



Lakewood Police Department Policy and Procedure

Policy Number: PP – 8103 SEXUAL ASSAULT INVESTIGATION PROCEDURE

Effective Date: 03/13/2023

A. Policy

The crime of sexual assault is one of the most violent crimes the Police Department will be called upon to investigate. It is our intent that these reports are taken seriously and handled in a compassionate and professional manner that will provide a thorough investigation until conclusion. Victims will be treated with dignity and respect in accordance with the Victims Rights Act. Proper police procedures relative to crime scene investigation, evidence collection, documentation and prevention of further victimization are expected. Procedures below are guidelines and not all inclusive.

B. Procedure

1. Police investigation of sex crimes.
 - a. Original reports of sex crimes, whether timely or delayed, shall be routinely taken by patrol agents.
 - b. Circumstances likely to result in investigator's response include:
 - (1) Serious injury or death of victim.
 - (2) Necessity for court orders such as search warrants or Rule 41.1 orders.
 - (3) Arrest of suspect.
 - (4) Leads requiring immediate response beyond the normal follow - up procedures of the Patrol Division.
2. Response to reported sexual assault:
 - a. Patrol agents should respond as quickly and safely as practical to a reported sexual assault.
 - (1) Assigned agent shall be alert for suspicious subjects, vehicles, or subjects matching any description provided.
 - (2) Upon arrival, the agent shall request EMS if victim requires medical aid and / or forensic exam. Determine if suspect used drugs on victim for urine and/or blood sample preservation. Biological evidence may be present and recovered up to 5-7

days. Agent should request consent for Forensic Examination.
(See Medical Examinations Below)

- (3) Make notifications of support resources as required. Ensure that if the victim is being taken to a hospital that advance notice is given. This will ensure that an examination room is made available and a doctor and/or FNE is notified. It is encouraged that St. Anthony Central Hospital be used for victim examinations unless physical trauma will not permit the victim to be transported there.
- (4) Notify Victim Advocate to respond automatically rather than ask victim. Victims may decline once VA arrives.
- (5) Conduct brief preliminary contact with victim. Determine if crime has occurred, when and where it occurred. Identify and secure scene(s) to prevent destruction of evidence. Conduct initial interview with victim before exposing victim to other professionals such as hospital or volunteer counselors.
- (6) Note condition of victim at time of report, i.e., intoxicated, emotional, hysterical.
- (7) Obtain name and/or description of the assailant. Arrest the suspect if present and if evidence justifies.
- (8) Identify and locate witnesses.
- (9) Identify technicians, agents assisting, and witnesses for witness list. Include description of scene processing and evidence collected.
- (10) Preserve body-worn camera footage.
- (11) Document initial response and observations. A written report should be completed as soon as possible.
- (12) Refer to DA'S Sex Assault Case Investigation Form for guideline assistance if needed.

3. Sexual Assault Investigation Victim:

- a. Medical and Anonymous Reporting (§ 18-3-407.5, 12-240-139(1)(b)(I), 24-33.5-113):
 - (1) Medical report: A victim chooses to obtain a medical forensic exam but at that time chooses not to participate in the criminal justice system. Evidence and information are released to law enforcement with the victim's name and contact information. A medical reporting victim can choose to have evidence tested. If evidence was collected during the medical forensic exam and

was not sent for testing, it will be stored for at least two years by local law enforcement. At any time after initially deciding not to report to law enforcement, a victim can change their mind and file a law enforcement report. The agency notified shall complete a report and provide the victim with the case number, if desired.

- (2) Anonymous report: A victim may choose to obtain a medical forensic exam but at the time, a victim may also choose not to participate in the criminal justice system. The evidence and information are released to law enforcement without the victim's name and contact information. It will include a tracking number. As an anonymous report, the evidence will not be tested, but it will be stored for at least two years by local law enforcement. The victim may change their mind at any time and file a law enforcement report.
- (3) The agency may not ask for or require a victim's cooperation as a condition of receiving the forensic medical examination which includes the collection of evidence.
- (4) Evidence shall be retained in accordance with the statute of limitations and DNA preservation statutes. (C.R.S. 16-5-401 and 18-1-1102(2)).
- (5) Neither the victim nor responding agency will be responsible for the cost of non-reporting/anonymous reporting exam. Cost of the exam shall be paid by the Division of Criminal Justice.
- (6) LE must provide the victim 60 days' notice prior to the destruction of forensic medical evidence (C.R.S. 24-4.1-302.5(b.8))

b. Medical Examinations

The need for a timely forensic sexual assault examination is paramount in any successful prosecution. Unless medical emergency requires immediate transport to the nearest hospital, the victim should be transported to St. Anthony's Hospital for an exam by a Forensic Nurse Examiner (FNE) (formerly referred to as a Sex Assault Nurse Examiner, or SANE)

