



# TRAINING BULLETIN

## PRELIMINARY INVESTIGATION OF SEXUAL ASSAULT CRIMES – PART I INTERVIEWS AND CRIME REPORT

### INTRODUCTION

The nature of the trauma sustained by victims of sexual assault crimes makes it critical that officers conducting the preliminary investigation possess the knowledge and skills required to sensitively and effectively respond to the victims. The purpose of this Training Bulletin is to provide information that will assist officers in successfully conducting a preliminary investigation, starting with the initial interview and completion of the crime report.

Statistically, more victims have been sexually assaulted by a person who is known to them (acquaintance) than compared to victims who have been assaulted by an unknown person (stranger). The term “sexual assault” covers multiple types of sex crimes. However, regardless of the form of sex act in question, what separates sex from sexual assault is consent. Consent is affirmative, conscious, and voluntary agreement to engage in sexual activities. When evaluating consent, consider the following:

- Silence is *not* consent,
- Lack of protest is *not* consent; and,
- Lack of resistance is *not* consent.

Sexual assaults can be committed by various means, including force, fear, threats, or duress. Duress is defined as a threat of force or violence that would cause a reasonable person to submit or acquiesce to something that the person would not do otherwise. Many sexual assaults involve the consumption of, or the overconsumption of, alcohol or other drugs. Intoxication can impact the victim’s ability to consent to sex or impact their ability to resist, including when the victim is unconscious.

Sexual predators often target vulnerable individuals, such as people suffering from mental illness, individuals experiencing homelessness, commercial sex workers, juveniles, runaways, etc.

## **FIRST RESPONDER RESPONSIBILITIES**

The first officers in contact with a sexual assault victim should:

- Assure the victim's safety,
- Assess the need for emergency medical care,
- Determine whether an immediate crime broadcast is indicated,
- Briefly explain procedures, legal rights, and options to the victim,
- Protect evidence on the victim's body and clothing,
- Preserve the crime scene,
- Identify any witnesses,
- Have the victim(s) transported for a medical/forensic examination, evidence collection, and
- Notify the watch commander, sexual assault detectives, and night watch detective.

### **Need for Emergency Medical Care**

Upon expressed consent, victims of sexual assault shall be transported to an appropriate hospital for medical care and the collection of evidence as soon as possible after the crime, per the Department Manual. Certain conditions are "high risk" and indicate the need for immediate transport to an emergency medical facility, including serious physical injuries, signs of strangulation, loss of consciousness, or suspected drugging.

### **Locating Witnesses**

Attempt to locate any witnesses as soon as possible, especially the "fresh complaint" witness. This is the first person the victim talked to about the incident. Also, try to locate the first person who saw the victim after the assault. In cases of drug or alcohol-related assaults, attempt to locate the last person who observed the victim's physical state and possible level of intoxication. Such persons may provide details about the victim's appearance and emotional state preceding and immediately after the attack. Include any additional facts about the assailant learned from these witnesses in a supplemental crime broadcast.

Any persons or witnesses located at the scene of the crime should immediately be separated, identified, and interviewed before they leave the scene. If an individual must leave before being interviewed, officers should obtain information on where and how the individual can be contacted.

## **RIGHTS OF SEXUAL ASSAULT VICTIMS**

Sexual assault victims have certain legal rights. Law enforcement officers are required to inform sexual assault victims of the following:

- The right to have an advocate, and an additional support person of the victim's choice, present during the police interview. If certain information is needed at the crime scene to initiate a crime broadcast, the preliminary interview may be conducted without a victim advocate present. The support person may be excluded from an interview by law enforcement if it has been determined that the presence of that individual would be detrimental to the interview, or if they are an independent witness. Sexual assault counselors and advocates are trained to provide emotional support, information, and accompaniment for victims. They are available upon request and are complimentary.
- The right to protect their name from public disclosure and to confidentiality on the crime report. Even if the victim does not exercise the right to confidentiality, the Request for Confidentiality of Information Form 3.02 (English) and Form 3.02.01 (Spanish), shall be completed for all victims of sexual assault offenses. This form is also used to document that the victim was provided a Domestic Violence/Victim Information and Notification Everyday Pamphlet (DV VINE), Taking Action Pamphlet, informed of the right to have an advocate, support person of their choosing present, and the right to be interviewed by an officer of the same gender.
- The right to have a free medical examination to gather evidence and be notified of the results regarding any analysis of the evidence gathered.

Department policy also gives sexual assault victims the option of being interviewed by an officer of the same gender. When an officer of the same gender is requested, the assigned officers are **not** relieved of their responsibility for completing the investigation. All officers involved are jointly responsible for the completion of a thorough preliminary investigation. The victim should be asked if the assigned officers may be present during the interview to testify regarding the investigation.

All sexual assault victims shall be given a "Taking Action" booklet at the time of the preliminary investigation.

## **VICTIM MANAGEMENT**

An understanding of victim reactions after a traumatic experience helps guide the interview. A victim of sexual assault may experience shock and appear outwardly calm, or express emotions ranging from anger to deep sorrow. Victims may experience fear, shame, and feelings of powerlessness during a sexual assault. Afterwards, these feelings continue to affect their behavior. It is important to be mindful of the fact that

although this may seem like a routine investigation, the incident has been a traumatic, degrading, and life-changing event for the victim.

### **Interviewing the Victim**

The interview should be conducted in a setting that provides privacy for the victim, interruptions and distractions should be minimized. The victim should be informed of the option to have an advocate and another support person of the victim's choosing present during the interview. Officers should explain to the victim that by participating in the interview and medical examination, they can be supported with advocates or counselors that will help them through the entire process.

