



MYRTLE BEACH POLICE DEPARTMENT

ADMINISTRATIVE REGULATIONS AND OPERATING PROCEDURES

**Subject: Guidelines for Responding to Reports of
Criminal Sexual Conduct**

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PURPOSE

The purpose of this procedure 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 policy is an all-inclusive document that covers first response, investigation and prosecution.

REGULATION

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 the 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.

DEFINITIONS

1. Suspect - means a person accused of criminal sexual conduct.
- 2, Victim – means the person alleging to have been subjected to criminal sexual conduct.

PROCEDURE

1. DISPATCHER OR CALL-TAKER RESPONSE

- A. When a caller reports a sexual assault, communications 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.
- B. To ensure evidence is not lost, communication personnel shall:
 - 1) Advise victim not to bath, douche, urinate, or make other physical changes.
 - 2) If victim has to urinate ask them to use a clean jar to collect the urine.
 - 3) Let the victim know that other evidence may still be identified and recovered even if the victim has bathed or made other physical changes.
 - 4) Preserve the communications tape and printout for investigation.
 - 5) Explain to the caller that the questions will not delay an officer's response to the scene.

2. INITIAL OFFICER RESPONSE

A. Emergency Response

As part of the emergency response, officers shall:

- 1) Make contact with the victim as soon as possible to address safety concerns and summon emergency medical assistance if needed.
- 2) Evaluate the scene for people, vehicles, or objects involved as well as possible threats.
- 3) Relay all vital information to responding officers and supervisors, including any possible language barriers.
- 4) Secure the crime scene to ensure that evidence is not lost, changed or contaminated.
- 5) Ask the victim to use a clean container to collect the urine should the victim have to urinate.
- 6) Begin a search for the suspect when appropriate.

B. Assisting the Victim

- 1) Refrain from judging or disregarding any victim. Due to the trauma of a sexual assault, a victim reaching out for assistance may be in crisis. The victim's behavior 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.
- 2) Show understanding, patience, and respect for the victim's dignity and attempt to establish trust and rapport.
- 3) If requested by the victim, an officer of the same sex will be provided if available.
- 4) Advise the victim a detective will be responding, and clearly explain his or her role and limit the preliminary interview so that the victim is not then asked the same questions by a detective.
- 5) Be aware that a victim of sexual assault may bond with the first responding officer. It is important to explain the role of the different members of the department and help with transitions through introductions.
- 6) Record observations of the crime scene, including the demeanor of the suspect and victim and document any injuries or disheveled clothing.

C. Evidence Collection Issues

- 1) Supervisors shall request assistance or direction from crime scene specialists.
- 2) Responding officers or crime scene specialists shall protect the integrity of the evidence and guard the chain of custody by properly marking, packaging, and labeling all evidence collected, including:
 - a. Clothing worn at the time of the assault and immediately afterward, especially the clothing worn closest to the genitals (such as undergarments, pants, and shorts).
 - b. Photographs and videotape of the victim's injuries (if any), the suspect's injuries (if any), and the crime scene prior to processing.
 - When photographing a victim, be sensitive to the location of the injuries on the victim's body
 - Summon an officer of the same sex as the victim to standby while taking pictures
 - Photograph victim using techniques that help to maintain the victim's dignity
 - Instruct medical personnel to take photographs of the genitalia when needed

- 3) When an investigating officer suspects that a sexual assault may have been facilitated with drugs or alcohol, he or she should determine the item of the incident as soon as possible in order to make decisions regarding the collection of urine and blood samples.
- 4) Officers shall not coerce victims to go to the hospital or to provide samples for drug screening. Officers shall explain to the victim the importance of a medical exam not only for their personal health but also for the investigation and apprehension efforts.
- 5) 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, officers shall:
 - a. Use sterile gloves and change as needed
 - b. Use sterile swabs, papers, solutions and tools
 - c. Package evidence separately
 - d. Avoid touching the area where potential DNA evidence may exist
 - e. Avoid talking, sneezing, and coughing over evidence
 - f. Air-dry evidence before packaging
 - g. Put evidence into new paper bags or envelopes, not plastic
- 6) The sexual assault evidence kit shall be accepted from the medical staff after it has been properly sealed and labeled.
 - a. The kit will contain whole blood that requires that the kit be placed and logged into an evidence refrigerator as soon as possible. The kit may also contain a urine sample for toxicology testing. If it does, the urine sample shall also be refrigerated.
 - b. Investigation officers or supervisors shall have access to the evidence refrigerator after regular business hours, on weekends and on holidays.
 - c. The kit shall not be allowed to freeze or be exposed to heat such as being near a car's interior heater.

3. STRANGER VS NONSTRANGER ASSAULTS

Responding officers shall be familiar with common defenses to the charges of sexual assault.

A. Nonstranger Assault

The majority of nonstranger sexual assaults result in a consent defense. Thus, evidence of particular importance includes:

- 1) Evidence of physical or verbal resistance on the part of the victim
- 2) Evidence of genital or nongenital 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).
- 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, line-ups, DNA, and trace evidence.

C. Identify and Locate Witnesses and Suspects

Based on the victim's emotional and physical state, questioning 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.