- (1) A FNE can be reached through various hospitals. To determine the available medical facility, the agent will coordinate with the Jeffcom911 communications center. In emergency cases, the sexual assault exam may be completed at the treating hospital, regardless of the availability of an FNE, although an exam by an FNE is always preferred.
- (2) If an examination is anticipated, the agent or LE victim advocate should explain the process to the victim and explain the evidentiary value of the examination. Special attention should be given to advise the victim not to bathe, shower, urinate,

defecate, or change clothing. If there has been any report of oral sexual contact, the victim should be instructed not to eat, drink, or smoke to preserve potential DNA evidence in the mouth. Agents should understand that the examination is voluntary. Biological evidence and evidence of trauma may be present and recovered up to 5-7 days after an assault.

- (3) If the victim agrees to undergo the examination, the agent should arrange transportation, accompany the victim to the hospital or the PorchLight Family Justice Center and encourage the victim to bring a change of clothing. If an FNE is available, he/she should be utilized for the exam. Law Enforcement should not be present during the medical/forensic exam.
- (4) Agents or the LE victim advocates should ensure that the victim understands that the forensic sexual assault examination is paid for by the law enforcement agency or the Division of Criminal Justice while medical expenses related to any injuries and procedures beyond the forensic sexual assault examination are the financial responsibility of the patient. Other expenses may be reimbursed through Victim Compensation, and instructions on how to file a claim will be given to the victim by a victim advocate.
- (5) Law enforcement should conduct the initial victim interview separately from any medical personnel/ FNE interview. When possible, any information gathered by law enforcement should be discussed with the FNE prior to the examination. When the exam is completed, it can also be useful for law enforcement to obtain pertinent information from the FNE.
- (6) In cases of suspected alcohol or drug usage by the victim, both blood and urine samples should be obtained using standard blood and urine kits.
- (7) All forensic images shall be turned over to the law enforcement agency and secured per department policy.
- (8) Victim's cooperation with a FNE exam shall not preclude the victim's access to resources or a thorough investigation.
- (9) Obtain a signed medical release from the victim to include medical evaluation, FNE report and ambulance transport, if applicable.

c. Victim in-depth Interview in private setting separate from others, in timely manner with consideration of length of process. Consider having a

victim advocate available at the completion of the interview to support the victim.

- (1) Maintain professional, respectful, and concerned attitude.
- (2) Document and Record the interview.
- (3) Note, document and respond to victim's emotional condition and needs. Make the welfare and comfort of the victim a primary consideration.
- (4) Explain police procedures and needs to victim.
- (5) Obtain specific, detailed account of crime if victim is able to assist without undue stress reactions. Clarify slang terms. Document detailed description of suspect, weapons used, vehicles involved, unfamiliar items at scene, cell phone or other electronic communication with suspect or acquaintances of suspect.
- (6) Ask victim to describe any prior history with suspect if applicable. Do not interrogate or show attitude of suspicion concerning victim's allegation.
- (7) Assess communication devices (phones, computers, etc.) and various social media outlets for evidentiary value.

4. Suspect Interview

- a. Be completely familiar with the background of the case and obtain as many details as possible. Know the elements of the alleged criminal acts and focus the interview accordingly.
- b. Document and record the interview per department policy.
- c. Provide Miranda rights as necessary.
- d. Ask questions of the suspect that illicit details surrounding the relationship the suspect has with the victim, gather details on the nature of the relationship, the duration, and what is typical for the suspect and the victim's sexual or intimate relationship. Have the suspect walk through the entire encounter with the victim from how they were together that day/night, through the sexual assault and how their time ended, include questions that inquire about their communication, be it texts, calls, or social media. Focus on the minutiae, clarify points which are not clear or are contradictory. Clarify terms or slang used by the suspect.
- e. Assess communication devices (phones, computers) and various social media outlets for evidentiary value.

5. Evidence collection

a. Crime Scene

Verify the need for a search warrant or obtain consent for all potential crime scenes. A thorough investigation of the scene(s) in accordance with department policy will be conducted. Agents will take every precaution to preserve evidence and minimize contamination. Special attention will be given to the detection and collection of trace evidence and potential DNA evidence.

