



GENERAL POLICE ORDER CLEVELAND DIVISION OF POLICE



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| EFFECTIVE DATE: MARCH 1, 2002 | REVISED DATE: August 22, 2011 | NO. PAGES: 1 of 11 | NUMBER: 6.2.09 |
| SUBJECT: SEXUAL ASSAULT INVESTIGATIONS | | | |
| ASSOCIATED MANUAL: Sex Crimes Unit, Communications Control Section | | RELATED ORDERS: 4.1.01, 4.1.03, 4.1.13, 6.2.08 | |
| CHIEF OF POLICE: <i>Michael McGrath, Chief</i> | | | |

Substantive changes are in italics

PURPOSE: *To provide members of the Division of Police guidelines for responding to reports of sexual assault, assisting victims, collaborating with local health and service agencies, and conducting interviews with victims, witnesses, and suspects.*

POLICY: The Cleveland Division of Police shall accept all reports of sexual assault. Furthermore, being that victims of sexual assault often suffer an emotional trauma that is distinctive to that particular type of crime, officers shall demonstrate a heightened degree of sensitivity to such victims so as to promote the victim’s emotional well-being and aid in the subsequent investigation and prosecution of the crime.

A victim’s distress may create an unwillingness or psychological inability to assist in the investigation. Officers and investigators play a significant role in both the victim’s willingness to cooperate in the investigation and ability to cope with the emotional and psychological after effects of the crime. Therefore, it is especially important that these cases be handled from a nonjudgmental perspective so as not to communicate in any way to a victim that the victim is to blame for the crime.

The Division of Police also recognizes that trace evidence is one of the most important factors to a successful sexual assault investigation and prosecution. Therefore, a timely and uniform standard of collecting, submitting, and preserving sexual assault evidence shall be considered a high priority.

DEFINITIONS:

Sexual assault - is any sexual conduct or sexual contact in violation of Chapter 2907 Sex Offenses of the Ohio Revised Code.

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Sexual conduct - is vaginal intercourse between a male and female; anal intercourse, fellatio, and cunnilingus between persons regardless of sex; and, without privilege to do so, the insertion, however slight, of any part of the body or any instrument, apparatus, or other object into the vaginal or anal opening of another. Penetration, however slight, is sufficient to complete vaginal or anal intercourse. (Reference - Ohio Revised Code 2907.01 Sex Offenses General Definitions)

Sexual contact - is any touching of an erogenous zone of another, including without limitation the thigh, genitals, buttock, pubic region, or, if the person is a female, a breast, for the purpose of sexually arousing or gratifying either person. (Reference - Ohio Revised Code 2907.01 Sex Offenses General Definitions)

Trace evidence - evidence that is often invisible to the human eye. It may be found on condoms, tampons, feminine pads, washcloths, clothing, bedding, or criminal tools and may be comprised in part by body fluids, hairs, fibers, and fingerprints.

Victim Advocate - is a generic term that applies to a wide range of service providers, rape crisis counselors, social workers, victim witness providers within a prosecutor's office, and law enforcement officers, including departmental victim assistants.

PROCEDURES:

I. Communications Control Section (CCS) Responsibilities

- A. *Call takers shall know that due to the trauma of a sexual assault, a victim reaching out for assistance may be in crisis. The victim's behaviors may actually be symptomatic of this condition and can range from hysteria, crying and rage to laughter, calmness, and unresponsiveness. There is no one typical reaction, so it is important to refrain from judging or disregarding any victim.*
- B. *When a caller reports a sexual assault, CCS personnel shall follow standard emergency response to include evaluating and properly prioritizing the call, securing medical assistance, inquiring about a suspect's current location, and obtaining detailed information to identify the suspect. Information about the relationship with the victim, weapon use, and history of violence shall also be obtained.*
- C. *To ensure critical evidence is not lost, communications personnel shall:*

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1. *Ask whether the victim has bathed, douched, urinated, or made other physical changes and advise against doing so.*
2. *Ask the victim to use a clean jar to collect the urine should the victim have to urinate.*
3. *Let the victim know that other evidence may still be identified and recovered so the crime should still be reported even if the victim has bathed or made other physical changes.*
4. *Preserve the communications for the later investigation.*
5. *Explain to the caller that these questions will not delay an officer's response to the caller's location.*