D. Documentation

Any officer who interviews a witness or a suspect, identifies evidence, or processes a crime scene shall write his or her own report detailing the actions he or she took. These supplemental reports shall be compiled by the first responding officer for the follow-up investigation regardless of whether an arrest is made.

4. PRELIMINARY VICTIM INTERVIEW

Sexual assault investigations typically include both a preliminary and subsequent in-depth interview with the victim. 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. The officer must understand and the report indicate that the preliminary

interview is not intended to be a comprehensive or final interview. Additional interviews will be needed as the investigation develops.

A. Victim Advocate

As appropriate, the Detective shall contact a victim advocate as soon as possible. If the victim declines assistance from an advocate, the investigator shall provide the victim with written referrals for community resources specifically designed to help victims of sexual assault.

B. Victim Interview Protocol

- 1) 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. An indication of this can be the individual's personal history, the length of time between the assault and report of the crime, and the individual's personal history.
- 2) The victim's response to the trauma of a sexual assault shall not be used as the only 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.
- 3) Interviews shall be conducted promptly if the victim is coherent and consensual.
- 4) Proceeding with or conducting a thorough investigation shall not be contingent upon laboratory findings.
 - a. Investigators shall:
 - Remain patient and maintain an open mind while listening to the victim's account
 - Remember that victims may struggle with gaps in memory
 - Use simple terminology appropriate to the victim's age, sophistication, and intelligence
 - Avoid using jargon, police, medical, or legal terms
 - b. Prior to initiating the interview, the officer shall:
 - Interview any witness who might have seen or spoken with the victim before, during or after the assault
 - Accommodate the victim's request for a rape crisis advocate or support person whenever possible

- Take responsibility for excluding a support person when appropriate and offer the victim and support person an explanation
 - Secure a private location for the interview that is free from distractions
 - Express sympathy to the victim and an interest in the victim's well-being
 - Inform the victim of the need and importance of full disclosure of any and all recent drug use
- c. During the interview, the officer shall:
- Obtain contact information for the victim, including temporary accommodations
 - Explain the nature of the preliminary interview and the need for follow-up contacts
 - Ask victims to explain what they remember and how they felt
 - Revisit the possibility of a support person for victims who initially declined the offer
 - Explain that other professionals such as forensic examiners, detectives, evidence technicians, and prosecutors may have additional questions
- d. At the conclusion of the initial interview, the officer shall:
- Give the victim the investigator's contact information
 - Encourage the victim to contact the investigator with any additional information or evidence
 - Remind the victim that visible evidence of injury may appear later, and to contact the investigators for additional photographs or other documentation
 - Provide referrals for victim service organizations
 - Provide transportation when reasonably possible
 - Inform the victim about next steps in the investigation

5) Protecting Victim Rights

- a. Throughout the investigation of the case, officers shall protect the confidentiality of the victim's information to the maximum extent possible by law and department procedures.

- b. In addition, victims should be provided information on:
 - The rights of a crime victim
 - How to contact police if harassed or intimidated by the suspect(s)
 - The possibility of media coverage and information the media has access to regarding sexual assault crimes

6) 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. Responding officers shall not introduce any forms for a victim to sign to decline an investigation.

7) 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.

5. FORENSIC 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 the offenders. Evidence may normally be collected up to 72 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. Investigation Officer Actions

- 1) Ask the victim whether there is anyone who should be called or notified, and facilitate this contact.
- 2) Address any special needs of the victim, such as communication or mobility, and notify the victim advocate of the special need.
- 3) Explain the purpose of the forensic examination and its importance to the investigation and provide the victim with information on the procedure.

- 4) Inquire whether the victim will consent to a forensic examination.
- 5) Explain to the victim the potential consequences if any part of the examination is refused.
- 6) Transport the victim to the designated medical facility if a forensic examination is warranted and the victim consents. The responding detective needs to be consulted as to which medical center the exam should be performed at.
- 7) Advise the victim that the forensic examiner will collect any clothing that was worn during or immediately after the sexual assault.
- 8) Seek permission from the victim to collect a urine sample for drug screening.
- 9) Obtain a signed release from the victim for access to medical records.
- 10) Encourage a victim who is unwilling to undergo a forensic exam to get medical attention including testing for pregnancy and sexually transmitted diseases.

B. Coordination With Medical Personnel

Responding officers shall coordinate with other professionals such as medical personnel in the following areas:

- 1) When a forensic examination is indicated, the investigating officer shall brief the examining nurse or physician about the details of the sexual assault, as they are known at that time.
- 2) Officers should not normally be present in the examining room, as the forensic examiner will testify about collection of evidence and the claim of custody.
- 3) The nurse or physician shall brief the investigating officer at the conclusion of the examination.
- 4) The investigative case file shall contain a copy of the forensic exam, if available, and a summary of the findings that note significant information or injury. After the examination, all the evidence shall be transferred to the department for storage.

