

# Pocket Guide for Police Response to Sexual Assault



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The Pocket Guide for Police Response to Sexual Assault is modeled on *The Guide for Police Response to Crimes of Sexual Assault* which was produced by the Police Officer Standards and Training Council (T. William Knapp, Executive Director), State of Connecticut in 1998. Many thanks to the POST Council.

## Overview

Responding to sexual assault calls involves numerous complex and specialized procedures, all of which cannot be covered in detail in this material.

Accordingly, the following material is not intended to provide complete information about conducting a sexual assault investigation. It is not intended to replace training in any way, but to supplement training by serving as a convenient reference.

Officers—both new to “the job” and experienced officers—will find this guide useful.

Officers should incorporate overall training, experience, and departmental protocols in all sexual assault investigations. If you have not had such training, consult your supervisor or your local District Attorney’s office. Do not rely solely on this guide.

## Introduction



In sexual assault investigations, evidence and information about the crime is gathered primarily from three sources: the victim; the suspect; and the crime scene (including other witnesses). Officers should thoroughly investigate all three sources, and any other available source of

evidence or information. However, cases can be successfully prosecuted even if the investigation reveals that evidence is not available from all three sources. In responding to sexual assault complaints, every effort must be made to relieve victim’s possible feelings of shame and/or self-blame. In order to enable victims to provide the clearest, most complete information about the crime, efforts must be made to ensure that all victims are treated professionally and with dignity. Rape is not about sex, it is about power. Eight out of ten sexual assaults are perpetrated by someone known to the victim (friend,

acquaintance, colleague, spouse, ex-lover, or a family member). Sexual assault is a crime that may be terrifying, humiliating, and life-threatening, regardless of who the victim is (teen, elder, prostitute, drug-addict, male, gay/lesbian). Keep in mind that the injuries from sexual assault are often not immediately apparent; some examples of this are post-traumatic stress disorder, internal injuries, sexually transmitted diseases, or unwanted pregnancy.

## General Investigation Information

Sexual assault cases generally can be categorized into two types: a case in which the offender is known or a case in which the offender is unknown. In either case the key issues to uncover are the identity of the offender, the element of force, and the issue of consent.

## When the Offender is Known

Because consent and/or use of force may become a key issue in cases in which the offender is known to the victim, evidence of force becomes a primary concern of the investigation. Force may either be forcible compulsion or physical helplessness.

A victim who knows the offender may or may not be able to identify the offender by full name, address, etc. For example, the victim may only know the offender by first name.

Identify and document the following information in order to determine if a photo line-up or other identification of the suspect is warranted:

- The level and nature of the relationship between the victim and the offender, including (1) how they have known each other (2) type of contact they have had, depth of relationship, etc.
- Detailed information concerning the assault

- Any evidence of physical injuries visible on the victim's body

Conduct a thorough investigation regardless of whether the suspect is known or unknown. This will ensure that all possible information and evidence are gathered in every case.

### **When the Offender is Unknown**

In these sexual assault cases, a primary issue of the investigation is identifying the offender. The investigation should focus on obtaining as much information as possible in an effort to pinpoint a suspect(s), including:

- A detailed physical description of the offender including, clothing, tattoos, facial features, identifying marks, distinctive walk, odors, etc. Information about the offender's vehicle may also be helpful.

Obtain as much information as possible about the offender's profile and compare to other offenders who have previously been arrested for a similar crime to determine whether a pattern exists, including:

- Method of approach
- Method of control
- Amount/type of force/restraint of victim
- Victim resistance
- Sexual dysfunction
- Type and sequence of acts
- Offender verbal activity
- Offender attitudinal change
- Items taken

Attempt to locate the offender, begin an area search, or issue a broadcast if necessary. Check local sex offender registry and if applicable, NYS and/or Federal DNA database.

Inform the victim that it is in their best interest to have forensic evidence collected at either the area hospital's emergency department or Sexual Assault Examiners Unit. There the victim can be treated medically and given the appropriate prophylaxes (preventative treatment for possible exposure to sexually transmitted infection and pregnancy).

