

	<b>The University of Kansas Police Department</b> 1501 Crestline Drive Suite 120 Lawrence, KS 66045-1501	<b>Department Policy No. 707</b>	
		<b>Sexual Assault Investigation</b>	
		Issue Date: September 8, 2022	
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Approved by: Chief Nelson L. Mosley		Distribution: All Personnel	Review Schedule: Annual

**I. PURPOSE**

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

**II. POLICY**

- A. It is the policy of this department that all dispatchers, officers and investigators take a professional, trauma-informed approach to sexual assault investigations. Officers and investigators play a significant role in both the victim’s willingness to cooperate in the criminal justice system and ability to cope with the emotional and psychological trauma of the crime. Therefore, it is important to proactively investigate these crimes and prosecute the perpetrator in a manner that helps restore the victim’s dignity and sense of control, while decreasing the victim’s anxiety and increasing their understanding of criminal justice system processes.
- B. It is the policy of this department that no personnel shall discourage victims from reporting or participating in a sexual assault investigation. Officers must understand that a large number of sexual assault reports are delayed due to trauma experienced by the victim, which may create a psychological barrier or an unwillingness to fully assist at the beginning of an investigation. Victims may decide to re-engage with the criminal justice process at a later time and this law enforcement agency shall thoroughly investigate all reported incidences. It is especially important that these cases be handled from a nonjudgmental perspective so as not to communicate in any way to the victim that the victim is to blame for the crime.
- C. It is the policy of this department that all sexual assault evidence collection kits that result in a report to law enforcement shall be collected from medical facilities and submitted to a forensic laboratory for analysis.<sup>7</sup> Thorough investigations shall not be delayed or postponed due to laboratory processing time of evidence.
- D. It is the policy of this department that victim advocacy or support services be offered to the victim and allowed to support the victim throughout the criminal justice process.
- E. It is the policy of this department that for all sexual assault investigations a written report is completed and a formal report is submitted for prosecutorial review.

<sup>7</sup> See Training Guide Resources for the Kansas Model Policy for Sexual Assault Evidence Collection Kit Submission, Retention & Disposal

### III. DEFINITIONS

- A. CODIS: The Combined DNA Index System of federal, state and local databases that contain DNA profiles from both known offenders and crime scenes.<sup>8</sup>
- B. Consent: Words or overt actions by a person who is legally and functionally competent to give informed approval, indicating a freely given agreement to engage in sexual acts. Consent can be withdrawn at any time.
- C. Sexual Assault: As used in this policy, all crimes of sexual violence as defined by article 55 of chapter 21 of the Kansas Statutes Annotated.
- D. Sexual Assault Medical Forensic Examination: An examination of a sexual assault patient by a health care provider, ideally one who has specialized education and clinical experience in the collection of forensic evidence and treatment of these patients.
- E. Trauma-Informed: Attending to victims' emotional and physical safety; strengthening victims' capacity to recover from the traumatic effects of abuse and violence by providing information, resources, services and support; and educating victims about the impact of trauma on their health and well-being.
- F. Unfounded: After a thorough investigation has been completed, the collected evidence demonstrates that no crime was committed or attempted.
- G. Victim Advocate: This term may apply to a wide range of service providers, rape crisis counselors, social workers, victim witness providers within a prosecutor's office, including civilian law enforcement victim assistants. Confidentiality and privilege will vary depending on the primary function of the advocate and should, therefore, always be understood by each member of the sexual assault response team and communicated with the victim.
  - 1. Community-based advocate: Provides the victim with a variety of free and confidential advocacy services often needed by a victim to process their experience effectively. Community-based advocates' federal confidentiality requirements prohibit them from sharing victim information with anyone, including the prosecutor, law enforcement, and other criminal justice professionals.
  - 2. System-based advocate: Primarily works with the victim during the pendency of the case to avoid further traumatization due to the criminal justice process. System-based advocates provide information on the criminal justice process and victim rights; assist with strategies regarding safety; and identify victim's needs in order to refer them to appropriate resources and services. System-based advocates' confidentiality requirements allow them to collaborate and share information with the prosecutor, law enforcement, and other criminal justice professionals.