II. First Responding Officer Responsibilities

- A. *First responding officers shall accept all reports of sexual assaults regardless of the lapse of time between the last occurrence and the date of reporting. It is not unusual for victims to wait hours, days, or even years to report a sexual assault. Officers may ask for a reason for the delay as it may relate to the investigation (e.g. victim did not feel safe or comfortable to report it earlier because victim was a minor, was employee at business/student at the school/member at church at the time of occurrence ...), but officers shall not use the delay to color their handling of the victim's report.*
- B. *First responding officers shall accept information of sexual assaults reported by third parties such as a Cuyahoga County Department of Children and Family Services social worker, school principal, day care center manager, nursing home or other group home manager. If there is insufficient information for an RMS report, officers shall make an informational Form-1 and forward same through the chain of command to the Sex Crimes Unit for further investigation.*
- C. *First responding officers shall ensure that the victim's immediate medical needs are addressed. Any refusal of medical care must be documented in any subsequent report.*
- D. *If there is no immediate need to remove the victim from the crime scene for medical care, officers shall stay on the scene with the victim to gather as*

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much information about the crime scene as possible and protect same if necessary.

- E. *Officers shall strive to demonstrate understanding, patience, and respect for the victim's dignity and attempt to establish trust and rapport in order to address the victim's immediate trauma and to maximize a successful investigation and prosecution.*
- F. *Officers shall offer to the victim the opportunity to speak to an officer of the same gender as the victim. Supervisors shall make every effort to ensure that the victim's request is honored.*
- G. *Officers shall refrain from asking leading questions to prevent responses that may not be indicative of the details of the sexual assault.*
- H. *Officers shall avoid using police, medical, or legal jargon, but instead use simple terminology appropriate to the victim's age, intelligence, and sophistication.*
- I. *Officers shall note that victims of sexual assault are often traumatized causing a state of mind where the victims' recollections are fragmented and the descriptions of the incident leaves gaps and seeming contradictions in their statements. Officers shall record all victim statements accurately "as is" thus permitting later investigators to build on the initial victim's statements.*
- J. *Officers shall obtain the names and contact information of other persons to whom the victim talked to before, during or after the assault. This information may become vital to the follow up investigation.*
- K. *When interviewing the victim, officers shall ensure that when gathering information of an intimate sexual nature from the victim that those matters are addressed in as private a setting as possible.*
- L. *Officers shall take special care when interviewing elderly persons who may be victims of sexual assault. Elderly victims may admit to being a victim of a burglary but may not admit to an accompanying sexual assault. Some elderly victims may not be able to find the words or phrases to describe the acts that took place.*

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- M. *Officers shall note in their report if the victim is suspected to have been under the influence of drugs or alcohol (voluntary or involuntary) during the time of the assault and during the time of reporting. In either instance, officers shall make the requisite report with as much detail as the victim can remember as long as the primary elements of the crime are present.*
- N. *Officers shall explain to the victim that the officers are taking only the initial report and that the victim can expect to repeat the details of the sexual assault again to a follow-up investigating officer.*
- O. *In order to encourage the victim to provide vital investigative details necessary for the initial report, officers may explain to the victim that case law [Bloch v. Ribar, 156 F.3d 673 (6th Cir. 1998)] protects the victim's privacy as it relates to the police reporting of intimate details of the sexual assault.*
- P. *When investigating non-stranger sexual assaults, officers shall take particular note of the victim's verbal or physical resistance, evidence of injury, physical state of the crime scene (e.g. broken furniture, knocked over items), relative size/strength of victim/suspect, the suspect's position of authority or relation over victim, and the victim's thoughts during the attack if the victim acquiesced simply for fear of incurring greater harm.*
- Q. *When investigating non-stranger sexual assaults, officers shall ensure that the questioning of the victim is done in manner where the alleged suspect (e.g. spouse, sibling, caretaker, relative, family friend, other person of authority) is not present to intimidate or refute the victim's allegations.*
- R. *In the instances of non-stranger sexual assault, officers shall ensure that the victim is not returned to the environment where the alleged suspect may have access to the victim, but rather officers shall identify alternative shelter for the victim if possible.*
- S. *Officers shall ensure that the victim is made aware that the victim is not to bathe, shower, douche, urinate, brush their teeth, use mouthwash, cut any of their hair, perform any acts of personal hygiene or discard underwear or other clothing, or otherwise take any action that may destroy sexual assault evidence. Any such actions that the victim has already taken shall be noted in the initial report.*