C. Drug-Facilitated Sexual Assault Considerations

- 1) If a drug-facilitated sexual assault is suspected, it is critical to obtain a urine sample from the victim as soon as possible. If it has been less than 24 hours since the time of the assault, also obtain a blood sample in a grey-top tube.
- 2) Protocols for responding to illegal substance abuse by victims (including underage drinking) shall be followed and not used to

discredit or discourage the victim from reporting the assault. The department priority is to conduct a thorough investigation of a sexual assault rather than prosecute victims for misdemeanor violations.

- 3) Because of the delay in reporting most sexual assaults, laboratories capable of testing urine and blood samples at very low levels for drugs commonly used to facilitate sexual assault are essential.

6. REIMBURSEMENT FOR THE EXAMINATION

The department will not pass the cost of the forensic exam onto the victim of the sexual assault, but seek sources of financial support from the State Office of Victim's Assistance.

Officers shall not use the state compensation program as a means to encourage cooperation from victims.

Financial concerns shall be addressed with the victim prior to an examination if they were unable to proceed with an investigation at the time of the sexual assault.

7. FOLLOW-UP VICTIM INTERVIEW

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. The officer should coordinate with relevant agencies, assistance organizations, service providers, or Rape Crisis Center to address the needs of the victim and to discuss the best means for keeping the victim informed.

A. Investigative Strategy

- 1) In preparing for the interview, the investigator shall develop an investigative strategy based upon 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 re-photographing injuries to document changes in visible injuries.

B. Follow-Up Interview Protocol

- 1) An in-depth follow-up interview shall be conducted after the victim has been medically examined and treated, and personal needs have been met.
- 2) 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.
- 3) Arrange for equipment to tape record or videotape the interview so the officer can focus on listening.
- 4) 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.
- 5) At the start of the follow-up interview, the officer shall:
 - a. Discuss the purpose and scope of the interview
 - b. Review contact information for both the victim and investigator that may need to be updated
 - c. Explain the need to tape record or videotape the interview and request the victim's consent
 - d. Address arrest decisions including an explanation of the status of the case.
- 6) While conducting the follow-up interview, the officer shall:
 - a. First allow the victim to describe what occurred without interruption.
 - b. Relay what he or she heard for accuracy, identify new information or developments, and ask questions.
 - c. Clarify any inconsistencies with earlier accounts of the sexual assault in a non-threatening manner.
 - d. Document the victim's actions in response to the attack, the victim's state of mind during the attack, specific statements made by the perpetrator, and the nature of any relationship with suspect and explain the importance of these questions from a prosecutorial standpoint.
 - e. 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).
 - f. Assist the victim in developing a safety plan, in the event safety concerns exist. If the suspect contacts the victim in violation of an existing criminal or court order, encourage the victim to call police.

- 7) Once a thorough follow-up investigation has been completed, the investigating officer shall:
 - a. Evaluate impounded evidence and determine which items might have probative value based on the statements and other information.
 - b. Submit a lab service request such as DNA, biology, trace, or toxicology based on the assessment of the evidence.
 - c. Encourage the victim's continued support in the investigation, apprising the victim of future investigative and prosecutorial activities that will or may require involvement.
 - d. Familiarize the victim, prior to trial, with the types of defense strategies and inquires that may be made during cross-examination.

C. Lack of Victim's Involvement

- 1) This department shall respect a victim's inability, or decision not to be involved in criminal justice proceedings and continue to offer assistance and referrals.

7. 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 should be present whenever possible to offer support.

8. SEXUAL ASSAULT FORENSIC EXAMINATION FOR THE SUSPECT

The suspect's examination must take place at a different location than the victim's examination took place. The on-duty or assigned Investigator shall arrange for the suspect's examination by following the below stated protocol.

A. Protocol For Suspect Examination

- 1) Immediately after the preliminary suspect interview, the case investigator shall determine whether a forensic sexual assault examination should be obtained for the suspect.

- 2) A search warrant may be needed to collect any evidence from the body of the suspect or to collect clothing. If the suspect consents to such evidence collection procedures, documentation of voluntary consent shall be provided in the police report. A search warrant is the preferred method.
- 3) The investigator shall clearly document the suspect's freedom to decline any part of the examination and to leave at any time, unless in custody and/or compelled by a court order, search warrant, or other legal document.
- 4) Myrtle Beach Police Department is responsible for the cost of the suspect's medical exam.

B. Evidence Collection

- 1) The forensic examiner (medical personnel) shall document the suspect's medical history, document all injuries that are observed, and collect biological and trace evidence from the suspect's body.
- 2) If in custody, the suspect shall be given a *Miranda* warning before being asked medical history questions by the forensic examiner or investigator.
- 4) If the suspect invokes his 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.
- 5) Both the 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.

C. Role of the Supervisor

- 1) First line supervisors shall demonstrate a detailed understanding of victim issues and proper response by subordinates. Supervisors shall:
 - a. Respond to assist officers investigating felony sexual assaults
 - b. Exhibit sensitivity to victims and ensure that victims are dealt with properly by clarifying the expectations of line officers.
 - c. Assist in locating resources to effectively investigate sexual assaults.
 - d. Include victim services information regularly at roll call.

- e. Incorporate victim services issues into the evaluations of officers and detectives.
- f. Recognize and reward officers for rendering effective victim services.