

Connecticut Police Academy

Investigating Sexual Assault

Sec 512



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512 SEXUAL ASSAULT / RAPE CRISIS (4 HRS)

INSTRUCTIONAL GOAL:

This course will introduce the recruit to the Connecticut Sexual Assault statutes, special concerns relative to the interviewing of sexual assault victims, rape crisis intervention techniques, specific investigative methods to be used in sexual assault cases, as well as the collection and preservation of sexual assault evidence.

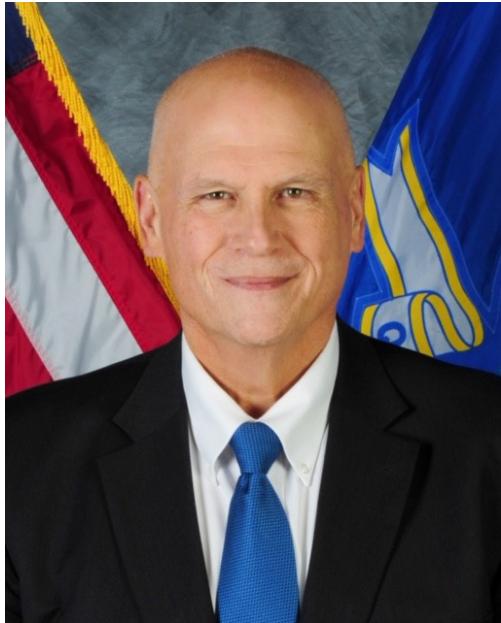
PERFORMANCE OBJECTIVES:

- 1) Identify common myths and facts relative to sexual assault.
- 2) Recognize and explain "Rape Trauma Syndrome" including the Three Stage Rationalization Process (Shock/Guilt-Crisis, Denial, and Acceptance).
- 3) Explain the methods of interviewing and obtaining statements from sexual assault victims and the priorities involved.
- 4) Identify and apply the various sexual assault and related criminal statutes.
- 5) Identify the five (5) manners of death.
- 6) Identify how to differentiate autoerotic fatality from suicide and homicide.
- 7) Recognize the methods of identifying, collecting, preserving, and maintaining evidence in sexual assault cases and autoerotic incidents.
- 8) Identify the various components of the Connecticut Sexual Evidence Collecting Kit.
- 9) Identify the responsibility of the medical authorities and law enforcement agencies relating to Sexual Evidence Collecting Kits in cases where a criminal complaint has been lodged and in cases where no criminal complaint has been lodged.

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Commissioner James C. Rovella

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OUR OBJECTIVE

The purpose of this training is to provide officers with guidelines for responding to complaints of sexual assault, for dealing with victims, interfacing with local health and welfare agencies, and conducting interviews with victims and witnesses.

WHAT IS SEXUAL ASSAULT?

Sexual assault, as referenced in this lesson, includes rape and other forcible, non-consensual sex acts as defined by law, concerning adult female and male victims. Investigating sexual assaults against juveniles should also incorporate procedures outlined in your agency's policy on child abuse and neglect.

SEX CRIME DEFINITIONS

- 1) "Actor" means a person accused of sexual assault.
- 2) "Sexual intercourse" means vaginal intercourse, anal intercourse, fellatio or cunnilingus between persons regardless of sex. Its meaning is limited to persons not married to each other. Penetration, however slight, is sufficient to complete vaginal intercourse, anal intercourse or fellatio and does not require emission of semen. Penetration may be committed by an object manipulated by the actor into the genital or anal opening of the victim's body.
- 3) "Sexual contact" means any contact with the intimate parts of a person not married to the actor for the purpose of sexual gratification of the actor or for the purpose of degrading or humiliating such person or any contact of the intimate parts of the actor with a person not married to the actor for the purpose of sexual gratification of the actor or for the purpose of degrading or humiliating such person.
- 4) "Impaired because of mental disability or disease" means that a person suffers from a mental disability or disease which renders such person incapable of appraising the nature of such person's conduct.
- 5) "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling such person's conduct owing to the influence of a drug or intoxicating substance administered to such person without such person's consent, or owing to any other act committed upon such person without such person's consent.
- 6) "Physically helpless" means that a person is (A) unconscious, or (B) for any other reason, is physically unable to resist an act of sexual intercourse or sexual contact or to communicate unwillingness to an act of sexual intercourse or sexual contact.
- 7) "Use of force" means: (A) Use of a dangerous instrument; or (B) use of actual physical force or violence or superior physical strength against the victim.
- 8) "Intimate parts" means the genital area or any substance emitted therefrom, groin, anus or any substance emitted therefrom, inner thighs, buttocks or breasts
- 9) "Psychotherapist" means a physician, psychologist, nurse, substance abuse counselor, social worker, clergyman, marital and family therapist, mental health service provider, hypnotist or other person, whether or not licensed or certified by the state, who performs or purports to perform psychotherapy.
- 10) "Psychotherapy" means the professional treatment, assessment or counseling of a mental or emotional illness, symptom or condition.
- 11) "Emotionally dependent" means that the nature of the patient's or former patient's emotional condition and the nature of the treatment provided by the psychotherapist are such that the psychotherapist knows or has reason to know that the patient or former patient is unable to withhold consent to sexual contact by or sexual intercourse with the psychotherapist.

- 12) "Therapeutic deception" means a representation by a psychotherapist that sexual contact by or sexual intercourse with the psychotherapist is consistent with or part of the patient's treatment.
- 13) "School employee" means: (A) A teacher, substitute teacher, school administrator, school superintendent, guidance counselor, psychologist, social worker, nurse, physician, school paraprofessional or coach employed by a local or regional board of education or a private elementary, middle or high school or working in a public or private elementary, middle or high school; or (B) any other person who, in the performance of his or her duties, has regular contact with students and who provides services to or on behalf of students enrolled in (i) a public elementary, middle or high school, pursuant to a contract with the local or regional board of education, or (ii) a private elementary, middle or high school, pursuant to a contract with the supervisory agent of such private school.

LAW:

Sec. 53a-70. Sexual assault in the first degree: Class B or A felony. (a) A person is guilty of sexual assault in the first degree when such person (1) compels another person to engage in sexual intercourse by the use of force against such other person or a third person, or by the threat of use of force against such other person or against a third person which reasonably causes such person to fear physical injury to such person or a third person, or (2) engages in sexual intercourse with another person and such other person is under thirteen years of age and the actor is more than two years older than such person, or (3) commits sexual assault in the second degree as provided in section 53a-71 and in the commission of such offense is aided by two or more other persons actually present, or (4) engages in sexual intercourse with another person and such other person is mentally incapacitated to the extent that such other person is unable to consent to such sexual intercourse.

(b) (1) Except as provided in subdivision (2) of this subsection, sexual assault in the first degree is a class B felony for which two years of the sentence imposed may not be suspended or reduced by the court or, if the victim of the offense is under ten years of age, for which ten years of the sentence imposed may not be suspended or reduced by the court.

(2) Sexual assault in the first degree is a class A felony if the offense is a violation of subdivision (1) of subsection (a) of this section and the victim of the offense is under sixteen years of age or the offense is a violation of subdivision (2) of subsection (a) of this section. Any person found guilty under said subdivision (1) or (2) shall be sentenced to a term of imprisonment of which ten years of the sentence imposed may not be suspended or reduced by the court if the victim is under ten years of age or of which five years of the sentence imposed may not be suspended or reduced by the court if the victim is under sixteen years of age.

(3) Any person found guilty under this section shall be sentenced to a term of imprisonment of at least ten years, a portion of which may be suspended, except as provided in subdivisions (1) and (2) of this subsection, or a term of imprisonment and a period of special parole pursuant to subsection (b) of section 53a-28 which together constitute a sentence of at least ten years. Notwithstanding the provisions of subsection (a) of section 53a-29 and except as otherwise provided in this subsection, a court may suspend a portion of a sentence imposed under this subsection and impose a period of supervised probation pursuant to subsection (f) of section 53a-29.

Sec. 53a-70b. Sexual assault in spousal or cohabiting relationship: Class B felony. (a) For the purposes of this section:

- (1) "Sexual intercourse" means vaginal intercourse, anal intercourse, fellatio or cunnilingus between persons regardless of sex. Penetration, however slight, is sufficient to complete vaginal intercourse, anal intercourse or fellatio and does not require emission of semen. Penetration may be committed by an object manipulated by the actor into the genital or anal opening of the victim's body; and
- (2) "Use of force" means: (A) Use of a dangerous instrument; or (B) use of actual physical force or violence or superior physical strength against the victim.
 - (b) No spouse or cohabitor shall compel the other spouse or cohabitor to engage in sexual intercourse by the use of force against such other spouse or cohabitor, or by the threat of the use of force against such other spouse or cohabitor which reasonably causes such other spouse or cohabitor to fear physical injury.
 - (c) Any person who violates any provision of this section shall be guilty of a class B felony for which two years of the sentence imposed may not be suspended or reduced by the court.