- (1) Note location, description, vehicle, or other means of identifying location or locations of offense.
- (2) Note means of suspect entry into building if applicable.
- (3) Note impressions on the ground at scene including: foot tracks of victim and suspect tire impressions of vehicle, body impressions, clothing marks.
- (4) Photograph the scene and the relationship of each item of evidence.
- (5) Collect:
 - (a) Latent prints.
 - (b) Bedding.
 - (c) Discarded clothing of either the suspect or victim.
 - (d) Weapons or evidence of weapons used.
 - (e) Articles, which may have become stained during assault such as rugs, cushions, vehicle seats, etc. Stains may be semen, saliva, blood, perspiration, grease, etc.
 - (f) Articles, which may have been used by the suspect or victim to wipe or clean up after emission.
 - (g) Foreign objects such as buttons, torn fabric, suspect's wallet, etc.
 - (h) Hairs and fibers
 - (i) Sweepings from vehicles
 - (j) Soil samples
 - (k) Other debris at scene

- (L) Note missing articles, which may have been taken by the suspect.

b. Evidence Submission and Preservation

- (1) LPD will submit evidence to the appropriate agency (JCRCL, CBI, Department of Health, etc.)
- (2) Forensic sexual assault kits shall be submitted for analysis within 21 days as required by statute, regardless of the status of the investigation, unless the victim rescinds consent for testing within that time frame or the case is proven false.
- (3) If evidence is collected from an anonymous or non-reporting victim, the evidence will be stored by LPD for a minimum of two years or until the victim chooses to convert their report to a law enforcement report and consents to have it tested.
- (4) Law enforcement will determine, in consultation with the District Attorney's Office, what, if any, evidence is submitted for additional processing or analysis.
- (5) All evidence that may contain DNA, collected in relation to a conviction of a class 1 felony or sex offense that carries a possible indeterminate sentence, shall be preserved for the life of the defendant (C.R.S. §18-1-1102 (1)(a)).
- (6) Technological evidence should be obtained and processed as soon as practical. When appropriate, internet and cellular telephone service providers and social media networks should be contacted immediately by law enforcement and directed to preserve electronic correspondence, content, data, and other pertinent information.

c. Victim Evidence Collection

- (1) Collect all clothing, including inner and outer garments. Keep each garment separate. Arrange for change of clothing prior to hospital exam if possible. To ensure a proper chain of custody, the responding agent shall inspect and account for all bagged items, even if hospital personnel seal the bag prior to giving to agent. Open, inspect, and reseal. Book, per procedure, any items left in pockets, i.e., money, wallet, identification cards, etc.
- (2) Obtain fingernail scrapings - FNE.
- (3) Obtain blood standard and buccal swabs for DNA analysis - FNE.
- (4) Search for foreign hairs by combing pubic area - FNE.
- (5) Obtain vaginal smears and swabs - FNE.

- (6) Obtain bindings used on victim, if any.
- (7) Photograph injuries and appearance of victim at scene or hospital. Photograph injuries with proper perspective, lighting, measurement scale. If possible, without an undue stress reaction and if warranted, arrange for follow - up photos 24 hours later. An appointment should be coordinated with the Criminalistics Unit.

If bite marks are discovered or brought to your attention on the victim or a subsequent suspect, these bite marks should be photographed by Criminalistics. Also, bring these bite marks to the attention of the examining physician or forensic nurse. If these bite marks are substantial, a forensic odontologist should be consulted within the first several hours. This time period is necessary if a mold is to be taken and used as subsequent evidence. Obtain swabbing of area for possible saliva DNA comparison.

b. Hospital examination.

In all cases of sexual assault, it is encouraged that the victim be transported to St. Anthony's Hospital for a medical examination.-

- (1) Approved sexual assault evidence collection kits are maintained by the hospital.
- (2) Hospital may provide counseling or other crisis intervention services for sexual assault victims.
- (3) Forensic examination should include:
 - (a) Vaginal smears (2 slides).
 - (b) Vaginal swabs.
 - (c) Oral or rectal smears if indicated.
 - (d) Blood standards - at least 10 cc.
 - (e) Buccal swab standards - rub two swabs on the inner surface of the cheeks after rinsing the mouth.
 - (f) Foreign hairs - comb pubic hair region with disposable comb collecting any loose hair or fibers.
 - (g) Examination for bruises, cuts, lacerations of the vaginal area as well as complete body exam for injuries.
 - (h) Other medical aspects - STD check, estrogen pill, etc.

- (4) Obtain signed release of medical information form from victim. Obtain doctor's report and patient flow sheet and place into records along with sexual assault medical supplement.
- (5) Collect completed sexual assault kit from forensic nurse or doctor for logging into Police Department evidence. Maintain chain of evidence. Book the sexual assault exam kit into refrigeration because it contains blood and other body fluids that require refrigeration so bacteria will not destroy contents.
- (6) The Police Department shall pay the hospital for the sexual assault examination; however, we shall not pay for any medical treatment required by the victim.

c. Suspect Evidence Collection

(1) Photograph

In addition to routine mug shots, a sexual assault suspect who is taken into custody during or shortly after the crime shall be photographed in overall front and back views as well as side views. Photos should be taken of the suspect fully clothed and with all clothing removed. Close-ups should be taken of any identifying marks, scratches or other injuries. This photography will be conducted in a professional and courteous manner out of view of members of the opposite sex and with due regard for the suspect's privacy to prevent embarrassment or humiliation. Care shall be taken to ensure that such photography shall not be open even partially to the view of any person other than those involved in the photography.