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- T. Officers shall ensure that the victim or victim's parent/guardian is made aware that resources exist outside the Division of Police to assist the victim. *Specifically, the Cleveland Rape Crisis and Support 24/7 hotline, (216) 619-6192, provides advocacy and assistance to victims of sexual assaults. Additional resources include the Witness/Victim Center, 1275 Ontario Street, (Justice Center); and First Call for Help (216) 436-2000 that can direct the victim to a shelter if necessary.*
- U. *Officers shall contact the Rape Crisis hotline and, in consultation with the victim, determine if a sexual assault advocate is to respond to the scene. Officers shall note in their report if a sexual assault advocate was contacted and also if the victim declined the services of a sexual assault advocate.*
- V. Officers shall advise victims that hospitals have medical personnel (Sexual Assault Nurse Examiner [SANE] nurses) specifically trained to aid victims of sexual assault. *Officers shall encourage victims to avail themselves to a medical examination to examine and treat for injuries, sexually transmitted diseases, and pregnancy; as well as to gather forensic and photographic evidence to aid in the investigation and prosecution of the sexual assault. Officers shall advise victims that their clothing may be seized and entered into evidence, and that the victim shall be advised to bring a change of clothes with them to the hospital.*
- W. *Officers shall not coerce a victim to receive medical treatment, provide forensic evidence, or submit to a blood/alcohol screen. Victims need to provide informed consent prior to any such examination or treatment. EMS protocols require that their ambulances transport sexual assault victims to a hospital with a SANE nurse either on-duty or on-call.*
- X. *Officers shall communicate to the SANE nurse any suspicions they may have that alcohol or drugs were used to facilitate the sexual assault. The SANE nurse will use this information to perform a blood or urine test of the victim to screen for those substances.*
- Y. Officers shall make the RMS report *(to include sufficient detail for detectives to follow up and/or establish if the crime may be one of several perpetrated by a single suspect)*, issue a Form-42 to the victim if the suspect is unknown, and fax a copy of the report to the Sex Crimes Unit. Officers shall note in the report if the Sex Crimes Unit was notified and if victim was seen by a SANE nurse (when this information is available).

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- Z. *Between 0800 and 2200 hours* uniformed officers shall immediately notify their supervisor if they determine a sexual assault has occurred. The supervisor shall contact the Sex Crimes Unit by telephone.
- AA. *Between 2200 and 0800 hours*, if conditions warrant (brutality of crime, physical and emotional state of victim, age of victim), the supervisor on scene may notify the Chief Dispatcher to contact the Sex Crimes Unit supervisor who in turn shall determine the appropriate response.
- BB. In all instances when the Sex Crimes Unit is notified of a sexual assault, a Sex Crimes Unit supervisor shall determine if additional resources or actions are necessary due to the brutality of the crime, the age or physical state of the victim, result of a home invasion, or an act of a serial offender.
- CC. Sector supervisors shall pay particular attention to the circumstances of the sexual assault for evidence that it may be part of a larger criminal enterprise, such as organized prostitution or human trafficking, and take follow-up action as appropriate. Follow-up options include contacting the appropriate district Vice Unit or, in the case of human trafficking, refer to GPO 4.1.13 Investigation of Human Trafficking.
- DD. Officers shall notify 696-KIDS in all cases where a juvenile is the victim of a sexual assault. Officers shall note this action in their initial police report.

III. Crime Scene:

- A. *Officers shall determine if there may be more than one crime scene arising from the same incident (e.g. alley, vehicle, bedroom, basement, hallway...).*
- B. *When gathering evidence from a crime scene, officers shall be mindful of the possible need to gain consent, a waiver or search warrant before proceeding to search a crime scene.*
- C. Initial on-scene officers shall preserve all items of evidentiary value including soiled bedding, towels, etc, which contain or appear to contain trace evidence, *taking care to not cross contaminate the items or adding their own DNA by bare-handed touching, or talking, sneezing, or coughing over the evidence.*

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- D. At least one officer shall remain at the scene containing evidence until Crime Scene and Record Unit (CS&RU) personnel arrive to process the scene. If CS&RU personnel are not available within a reasonable amount of the time, the officer shall collect the evidence.