Sec. 53a-71. Sexual assault in the second degree: Class C or B felony. (a) A person is guilty of sexual assault in the second degree when such person engages in sexual intercourse with another person and: (1) Such other person is thirteen years of age or older but under sixteen years of age and the actor is more than three years older than such other person; or (2) such other person is impaired because of mental disability or disease to the extent that such other person is unable to consent to such sexual intercourse; or (3) such other person is physically helpless; or (4) such other person is less than eighteen years old and the actor is such person's guardian or otherwise responsible for the general supervision of such person's welfare; or (5) such other person is in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over such other person; or (6) the actor is a psychotherapist and such other person is (A) a patient of the actor and the sexual intercourse occurs during the psychotherapy session, (B) a patient or former patient of the actor and such patient or former patient is emotionally dependent upon the actor, or (C) a patient or former patient of the actor and the sexual intercourse occurs by means of therapeutic deception; or (7) the actor accomplishes the sexual intercourse by means of false representation that the sexual intercourse is for a bona fide medical purpose by a health care professional; or (8) the actor is a school employee and such other person is a student enrolled in a school in which the actor works or a school under the jurisdiction of the local or regional board of education which employs the actor; or (9) the actor is a coach in an athletic activity or a person who provides intensive, ongoing instruction and such other person is a recipient of coaching or instruction from the actor and (A) is a secondary school student and receives such coaching or instruction in a secondary school setting, or (B) is under eighteen years of age; or (10) the actor is twenty years of age or older and stands in a position of power, authority or supervision over such other person by virtue of the actor's professional, legal, occupational or volunteer status and such other person's participation in a program or activity, and such other person is under eighteen years of age; or (11) such other person is placed or receiving services under the direction of the Commissioner of Developmental Services in any public or private facility or program and the actor has supervisory or disciplinary authority over such other person.

(b) Sexual assault in the second degree is a class C felony or, if the victim of the offense is under sixteen years of age, a class B felony, and any person found guilty under this section shall be sentenced to a term of imprisonment of which nine months of the sentence imposed may not be suspended or reduced by the court. Sec. 53a-72a.

Sec. 53a-72a. Sexual assault in the third degree: Class D or C felony. (a) A person is guilty

of sexual assault in the third degree when such person (1) compels another person to submit to sexual contact (A) by the use of force against such other person or a third person, or (B) by the threat of use of force against such other person or against a third person, which reasonably causes such other person to fear physical injury to himself or herself or a third person, or (2) engages in sexual intercourse with another person whom the actor knows to be related to him or her within any of the degrees of kindred specified in section 46b-21.

(b) Sexual assault in the third degree is a class D felony or, if the victim of the offense is under sixteen years of age, a class C felony.

Sec. 53a-73a. Sexual assault in the fourth degree: Class A misdemeanor or class D felony.

(a) A person is guilty of sexual assault in the fourth degree when: (1) Such person subjects another person to sexual contact who is (A) under thirteen years of age and the actor is more than two years older than such other person, or (B) thirteen years of age or older but under fifteen years of age and the actor is more than three years older than such other person, or (C) mentally incapacitated or impaired because of mental disability or disease to the extent that such other person is unable to consent to such sexual contact, or (D) physically helpless, or (E) less than eighteen years old and the actor is such other person's guardian or otherwise responsible for the general supervision of such other person's welfare, or (F) in custody of law or detained in a hospital or other institution and the actor has supervisory or disciplinary authority over such other person; or (2) such person subjects another person to sexual contact without such other person's consent; or (3) such person engages in sexual contact with an animal or dead body; or (4) such person is a psychotherapist and subjects another person to sexual contact who is (A) a patient of the actor and the sexual contact occurs during the psychotherapy session, or (B) a patient or former patient of the actor and such patient or former patient is emotionally dependent upon the actor, or (C) a patient or former patient of the actor and the sexual contact occurs by means of therapeutic deception; or (5) such person subjects another person to sexual contact and accomplishes the sexual contact by means of false representation that the sexual contact is for a bona fide medical purpose by a health care professional; or (6) such person is a school employee and subjects another person to sexual contact who is a student enrolled in a school in which the actor works or a school under the jurisdiction of the local or regional board of education which employs the actor; or (7) such person is a coach in an athletic activity or a person who provides intensive, ongoing instruction and subjects another person to sexual contact who is a recipient of coaching or instruction from the actor and (A) is a secondary school student and receives such coaching or instruction in a secondary school setting, or (B) is under eighteen years of age; or (8) such person subjects another person to sexual contact and (A) the actor is twenty years of age or older and stands in a position of power, authority or supervision over such other person by virtue of the actor's professional, legal, occupational or volunteer status and such other person's participation in a program or activity, and (B) such other person is under eighteen years of age; or (9) such person subjects another person to sexual contact who is placed or receiving services under the direction of the Commissioner of Developmental Services in any public or private facility or program and the actor has supervisory or disciplinary authority over such other person.

(b) Sexual assault in the fourth degree is a class A misdemeanor or, if the victim of the offense is under sixteen years of age, a class D felony.

Assign a case number for every reported sexual assault offense and document each report in writing.

Even if an incident does not meet the elements of a sexual offense, a written report should be saved as an information report. Preserving information reports affords potential **pattern identification with serial offenders, a return to cases as more information develops, and promotes supervisory review.**

All reports should be taken as valid unless evidence proves otherwise.

- Do not rush to decide if a report is an information or crime report. This decision should be based on evidence collected through the investigation.
- A report should not be labeled “false” or unfounded as a result of the initial victim interview or perceived victim reaction to the sexual assault.
- Victims of sexual assault may recant or decline prosecution for various reasons (e.g. fear of retaliation by the offender, concern about not being believed, hesitancy regarding the criminal justice system, and loss of privacy). a victim’s reluctance to participate is neither indicative of a false report nor a reason to forego a strong, evidence-based investigation.
- Case coding and clearance decisions should be based on careful analysis of evidence identified through an investigation.

SEXUAL VIOLENCE MYTHS & FACTS

Myth: Sexual assault is an act of lust and passion that can't be controlled.

Fact: Sexual assault is about power and control and is not motivated by sexual gratification.[1]

Myth: If a victim of sexual assault does not fight back, they must have thought the assault was not that bad or they wanted it.

Fact: Many survivors experience tonic immobility or a “freeze response” during an assault where they physically cannot move or speak.[2]

Myth: A lot of victims lie about being raped or give false reports.

Fact: Only 2-8% of rapes are falsely reported, the same percentage as for other felonies.[3]

Myth: A person cannot sexually assault their partner or spouse.

Fact: Nearly 1 in 10 women have experienced rape by an intimate partner in their lifetime.[4]

Myth: Sexual assaults most often occur in public or outdoors.

Fact: 55% of rape or sexual assault victimizations occur at or near the victim's home, and 12% occur at or near the home of a friend, relative, or acquaintance.[5]

Myth: Rape does not happen that often.

Fact: There is an average of 293,066 victims ages 12 or older of rape and sexual assault each year in the U.S. This means 1 sexual assault occurs every 107 seconds.[6]

Myth: People that have been sexually assaulted will be hysterical and crying.

Fact: Everyone responds differently to trauma- some may laugh, some may cry, and others will not show any emotions.[7]

Myth: Men are not victims of sexual violence.

Fact: 1.5% of all men have been raped and 47% of bisexual men have experienced some form of unwanted sexual contact in their lifetime.

Myth: Wearing revealing clothing, behaving provocatively, or drinking a lot means the victim was “asking for it”.

Fact: The perpetrator selects the victim- the victim’s behavior or clothing choices do not mean that they are consenting to sexual activity.[8]

Myth: If a parent teaches a child to stay away from strangers they won’t get raped.

Fact: 60% of child sexual abuse cases are perpetrated by someone the child knows outside the family, and 30% are assaulted by family members.[9]

Myth: Being sexually assaulted by someone of the same gender can make a person gay or lesbian.

Fact: The assault is typically not based on the sexual preferences of the victim or rapist, and therefore does not necessarily change the victim’s sexual orientation.[10]

Myth: People with disabilities are at low risk for sexual assault.

Fact: People with disabilities are victims of sexual assault twice as much as people without disabilities.

Myth: Prostitutes cannot be raped because they are selling sex.

Fact: Prostitutes have the right to give and withhold consent to any sexual activity, and therefore, can be raped just like anyone else.[11]

Myth: Getting help is expensive for survivors of assault.

Fact: Services such as counseling and advocacy are offered for free or at a low cost by sexual assault service providers.[12]

Myth: There is nothing we can do to prevent sexual violence.

Fact: There are many ways you can help prevent sexual violence including intervening as a bystander to protect someone who may be at risk.[13]

Sexual assault victims are typically traumatized and many, because of the extremely personal nature of the crime, are too embarrassed to report the offense to the police. Often the fear of investigative, medical, and prosecutorial procedures adds to a victim’s reluctance to report, or unwillingness or psychological inability to assist in the investigation. Officers and criminal investigators play a significant role in the victim’s willingness to cooperate in the investigation and the person’s ability to cope with the emotional and psychological aftereffects of the crime. Therefore, it is this law enforcement agency’s policy to provide victims of sexual assault with compassion and consideration, and with the necessary information and assistance to make their interaction with the criminal justice system easier.

