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			Distribution: All
Title: SEXUAL ASSAULT INVESTIGATIONS		Section: Investigations	
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I. Purpose

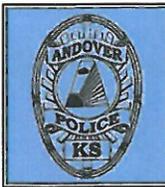
The purpose of this General Order is to provide officers and investigators with guidelines for responding to reports of sexual assault, assisting victims, collaborating with local health and service agencies, and conducting interviews with victims, witnesses, and suspects. Because of the special needs involved in sexual assault investigations, this General Order is an all-inclusive document that covers first response and investigation.

II. Policy

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 aftereffects of the crime.

III. Definitions

- A. Sexual Assault:** As used in this General Order, refers to felony crimes of sexual violence. Sexual assault generally constitutes a felony when the victim is a child or one of the following conditions are met:
1. When the victim is overcome by force or fear;
 2. When the victim is unconscious or physically powerless;
 3. When the victim is incapable of giving consent because of mental deficiency or disease; or
 4. When the victim is incapable of giving consent because of the effect of any alcoholic liquor, narcotic, drug, or other substance, which condition was known by the offender or was reasonably apparent to the offender.
- B. Sexual Intercourse:** Any penetration, however slight, of the female sex organ by a finger, the male sex organ or any object.
- C. Sodomy:** Oral contact or oral penetration of the female genitalia or oral contact of the male genitalia; anal penetration, however slight, of a male or female by any body part or object; or oral or anal copulation or sexual intercourse between a person and an animal.
- D. Consent:** As used in this General Order, any person 16 years of age or older may consent to sexual activity.
- E. Victim/Family Advocate:** A person who acts as a support to victims of crime, or in the case of a child victim, acts as support to the family (non-offending caregiver) of the victim, by offering a variety of services ranging from legal assistance to emotional help.



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- F. **SAECK:** Sexual Assault Evidence Collection Kit is a set of items used at a medical facility for gathering and preserving physical evidence following a sexual assault.
- G. **DFSA Kit:** Drug Facilitated Sexual Assault Kit contains a vial for blood and a bottle for urine, which is collected by the nurse examiner when there are statements made by the victim indicating the possibility of a drug facilitated sexual assault or when requested by law enforcement.

IV. Regulations

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V. Procedures

A. Communications Officer Responsibilities

1. 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.
2. When a caller reports a sexual assault, the Communications Officer 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.
3. Explain to the caller that these questions will not delay an officer's response to the caller's location.
4. Preserve the communications recording and CAD sheet for the investigation.

B. Initial Officer Response

1. Emergency Response—As part of the emergency response officers shall:
 - a. Make contact with the victim and/or the victim's parents as soon as possible to address safety concerns and summon emergency medical assistance if needed;
 - b. Evaluate the scene for people, vehicles, or objects involved as well as possible threats;
 - c. Relay all vital information to responding officers, supervisors and investigators, including any possible language barriers;
 - d. Secure the crime scene to ensure that evidence is not lost, changed, or contaminated;
 - e. Contact the on-call detective(s) to have them respond; and
 - f. Begin a search for the suspect when appropriate.



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2. Assisting the Victim—As part of the emergency response officers shall:
 - a. Show understanding, patience, and respect for the victim’s dignity and attempt to establish trust and rapport;
 - b. Inform the victim that an officer of the same sex will be provided if desired and available;
 - c. Contact the on-call detective(s). Clearly explain the detective’s role to the victim and limit the preliminary interview so the victim is not then asked the same questions by a detective. Be aware that a victim of sexual assault may bond with the first responding officer; thus the importance of explaining the role of the different members of the sexual assault response team; and
 - d. Record observations of the crime scene, including the demeanor of the suspect and victim and document any injuries and/or disheveled clothing.
3. Preliminary Victim Interview—The preliminary interview is intended to establish whether a crime has occurred. In the initial response, the officer shall first establish the elements of the crime(s) and identify any and all witnesses, suspect(s), evidence, and crime scene(s). The officer must understand that the preliminary interview is not intended to be a comprehensive or final interview. Additional interviews will be needed as the investigation develops.
 - a. Child Victim Interview Protocol—If the victim is a child (17 years old or younger), and the officer has enough information from the reporting party and witnesses to determine that a crime has occurred, the officer should not interview the child. If a child chooses to talk to an officer (i.e. the child has information to share and feels he/she must urgently share it now), the officer should listen, take notes, attempt to record the audio portion, and refrain from asking leading questions. The officer will advise the non-offending caregiver that a detective will conduct an interview with the child at the Child Advocacy Center (CAC) as soon as practical. CAC personnel are on call after hours.
 - b. Adult Victim Interview Protocol—Based on the length of time between the assault and report of the crime and the individual’s personal history, the victim may be in crisis and experiencing post traumatic stress disorder or rape trauma syndrome and exhibiting a range of behaviors that will likely change over time. The victim’s response to the trauma of a sexual assault shall not be used in any way to measure credibility. When drugs or alcohol are involved, the victim may have limited recollection or be unable to give a complete account of the crime. Not knowing the details of what happened may exacerbate the trauma experienced by the victim.
 - c. The preliminary interview shall be conducted promptly if the victim is coherent and consensual. The officer shall:
 - (1) Secure a private location for the interview that is free from distractions.