IV. Evidence Collection (*protective latex or similar non-porous gloves shall be used when gathering evidence*):

A. Clothing

1. Clothing and articles that appear to or are likely to contain trace evidence (or are torn or damaged which may indicate the use of force) shall be collected for evidence.
2. Hospital personnel may give the victim's clothing to officers at the time of the emergency room examination. Line four of the property tag, "FOUND BY", shall contain the name of the actual hospital personnel giving the clothing to the investigating officer.
3. If a suspect is apprehended shortly after the crime, officers shall ensure that the suspect's clothing is seized as evidence at the time of booking. *DNA evidence may still exist on the suspect or suspect clothing up to 96 hours after an alleged assault.*
4. Officers shall always keep victim and suspect clothing separate from each other.

B. Items of evidence obtained from the victim, suspect, and crime scene shall be marked, tagged and packaged in a clean paper bag (never plastic).

1. Items from each source shall be placed in a separate bag. Items from the victim and suspect shall also be kept separate.
2. To prevent cross contamination, each individual item shall be wrapped separately before being placed in a paper bag.
3. If possible allow wet items to dry before packaging, otherwise print "WET ITEMS" in large letters on the outside of the bag for conveyance to the Forensic Unit. Any such items shall be conveyed to the Forensic Unit on the very next business day.

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4. If a stain is wet, place a piece of paper over it or fold it so the stained area does not transfer material to another portion of the clothing or fabric.
5. Officers seizing evidence shall log the evidence in the district or unit property book.

C. Crime Scene

1. All evidence must be placed in clean paper bags. Evidence shall not be placed in plastic bags. Biohazard evidence shall be double-bagged in paper bags. Biohazard evidence shall be clearly marked "BIOHAZARD" in large letters using red ink. (Refer to GPO 3.2.11 Contacting Blood and Body Fluid for guidance on same). If an officer has doubt about sexual assault evidence leaking, the bag(s) shall be placed in a leak-proofed box or container.
2. All evidence shall be marked, tagged, and logged into the property book.
3. *Special care shall be taken to ensure that victim and suspect evidence is not comingled or comes in contact with each other in any way, either during collection or securing. Each evidentiary item shall be segregated from the other collected items (e.g. underwear, t-shirt, bed sheet, etc... shall each be bagged separately.)*
4. For an *assault occurring in a motor vehicle*, officers shall make an initial observation for stained upholstery or seats, discarded clothing, condoms or wrappers, items belonging to the victim, or any other items used by the suspect or described by the victim. Vehicles containing trace evidence or otherwise reported as the location of the assault (vehicle as the crime scene itself) shall be towed for processing.
5. The officer completing Form C of C 71-1081 (Process Tow) shall indicate on the form what type of trace evidence is being sought and the most likely location to find it.
6. First responding officers shall note possible areas at a crime scene location where fingerprints *or other forensic and biometric (blood, semen, saliva, urine) evidence* may be found, as well as provide special

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instructions to assist crime scene detectives in processing the crime scene.

D. Photographs

1. Officers shall note if there are signs of scratches, bruises, or marks of violence on the victim or suspect, and request that the CS&RU respond to take photographs as appropriate. These indicators of violence shall also be noted in the police report.
2. *Officers shall advise the victim that the extent of bruising injuries may not become fully evident until days after the assault, and that additional photographs may be taken as needed.*
3. Officers shall note in their report if the hospital has a procedure for photographing a victim's injuries by their personnel at the time of examination and if any evidentiary photographs were taken.
4. Any photographs taken by district personnel shall be placed into evidence envelopes and logged into evidence. Officers shall note in their report that photographs were taken and logged into evidence.

E. Rape Evidence Kits

1. Hospital personnel preparing rape evidence kits shall turn custody of same over to the Division for processing by the Forensic Unit.
2. The first responding officers handling the initial investigation shall accept the rape kit if it is ready prior to the completion of their assignment.
3. Officers accepting the rape kit shall ensure that it is sealed. Officers shall sign and place their badge number in the "chain of evidence" or "received by" line on the box and on the chain of evidence form.
4. Officers shall describe the box on the property tag as a "sealed rape evidence kit" and enter the name of the actual hospital employee who transferred the rape kit to them on the line marked FOUND BY on the evidence tag.

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5. The rape kit, with a copy of the RMS report attached to it, shall be logged into the property book.
6. Rape kits received from hospital personnel as a “Jane Doe” victim shall be the subject of a Property Found report. The rape kit evidence shall be handled in the same manner as a named victim rape kit.