RAPE TRAUMA

3 Stages

- Shock/Guilt
- Denial
- Acceptance

THERE IS NO TYPICAL VICTIM BEHAVIOR

- Delayed Reporting
- Contact with Suspect AFTER Offense
- Inconsistencies
- Previous Claims of Victimization
- Lies About Behavior
- Reports to Someone other than Law Enforcement
- Indifferent to Injuries or Pain

WHAT TO DO?

When in doubt, do what is best for the Victim, not the investigation.

COMMUNICATIONS / ERS

Communications / ERS personnel play a critical role in focusing the initial police response by compiling necessary information concerning the victim and offender and providing initial aid and comfort to the victim. This includes:

- Ascertaining the medical condition, needs, and location of the victim, time of the incident, description of the suspect, and direction/mode of travel
- Advising the victim not to change clothing, shower, or touch anything in the immediate area of the crime scene.
- Staying on the telephone with the victim to provide assistance and comfort until a patrol unit arrives on the scene.
- Alert the on-duty Shift Commander and/or Station House Sergeant who shall notify an Investigative Services Unit Supervisor as needed.

PATROL RESPONSE

Initial responding officers should be primarily concerned with the well-being of the victim and, where circumstances allow, should initiate investigative procedures that will facilitate the identification and arrest of suspects while preserving the crime scene.

UPON ARRIVAL:

- Limit investigative questioning to those matters necessary to identify the victim and to describe and locate the suspect (Minimal Facts!)
- Relay pertinent information to Communications / ERS personnel
- Determine the victim's emotional and physical ability to answer questions concerning the assault and limit questioning accordingly

- Conduct further minimal facts questioning in private and only by one officer

MINIMAL FACTS INTERVIEW:

Location

- Safe and Comfortable
- Private and Distraction Free
- Maintain an Equal or Inferior Position to the Victim
- Allow her to have some Control over her Surroundings

Explain the purpose of the interview

- Purpose is to gather evidence and information, NOT TO PLACE BLAME OR JUDGEMENT!!
- There will be questions that the victim does not have the answers to.
- The victim DOES NOT have to make any immediate decisions about whether to prosecute or not
- Explain there may be another investigator / Detective assigned to case

Present yourself in an accepting and compassionate manner

- Acknowledge the Trauma and Seriousness of what she has been through:
- "I am sorry that this happened to you."
- Allow her to vent, even if it is at YOU
- Demonstrate empathy
- Help the Victim to regain some control.
- NEVER SAY, "I know how you feel" because you don't
- Calm and reassuring vocal tones

Minimal Facts

- What happened? (Type of assault/ penetration)
- Who is/are the alleged perpetrator(s)?
- Where did it happen? (Don't forget to check for multiple jurisdictions)
- When did it happen? (Timeframe)
- Ask about witnesses/other victims.
- Did someone see what happened?
- Did you tell anyone else?
- Who and how
- How did you get here/there

PATROL RESPONSE (CONTINUED)

- Render necessary first aid and request emergency medical assistance if required
- Attempt to gain the victim's trust and confidence by showing understanding, patience and respect for personal dignity; using language appropriate to the age, intelligence and emotional condition of the victim and helping the victim to locate family or friends for emotional support or to obtain outside assistance from victim advocates.
- Patrol Response
- Officers shall notify the Sexual Assault Crisis Center in their area

- Advise the victim that the cost of evidence collection is paid by the Chief States Attorney's Office and that additional costs may be covered by the Office of Victim's Services Crime Victim's Compensation Fund.
- Advise the victim that information pertaining to their identity will not be released and is considered confidential. (Gen. Stat. 54-86e)

Gen. Stat. 54-86e. Confidentiality

Sec. 54-86e. Confidentiality of identifying information pertaining to victim of sexual assault. Availability of information to accused. Protective order information to be entered in registry. The name and address of the victim of a sexual assault under section 53a-70, 53a-70a, 53a-71, 53a-72a, 53a-72b or 53a-73a, or injury or risk of injury, or impairing of morals under section 53-21, or of an attempt thereof, and such other identifying information pertaining to such victim as determined by the court, shall be confidential and shall be disclosed only upon order of the Superior Court, except that (1) such information shall be available to the accused in the same manner and time as such information is available to persons accused of other criminal offenses, and (2) if a protective order is issued in a prosecution under any of said sections, the name and address of the victim, in addition to the information contained in and concerning the issuance of such order, shall be entered in the registry of protective orders pursuant to section 51-5c.

PATROL INVESTIGATION

- Protect the crime scene to include bedding, clothing, and related materials and areas, and ask the victim not to wash until a medical examination has been performed
- Request the victim's consent to undergo a medical examination, emphasizing its importance to investigative and apprehension efforts
- Accompany the victim to the hospital and relay pertinent information concerning the assault to the examining physician
- Remain on hand at the hospital (but not witness the examination) until family members, support service personnel, or criminal investigators arrive
- Ensure that the medical examination includes collecting blood and saliva samples, pubic hair and head hair samples and combings, fingernail scrapings, vaginal smears, oral swabs, and photographs, where appropriate, and ensure that evidence is properly stored and identified
- Arrange for the victim to provide a statement to investigative officers whether or not a medical examination was conducted.

IN-DEPTH INVESTIGATIONS

Detectives and Investigators with specialized training should be available to continue an investigation. These cases require time and dedication. If you find yourself assigned to a sexual assault investigation for the first time be sure to include the following steps in your investigation.

- Compile the basic investigative information contained in the initial interview, criminal complaint, and medical examination
- Conduct an initial interview without interruption
- Determine the victim's emotional and physical ability to submit to an in-depth interview and schedule the interview as soon as these factors will allow following the incident, during which the investigator shall:
 - Employ a comfortable setting (privacy)
 - Have Crisis Counselor with the victim for interview if possible

- Explain the need for obtaining detailed information concerning crime
- Document the victim's actions in the attack
- Determine support services from family, friends, and victim advocacy groups
- Encourage/facilitate these interactions where necessary;
- Determine whether the victim has filed any sexual assault complaints in the past or has a criminal record
- Determine if the victim suffers from mental illness
- Review the victim's statement, clarify any discrepancies
- Solicit the victim's continued support in the investigation
- Work with the prosecutor's office to develop the case
- Maintain continued contact with the victim to ensure that appropriate mental health and other support services are readily available.

Strong sexual assault investigations are supported by physical evidence and do not rely solely on the victim or the perceived credibility of the victim. Remember, the overall intent of any investigation is to be fair, balanced, and thorough. Gather all physical and testimonial evidence

Build trust by partnering with the victim, showing respect, and remaining non-judgmental.

- A victim-centered approach will aid the interview process and allow for as much evidence to be gathered as possible.
- In most cases, the suspect is familiar to the victim, so the victim may be able to provide corroborating details and evidence.
- Remind the victim that, due to the nature of trauma, it is typical not to remember all of the details of the sexual assault. Think out loud with the victim to identify new information in the victim's account that may be used as evidence. This process may help jog additional memories.

Thoroughly investigate and document the suspect's conduct before the assault.

- Grooming behavior which may be indicative of premeditation is often used to test, select, and isolate victims and to make the potential victim feel comfortable and able to trust the perpetrator.
- Why did the suspect choose this victim?
- What might make her/him less credible and/or more vulnerable?
- How did the suspect create a situation to build trust?
- Did the suspect monitor the victim physically or through electronic means?
- What was the role of alcohol and/or drugs?
- Did the suspect isolate or attempt to isolate the victim?
- Why was the specific location for the assault chosen?
- Sexual assault cases are typically portrayed as "he said/she said" but in reality, are often "he said/they said" cases. Perpetrators of this crime frequently have a history of acts of sexual violence. Previously unreported offenses may be found by interviewing the suspect's social circles, current and former partners.
- Prior victims should be interviewed and their statements included in the current investigation.

Do not overlook the importance of witness statements/testimony.

- Victims will often confide in someone (e.g. a close friend). These individuals are considered “outcry witnesses” and their statements can provide powerful corroboration.
- Suspects often boast or brag about their sexual encounters with a friend or friends. These individuals are also considered “outcry witness” and their statement(s) can provide powerful corroboration of the details of the assault.

Keep in mind the co-occurring nature of violence against women crimes. What other crimes may have been committed?

- Sexual assault may occur in the context of domestic violence.
- Monitoring and surveillance are often pre-cursors to sexual assault. Look to see if stalking charges may apply.
- Remain open to the possibility of drug-facilitated sexual assault. Victims of a drug-facilitated assault may report black-outs, gaps in time and memory, and general uncertainty as to whether or not an assault occurred.
- Additional crimes to look for include: theft, property damage, false imprisonment, human trafficking, kidnapping, abduction, administering an illegal substance, poisoning, witness tampering, etc.

Ensure every report, including every information report, is reviewed.

- Establish and train officers on guidelines and procedures adopted by the agency.
- Create a system to review the coding and clearing of sexual assault cases with particular attention to reports determined to be false or unfounded

INTERVIEW OF A SEXUAL ASSAULT VICTIM

Golden Rule: First, Do No Harm.....

