocate, written referrals for additional avenues of support should be provided.

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20 For more information regarding case coding, please see the IACP Violence Against Women Project’s Sexual Assault Response Policy and Training Content Guidelines and Sexual Assault Incident Reports: Investigative Strategies.

21 Please refer to your state’s law on the subject. For more information, please visit https://apps.rainn.org/policy-state-laws-db/landing-page-confidentiality/index.cfm.

Victim advocates should not be used as interpreters, as this places them in the position of assisting with the law enforcement investigation rather than focusing on their victim-support role. It is critical that law enforcement agencies work with victim advocacy organizations and others to explore ways to provide comprehensive services for special populations, including the hearing impaired and those for whom English is not their primary language.

**E. Evidence Collection**

As with all investigations, when responding to a report of a sexual assault, officers shall follow their agency’s policy on evidence collection. This includes following the standard protocols for the collection of DNA evidence and ensuring that the chain of custody is followed by properly marking, packing, and labeling any evidence. Officers should also collect clothing worn at the time of the assault and immediately afterward, especially the clothing worn closest to the genitals, including undergarments, pants, and shorts. Each item of clothing must be packaged separately in a paper bag.

Photographs should be taken and video recordings should be made of the victim’s injuries. In most cases, photographs should be collected as part of the forensic examination by trained medical personnel. However, in cases where the victim has declined the medical forensic exam, obtaining photographs of visible injuries should be considered a part of the law enforcement investigative role. In these situations, when photographing the victim, the officer should first seek consent to photograph any visible injuries and should use drapes or other techniques, where appropriate, to maintain the victim’s privacy. Wherever possible, an officer of the same sex as the victim should be summoned to take the photographs. Any photographs of the genitalia should be taken solely as a component of the medical forensic exam and should never be taken by law enforcement personnel. These photographs must be strictly controlled, and the confidentiality of the victim should be protected.

In addition, officers should focus on the collection of evidence to document the use of drugs or alcohol by the suspect to create victim vulnerability; threats made by the suspect, including those made to individuals other than the victim; and the environment in which the assault took place, including indications of isolation and soundproofing.

Officers should also consider additional evidence that may be found in cases of a drug-facilitated sexual assault.\(^{22}\) This evidence might be located in the suspect’s residence, vehicle, place of employment, and locker. This evidence might include such items as the drugs themselves.
In situations where suspects do not deny that sexual intercourse occurred, but rather assert that it was voluntary and with the consent of the victim, officers should focus on collecting evidence of indications of past assaults or abuse, coercion, threats, or stalking between the suspect and the victim. Additional evidence collection should document the suspect’s course of conduct, including selection and grooming processes, contrived circumstances, and pre- and post-assault behaviors, including any communication, as well as any coercive behavior displayed by the suspect.

Alternatively, officers responding to sexual assaults involving strangers should focus investigative efforts on the collection and analysis of DNA and other trace evidence used to identify the perpetrator. Events that transpired prior to and after the assault should be identified in an effort to locate additional witnesses and physical locations that may lead to additional evidence.

**Victim Interviews**

In situations where the suspect is known to the victim, the officer should ask about how long the victim knew the suspect, the circumstances of their meeting, the extent of their previous relationship, and what, if any, behavioral changes led the situation to go from one based on consent to one of coercion, fear, or force.

In addition, in all instances, officers should also inquire about the following:

- The location where the assault took place, including any isolation strategies used by the suspect—these may include isolating the individual from friends, taking the victim to a secluded location, or asking the victim to go somewhere private.
- Actions; threats (real, perceived, or implied); gestures; coercion; and other behaviors used by the suspect.
- Ways in which the victim resisted or indicated non-consent, both verbally and nonverbally.
- Non-verbal signs can include lying still, avoiding touch, and silence.
- The victim’s actions and responses before, during, and after the sexual assault, including his or her state of mind during the assault.
- The victim’s thoughts and feelings during the assault.
- Sensory evidence and peripheral details of the victim’s experience.