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<sup>8</sup> See Training Guide Resources: FBI CODIS Fact Sheet for additional information about CODIS and DNA profiles. 22 June 14, 2018 allow them to collaborate and share information with the prosecutor, law enforcement, and other criminal justice professionals.

#### IV. PROCEDURES

##### A. Dispatch or Call-Taker Response

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

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

##### B. Initial Officer Response

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

1. Make contact with the victim as soon as possible to address safety concerns and summon emergency medical assistance if needed.
2. Limit the initial interview conducted by the responding officer to questions that will establish only the basic facts of the assault and provide the information necessary for the immediate needs of the investigation and safety of the victim, such as suspect identity, elements of the crime and location of evidence, when reasonable and practical. Questions should be tailored to the victim's emotional and physical state.

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

<sup>10</sup> See Training Guide Appendix B: Translation Services Resource List

3. Understand the impact of trauma on a victim may result in recantation of any or all aspects of the initial disclosure and is not necessarily indicative of a false report. Victims who recant or decline participation in the investigation should not be asked to sign a non-prosecution statement or be told that this precludes the case from future prosecution. In addition, the memory and recall of the case, as provided by the victim, may change over time. Officers should understand that this does not indicate deception.
4. Ask about and document signs and symptoms of physical injury, including strangulation<sup>11</sup> or those that may quickly dissipate.
5. Ask about and document signs and symptoms of trauma<sup>12</sup> or other non-physical injuries, including memory loss.
6. Determine the time and location of the incident as soon as possible.
7. Secure the crime scene to ensure that evidence is not lost, changed or contaminated.
8. If it is determined that the assault occurred in a different jurisdiction than that of the responding law enforcement agency, the responding agency shall notify that jurisdiction as soon as practical and relay information to assist them in securing the scene and preserving evidence.
9. Contact local support or advocacy agencies for the victim. If none are available, provide information regarding national resource agencies that provide sexual assault support.
10. Recognize that a victim experienced a traumatic incident and may not be able or willing to immediately assist with the criminal investigation.
11. Clearly explain the reporting process including the roles of the first responder, investigator, and anyone else with whom the victim will likely interact.
12. Illegal substance abuse by victims, including underage drinking, shall never be used to discredit or discourage the victim from reporting the assault. Communicate that the agency's priority is to thoroughly investigate sexual assault, not prosecute victims for drug or alcohol violations.
13. Be aware of and respect victims' needs when requesting a change in location.<sup>13</sup>
14. Document observations of the crime scene, including the demeanor of the suspect and the victim.
15. Where resources are available, inform the victim that a second interview might occur at a later time and be conducted by an investigator.
16. Arrange for, or provide, transportation to the designated facility if a forensic medical exam is needed and the victim consents.
17. Identify and interview witness or anyone the victim told about the sexual assault. A victim shall not be expected or encouraged to make decisions regarding the investigation or charges related to the offense as part of the initial response.

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

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

<sup>13</sup> For example, some victims might not want to come to the police station.

18. A victim shall not be expected or encouraged to make decisions regarding the investigation or charges related to the offense as part of the initial response.

C. Special Considerations

1. Minors and Special Needs Victims

- a. This agency shall identify the appropriate agency or organization with the necessary knowledge and resources to respond to incidents of sexual assault of minors or special needs victims.<sup>14</sup> This entity should be notified as soon as reasonably possible when these reports are received.
- b. Officers responding to reports of sexual assaults involving these sensitive population groups shall attempt to do the following:
  - (i) Ensure that the scene is safe;
  - (ii) Address the immediate medical needs of individuals at the scene;
  - (iii) Safeguard evidence where appropriate;
  - (iv) Collect any information necessary to identify the suspect; and
  - (v) Be aware of requirements for reporting entities under statutes K.S.A. 38-2223<sup>15</sup> relating to minors and K.S.A. 39-1430<sup>16</sup> relating to vulnerable adults.
- c. Considerations should be given to utilizing individuals with specialized training and experience whenever reasonably possible for victims in these situations.

2. Domestic Violence and Offenders Residing with the Victim

- a. An offender may be present at a crime scene or during the initial response to a sexual assault. Special considerations should be given for how the initial response and interviews are conducted in these instances to ensure the safety and security of the victim.
- b. Care should be taken to ensure the victim is not asked questions in the presence of the offender.
- c. Be aware of requirements under statutes K.S.A. 21-5414<sup>17</sup> and this agency's policy relating to domestic violence calls.