Preparation

Some things you'll want to remember when contacting or interviewing victims:

- Remember that the assault was a life-changing event for the victim. Don't underestimate the impact it's had on his/her life, or assume a particular assault was “not that bad.”
- Don't take a victim's response to you personally. Anger, frustration, and hostility are all common responses to the experience of being assaulted and, for some, to the experience of dealing with the criminal justice system, especially if they have felt unsupported and unheard.
- Remember that sexual assault is a unique crime. It carries such a strong stigma that victims often don't receive the same understanding, compassion, and support that is offered to other crime victims.
- Be aware of whatever prejudices and biases you bring to working with victims and how they may affect your interaction. If you don't feel you can interview a victim fairly or supportively, ask for help from an advocate or colleague.
- Remember that multiple victimization issues and triggers may invoke flashbacks or memories of past abuse.
- Don't assume that pre-release contacts will be “easy” if the offender has been incarcerated for a long time. Be prepared for strong emotional responses, ranging

from fear to anger to anxiety to hopefulness.

- Remember that some victims may have been assaulted multiple times by the same or by different people. Understand how the experience of assault, especially as a young person, can make someone vulnerable to additional assaults throughout his or her life, and may very well affect their response to you in this situation.

Setting, Tone, and Behavior

There are things you can do in your contact with victims to reduce their discomfort, inspire their trust in you, and show that you respect their position. The situation will be slightly different depending on whether this is a pre-sentence interview in which you're trying to understand the impact of the assault, or whether this is a supervision interview in which you're trying to establish a relationship with the victim to support his or her role in the management process.

- Be patient and make necessary accommodations around meeting times, places, or other requests.
- Be aware of the power you hold during an interview. You may be seen as the offender's ally. You can neutralize the power by offering choices to the victim, sitting across from and not above the victim, and letting them lead the discussion.
- Use active listening skills like paraphrasing and open-ended questions.
- Don't judge the victim or their decisions, actions, and feelings. If you're concerned about the victim's safety, say so, but don't presume to know what's best for any victim.
- Let the victim control the pace of the interview. Don't rush or belabor questions the victim does not want to answer.
- Remain empathetic but neutral. Don't "bad mouth" the offender. Simple validation of the victim's feelings is more appropriate and effective.
- Don't offer unsolicited advice or tell the victim what he or she should do.
- Don't allow the victim to be abusive to you with their anger. It's important to validate his or her emotions but not at the expense of your safety or emotional well-being.
- Don't minimize a victim's experience. It doesn't matter how much time has elapsed, or whether the assault was not particularly violent. Remain open and non-judgmental. Each person's experience and feelings are different.

Information Exchange

You have information that can help keep the victim safe and can potentially help with the healing process. The victim has information that can help you.

In every type of contact with the victim (Investigation, pre-sentence, post-release, etc.):

- Be clear about the purpose of the interview, how the information will be used, and who will have access to it.
- Explain your role, including what the victim can realistically expect from you.
- Check that the victim is receiving the support she/he needs. If this is the first contact, provide information about or assist in contacting local rape crisis services. If this is a follow-up contact, inquire if he or she has been in touch with rape crisis or other support services or if s/he needs additional referrals. Ensure that the victim has a safety plan in place or is working with an advocate to develop one.
- Answer whatever questions the victim may have, and be clear and realistic about your

availability to discuss things further – when you are available and the best way for the victim to reach you.

- Tell the victim how you can help and be sure you can do what you say you can do. Don't make promises you can't keep.
- Fight the urge to do anything and everything for a victim. Make referrals to victim advocates or others who are in a position to provide support and respond to victim needs.

THE INTERVIEW:

Due to the particularly intimate and intrusive nature of the sexual assault, the interview process may be difficult both for the victim and the officer. Recognize the significance the victim's initial contact with first responders and investigators will have on their trust in the criminal justice system. The treatment the victim receives during the interview may impact the victim's decision to go forward with the case.

To gather information from the victim, it is important to:

Respect the victim's immediate priorities.

- Attend to the victim's immediate health and safety concerns and questions about reporting and the criminal justice process before beginning the interview.
- Victims have a right to accept or decline all services. This does not mean that a thorough investigation should not be conducted.
- Help victims gain back a sense of control by involving them in the decision of when and where to hold the interview.

Build a rapport with the victim.

- Victims may know little about the investigative process and may find the criminal justice system confusing, intimidating, or even frightening. Explain all processes during each step of the interview and investigation. This creates transparency and trust for the victim while helping to restore the victim's sense of control.
- Assure the victim that they will not be judged and that the information reported is being taken seriously.
- Victims of sexual assault often blame themselves. Reassure victims that, regardless of their behavior, no one has the right to sexually assault them.

Ask the victim if they would like to have an Advocate present for the interview.

- It is best practice to allow victims to have an advocate or a support person present during the medical exam and/or law enforcement interview. Ask the victim privately who they would like present and take action to support their wishes.
- While victims are entitled to have someone with them during the interview, look for signs of:
 - Hesitation from the victim in revealing all of the details of the assault in front of someone with whom they are close, like a spouse or parent.
 - Controlling or intimidating behavior by the support person towards the victim.

Provide victims with written contact information for community referrals.

Remember: By corroborating as many facts as possible, no matter how insignificant they may seem, you can better help establish the validity of the victim's story and improve her credibility even when there are other problems with the investigation.

Recognize the impact of trauma and how this affects an individual's behavior.

- People react differently to trauma. Lack of emotion or the presence of emotion is not an indicator of the legitimacy of the assault, and either is common.
- Research shows that most victims of sexual assault never make a report to law enforcement. Of the victims who report, the majority do so after some delay. A delay in reporting should never deter a thorough investigation. A skillful prosecutor will be able to overcome any disadvantage a delay in reporting might cause when making the case in court.
- Most victims experience continuing trauma which may affect their physical, emotional, social, and economic state of being.
- Victims may experience difficulty remembering all the details of the sexual assault due to traumatic response. This does not mean they are lying or leaving out details intentionally. Often with time and as trauma recedes, details will emerge.
- After sufficient time to conduct a thorough investigation, schedule a follow-up interview to gather any information the victim may have missed or not recalled earlier and to ask about or clarify additional information learned.
- unless exigent circumstances are requiring an arrest or identification, delaying the follow-up
- The interview will generally enhance the investigation and the quality of information obtained.

DO NOT POLYGRAPH VICTIMS!

The practice of submitting victims of sexual assault to a polygraph exam intimidates victims and destroys the trust victims and the community has with law enforcement. Polygraphing negatively affects law enforcement's chance to successfully investigate sexual assault crimes

Provide victims with information on how to obtain medical treatment and undergo a forensic exam.

- Explain the medical significance of a sexual assault forensic examination, including testing for sexually transmitted infections and HIV.
- Notify the victim of locations where a sexual assault forensic examination is available in the community. If department policy allows, transport the victim to the local rape crisis center or hospital.
- Should a victim initially decline a forensic medical examination, provide information as to where the victim may obtain an exam at a later time.
- Physical evidence can be collected up to 120 hours (in some states) following a sexual assault. The victim should be advised, however, that critical physical evidence and documentation of injuries may be lost with a delayed exam.

Do not pressure the victim to make any decisions regarding participation in the investigation or prosecution during the initial interview or initial stages of the investigation.

- Sexual assault victims are often reluctant to actively participate in case proceedings. Document any information the victim shares, as this may aid in the identification and apprehension of a serial offender.
- A victim's right to change their mind regarding moving forward with the investigation and prosecution should only be constrained by the statute of limitations. Even then, the victim

may serve as a witness in another case involving the same suspect, so an interview and investigation should always be conducted.

- Pressuring a reluctant victim to sign a form stating that they are not interested in prosecution and will not hold the agency accountable for stopping the investigation is poor practice and is potentially damaging to an agency.
- Victim follow-up builds trust with victims and sends a message to the community about the seriousness with which an agency handles sexual assault crimes.