In sexual assault crimes, the victims are frequently the only witnesses. The officer's demeanor and conduct during the interview are essential to gaining the victim's trust and cooperation. Developing a rapport with the victim is crucial in obtaining a quality interview. Officers should begin by introducing themselves by name and title and acknowledging that the victim has been through a traumatic experience. Officers should create a comfortable environment for the victim by:

- Sitting at eye level,
- Explaining the purpose of the interview,
- Describing how the information obtained will aid the investigation,
- Clarifying the need for detailed information about the crime and the reasons for asking what may seem like sensitive questions, and
- Demonstrate sensitivity and patience.

Ask the victim to relate what happened in their own words. Do not interrupt them to fill in details. Ask for additional information and clarification after the victim completes their narrative. Questioning should be directed toward gathering information about the following topics:

- Location of the crime,
- Elements of the crime (e.g., sexual acts committed),
- Threats the suspect made,
- Tools, weapons, or other objects the suspect used,
- Behavior and appearance of the suspect (e.g., birthmarks, tattoos, scars),
- Statements made by the suspect; actual words used,
- Items the suspect touched,
- Injuries sustained by the victim or suspect during the crime,
- Whether the suspect ejaculated and, if so, where, and
- Whether the suspect wore a condom and, if so, where was it disposed of.

In case of alcohol or drug facilitated sexual assaults, additional information to obtain is:

- Identify what was consumed (alcohol, drugs, prescription medicine, etc.),
- How much was consumed, and
- Surveillance cameras or media recorded on their cellular phone (for possible footage that may depict the victim staggering or inability to walk).

### **Pretext Telephone Call**

When investigating an acquaintance rape, and when the suspect is no longer at the scene, consult with the appropriate detective before making an arrest. An effective tool that detectives can utilize to prove the victim's allegations is known as a "pretext telephone call." This is a monitored telephone call, monitored text conversation, or video conference, placed by the victim to the suspect. This is conducted under the direction of law enforcement. The conversation is recorded with the intent of obtaining a statement about or admission to the crime by the suspect. Since the arrest of the suspect eliminates the possibility of employing this investigative tool, officers should only make an arrest at the direction of a detective, or if exigent circumstances exist, such as the suspect still being at the scene of the crime.

### **COMPLETING THE REPORT**

Effectively documenting a sexual assault requires patience and attention to detail:

- Information about a suspect's patterns of behavior can assist in their apprehension.
- Detailed descriptions of the suspect's actions increase the probability of successful prosecution.
- The suspect's statements and actions should be precisely documented – use quotes whenever possible.

For confidentiality, document the victim's first name and last initial **only** in the victim information section of the Investigative Report (IR). Exclude other personal information on the IR or Arrest Report. In the narrative of the IR, refer to the victim by their first name and last initial.

Be specific when describing the physical and emotional condition of the victim in the report. For example, indicate that the victim was tearful and trembling, rather than using the word "upset." Indicate that the victim's shirt was torn and a shoe was missing, rather than stating the victim was "disheveled."

Statements from the victim must be documented exactly as the victim relayed them. Be sure to have the victim carefully read the document to ensure its accuracy.

Carefully review the medical report following the medical examination of the victim and prior to leaving the medical facility. Compare the information documented by the medical personnel (e.g., sexual acts committed, weapons used, etc.), with the facts contained in the IR or Arrest Report. Clarify any discrepancies with relevant medical personnel or through further investigation.

Attach the victim and suspect medical reports, Forensic Medical Report Sexual Assault Examination, Office of Criminal Justice Planning (OCJP), currently Forms 923, 925, or 950, to the IR or the Arrest Report. These documents are included in the Department's report and are numbered accordingly. The victim's name, address, phone number, or physical descriptors do not need to be deleted from the attached documents including the medical report. If a sexual assault victim counselor/advocate is present during the investigation, ensure that the victim advocate's name, address, and phone number are documented in the report as well as on the IR. Victim advocates may be called as witnesses to testify in court.

It is imperative to obtain accurate information about how and where to contact the victim. Victims of sexual assault commonly stay with family or friends after the assault. Ask the victim to notify the assigned detectives if there is a change of address or telephone numbers.

Remember to document basic information, including types of relationships:

- Stranger – Suspect was not known to victim prior to the event
- Acquaintance – Time known to each other
- Co-habitants / Married
  - History of DV reported / unreported
  - Children in common
- Dating / Dating Website
  - Name of website
  - Suspect / Victim account information

## **PREPARE THE VICTIM FOR THE AFTERMATH**

Victims should be informed about what to expect in the aftermath of the crime to help them prepare. The officer who conducts the initial interview should provide information about some of the possible aftereffects of sexual assault trauma and follow-up law enforcement procedures.

Victims commonly experience emotional distress following a sexual assault. Preoccupation with the assault, difficulty concentrating on usual activities (school, work), depression, fears about safety, and physical symptoms (headaches, stomach aches) are common reactions. Encourage victims to utilize community resources to deal with these reactions and concerns. Advise the victim that follow-up medical and psychological care is available through a variety of professional and community

resources. A listing of these services is included in the "Taking Action" booklet and the DV VINE pamphlet that are provided to the victims at the time of the preliminary investigation.

Victims often have concerns about their role in the investigation and subsequent legal proceedings. Explain the procedures for follow-up interviews or other steps in the investigation. Provide contact information and phone numbers the victim can use to obtain information about the follow-up investigation.

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