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

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

<sup>16</sup> K.S.A. 39-1430 (a) "'Adult' means an individual 18 years of age or older alleged to be unable to protect their own interest and who is harmed or threatened with harm, whether financial, mental or physical in nature, through action nor inaction by either another individual or through their own action or inaction."

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

3. Military and College Campus Assaults
  - a. If during the course of investigation it becomes apparent that the suspect is enlisted in any branch of the military, it is recommended that the involved person's specific branch commanding officer and/or investigative section be contacted. Local law enforcement and military investigation departments should work collaboratively to avoid potential conflict between criminal investigations and the laws that govern the military branches.
  - b. If the victim is enlisted in any branch of the military, the responding law enforcement agency should be aware of military victim support services available to the victim in addition to other community support services.
  - c. Any educational institution, pre-school through higher education, receiving federal funds is required by Title IX to conduct administrative inquiries and take required steps to correct discrimination on the basis of sex, including sexual assault. They are also required to have a Title IX Coordinator. These responsibilities can conflict with criminal investigations; however this should not interfere with a lawful and thorough criminal investigation by law enforcement. When law enforcement is conducting a criminal investigation with a connection to a covered educational institution, either by location or the people involved, it is essential to work collaboratively with the institution's authorities to avoid potential conflict between criminal investigations and the laws that govern the institution. It is especially important to let the Title IX<sup>18</sup> Coordinator know if there is reason to believe the administrative investigation will interfere with the criminal investigation.
4. Law Enforcement Employee is a Suspect
  - a. If during the course of investigation it becomes apparent that the suspect is employed by the responding agency, the agency shall avoid potential conflict of interest and request another law enforcement agency to investigate. When possible, the other agency should either be the Kansas Bureau of Investigation or an agency from another county.
  - b. It is critical to treat administrative inquiry separate from criminal investigations.

D. Role of Supervisor

Supervisors shall do the following:

1. Respond to assist officers investigating incidents of sexual assault when possible or if requested by an officer.
2. Exhibit sensitivity to victims and ensure that victims are dealt with properly by clarifying their expectations of line officers.
3. Assist in locating resources to investigate sexual assault crimes.
4. Review all sexual assault reports for accuracy and consistency and conduct after action reviews and sexual assault case audits.

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<sup>18</sup> Title IX is part of the Education Amendments of 1972 under Public Law No. 92-318, 86 Stat. 235

5. Encourage officers to look for co-occurring and interconnected<sup>19</sup> crimes when responding to sexual assault.
  6. Ensure officers and investigators understand case classification and appropriately classify sexual assault cases in accordance with section M of this policy.
  7. Encourage problem-solving partnerships to enhance cooperation between the department and community organizations such as rape crisis centers and forensic examination programs using a trauma-informed approach.
  8. Work to increase interagency communication between law enforcement and prosecutors to ease the transition for victims moving from the investigation phase to prosecution.
  9. Recognize officers for rendering effective victim services.
- E. Evidence Collection
- Officers shall follow this agency's policy on crime scene response. In addition, officers shall do the following:
1. Responding officers shall protect the integrity of the evidence and guard the chain of custody by properly marking, packaging, and labeling all evidence collected.
  2. Collect clothing worn at the time of assault and immediately afterward, especially the clothing worn closest to the genitals, including undergarments, pants, and shorts. Each item of clothing must be packaged separately in a paper bag.
  3. Follow this agency's standard protocols for the collection of DNA evidence. In addition to the victim's and suspect's bodies and clothing, there are many other potential sources for DNA, such as condoms, feminine hygiene products, tissues, sheets, blankets, pillows, potential weapons and bottles that may contain biological evidence such as semen, blood, sweat, tissue, saliva, hair and urine.
  4. Photograph or videotape the victim's physical injuries (if any), suspect's injuries (if any), and the crime scene prior to processing. Photographs of visible physical injuries may include any healing or old injuries.
    - a. Ideally, photos should be taken 24, 48, and 72 hours later, as injuries can become more visible and pronounced.
    - b. Photos of injuries should be taken with a scale for size reference.
    - c. Descriptive and specific documentation of the injuries should accompany the photos.
    - d. Officers should be sensitive to the victim's need for privacy, and consider the use of drapes or other techniques, or summon an officer of the same sex as the victim.
    - e. Photographs of the victim's genitals should be obtained as part of the medical forensic examination and should never be taken by officers.