Interview Questions to Avoid	Trauma-Informed Reframing	Rationale
<p>“Why did you...?”</p> <p>or</p> <p>“Why didn’t you...?”</p>	<p>“When (specific event happened), what were your feelings and thoughts?”</p> <p>or</p> <p>“Are you able to tell more about what happened when...?”</p>	<p>The original questions are asking for clarification of what happened, which could be perceived as faulting the victim for taking or not taking a certain action. Asking a victim about their thought process provides an opportunity for them to explain what they did or did not do and why. The use of “Are you able to...” reduces the pressure on the victim to fully articulate what they did and why they did or did not act in a certain way.</p> <p>When experiencing trauma, victims do not consciously choose their reactions or what they are able to remember, the survival part of the brain takes over and victims might not understand why they reacted the way that they did. When asking about thought processes, the question should be tied to a specific event, such as, “When he locked the door, how did that make you feel?”</p>
<p>“Start at the beginning and tell me what happened.”</p> <p>or</p> <p>“How long did the assault last?”</p> <p>and</p> <p>Other questions asking for a chronological account.</p>	<p>“Where would you like to start?”</p> <p>or</p> <p>“Would you tell me what you are able to remember about your experience?”</p> <p>or</p> <p>“What are you able to tell me about what was happening before/during/after the assault?”</p> <p>or</p> <p>“If anything, what do you remember hearing during the event?”</p>	<p>The original question may be difficult for the victim to answer because experiencing a traumatic event can impact the storage of memories, which may make it difficult for the victim to remember the length of time that the assault lasted or the chronological order of events.</p> <p>Asking the victim to state the exact timeframe/timeline may increase the confusion and self-blame they experience. As a result, they may come up with their best estimate of a timeframe that may become problematic afterward. Reframing the questions and opening with “What are you able to...” can reduce the pressure on the victim to recall specifics given the impact of trauma on memory.</p> <p>Additionally, asking sensory-based questions can lead to additional evidence that can help law enforcement to begin building a timeline and placing events in chronological order (e.g., hearing the suspect’s phone ring during the assault can give investigators a timeline when compared to the suspect’s phone records).</p>

Interview Questions to Avoid	Trauma-Informed Reframing	Rationale
<p>“What were you wearing?”</p>	<p>“Sometimes we can get valuable evidence from the clothes you were wearing, even if you’ve put them through the laundry. We would like to collect the clothes you were wearing at the time of the assault as evidence. Can we pick up those items at a time and place that is convenient for you?”</p>	<p>The original question could be perceived as blaming the victim for the assault due to their attire, i.e., that the suspect chose victim because of what they were wearing. Explaining that gathering clothing, sheets, towels, etc., is part of the evidence collection process removes the victim’s specific experience from the equation and instead focuses on the process.</p>
<p>“Were you drinking or taking drugs?”</p>	<p>“Can you tell us if you had been drinking or taking drugs at the time of the assault? We are not investigating your drinking/drug use. We are concerned for your safety and about what happened to you. This helps us to establish an element of the crime and get a better picture of what was happening during the assault and provide you with additional support.”</p>	<p>The original question could be perceived as implying that what happened to the victim happened to them because they were drinking alcohol or taking drugs. Additionally, victims may be afraid that there will be ramifications, possibly criminal, for their actions and so hesitate to admit it to law enforcement, especially if they are underage and/or the drug use was illegal.</p> <p>The use of drugs and/or alcohol can also greatly increase the victim’s experiencing of self-blame, guilt, and shame. It is recommended that law enforcement communicate to the victim that any voluntary consumption of drugs or alcohol does not justify a sexual assault.</p>
<p>“Why did you go with the suspect?” or “Do you think you led them on?” or “Do you think you contributed to this happening?”</p>	<p>“Can you describe what you were thinking and feeling when you went with the suspect?” and “Did the suspect’s behavior change after you went with them? How did this make you feel?”</p>	<p>The original questions could be perceived as blaming the victim for choosing to go with the suspect or implying that it was a consensual encounter because the victim initially engaged with the suspect. Reframing the question clarifies the victim’s decision-making process without judgement or blame.</p> <p>These questions also set the stage for asking about what the suspect did, how the suspect’s actions and demeanor may have changed, and how this may have made the victim feel threatened, afraid, or helpless. Information from this question can assist in identifying the suspect’s tactics, approaches, and strategies as well.</p>

Interview Questions to Avoid	Trauma-Informed Reframing	Rationale
<p>“Why were you out at this time and at this location?”</p>	<p>“What are you able to tell me about what brought you to the location at this time/day?”</p>	<p>The original question could be perceived as blaming the victim for being in a place where they could be assaulted. Reframing the question can invite the victim to explain the circumstances that brought them to a particular location, which helps fill in details of the incident without laying blame on the victim for the actions of the suspect.</p>
<p>“Why didn’t you leave?”</p>	<p>“Are you able to describe what was happening while you were in... (the room, the car, the house, etc.)?” or “What were your thoughts and/or feelings while you were in... (the room, the car, the house, etc.)?”</p>	<p>The original question could be perceived as blaming the victim for not removing themselves from the situation and implying that they had the opportunity and ability to do so but chose not to. When experiencing a traumatic event, the brain goes into survival mode and logical, rational, conscious thought is inhibited. The survival mode directs the body to either flight, fight, or freeze.</p> <p>Reframing can allow the victim to describe the circumstances of the assault, what they were thinking, if they felt they could move, and if they felt attempting to leave would increase danger. This provides context to their account. Reframing the question may also uncover tactics and/or threats the suspect used to restrict the victim’s movement.</p>
<p>“Did you say no?”</p>	<p>“What are you able to recall doing or saying during the incident?” and “How did the suspect respond to your words or actions? Do you remember how that made you feel?” or “Do you remember smelling/hearing/feeling/tasting/seeing anything when...? Tell me more about that.”</p>	<p>The original question could be perceived as blaming the victim for what happened to them by not saying “no” or not saying it clearly or loudly enough for the suspect to understand. It could also be perceived as not believing the victim when they say what happened was nonconsensual. The absence of a verbal “no” does not mean “yes” or that consent was given.</p> <p>Reframing the question to ask what they were able to do or say also provides an opportunity for the victim to expand on what happened beyond the original yes/no question. Documenting what the victim did, said, felt, thought, smelled, heard, tasted, and saw can lead to discovering important evidence that can be corroborated by subsequent investigation.</p>

Interview Questions to Avoid	Trauma-Informed Reframing	Rationale
<p>“Did you fight back?”</p>	<p>“What did you feel like you were physically capable of doing during the incident?” or “What was going on in your mind when you realized you were in danger?” or “What can you tell me about what you remember feeling during the incident?”</p>	<p>The original question could be perceived as implying that the victim did not do enough to prevent the assault. Reframing the question to ask what they were thinking, and feeling can provide an opportunity for them to explain what they did or did not do and why. This can also allow the victim to provide more information than the original yes/no question.</p> <p>Flight, fight, and freeze are involuntary survival reactions. Victims sometimes experience tonic immobility (frozen fright) and cannot move. However, there are times a victim may choose not to fight back. For example, because they may fear greater injury or death if they try or they believe the suspect's threats to themselves or others.</p>
<p>“Why didn’t you report right away?”</p>	<p>“Did anything in particular cause you to come tell us about this incident today?” or “Would you tell me about your thoughts leading up to reporting this incident?” or “Was there someone you trusted to tell about the incident after it occurred? When you told them, what were you thinking and feeling?” or “What were you feeling—physically and emotionally—immediately after the assault?”</p>	<p>The original question could be perceived, to the victim, as expressing a lack of belief because of the delay in reporting or asking for justification for the delay. There are many reasons a victim may not immediately report, and delayed reporting is extremely common in sexual assault cases.</p> <p>Victims often turn to a trusted family member or friend initially, though they might not tell anyone. An initial disclosure that did not go well can also discourage victims from reporting immediately to law enforcement. They often believe that they can ignore and move past the assault and not experience painful consequences.</p> <p>Reframing the question to ask about how they felt after the assault may elicit more information about their decision to not report immediately and why they are choosing to report now. Reframing the question can also invite victims to explain what they were thinking and feeling after the assault.</p>

Interview Questions to Avoid	Trauma-Informed Reframing	Rationale
<p>“Did anyone see this happen?”</p>	<p>“Can you tell me about any people or witnesses who might have seen you and the suspect together or who might have seen the incident?” and “Can you tell me about any people or witnesses who might have seen you after the event?” or “Can you identify anyone who was at the party/bar (any location)?” and “Can you share information with me on any friends/ colleagues/ classmates that might have noticed a change in your physical appearance or behavior (withdrawn/sad/angry) after the assault?”</p>	<p>The original question may be perceived as disbelief that the incident occurred absent witnesses. Society sometimes has the perception that the only evidence in sexual assault cases is the victim's statement that it occurred. The reality is that while most of these crimes occur in isolation without witnesses, there may have been witnesses to events leading up to or after the incident that can corroborate details. Additionally, acquaintances of the victim can provide evidence of the impact of trauma from the assault on the victim, such as changes in the victim's physical appearance or behavior.</p> <p>To obtain evidence in addition to the victim's statement, suspect forensic exams and sexual assault kit exams can also be conducted to gather physical evidence. As most sexual assaults do not result in anal, genital or other injuries, a lack of these injuries does not mean an assault did not occur. It is important however for investigators to ask about physical effects that they cannot see, such as internal injury from strangulation or suffocation. It is also necessary to document evidence of non-consent to corroborate any DNA evidence.</p>
<p>“Have you had sex with this person before?” or “Are you dating/in a relationship with this person?” or “Why does this keep happening to you?”</p>	<p>“Has this person done anything like this to you in the past?” and “Can you tell me how this instance was different from previous consensual sexual acts?” There is no need to ask about prior sexual assaults committed by other suspects.</p>	<p>The common questions could be perceived as implying that the incident could not be sexual assault if there were prior consensual sexual acts. The new question gives the victim the opportunity to disclose prior assaults by the same individual, which can be used as evidence of course of conduct, and/or explain how this instance was different from previous consensual occasions. Investigations can be opened regarding any prior assaults by the same individual that the victim discloses.</p> <p>Whether the victim has previously been assaulted by another person does not impact the present investigation.</p>