Investigators should always ask sexual assault victims about any circumstances that may indicate the use of a drug to facilitate the sexual assault (e.g., whether the victim experienced any loss of memory, disorientation, severe illness, or hallucinations). The use of any prescription drugs should also be documented. In doing so, however, investigators must clearly communicate to the victim that substance abuse does not justify the sexual assault. When drugs or alcohol are involved, the victim may remember very little, if anything, about the sexual assault itself. The victim’s account of the events may have large gaps, which makes it difficult to describe what occurred to the investigating officer. As a result, the victim may be extremely anxious during the course of the interview. Investigating officers must remain patient and maintain an open mind while listening to the events as the victim recalls them. Investigators must also remember that a victim whose memory is impaired due to the pharmacological effect of a drug may innocently and unconsciously seek facts to fill in the blank spots in memory. It is therefore critical that investigators and examiners avoid suggestive and leading questions while conducting the interview.

During the interview, it is very important to have victims articulate how they felt or what they had been doing prior to losing consciousness. It is equally crucial to interview any witnesses who might have seen or spoken with the victim before, during, or after the assault. Often, it is the witness who can establish time frames, confirm unusual behavior, provide critical facts, and identify potential sources of information.

It should be understood that in some cases sexual assault victims may omit details from their initial description of the crime that they find embarrassing or deeply personal. Investigators should therefore expect a certain amount of reluctance on the part of the victim to describe unpleasant facts. The investigator should also explain that certain information must be discussed to establish the legal elements of the crime and pursue the investigation and potential prosecution.

**F. Contacting and Interviewing Suspects**

Prior to contacting the suspect, officers should conduct a background and criminal history check specifically looking for accusations, warrants, criminal charges, and convictions for interconnected crimes, especially crimes involving violence and protection order violations.

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The investigator should also seek to communicate with personnel in other units in the agency, as well as surrounding agencies, to identify similarities or fact patterns that are consistent with other crimes such as voyeurism or indecent exposure.

Officers should also consider conducting a pretext or confrontational call or messaging depending on jurisdictional statutes. These are recorded calls, usually initiated by the victim under the supervision of law enforcement personnel, with the goal of eliciting incriminating statements from the suspect. The determination of whether a pretext phone call is appropriate is based on the applicable laws of the state where the crime occurred, as well as the locations of the victim and suspect, who may reside in different states and jurisdictions at the time of the investigation. Involvement of a victim should be based on the victim’s emotional and physical state. A victim advocate should be present whenever possible to offer support.24

When interviewing suspects, officers should follow their agency’s policy on the subject, to include guidelines for conducting custodial versus noncustodial interviews and recording interviews. In sexual assault investigations, officers should also consider asking the suspect how someone might express or demonstrate non-consent. The suspect’s answer may prove useful in future criminal proceedings, especially where he or she is using the consent defense.

G. Protecting Victim Rights

Law enforcement officers must make every effort to protect the confidentiality of the victim’s information to the maximum extent possible by law and policy. The investigator must ensure that victims are notified of their rights as a crime victim under state law, which may include the right to have their name withheld from public record and to be present and to make a statement at proceedings. The victim, as well as witnesses and third parties, also have a right to be free from harassment and intimidation by the suspect. The investigator should explain the process for contacting law enforcement if those laws are violated, including advising the individual to call 911 in an emergency. The victim should be provided with the crime report number, as well as contact information for the reporting officer and lead investigator or person handling the follow-up. Finally, victims should be given information regarding arrest decisions, victim compensation, emergency protective orders, court dates, and parole or release dates.

24 See Pretext Communications in Sexual Assault Investigations: A Brief Guidance for Campus Law Enforcement (CAMPUS Technical Assistance and Resource Project).

Officers should also explain to the victim about the possibility of media coverage, as well as the information that is available to the media about sexual assault victims. The victim should be provided with information regarding local media agreements or policies preventing them from disclosing the names of sexual assault victims, if applicable.

It is imperative that law enforcement professionals coordinate with other relevant agencies, assistance organizations, and service providers to address the needs of the victim, which may include a follow-up forensic examination, medical testing, counseling, financial assistance, and guidance throughout the criminal justice process. By establishing holistic multi-agency protocols for responding to sexual assaults, agencies can ensure that the victim receives the best possible care.