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

- f. Strict control and confidentiality should be maintained of any photographs. Such photos shall be viewed only by personnel directly involved in the investigative process.
  5. Document and collect evidence regarding the environment in which the assault took place, including indications of isolation and soundproofing.
  6. Recognize that evidence can be collected directly from items like wheelchairs or assistive devices. Officers should collect samples directly from these devices, but should not collect the device itself.
  7. Collect and preserve electronic or digital evidence that may contain important information about the case whenever possible. This may include information and data from sources such as security cameras, social media and messaging, cell phones, cameras and recording devices, computers, or other electronic devices that transmit, receive, or store messages, images, or recordings from both the victim and the suspect.
  8. Collect any evidence of threats made by the suspect, to include those made to individuals other than the victim.
  9. Collect and preserve any evidence of drugs or alcohol consumption and, when appropriate, collect blood and urine samples and other evidence such as drinking glasses, alcohol bottles or cans, or other related items.
  10. Proceeding with or conducting a thorough investigation shall not be contingent upon laboratory findings. To the extent possible, investigations should be ongoing while awaiting laboratory results.
  11. If the assault occurred in a different jurisdiction than that of the responding law enforcement agency, ensure the transfer of evidence and case information to the appropriate jurisdiction be completed as soon as practical, but ideally no longer than 14 days after notifying that jurisdiction.
- F. Sexual Assault Medical Forensic Examinations
1. If an investigating officer is responding to a scene, prior to the sexual assault medical forensic examination, the officer shall do the following:
    - a. Coordinate with professionals, such as forensic examiners, to conduct an exam,<sup>20</sup> regardless of the time elapsed since the assault.<sup>21</sup>
    - b. Explain to the victim the purpose of the exam and its importance to their general health and wellness, and to the investigation.
    - c. Provide the victim with general information about the procedure, and encourage them to seek further detail and guidance from the forensic examiner. Officers and investigators cannot deny a victim the opportunity to have an exam.

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

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



- d. If not already completed, and with the victim's consent, notify a victim advocate.
  - e. Inform the victim that they have the right to decline any or all parts of the exam.
  - f. If not previously collected, advise the victim that the forensic examiner might collect all clothing that was worn during or immediately after the sexual assault. Assist in arranging for clothing the victim may need after the exam.
  - g. Inform the victim that they will not be charged for the cost of administering the exam, however charges may apply for medical treatment required beyond the exam.<sup>22</sup> The victim should be encouraged to discuss any questions regarding payment with the forensic examiner.
  - h. Encourage a victim who is unwilling to undergo an exam to consider seeking medical attention, including testing and/or prevention medication for pregnancy and sexually transmitted infections. This testing should be completed as soon as possible after the assault, as well as later, as positive results for pregnancy and some infections might not appear until later.
  - i. Address any special needs of the victim, such as communication, mobility, or cultural considerations.
  - j. If possible, transport or arrange transportation for the victim to the designated medical facility.
2. Once at the medical facility:
- a. Officers should not be present during any part of the exam, including during the medical history.
  - b. A victim advocate or a support person of the victim's choosing shall be allowed to be present in the room and during the interview, unless it would be harmful to the investigation. The officer shall take responsibility for excluding a support person, when appropriate, and provide an explanation to the victim and support person.
  - c. Brief the forensic examiner about the details of the sexual assault, as they are known at the time.
  - d. Pursuant to K.S.A. 65-448,<sup>23</sup> forensic examiners must report the exam of a minor to the parent/legal guardian unless the parent/legal guardian is a suspect or there is reason to believe the child will be harmed if notice is given. For this reason, it is important to notify the forensic examiner if the parent/legal guardian of the minor is the suspect.