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- (2) Remain patient and maintain an open mind while listening to the victim's account. Remember that victims may struggle with gaps in memory. Avoid leading questions while conducting the interview. Use simple terminology appropriate to the victim's age, sophistication, and intelligence. Avoid using jargon or police, medical, or legal term.
 - (3) Express sympathy to the victim and an interest in the victim's well-being.
 - (4) Accommodate the victim's request for a victim advocate or support person whenever possible. Take responsibility for excluding a support person when appropriate and offer the victim and support person an explanation.
 - (5) Inform the victim of the need and importance of full disclosure of any and all recent drug use.
 - (6) Follow procedures in General Order M1108 Victim-Witness Assistance.
- d. Arrest and Prosecution Decisions—In the immediate aftermath of a sexual assault, a victim shall not be expected or encouraged to make decisions regarding the investigation or charges related to the offense.
- e. Delayed Reports—Delayed victim reporting is common in sexual assault cases due to the trauma and fear experienced by victims and should not deter a thorough investigation. Officers shall inquire about and document the reasons for a delayed report, while avoiding questions that could be perceived as judgmental or accusatory.
4. Stranger vs. Non-stranger—Responding officers shall be familiar with common defenses to the charges of sexual assault.
- a. Non-stranger Assault—The majority of non-stranger sexual assaults result in a consent defense. Thus, evidence of particular importance includes but is not limited to:
- (1) Evidence of physical or verbal resistance on the part of the victim;
 - (2) Evidence of genital or non-genital injury;
 - (3) Detailed account of the victim's thoughts and feelings during the assault;
 - (4) Information regarding the suspect's size and strength in comparison to the victim's;
 - (5) Information regarding the environment in which the assault took place (such as isolation, soundproofing); and
 - (6) Information regarding the victim's behavior after the assault, including post traumatic stress.
- b. Stranger Assault—Evidence in stranger sexual assaults often center on a question of identification pending the processing of DNA evidence. Therefore, investigative strategies must remain flexible. An identity defense will typically include latent fingerprints, lineups, DNA, and trace evidence.



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5. Identify and Locate Witnesses and Suspects—Based on the victim’s emotional and physical state, questioning of the victim concerning the assault and description and location of the suspect shall be limited. Responding officers must identify and interview any potential witnesses, bearing in mind that there may be multiple crime scenes. It is especially important that the first person the victim told about the sexual assault be identified and interviewed.
6. Documentation—Any officer who interviews a witness or a suspect, identifies evidence, or processes a crime scene shall write a narrative report detailing the actions he or she took. These reports shall be reviewed by the investigating officer regardless of whether an arrest is made.

C. Investigating Officer’s Responsibilities

1. Detectives will respond to all reports of sexual assault and ensure for the prompt and proper collection of physical evidence.
2. Detectives will interview available witnesses.
3. Prior to a follow-up interview, the investigating officer shall consult with agency personnel who responded to the scene, retrieve communications tapes and printouts, and review all reports.
4. Investigative Strategy—In preparing for the interview, the investigator shall develop an investigative strategy based on the nature of the assault and the possible defenses available to the suspect (such as denial, mistaken identity, or consent). This strategy shall guide the questions and other evidence collection efforts. Critical evidence collection efforts include evaluating whether a pretext phone call is appropriate and re-photographing injuries to document changes in visible injuries.
5. Follow-Up Interview Protocol.
 - a. An in-depth follow-up interview shall be conducted after the victim has been medically examined and treated, and personal needs have been met.
 - b. If the victim is a child (17 years old or younger), the investigating officer shall conduct an interview, if trained in forensic child interviews, or with an interviewer who is trained in forensic child interviews, at the Child Advocacy Center and shall follow protocols established at the Child Advocacy Center. To aid in corroboration of the child’s account, the investigator shall use the Child Corroboration Chart checklist (APD Form 47) to determine areas for further documentation or investigation.
 - c. In the event that the victim is still under the influence of drugs or alcohol, has been injured, or as a result of the assault has not slept, and barring exigent circumstances requiring an arrest or identification, the interview shall be delayed.
 - d. Record the interview so the officer can focus on listening.