If the victim is a student of an institution of higher education, the institution is federally mandated to conduct administrative inquiries. These responsibilities can conflict with criminal investigations. Local and college or university law enforcement agencies should work collaboratively with institutions of higher education to avoid potential conflicts between criminal investigations and the laws that govern the institution.25

H. Sexual Assault Medical Forensic Examinations

A sexual assault medical forensic examination has the potential of addressing many of the concerns of sexual assault victims and can increase the likelihood that documentation of injuries and evidence collected will aid in the investigation and prosecution of sex offenders.

Alternative Community Models. There are numerous models for conducting forensic examinations. In some communities, the hospital emergency department performs all sexual assault examinations. This practice can lead to delays and frustration (e.g., examiners not specially trained to work with sexual assault victims, victims triaged with other patients). Many communities have developed a Sexual Assault Response Team (SART), a multidisciplinary team dedicated to timely, comprehensive attention to the medical and emotional needs of the patient, as well as the forensic needs of the criminal justice system. As part of the movement toward SARTs, many communities’ forensic examinations are now conducted by specially trained healthcare professionals Sexual Assault Forensic Examiners (SAFEs) or Sexual Assault Nurse Examiners (SANEs) who are on call to respond to sexual assault

25 For more information, see Questions and Answers on Title IX and Sexual Violence (U.S. Department of Education Office for Civil Rights), http://www2.ed.gov/about/offices/list/ocr/docs/qa-201404-title-ix.pdf.
If a transfer from one health care facility to a facility designated for forensic examinations is necessary, an established protocol should be in place to expedite transfer of the victim and minimize delays and potential loss of evidence while addressing victim needs.

**Time Guidelines.** Although many jurisdictions in the past used a cutoff time of 72–96 hours for collecting evidence following a sexual assault, many have moved toward expanded time frames of 120–168 hours. Medical treatment for sexually transmitted infections (STIs), pregnancy, evidence collection, and the documentation of injury are often possible even beyond that time frame (up to 10 days following a sexual assault) and should be encouraged in order to document injuries. Toxicological specimens for drug-facilitated sexual assault can be done up to five days after the assault. In the case of a sexual assault by a stranger, biological evidence and DNA may have a significant impact on the likelihood of holding the assailant accountable. In these cases, a forensic examination may be considered up to three weeks following a vaginal sexual assault, since evidence may still be recoverable.

Routine toxicological testing of sexual assault victims is not recommended. However, in cases where there is a suspicion that the assault may have been committed when the victim was unable to consent, if there are memory lapses that are unexplained, or the victim is not sure of the full details of the assault, full toxicology testing should be performed. The victim should be informed of the value of obtaining a toxicology screen to understand the impact of alcohol and drugs at the time of the assault. These drugs in combination with alcohol can interact with each other and may have an exponential effect on the victim’s ability to function.

Investigators, examiners, and advocates must also emphasize to victims the importance of being forthcoming about all drug use, both prescribed and recreational, so it is less likely to be used to discredit the victim at trial. However, it is also critical that this information not be used by law enforcement officers to dismiss the victim’s report of the sexual assault.

**Law Enforcement Role.** The Violence Against Women Act outlines that victims of sexual assault have a right to obtain a medical forensic exam after a sexual assault. Recognizing this, when responding to a report of a sexual assault, the investigating officer should first coordinate with professionals such as forensic examiners to determine whether an exam is indicated. If the victim agrees to an exam, the officer should begin by explaining to the victim the purpose of the exam and its importance to his or her health and wellness, and the potential benefit to the investigation. The officer should also include general information about the procedure, to include the fact that the forensic examiner may collect clothing that was worn during or immediately after the assault. The officer should assist in arranging for additional clothing to be available to the victim after the exam. The victim should be informed that he or she has the opportunity to have an examination and that law enforcement cannot deny this right. In addition, the victim has the right to decline any or all parts of the examination. However, victims who do not undergo an examination, either due to their own choice or because it is determined that an exam is not indicated, should be encouraged to seek medical attention, including testing for pregnancy and STIs. Victims should also be aware that additional testing may be necessary in the future, as pregnancy and some STIs might not be detected immediately following the assault.