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

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

3. Upon conclusion of the medical exam the officer should obtain a signed release from the victim for access to medical records from the exam and request copies of the medical report.<sup>24</sup>
  4. An officer should never ask a forensic examiner if an exam confirms an assault. Sexual assaults are unique to each case and cannot be diagnosed by a medical exam alone.
  5. The police report shall contain a copy of the exam report and a summary of the findings that note significant information or details of injury; these are not for public release based on medical privacy concerns.
  6. If the assault occurred within 120 hours, and there is a suspicion of drug- or alcohol-facilitated sexual assault, or that the victim was not able to consent to sexual activity, a blood and urine sample should be collected from the victim, with their consent. Evidence should be submitted as soon as possible for toxicological testing to determine if the event was a drug- or alcohol-facilitated sexual assault. Ensure that all evidence collected is properly packaged and stored to preserve integrity.<sup>25</sup> Because of the delay in reporting most sexual assaults, the agency should work with laboratories capable of identifying in blood and urine very low levels of drugs commonly used in sexual assault.
  7. After the exam, it is critical to ensure that the evidence has been properly sealed and labeled. Law enforcement shall collect all exam evidence from the medical facility as soon as practical, but no more than 30 days after the date of the exam. The exam evidence shall be stored in accordance with this agency's evidence policy.
  8. All sexual assault evidence collection kits shall be sent to the appropriate laboratory within 14 days from the collection of the kit for processing.<sup>26</sup>
- G. Formal/Follow-up Victim Interviews
1. The victim may be experiencing trauma and can exhibit a range of behaviors that will likely change over time. Due to possible trauma, in-depth interviews should be conducted one or two sleep cycles after the assault.
  2. The victim's response to trauma of a sexual assault shall not be used in any way to measure credibility. When drugs or alcohol are involved, the victim may have limited recollection or be unable to give a complete account of the crime.
  3. Kansas State statutes (K.S.A. 22-4614) prohibit law enforcement and prosecutors from requesting or requiring any person reporting to be a victim of sexual assault to submit to a polygraph or other truth-telling devices as a condition of proceeding with the investigation or prosecution.

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

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

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

4. Prior to initiating the interview, the investigator/officer will attempt to:
  - a. Interview any witnesses who may have seen or spoken with the victim before, during, or after the assault.
  - b. Accommodate the victim's request for a victim advocate or support person whenever possible.
  - c. Secure a private location for the interview that is free from distractions. Record via video or audio the initial statement and all subsequent interviews, when reasonable and practical. However, if the victim indicates that they do not wish to be recorded, this should be noted in the officer's report and the recording should stop if permitted by policy and law.
  - d. Express sympathy to the victim for what happened to them and indicate an interest in their well-being.
  - e. Discuss the purpose and scope of the interview and explain the victim's rights, including confidentiality.
  - f. Inform the victim of the need and importance of full disclosure of all recent alcohol and/or drug use and reassure them that they will not be prosecuted for illegal drug or alcohol use nor shall the use of drugs or alcohol undermine the investigation or prosecution process.
5. During the interview, the investigator/officer shall:
  - a. In order to build trust and rapport with a victim, begin with open-ended questions<sup>27</sup> and provide clarification to the victim for why certain questions are being asked.
  - b. Allow the victim to describe what occurred without interruption.
  - c. If the suspect was known by the victim, determine the following facts:
    - (i) How long the victim knew the suspect.
    - (ii) The circumstances of their meeting.
    - (iii) The extent of their previous or current relationship, including any previous acts of violence or abuse.
    - (iv) Because consent may be withdrawn at any time, it is important to note any behavioral changes that led the situation from one based on consent to one of submission, coercion, fear or force.
  - d. Identify the location where the assault took place, including any isolation strategies used by the suspect.
  - e. Document actions, threats (real, perceived, or implied), gestures, coercion, and other behaviors used by the suspect to cause the victim to submit.
  - f. Understand ways in which the victim resisted or indicated non-consent, both verbally and nonverbally. Note that a victim may consent to some sexual activity, but this does not mean they have consented to all acts.