Quick Reference Guide to Trauma

Informed Interviewing

<p>“Why did you...?” or “Why didn’t you...?”</p> <p>“Start at the beginning and tell me what happened.” or “How long did the assault last?” and Other questions asking for a chronological account.</p> <p>“What were you wearing?”</p> <p>“Why did you go with the suspect?” or “Do you think you led them on?”</p> <p>“Why were you out at this time and at this location?”</p> <p>“Why didn’t you leave?”</p> <p>“Did you say no?”</p> <p>“Did you fight back?”</p> <p>“Why didn’t you report right away?”</p>	<p>“When (specific event happened), what were your feelings and thoughts?” or “Are you able to tell more about what happened when...?”</p> <p>“Where would you like to start?” or “Would you tell me what you are able to remember about your experience?” or “What are you able to tell me about what was happening before/during/after the assault?”</p> <p>“Sometimes we can get valuable evidence from the clothes you were wearing, even if you’ve put them through the laundry. We would like to collect the clothes you were wearing at the time of the assault as evidence. Can we pick up those items at a time and place that is convenient for you?”</p> <p>“Can you describe what you were thinking and feeling when you went with the suspect?” and “Did the suspect’s behavior change after you went with them? How did this make you feel?”</p> <p>“What are you able to tell me about what brought you to the location at this time/day?”</p> <p>“Are you able to describe what was happening while you were in (the room, the car, the house, etc.)?” or “What were your thoughts and/or feelings while you were in (the room, the car, the house, etc.)?”</p> <p>“What are you able to recall doing or saying during the incident?” and “How did the suspect respond to your words or actions? Do you remember how that made you feel?”</p> <p>“What did you feel like you were physically capable of doing during the incident?” or “What was going on in your mind when you realized you were in danger?”</p> <p>“Did anything in particular cause you to come tell us about this incident today?” or “Was there someone you trusted to tell about the incident after it occurred? When you told them, what were you thinking and feeling?” or “What were you feeling—physically and emotionally—immediately after the assault?”</p>
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<p>“Did anyone see this happen?”</p>	<p>“Can you tell me about any people or witnesses who might have seen you and the suspect together or who might have seen the incident?” and “Can you tell me about any people or witnesses who might have seen you after the event?” and “Can you share information with me on any friends/colleagues/ classmates that might have noticed a change in your physical appearance or behavior (withdrawn/sad/angry) after the assault?”</p>
<p>“Have you had sex with this person before?” or “Are you dating/in a relationship with this person?”</p>	<p>“Has this person done anything like this to you in the past?” and “Can you tell me how this instance was different from previous consensual sexual acts?”</p>

SUSPECT INTERROGATION

While investigative emphasis has historically focused on the victim's behavior, the reality of these crimes is that the suspect is often known to the victim and thus can be identified easily. An effective investigation will concentrate on gathering as much evidence as possible on the suspect.

Focus the investigation on the suspect rather than the victim.

- As with other crimes, focus should remain on the suspect, not on the victim's character, behavior, or credibility.
- If the suspect invokes the constitutional right to remain silent, investigating officers must still evaluate the circumstances of the assault in order to anticipate the suspect's defense strategy.

Allow the suspect ample opportunity to give an account of the incident.

- Many perpetrators of sexual assault will provide information in an attempt to justify their actions.

Obtain consent or acquire a court order to secure a suspect forensic exam for probative evidence.

- Like the victim, the suspect's body carries evidence and can potentially confirm aspects of the victim's account (e.g. identifying marks, injuries).
- A suspect forensic exam can be done by requesting a search warrant for non-testimonial evidence

NON-STRANGER SEXUAL ASSAULT

It is important for law enforcement to recognize that "stranger rape" (when the perpetrator is a complete stranger to the victim) is not the norm. 2005 Bureau of Justice statistics indicate that 73% of reported female rape or sexual assault victims were assaulted by someone they knew. A non-stranger can be anyone who is in some way known to the victim. While it may be someone with whom the victim has had a long-standing relationship or friendship, it could also be someone who has made himself known to the victim within hours of the assault or someone who has established a casual acquaintance.

SEXUAL ASSAULT EVIDENCE RECOVERY KIT

A sexual assault evidence collection kit, sexual assault forensic evidence (SAFE) kit, Sexual offense evidence collection (SOEC) kit or Physical Evidence Recovery Kit (PERK) kit, is a set of items used by medical personnel for gathering and preserving physical evidence following a sexual assault which can be used in rape investigation. The kit was developed by Louis R. Vitullo and was for years referred to as the Vitullo kit. It is colloquially referred to as a Sexual Assault Evidence Recovery Kit.

The term applies also to the collected evidence for a specific case

A Sexual Assault Evidence Recovery Kit consists of small boxes, microscope slides and plastic bags for collecting and storing evidence such as clothing fibers, hairs, saliva, semen or body fluid, which may help identify a rape survivor's attacker for use in prosecution. The process of collecting the evidence for the kit takes hours.

Anonymous Kits can be performed at the hospital then logged by the local PD. The Kit then gets transported to the State Lab for storage. This is useful if the victim comes forward at a later time.

Although a Sexual Assault Evidence Recovery Kit's contents may vary by location, it may include:

- Instructions
- Bags and sheets for evidence collection
- Swabs for collecting fluids from the lips, cheeks, thighs, vagina, anus, and buttocks
- Blood collection devices
- Comb used to collect hair and fiber from the victim's body
- Clear glass slides
- Envelopes for preserving the victim's clothes, head hair, pubic hair, and blood samples
- Nail pick for scraping debris from beneath the nails
- White sheets to catch physical evidence stripped from the body
- Documentation forms
- Labels

HOW LAW ENFORCEMENT HANDLES ANONYMOUS KITS (KITS NOT REPORTED AT THE TIME OF THE EXAM):

The protocol for the processing of anonymous Kits is the same both within and outside the State of Connecticut.

The anonymous Kits are received from the medical-forensic examiner after the chain of custody form is completed.

The anonymous Kits are transported to the police department where the medical facility is located, called the department of jurisdiction.

The department of jurisdiction will ensure that the anonymous Kit is transported to the Forensic Lab within 10 days of receipt. According to Public Act 15-207, the anonymous Kit will be retained by the Forensic Lab for 5 years.

Victims of sexual assault have up to 5 years to report from date of assault.

MAINTAINING CHAIN OF CUSTODY OF KIT FROM HEALTHCARE:

Of primary importance for a criminal prosecution for sexual assault is maintaining the chain of custody. This is particularly true of the sexual assault evidence Kit.

In the legal sense the chain of custody is the electronic or written documentation of transfer of the collected evidence from the party who collected it, to the party responsible for storage, to the party responsible for scientific testing and processing, and ultimately for presentment in court as evidence.

Each time the evidence changes hands it is signed for by the receiving party to document that the evidence is the same as collected and it remains substantially the same upon presentment in court.

The chain begins when the medical-forensic examiner collects the evidence and then seals it within the Kit. The examiner signs the chain of custody form, which in turn is signed by the officer receiving the Kit. This establishes the legal reliability of the evidence upon presentment in court.

Failure to follow the chain of custody allows for the legal challenge of the reliability of the evidence at trial.

MORE EVIDENCE CONSIDERATIONS

The victim's statement may have given you details of where you should look, what you need to collect and how

- "We had a couple of beers" = We have potential DNA and fingerprint of offenders on a beer bottle
- "He threw me on the bed" = I need several big bags for bedding
- "he put a big steak knife to my throat"= I'll need a sharps container

- Wear gloves and change them on a regular basis or between items. Change gloves if they come in contact with any potential biological sample.
- Do not talk over any biological evidence sample or consider wearing a face mask.
- Handle the evidence in a manner, which minimizes deterioration of the sample.
- When dealing with items for DNA analysis, do not touch your face, etc. with gloved hands. This can inadvertently transfer your DNA to the items.
- Air-dry the sample as fast as possible, preferably in a stream of cool air.
- Cell phones- May have evidence or may have disclosures from victim or offender unknown to you. Seize the phone ASAP! (Faraday Bags!!) Obtain Password from cooperative victim or offender

REPORT WRITING

Strong sexual assault cases require strong written reports. A thorough report will identify on-scene evidence and document details from the victim's and suspect's accounts of the incident. this will assist those investigating to overcome consent challenges and serve to refresh memories for court testimony. A high level of detail in the report and in the officer narrative will help move a case towards prosecution.

Ask the victim to describe the assault, listing as many details and feelings as possible. It is critical to capture the details necessary to establish elements such as premeditation/grooming behavior by the perpetrator, coercion, threats and/ or force, and traumatic reaction during and after the incident (e.g. demeanor, emotional response, changes in routines or habits).

- Document the elements of the crime by asking the victim to tell you what they thought, felt, and feared at the time of the assault.
 - What was the victim experiencing before, during, and after the sexual assault?
 - What did the victim see, smell, taste, hear, or touch during the incident?
- Document the victim's condition as observed.
- Fully document fear by recording all fight, flight, or freeze reactions the victim exhibited. For example, the victim may describe feeling unable to move.
 - Silence is not consent. "No" or resistance is communicated through more than just words. Detail and corroborate what "no" looked or felt like for the individual victim in your report (e.g. looking away, closing eyes, positioning or moving body).