(2) Collect:

- (a) All clothing, keeping each item separate from each other and from the victim's clothing.
- (b) Pubic hair combings
- (c) Blood sample for alcohol or drug determination (standard blood alcohol kit). (Consent / Warrant)
- (d) Two buccal swabs (swabbing the interior walls of the mouth). (Consent / Warrant)
- (e) Fingernail scrapings
- (f) Any item associated with the suspect, which may show stains, hairs, or fibers, related to the crime.

(3) Legal requirements of suspect search.

(a) Based on exigent circumstances, a search warrant or court order is not necessary to take or remove surface hairs, fibers, fingernail scrapings, fingerprints, photographs, oral and penile swabs (if involved in assault) or any other items subject to contamination or destruction when the suspect is in lawful custody.

(b) Collection by means of a subsurface intrusion of the suspect's body for obtaining evidence such as blood samples, buccal or urine sample requires:

Consent of the subject (signed waiver); or

Court order for nontestimonial evidence (Rule 41.1 or Rule 16)

Note: Collection of blood or urine from a suspect for determination of alcohol or drug content requires either consent or a court order/search warrant. If obtaining a court order/search warrant would significantly delay obtaining this transient evidence, then one blood draw is allowable prior to the court order/search warrant being obtained. A court order/search warrant would be needed for subsequent blood draws. If the suspect is alleging being impaired by alcohol and/ or drugs to a degree that his or her judgement was impaired, agents should consider offering the suspect the option of consenting to the collection of blood or urine. This request and response should be documented in a report.

(c) A court order for nontestimonial evidence shall be required when the suspect is not in custody.

(d) In all cases, whether with or without a court order, subsurface seizures for blood shall be done by a physician, FNE or medical technician in a medically approved manner.

6. Case Investigation

Most sexual assault investigations are not solved immediately. Follow - up investigations are designed to gather as much information as possible.

a. Detailed interview of the victim after initial contact.

b. Composite if desired. Follow - up investigator coordinates with Criminalistics Unit personnel in setting up appointment.

c. Neighborhood canvass around scene.

d. MO comparison.

- e. Previous offenders comparison.
- f. Background check of victim.
- g. Pretext Phone Calls, if appropriate.
- h. Cell Phone Records
- i. Photo Arrays.
- j. Voice Recognition.
- k. Previous reports of rape.
- L. Mental or emotional problems.
- m. False reports.
- n. Laboratory exam of evidence.

7. District Attorney's Office

- a. The District Attorney's Office Sexual Assault Rapid Response Team (DASARRT) has been formed to assist in the prosecution of sexual assault cases.
- b. The DASARRT may provide feedback and consultation to detectives during case investigations. The team is available to consult at any/all stages of the investigation.
- c. The DASARRT prosecutor must decide whether charges will be filed. The standard applied in filing decisions is whether a reasonable likelihood of conviction exists. That standard must be met on every element of the charge. The DASARRT prosecutor must consider the class of offense but not the penalties attached in their review of what offenses can be proven through admissible evidence.
- d. If an arrest was made, the filing must be presented to the DA within 48 hours of the arrest.
- e. Case Filing: The investigating detective shall provide all pertinent police reports to the DASARRT to insure a comprehensive review by DASARRT prior to meeting.
 - (1) Return declined sexual assault cases to be resubmitted pending further investigation by the detective.
 - (2) File cases with supplemental requests for investigation.
 - (3) Decline cases outright. The prosecutor shall list the prosecutorial reasons on the declination form and discuss with the detective why filing is not an appropriate course of action. DASARRT, LE

and a victim witness specialist will coordinate to ensure the victim has been notified of the decision not to file.

- (4) The DASARRT prosecutor will identify victims for purposes of advocacy and referral to Crime Victim Compensation.
- (5) Factors involved in any filing decision may include the presence of immediate outcry, evidence of force, presence of inconsistencies, corroboration, and physical evidence.

- f. The District Attorney's Office or law enforcement agency shall offer victim services through Crime Victim Compensation whether or not charges are filed.
- g. The Victim Witness Specialist will arrange for the victim to be present at all critical stages of a criminal proceeding if he/she desires and if not sequestered. Whenever possible, a Victim Witness Specialist will be present in the courtroom with the victim. All possible arrangements will be made for the victim to be present at sentencing.
- h. The Victim Witness Specialist will inform the victim of the right to receive notification post-sentencing, at the victim's request, by the supervising agency for the offender, such as correctional facilities or probation. This would include any future revocation hearings, parole hearings or resentencing.

C. Rule