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

- g. Document the victim's actions and responses before, during, and after the sexual assault, including indications of their state of mind during the assault.
  - h. Document the victim's thoughts and feelings before and during the assault.
  - i. Ask for sensory evidence and details of the victim's experience. This may include what the victim saw, smelled, heard, felt or tasted.
  - j. Ask about potential identifying characteristics of the suspect, such as birthmarks, scars, tattoos, etc.
  - k. Document circumstances that may indicate the use of drugs or alcohol to facilitate the sexual assault, including memory loss, disorientation, severe illness, or hallucinations.
  - l. Document if and when any prescription drugs were taken.
  - m. Document the victim's behavior and thoughts since or after the assault, including changes in routine, depression, mood instability, sleep and diet disturbances, flashbacks, nightmares, and stress.
  - n. Document any pre- or post-assault contact, monitoring, stalking, or other behaviors of the suspect.
6. At the conclusion of the interview, the investigator/officer shall:
- a. Give the victim the investigator's/officer's contact information.
  - b. Encourage the victim to contact the investigator/officer with any additional information or evidence.
  - c. Remind the victim that visible evidence of injury may appear later and to contact the investigator/officer for additional photographs or other documentation.
  - d. Ensure that requests for victim protection orders are made.
  - e. Provide written referrals for victim service organizations.
  - f. If justified, assist the victim in developing a safety plan by contacting a community-based victim advocate in the event safety concerns exist, and encourage the victim to call the police if the suspect violates any existing criminal or court orders, or if the suspect contacts the victim in any way.
  - g. Provide or arrange transportation when reasonably possible.
  - h. Inform the victim about next steps in the investigation and encourage their continued support. Explain to the victim future investigative and prosecutorial activities that may require their involvement.
- H. Contacting and Interviewing Suspects
- 1. Prior to interviewing the suspect, investigators/officers should:
    - a. Conduct a background and criminal history check<sup>28</sup> specifically looking for accusations, criminal charges, and convictions for interconnected crimes, especially crimes involving violence.

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

- b. Understand common tactics used by offenders, including:
  - (i) Choice of victim based on a perceived lack of credibility or vulnerability such as age, status, alcohol or drug consumption, or other circumstances that can cause others to doubt the victim's report of the assault.
  - (ii) Testing victim's boundaries for vulnerability and ease of access.
  - (iii) Using manipulation, cunning, and/or threats to accomplish the assault while using only enough force of violence to frighten or intimidate into compliance.
  - (iv) Using drugs or alcohol purposefully to make victims more vulnerable and lower inhibitions.
  - (v) Isolating the victim.
  - (vi) Common defense strategies, such as claims of consent, mistaken identity, and denial.<sup>29</sup>
- c. Consideration of pretext phone calls:
  - (i) The purpose of a pretext phone call is to solicit and record potentially incriminating statements from the suspect.
  - (ii) A pretext phone call cannot be conducted if the suspect has invoked their Fifth Amendment rights.
  - (iii) When involving the victim in a pretext phone call to the suspect, carefully consider the victim's emotional and physical state. A pretext phone call can result in additional trauma to the victim.
  - (iv) Under no circumstances should a victim be required to participate in a pretext phone call.
  - (v) The investigator/officer should discuss potential outcomes for the call with the victim, emphasizing that it is not their fault if the call does not go well or as planned.
  - (vi) A victim advocate should be present whenever possible to offer support.
- d. Decide on an appropriate location and time to interview the suspect with consideration for the following:
  - (i) Suspect's relationship with and access to the victim.
  - (ii) Whether the suspect is a flight risk.
  - (iii) Possible destruction or loss of evidence.
- e. Record via video and audio the initial statement and all subsequent interviews, when reasonable and practical per agency policy. Note that pursuant to K.S.A. 22-4620,<sup>30</sup> all law enforcement agencies shall adopt a detailed written policy requiring electronic recording of any custodial interrogation conducted at a place of detention.