- Create a timeline to show trauma/post-assault behavior of the victim in context of previous behavior. For example, document dramatic physical changes such as weight loss/gain or reported changes in daily routines and/or work performance.

Document all information given by the victim, even if it does not cast them in the best light.

- The reality is that victims who may be judged as unreliable witnesses may have been chosen by the perpetrator for that reason.
- Use the victim's exact words and place those words in quotations. Do not sanitize or "clean-up" the language used by the victim. Altered language may be used against the victim or officer in court.
- Every effort should be made to exclude officer opinion in the written report and to avoid asking leading questions. This can compromise the integrity of the entire report and the credibility of the victim and officer. It is normal for a victim to not know or remember complete details; do not try to fill in the gaps for them.

If the victim was incapacitated as a result of voluntary alcohol or drug use, show why this is an issue of increased vulnerability rather than culpability

REPORT WRITING CONSIDERATIONS AND POTENTIAL SUSPECT DEFENSES

The following are four common sexual assault defenses and strategies to counter these defenses in the written case report.

- **Denial:** Collect and document evidence to establish that (nonconsensual) sexual contact did occur
- **Identity:** Collect and preserve DNA samples from the victim and suspect, and other physical evidence from the crime scene(s); document witness statements
- **Consent:** document fear, force, threat, coercion and/or inability to consent
- **Impeachment by Contradiction:** document any changes in victim/witness statements, especially as additional details are recalled following the initial trauma/shock of the assault

Note: Because the majority of sexual assaults are perpetrated by someone the victim knows (even if just briefly or casually), the difficulties in prosecution are not based upon whether the correct suspect has been identified or sexual contact occurred. The burden for the prosecution is proving that the act was non-consensual (i.e. the perpetrator claims that the contact was consensual).

IF THE FACTS OBTAINED FROM THE INVESTIGATION INDICATE USE OF FORCE BY THE PERPETRATOR, DOCUMENT USING LANGUAGE THAT REFLECTS THIS.

- If at some point a consensual encounter turned non- consensual, ask the victim to describe details about how and when the perpetrator's behavior changed.
- Documentation should reflect a lack of consent. Avoid wording that implies consent. For instance, "he forced his penis into her vagina" denotes lack of consent while "he had sex with her" implies consensual intercourse.
- In documenting force, be specific. "He threatened me" is vague. List the specific threats that were made, tones used, gestures and/or looks given.

- Victims may not be able to resist physically. This may be an indicator of force or fear and should be documented.
- Perpetrators of sexual assault generally use only as much violence as needed to attain submission. Force or violence may not be overt if the perpetrator can commit the crime by using lesser means (i.e. a weapon isn't needed when you can use threats, alcohol, etc.)
- The mere presence of a perpetrator and/or the verbal tactics they employ can be seen as force and should be documented as such. An example of this is the use of Force Continuum utilized by law enforcement that starts with the mere presence of an officer, followed by verbal commands. Should an individual comply with either of these, no additional force would be needed or justified.

IF YOUR DEPARTMENT HAS SPECIALIZED INVESTIGATORS:

- The first responder should conduct a preliminary interview gathering just enough information to determine whether the elements of a crime have been met and by whom.
- The in-depth interview should be left to the investigator in order to decrease account repetition and reduce the possibility of inconsistent information that could be used against the victim's credibility in court.

WORKING WITH VULNERABLE POPULATIONS

Predators prey upon the vulnerabilities of others; therefore, victimization is often higher among certain populations. When investigating a sexual assault, be aware of particular issues that may face certain populations (i.e. age, culture, disabilities, gender, language) and how this might affect the way a victim makes decisions and responds to law enforcement.

Examples of vulnerable populations include:

- American Indians
- Immigrants, documented and undocumented
- Individuals in prostitution
- Individuals with disabilities
- Individuals with substance addictions
- Individuals with limited English proficiency
- Individuals who have previously been sexually assaulted
- Lesbian, gay, bisexual, transgender individuals
- Minors
- Senior citizens

A FEW TIPS TO KEEP IN MIND:

- Not all disabilities are visible. Victims may have physical, sensory, or mental disabilities, or a combination of disabilities.
- Culture can influence how people view or understand "sexual assault" and feel about law enforcement. Be aware that beliefs about gender, sexuality, sexual orientation, race, religion, etc. may vary greatly between cultures.
- Questions about sexual assault are very intimate and may be difficult to discuss. Such a personal violation may create feelings of embarrassment and shame. These feelings may be intensified in some cultures such as those where the loss of virginity prior to marriage can be socially devastating.

- American Indian communities may have their own laws regarding sexual assault in addition to or in place of relevant state or federal laws.
- If English is not the victim's first language, offer to arrange unbiased, independent translation. Do not rely on family members, children, the suspect, or any other associated parties to serve as an interpreter.
- Those who are lesbian, gay, bisexual and transgender identified may have specific privacy needs depending on whether the individual is "out" to others in their lives. Sensitivity and awareness about the particular obstacles and barriers victims of same-sex sexual assault face in reporting is of critical importance.

5 MANNERS OF DEATH

All states have a standard death certificate that is based upon a model certificate called the US Standard Certificate of Death.

In most states, the acceptable options for manner-of-death classification are:

- Natural
- Accident
- Suicide
- Homicide
- Undetermined (or "Could not be Determined")

Suicide?

Suicide is the act of intentionally taking one's own life. It is often related to severe distress, the etiology of which can be attributed mostly to psychosocial stressors and mental illness such as depression, bipolar disorder, and schizophrenia, or alcoholism, or other substance abuse.

Autoerotic asphyxiation (AEA) is an extremely risky and life-threatening paraphilia that induces hypoxic euphoria by asphyxiation, which in turn produces or enhances sexual gratification

BEHAVIORS AND POSSIBLE EVIDENCE OF AUTOEROTIC ASPHYXIATION (AEA)

- Strange impression on the neck
- Evidence of recent ligature marks on neck, arms, legs
- Presence of opposite sex's clothing
- Pornography in their bedroom (TV/TS, SM, BD)
- Short ropes (or similar)
- Padded ropes,
- Neckties tied in odd knots,
- Red blotches in eyes (subconjunctival hemorrhage)

TITLE NINE

In 1971, only eight per cent of high school athletes were female. Four decades later, females account for 41 per cent, almost half, of high school athletes. Studies have repeatedly proven that Title IX has improved equality in sports, education and employment opportunities.

Title IX, which applies to all federally funded educational institutions, prohibits sexual discrimination, harassment and assault, domestic violence and stalking. Every institution experiences Title IX violations, but it's the response and resolution that says the most about the school's culture and leaders.

To ensure a just environment, and to see the endless benefits that come from one, it's crucial to conduct Title IX investigations appropriately. This chapter breaks down each phase of a Title IX investigation, from the initial complaint to the appeal process.

Why Establish a Title IX Investigation Process?

All federally funded universities and colleges are responsible for complying with Title IX. One stipulation of the law is that all higher ed schools must investigate any report of a gender-based incident.

A Title IX investigation examines allegations of sexual discrimination, harassment and assault, domestic violence, stalking or any other gender-based harm listed in the school's anti-discrimination policy.

Because it examines policy violations, the investigation must occur independently of a legal investigation. It's the school's job to determine whether the incident violated school policy, whereas law enforcement's job is to determine whether the incident violated the law.

The issue with higher ed's administrative investigations is a lack of due process. Without a formal process, it's tough for school officials to conduct a prompt, fair investigation that respects the rights of all parties, as required by Title IX.

Failing to respond to and fix a discriminatory environment may mean a loss of federal funding. To mitigate the risk, every higher ed institution needs a formal, thorough process for receiving, investigating and resolving Title IX violations.

Title IX Coordinator

The threat of losing funding has led to the creation of a Title IX specialist, titled the Title IX coordinator or compliance officer.

In addition to developing an investigation process, bring on at least one Title IX coordinator. For larger schools, may have more than one specialist working in this area possible.

This person's job is to ensure compliance with Title IX and related laws. They are the main point of contact for those with questions about Title IX. When necessary, the coordinator must work closely with law enforcement.

The coordinator may be tasked with monitoring enrollment and employment to identify disproportion. This person will also be responsible for monitoring Title IV investigations to prevent incidents from becoming a systemic problem. However, they are not allowed to conduct the investigations, nor make final decisions afterward. Institutions of higher learning must have a

hearing to make a final decision after the investigation is completed. To ensure due process all parties can have counsel, call witnesses and may cross-examine witnesses, through an advisor or counsel.

The Title IX coordinator must know and understand school policies and participate in drafting, revising and implementing new ones to ensure they comply. The coordinator's first task might be to draft a notice of non-discrimination.

Schools are required to post the Title IX coordinator's contact information on their website, as well as communicate it to students, staff, "applicants for admission and employment, parents or legal guardians of elementary and secondary school students, and all unions."

Requirement to Distribute a Notice of Discrimination

Title IX requires all federally funded schools to draft, publish and widely distribute a notice of non-discrimination.

The notice should explicitly state the school's position on gender-based discrimination in all school activities, including education programs, employment opportunities and athletics. The notice must also include contact information for the school's Title IX coordinator(s).