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- e. The interview shall be conducted in a location that is convenient, accessible, and comfortable for the victim. The investigator shall provide or arrange for transportation for the victim when needed.
- f. At the start of the follow-up interview, the officer shall:
 - (1) Discuss the purpose and scope of the interview;
 - (2) Review contact information for both the victim and investigator that may need to be updated;
 - (3) Explain the victim's rights, including confidentiality; and
 - (4) Address arrest decisions including an explanation of the status of the case.
- g. While conducting the follow-up interview, the officer shall:
 - (1) First allow the victim to describe what occurred without interruption;
 - (2) Relay what he or she heard for accuracy, identify new information or developments, and ask questions;
 - (3) Clarify any inconsistencies with earlier accounts of the sexual assault in a nonthreatening manner;
 - (4) Document the victim's actions in response to the assault, the victim's state of mind during the assault, specific statements made by the perpetrator, and the nature of any relationship with the suspect and explain the importance of these questions from a prosecutorial standpoint;
 - (5) Inquire about any circumstances that may indicate the use of a drug to facilitate the sexual assault (such as whether the victim experienced any loss of memory, disorientation, severe illness, or hallucinations); and
 - (6) Assist the victim in developing a safety plan, in the event safety concerns exist, and encourage the victim to call police if the suspect violates any existing criminal or court orders or if the suspect contacts the victim in any way.
 - (7) At no time shall a victim of a sexual assault be requested or required to take a polygraph examination, per KSA 22-4614.
6. Once a thorough follow-up investigation has been completed, the investigating officer shall:
 - a. Evaluate evidence and its probative value based on the statements and other information;
 - b. Submit a lab request for analysis such as DNA, biology, trace, or toxicology based on the assessment of the evidence;
 - c. Present the complete case file including forensic results as soon as available to the prosecuting attorney for review and work with the prosecutor's office to develop the case;



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- d. Encourage the victim's continued support in the investigation, apprising the victim of future investigative and prosecutorial activities that will or may require involvement; and
7. When lacking the victim's involvement—members of the Andover Police Department shall respect a victim's inability, or decision not to be involved in criminal justice proceedings and always be willing to offer continued assistance and referrals.
8. Contacting and Interviewing the Suspect:
 - a. The investigating officer(s) shall follow department procedures on identifying the suspect, conducting the suspect interview, and collecting evidence in a sexual assault investigation.
 - b. Involvement of a victim in a pretext phone call to the suspect should take into consideration the victim's emotional and physical state. A victim advocate or support person should be present whenever possible to offer support.

D. Evidence Collection Issues

1. Examinations for Victims of Sexual Assault—Victim-centered care is paramount to the success of the forensic examination of victims of sexual assault. A timely, professional forensic examination increases the likelihood that injuries will be documented and evidence collected to aid in the investigation and prosecution of sex offenders. Evidence may normally be collected up to 96 hours after the assault, but evidence can be gathered and injuries documented beyond that time, especially if the victim is injured, bleeding, or experiencing pain.
 - a. Ask the victim whether there is anyone who should be called or notified, and facilitate this contact.
 - b. Address any special needs of the victim, such as communication or mobility.
 - c. Explain the purpose of the forensic examination and its importance to the investigation and provide the victim with information on the procedure. Inquire whether the victim will consent to a forensic examination. Inform the victim of the right to decline any or all parts of the examination. Explain to the victim the potential consequences if any part of the examination is refused.
 - d. Advise the victim that the forensic examiner will collect any clothing that was worn during or immediately after the sexual assault. Assist in arranging for clothing the victim may need after the examination.
 - e. Contact the designated medical facility if a forensic examination is warranted and the victim consents. Provide them with the case number. The designated medical facility will contact the nurse examiner and a victim advocate. Transport the victim to the designated medical facility if needed.