If the victim decides to have the medical forensic exam, the investigating officer should ask if he or she would like anyone else to be available to accompany him or her to the exam. If the victim indicates there is someone he or she would like to be present, the officer should facilitate contact with this individual. In addition, and with the victim’s consent, a victim advocate should be notified. At this time, the officer should also address any special needs of the victim, such as communication or mobility difficulties. Transportation to the designated medical facility should be provided for the victim. In addition, since hospital and medical records are confidential, the investigating officer should obtain a signed release from the victim for access to the medical records from the exam. Once at the medical facility, the forensic examiner should be briefed about the details of the sexual assault, as they are known at the time. Officers should not be present during any part of the exam, including during the medical history.

Upon conclusion of the exam, the officer should request copies of any findings that may assist with the investigation. The law enforcement report should contain a copy of the exam report and a summary of the findings that note significant information or details of injury; however, these are not for public release. After the exam, evidence collected during the exam should be turned over to law enforcement. It is critical to ensure that the evidence has been properly sealed and labeled. The exam evidence should be impounded in accordance with the agency’s

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26 For more information on SANE or SART tools and resources see the Office on Violence Against Women website ([https://www.justice.gov/ovw](https://www.justice.gov/ovw)) or the Office for Victims of Crime website ([http://www.ojp.usdoj.gov/ovc](http://www.ojp.usdoj.gov/ovc)).

27 Fact Sheet: Drug-Facilitated Sexual Assaults (Mesa, AZ: Society of Forensic Toxicology, 2015), recommendations for the collection of toxicological specimens.

28 Note that some states might not allow additional individuals to be in the same room as the victim during the exam.
evidence policy and sent to the appropriate laboratory for processing. Proceeding with or conducting a thorough investigation should not be contingent upon laboratory findings. To the extent possible, investigations should be ongoing while awaiting laboratory results.

Victims should never be charged for the cost of the forensic exam. However, they may be responsible for charges associated with medical treatment required beyond the exam. The victim should be informed that, if a bill is received for the exam, he or she should forward it directly to the agency and should not provide any payment.

**Drug-Facilitated Sexual Assault.** If a drug-facilitated sexual assault is suspected, it is critical that a urine sample be collected as soon as possible, but this can be done up to 120 hours after the assault. If fewer than 24 hours have transpired since the assault, a blood sample should also be obtained. Because of the delay in reporting most sexual assaults, the agency should work with laboratories capable of identifying very low levels of drugs commonly used in sexual assault in blood and urine. Illegal substance abuse by victims, including underage drinking, should never be used to discredit or discourage the victim from reporting the assault. The priority of law enforcement agencies is to thoroughly investigate sexual assault, not prosecute victims for misdemeanor violations.

**Forensic Examinations without Law Enforcement Involvement.** Some victims seek medical care at health care facilities following a sexual assault without reporting the assault to law enforcement. In some states, health care workers are mandated to report sexual assaults and other violent crimes to law enforcement. Even when law enforcement is contacted, the victim is not obligated to speak with officers. In locations where mandatory reporting laws do not exist, it is the victim’s decision as to whether or not to involve law enforcement.

In situations where law enforcement is not contacted, health care facilities have an obligation to provide complete and appropriate services to patients disclosing a sexual assault. In both reported and unreported sexual assaults, the victim always has the right to decline any or all parts of the examination. In those cases where the victim has chosen not to contact law enforcement, documentation of injuries and collection of biological evidence can still occur, as these may prove invaluable if the victim chooses to report the assault to law enforcement in the future. The victim should be informed of the mechanism in place to report if he or she determines to do so, as well as the impact that delaying may have on other investigative processes, to include the impact of not having what can be valuable evidence from the location of the crime. Some jurisdictions also allow blind or third-party anonymous reporting, where a report is made that does not include any of the victim’s identifying information.  

I. **Forensic Examination for the Collection of Evidence from the Suspect**

Immediately following the preliminary suspect interview, any injuries should be photographed. Next, the investigating officer must determine whether a forensic sexual assault examination should be conducted on the suspect. Factors to consider in that decision are the length of time since the assault occurred, the nature of the assault, whether the victim believes that he or she injured the suspect, and the likelihood that cells, fluid, or other types of biological or trace evidence were transferred from the victim to the suspect.

Based on state laws and agency policies, a search warrant may be needed to collect evidence from the body of the suspect or even to collect the suspect’s clothing. Officers should always first ask for consent from a suspect for an examination. If the suspect consents to such evidence collection procedures, documentation of voluntary consent should be captured in the law enforcement report. However, a search warrant, with specific details about what evidence will be collected, should be prepared in advance to eliminate the opportunity for the suspect to destroy or alter evidence if consent is denied.