The statement must be available and accessible for students, parents, employees, unions and any other involved parties. Most schools include the notice in a handbook, code of conduct or annual security report, and include a downloadable copy on the school's website.

Requirement to Establish and Announce Reporting Tools

Schools are legally required to inform students and staff, as well as applicants, parents and unions, of their right and sometimes requirement, as a victim, witness or confidante, to file a Title IX violation.

Inform the school community of the reporting mechanisms offered internally and how to file a complaint with law enforcement. It's in the school's best interest to offer multiple reporting mechanisms including a hotline, webform or in-person meeting.

The Title Nine Investigation Procedure

Title IX investigations are carried out similarly to any other. There is an option for an informal process, where involved parties can resolve their issues informally through mediation. This informal process is only appropriate in certain cases, but it's alluring because it avoids the investigation, saving time and resources.

The formal investigation process is broken down into several phases:

- Notify the involved parties
- Gather the facts
- Review and analyze the information
- Determine whether a violation has occurred
- Write the report
- Hearing Panel
- Notify the involved parties of the outcome

Each phase requires time and effort, but the Title IX investigator must be prompt in initiating the investigation. Unfortunately, the law does not specifically define the term “prompt”. The first step in initiating the investigation is notifying the involved parties.

Upon Notice of Title IV Alligation

Institutions of Higher Learning must implement appropriate and reasonable supportive measures to the parties.

Notify Involved Parties

The Title IX Office, consisting of the coordinator and other personnel, must notify the involved parties that a complaint exists and an investigation will begin.

The notice should include information about the investigation process, the allegations at hand, the complainant’s and respondent’s rights, the policy that alleged behavior violates and contact information for the investigator.

This notice is also a good time to schedule the intake meeting, either in person or via phone, to discuss basic information about the allegations and determine the next steps of the investigation.

Gather Facts

The next step of the Title IX investigation process is to gather information related to the allegations. Gather documents, files, audio recordings and video recordings, social media posts, cell phone records and more.

Interview the complainant and respondent. Ask them to explain their side of the story and their relationship with the other party. Ask for the names of potential witnesses or any other details that may be pertinent to the investigation.

Review and Analyze Information

Once you’ve collected as much information as possible, provide both the complainant and the respondent at least 10 days to review the information collected. A review may help trigger their memory, or they may want to address a discrepancy.

Then, the investigator should review the information and see if there is enough evidence to determine whether a violation occurred. Review, weigh, analyze and compare the information.

Determine a Violation

Finally, after a hearing, a separate decision-maker must determine if a violation has occurred. Schools may select to apply one of two standards of proof for this step, as long as they apply it consistently across all cases.

Option one, the preponderance of evidence standard of proof, means that the information gathered concludes that the allegations are “more likely than not” to be true, or more than 50 per cent likely. The standard requires more convincing proof than “probable cause” and less than “beyond a reasonable doubt”.

The clear and convincing evidence standard of proof, on the other hand, means that the evidence points to the allegations being “substantially more probable to be true” than not, or well over 50 per cent likely.

Write a Report and Notify Parties of Outcome

After making a determination, put together the final investigation report. The report must contain the initial allegations, the policy violated, the parties involved, the evidence gathered, a summary of the interviews and any other relevant information.

Schools must send a copy of the final report to each party at least 10 days before it is finalized, to give them the opportunity to respond.

After the outcome is finalized, send a shorter determination of the outcome to both parties. This notice should include information about the outcome, reasons supporting the determination and, depending on the conclusion, the next steps in the Title IX process.

After the Investigation

After notifying the complainant and respondent of the outcome, either or both parties may appeal the decision and request an administrative review.

In this situation, a higher level of management will review the investigation process, the information gathered and the conclusion. This person will then issue a written decision that explains the outcome of the review.

If there is no appeal, and the allegations are true, the decision-maker will determine a sanction for the perpetrator. Under the Clery Act, the Title IX office must advise victims of counseling resources, support services and the option to pass the incident on to local law enforcement. The incident may also be counted in the school's crime statistics. Depending on the circumstances a timely warning may need to be issued.

Other Title IX Compliance Requirements

Complainant and Respondent Rights

Title IX provides both the accuser and the accused with equal rights. Higher ed institutions must uphold these rights to ensure a prompt, fair and impartial investigation. The University of Texas, for example, awards both complainants and respondents the right to:

- a prompt, fair and impartial investigation
- receive information and ask questions about Title IX's formal and informal processes
- have an advisor present during all meetings
- an equal chance to participate, including the opportunity to identify witnesses and relevant evidence
- file a complaint with local or campus law enforcement
- learn of and access to support services

Training

In addition to assigning a coordinator, higher ed institutions must adequately train employees responsible for receiving and addressing Title IX complaints. Schools must publish this training on their websites.

Both the Clery Act and Title IX Guidance have provisions requiring that any employee with the authority to address sexual violence knows how to do so appropriately. For example, make sure

school counselors or therapists know the extent to which they must keep an incident confidential, though there are some employees who are identified as mandated reporters.

Title IX processes may be conducted online. As a result, all Title IX personnel must be trained on relevant technology required for remote investigations and hearings.

SAMPLE CAMPUS POLICY

Each University is mandated by Federal Law to have clearly established Title IX procedures to assure that each University is in compliance with all requirements under Title IX of the Federal Education Amendments of 1972.

Under Title IX Universities are required to investigate all incidents of sexual misconduct, including sexual assault, about which the University knows or has reason to know (University of XXXX Title IX & Sexual Misconduct Policy).

Victims of alleged sexual assaults have the option making a criminal complaint and/or making an official complaint with a University's Title IX coordinator.

Reporting Procedures for Complaints of Sexual Misconduct.

Persons wishing to report incidents of sexual misconduct (sexual assault, non-consensual sexual contact, nonconsensual sexual intercourse, sexual exploitation, sexual harassment, dating violence, intimate partner violence, domestic violence, stalking, and intimidation) may choose any/all of the options below:

1. Speak with a confidential resource on- or off-campus for support, advocacy, and counseling services.
2. Disclose to a "responsible employee" or Title IX coordinator directly for support services, informal remedies, and other accommodations.
3. Initiate a formal institutional complaint through the process described below.
4. Notify law enforcement, and receive assistance from campus authorities in making such notification, if desired. This may include obtaining a protective order, applying for a temporary restraining order, or seeking enforcement of an existing protective or restraining order.

The University should encourage all those who have experienced any form of sexual misconduct to report the incident promptly, to seek out all available campus and community resources, and pursue University conduct action, and/or legal proceedings against the offender. Electing not to report an incident to law enforcement should not impact the University's investigation or grievance process under Title IX. Likewise, if a criminal complaint is filed, the law enforcement investigation or report is not determinative of whether the incident of sexual misconduct violates the University policy and/or the rights of students and employees provided under the Title IX (University of XXXX Title IX & Sexual Misconduct Policy).

Whether or not the victim of an alleged sexual assault decides to make an official complaint with Law Enforcement, the individual should be encouraged to seek medical attention and attempt to preserve all evidence, including but not limited to clothing, bedding and materials containing potential forensic evidence.

Both Criminal Investigations and Title IX investigations can be conducted simultaneously.

Instructor References:

IACP "Investigative Stratgies

Distinguishing Suicidal Attempt from Autoerotic Asphyxiation

Askar Mehdi, MD; Neil Nimkar, BS; Nor Darwish, BS; Rasha Atallah, BS; Irmute Usiene, MD

Psychiatric Annals. 2015;45(6):285-286,288-289

<https://doi.org/10.3928/00485713-20150602-02>

[1] Groth, A., Burgess, W., & Holmstrom, L. Rape: Power, anger, and sexuality. American Journal of Psychiatry, 134(11), 1239-43. Pubmed.gov.

[2] TeBockhorst, S., O'Halloran, M., & Nyline, B. (2014). Tonic Immobility Among Survivors of Sexual Assault. Psychological Trauma: Theory, Research, Practice, and Policy, 7(2). 171-178

[3] Lonsway, K., Archambault, J., & Lisak, D. (2009). False Reports: Moving Beyond the Issue to Successfully Investigate and Prosecute NonStranger Sexual Assault. The Voice, 3(1).

[4] Centers for Disease Control and Prevention. National Intimate Partner and Sexual Violence Survey. (2011).

[5] Planty, M., Langton, L., Krebs, C., Berzofsky, M., & Smiley-McDonald, H. (2013). Female Victims of Sexual Violence, 1994-2010. Bureau of Justice Statistics.

[6] U.S. Department of Justice. National Crime Victimization Survey. 2009-2013.

[7] Fanflik, P. (2007). Victim Responses to Sexual Assault: Counterintuitive or Simply Adaptive?

[8] The National Child Traumatic Stress Network: The Truth About Sexual Abuse

[9] US Department of Justice: Facts and Statistics

[10] Facts and Myths

[11] Sullivan, B. (2007). Rape, Prostitution, and Consent. Australian & New Zealand Journal of Criminology (Australian Academic Press), 40(2), 127-142.

[12] RAINN: Find Help Near You

[13] RAINN: Your Role in Preventing Sexual Assault