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

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

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

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

1. Prior to or immediately after the preliminary suspect interview, investigators should photograph any injuries.
2. The investigating officer shall determine whether a sexual assault medical forensic examination should be conducted by a medical forensic examiner. When possible, officers should consult with a medical forensic examiner to assist this decision.
3. A search warrant, with specific details about what evidence will be collected, should be secured in advance of initiating a suspect exam. The intent of the exam should be to collect evidence from their body and clothing as soon as possible after the assault in order to eliminate the opportunity for the suspect to destroy or alter evidence.
4. During the suspect's sexual assault medical forensic examination, the investigator, evidence technician, or forensic examiner should do the following:
  - a. When supported by facts, strongly consider penile swabbing, pubic hair combings, and collection of other potential DNA evidence. Cotton-tipped swabs or other buccal DNA collectors shall be readily available to investigators in the field.
  - b. Collect biological and trace evidence from the suspect's body
  - c. Document information about the suspect's clothing, appearance, scars, tattoos, piercings, and other identifiable marks.
  - d. Seize all clothing worn by the suspect during the assault, particularly any clothing touching the genital area.
  - e. Document the suspect's medical history and any injuries.
5. Whenever possible, the suspect's examination should not take place in the same location or by the same examiner as the victim's forensic examination, unless appropriate precautions are taken to avoid cross-contamination.
6. After the exam, it is critical to ensure that the evidence has been properly collected, sealed, and labeled. Law enforcement shall collect all exam evidence from the medical facility as soon as practical. The exam evidence shall be stored in accordance with this agency's evidence policy. All sexual assault evidence collection kits shall be sent to the appropriate laboratory within 14 days from the collection of the kit for processing.

J. Protecting Victim Rights

Officers shall explain to victims the limitations of confidentiality, as well as the agency's dedication to protecting the confidentiality of the victim's information to the maximum extent possible by law and policy.

1. Victims should also be provided information regarding the following:
  - a. Protections and victim compensation afforded to crime victims pursuant to K.S.A. 74-7333.

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

K. Report Writing

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

1. Fully document the elements and details of the incident.
2. Capture details necessary to establish any of the following:
  - a. Premeditation or grooming behavior by the perpetrator;
  - b. Coercion, threats, and force used;
  - c. Attempts by the perpetrator to intimidate or discourage the victim from reporting the assault;
  - d. Presence of injuries;
  - e. Use of drugs or alcohol and the effects on the victim and suspect; and
  - f. Victims' capacity to consent and state of consciousness.
3. Document details regarding the victim's reaction during and after the incident (e.g., victim demeanor, emotional response, changes in routines or habits, etc.).
4. Fully document fear by recording all fight, flight, freeze, or submit reactions the victim expressed or exhibited before, during, and after the assault.
5. Create a timeline to show the effects of the traumatic event on post-assault behavior and actions of the victim as compared to previous behavior (e.g., in a case where the suspect is known to the victim, the victim no longer goes to the gym that the suspect belongs to, will not be in the same room as the suspect, or the victim drops out of school, etc.).



6. Unless they are direct quotes (in which case, place them in quotation marks) avoid using terms that indicate consensual behavior (such as “participated” or “engaged in”) when describing the specific actions between the suspect and victim.<sup>31</sup>
  7. Avoid using the term “alleged” when referring to the crime or victim, and consider instead using the term “reported” for documentation.
  8. Document only the facts of the case as reported by witnesses and do not insert opinions regarding witness credibility.
  9. If a consensual encounter turned nonconsensual, clearly document the details of how and when the suspect’s behavior changed and how the victim expressed or demonstrated non-consent to the continued acts.
- L. Prosecutorial Review
1. All investigations of sexual assault shall be formally submitted for prosecutorial review and should include supporting investigative documents, such as the medical exam paperwork, results from laboratory analysis of evidence, interviews and statements from witnesses, and the final written investigative report.
- M. Case Coding/Classification
1. Classification of the status of a case should follow agency guidelines.
  2. Case Disposition Coding
    - a. Cases should never be coded as Unfounded unless evidence obtained through investigation shows that a crime was not committed or attempted. Unfounded coding should not be used for cases in which the crime is unsubstantiated or unable to be proven.
- N. Training
1. This department is responsible for providing training to carry out this policy. Personnel should be made aware of this policy and its contents.

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<sup>31</sup> For language considerations for report writing, please see Training Guide Resources: EVAWI Training Bulletin: Words Matter

## Appendix A: Understanding Advocacy Roles



### System-Based Advocates

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

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

### Community-Based Advocates

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

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

### What are the differences between advocacy roles?

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

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

To connect with the sexual assault or domestic violence community-based advocacy organization nearest you, contact the Kansas Crisis Hotline at:

1-888-END-ABUSE {1-888-363-2287}

## Appendix B: Translation Services Resource List

### Third Party Translation Services

#### *Subscription Based*

Language Line Services [www.languageline.com](http://www.languageline.com) or 1-800-523-1786

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

#### *Pay by the Minute*

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