Prior to the suspect’s forensic examination, the investigating officer should provide the examiner with a summary of the assault, including the acts reported, the location, any physical identifying information provided by the victim or any witnesses, and any potential injuries that the victim described inflicting on the suspect, as well as providing information that is included on any warrant. During a suspect examination, the officer should remain with the suspect. Before a forensic examiner purposely elicits information from a suspect that could be used as evidence against him or her, the suspect must be given a Miranda warning. This includes questioning the suspect about his or her medical history since the information might be used to evaluate any possible findings. The medical history should include recent information on any anal or genital injuries, surgeries, diagnostic procedures, or medical procedures that may affect the interpretation of the current findings. Such information can help to avoid confusing preexisting injuries or markings with current findings. If the suspect invokes his or her right to remain silent, the examiner should bypass the medical history and continue the examination collecting those samples.

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29 For more information, see A National Protocol for Sexual Assault Medical Forensic Examinations: Adults/Adolescents (U.S. Department of Justice Office on Violence Against Women, 2013), [https://www.ncjrs.gov/pdffiles1/ovw/241903.pdf](https://www.ncjrs.gov/pdffiles1/ovw/241903.pdf).

30 A National Protocol for Sexual Assault Medical Forensic Examinations: Adults/Adolescents.
outlined in the warrant. If the suspect is not in custody, the investigator must clearly document that the suspect was free to decline any part of the examination and to leave at any time.

During the exam, the examiner should collect those samples outlined in the warrant. These may be penile swabs, pubic hair combings, and collection of other potential DNA evidence. Any additional biological and trace evidence should be collected according to the agency’s policy on evidence collection and as directed in the warrant. In addition to the collection of such biological and trace evidence, the forensic examiner should also document information about the suspect’s clothing, appearance, scars, tattoos, piercings, and other identifiable marks. All clothing worn by the suspect during the assault should be collected, particularly any clothing that touched the genital area.

It is critically important to note that the victim and suspect examination should take place in different locations and by different examiners, whenever possible. Additionally, from a forensic evidence standpoint, it is important that every effort be made to mitigate any potential for cross-contamination of evidence from the victim and suspect.

J. Report Writing

The investigating officer must complete a written report in all cases of sexual assault, regardless of whether an arrest is made. This report should include the following information:

- Details necessary to establish any premeditation or grooming behavior by the perpetrator; coercion, threats, or force used; and any attempts by the perpetrator to intimidate or discourage the victim from reporting the assault.
- Details regarding the victim’s response during and after the incident, such as the victim’s demeanor, emotional response, and changes in routines or habits.
- Any fight, flight, freeze, or submit reactions the victim expressed or exhibited before, during, or after the assault.
- If a consensual encounter turned nonconsensual, the details of how and when the suspect’s behavior changed and how the victim expressed or demonstrated non-consent to the continued acts.

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., 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). The officer should clearly document in very specific terms all facts and observations. For example, the report should indicate that the victim was “tearful and trembling,” rather than just “upset.” Similarly, the officer should report that the victim’s shirt was torn and a shoe was missing, rather than just describing the victim’s appearance as “disheveled.” Unless they are direct quotes, the officer should avoid using terms that indicate consensual behavior, such as participated or engaged in, when describing the specific actions of the suspect. In addition to the narrative report, a Sexual Assault Supplemental Report Form should be completed.

K. Training

Training is crucial to ensure that a victim-centered approach is utilized in every sexual assault investigation. Periodic training should be provided to all personnel who have contact with sexual assault victims. This training should specifically address the realities, dynamics, and investigations of these crimes and legal developments pertaining to sexual assaults. Victim advocates should also be included in any agency training to ensure that everyone involved is providing victim support in a uniform manner, supportive of each individual’s role in both the investigation and advocacy components. Advocates should be encouraged to attend and participate in local, state, and federal training to increase awareness of victim rights, advocacy protocols, and trends associated with the investigation and response to victims of sexual assaults across diverse communities.

31 See Appendix A of the IACP Violence Against Women Project’s Sexual Assault Response Policy and Training Content Guidelines.

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

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

This document is not intended to be a national standard.

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