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- f. Encourage a victim who is unwilling to undergo a forensic exam, to get medical attention including testing for pregnancy and sexually transmitted diseases.
- g. When a forensic examination is indicated, the investigating officer shall brief the nurse examiner about the details of the sexual assault, as they are known at that time.
- h. Officers should not normally be present in the examining room as the nurse examiner will testify about collection of evidence and the chain of custody. The nurse examiner will collect physical evidence from the victim, to include clothing, trace evidence, swabs and photographs of any injuries.
- i. The nurse examiner may brief the investigating officer at the conclusion of the examination. A copy of the forensic exam, provided the patient has agreed to it, will be provided to law enforcement. After the examination, all the evidence shall be transferred to the Police Department for storage.
- j. If a drug-facilitated sexual assault is suspected, it is critical to obtain a urine sample from the victim as soon as possible. Notify the nurse examiner to collect blood and urine for a drug facilitated sexual assault. If it has been less than 24 hours since the time of the assault, and the victim declines a forensic examination, the officer can collect a urine sample and contact EMS to obtain a blood sample in a grey-top tube, to send to the KBI Lab. If the victim has vomited, and the location of the emesis is known, it should be collected and entered into evidence as it could also contain evidence for drug facilitated sexual assault.
- k. Protocols for responding to illegal substance abuse by victims (including underage drinking) shall be followed and never used to discredit or discourage the victim from reporting the assault. The department's priority is to conduct a thorough investigation of a sexual assault rather than prosecute victims for misdemeanor violations.
- l. The SAECK shall be collected from the designated medical facility after it has been properly sealed and labeled. It does not need to be refrigerated. It shall then be entered into evidence. The DFSA kit will contain whole blood and urine that should be entered into evidence and refrigerated as soon as possible.
- m. The County Attorney's office reimburses the designated medical facility for the cost of the examination and evidence collection. The investigating officer shall submit the proper documentation to the County Attorney to ensure proper reimbursement. An emergency room fee, lab testing and medication are not included in that reimbursement and are the victim's responsibility. However, those costs will be reimbursed to the victim through the Office of the Kansas Attorney General Crime Victims Compensation Board, if applied for and approved. The victim advocate should assist the victim with this application.



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2. DNA evidence plays a crucial role in the sexual assault investigation. In addition to the victim's and suspect's bodies and clothing, there are many other potential sources such as condoms, sheets, blankets, pillows, and bottles that may contain biological evidence such as blood, sweat, tissue, saliva, hair, and urine. To properly collect DNA evidence, follow General Order O2516 Crime Scene Processing.
 3. Sexual Assault Forensic Examination for the Suspect:
 - a. Immediately after the preliminary suspect interview, the investigating officer shall determine whether a forensic sexual assault examination should be obtained for the suspect.
 - b. Although a search warrant is preferred, if the suspect consents to such evidence collection procedures, documentation of voluntary consent shall be provided in the form of a signature on written Consent to Search - Body form (APD Form 42). The investigator shall clearly document the suspect's freedom to decline any part of the examination and to leave at any time.
 - d. Any time consent or a search warrant is obtained for suspect forensic examination; the suspect shall be taken to a designated medical facility for the examination. The suspect should not be taken to the medical facility at the same time as the victim.
 - e. The consent form or search warrant shall be provided to the nurse examiner and a copy obtained for the police report.
 - f. The nurse examiner shall document the suspect's medical history, document all injuries that are observed, and collect biological and trace evidence from the suspect's body. If in custody, the suspect shall be given a Miranda warning before being asked medical history questions by the nurse examiner or investigator. If the suspect invokes their right to remain silent, the examiner shall bypass the medical history portion of the examination and continue documenting any visible injury and collecting the appropriate specimens.
 - g. Both the nurse examiner and attending officer shall be prepared to document any spontaneous statements made by the suspect regardless of whether or not the suspect is in custody and whether or not the suspect was provided with a Miranda warning.
- E. Anonymous Reporting**—In the aftermath of a sexual assault, a victim may not have the emotional or physical capacity to commit to a full investigation and a court trial. The State of Kansas has established an anonymous reporting system to allow victims to take the investigative process one step at a time. The victim would report to a designated medical facility where a nurse examiner would do a forensic examination of the victim and collect evidence. The nurse examiner would contact the Kansas Bureau of Investigation (KBI) for an anonymous reporting case number,

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which is provided to the victim. The SAECK is sent to the KBI under that assigned number and is stored for up to five years. Should the victim desire to pursue an investigation and possible prosecution within five years, the victim should contact the local law enforcement agency and make an initial report and provide the agency with the anonymous reporting case number under which the SAECK is stored. The investigation would then proceed as a normal case. The investigating officer would contact the KBI, provide them with the anonymous reporting case number, the Andover Police Department's case number, and request that analysis of the SAECK be completed, if applicable.