Evidence obtained during the investigation (e.g., from the victim's body or left at crime scene) may be useful in attempts to identify a suspect through the DNA data bank.

### **Primary Responsibilities of First-Responding Officer**

- Attend to the victim
- Be careful not to stigmatize the victim
- Preserve evidence on victim (i.e. not taking a shower, nothing to drink, not brushing teeth, or removing any clothes)
- Secure and protect the crime scene
- Contact your local Rape Crisis Program
- Apprehend the offender if present

### **Contacting a Rape Crisis Program (RCP)**

According to NYS Executive Law § 642 (b) *all police departments shall provide victims of a crime defined in article § 130 of penal law with the name, address and telephone number of the nearest Rape Crisis Program in writing.*

Rape Crisis Program advocates are available 24 hours a day, seven days a week, every day of the year. They are available to meet victims at the hospital, the police station, or District Attorney's office. They will respond to a call as

soon as possible to speak with the victim, serving all clients regardless of age, race, ability, gender, or orientation.

Rape Crisis Program advocates can explain legal and medical options and procedures to victims, and explain the details of making a police report.

Due to confidentiality laws, a certified Rape Crisis Program advocate cannot disclose any information to anyone without the signed consent of the victim. In many cases, advocates are permitted to disclose victims' first names only.

### **Additional Response to the Victim**

- Ask if there is anyone else the victim would like to contact.
- Assess any special needs of the victim, such as restoring mobility or the need for an interpreter.
- Document the identity of anyone whom the victim may have told about the assault, or who may have seen or heard anything before, during or after the assault.
- Explain the local investigation process, what to expect, and who will be involved.
- Be factual about the case. Avoid making predictions or promises.

### **If the Report is Delayed**

- Delayed reporting is common and requires the same investigative methods.
- Determine when the incident happened.
- Document the reason for the delay, but be aware that questions about the delay may cause the victim to feel blamed in some way.

- Even in delayed reports, valuable evidence may still be recovered from the crime scene(s).

### **If a Recent Assault**

- Keep all 911 tapes of the report, or any other recordings.
- Ensure that the victim is safe.
- Arrange emergency medical assistance and transportation for the victim, as needed.

### **Interviewing the Victim**

*NYS Executive Law § 642 states that all police departments shall provide a private setting for interviewing victims of a crime. Private setting means an enclosed room from which the occupants are not visible or otherwise identifiable, and whose conversations cannot be heard from outside the room.*

Victims may react in a variety of ways. Allow a Rape Crisis Program advocate to remain with the victim during the interview process. The NYS Executive Law § 642 also states, "Only (i) those persons directly and immediately related to the interviewing of a particular victim, (ii) the victim, (iii) a social worker, rape crisis advocate, psychologist or other professional providing emotional support to the victim, unless the victim objects to the presence of such persons and requests the exclusion of such person from the interview (iv) where appropriate, the parent or parents of the victim, if requested by the victim, shall be present during the interview."

The attitude and conduct of the interviewing officer is key to gaining the victim's trust and cooperation. The victim will assess the officer's demeanor and language for reaction. Approach the victim in a respectful, supportive manner. Remain objective and non-judgmental.

Explain the process for the interview.



The victim's ability to think clearly and to articulate what happened may be impeded by the assault. Persons who may be experiencing trauma will often recall and disclose information over a period of time. Officers may not get a full statement during the initial contact with the victim, especially if aspects of the assault are unclear, if the victim was embarrassed about aspects of the crime, and/or if alcohol or drugs were involved. If necessary, postpone the interview and make every effort to minimize the number of interviews. Slight changes in statements with multiple interviews are often misconstrued to suggest that a victim is lying.

If a victim is unsure or unwilling to pursue a complaint, advise the victim of the right to make a formal statement at a later time and of the procedure for doing so.

### **Techniques for Interviewing Victims**

Be patient and make necessary accommodations to address the victim's needs, including:

- Allow the victim to temporarily skip questions that are too upsetting to answer. Postpone them to be discussed later in the interview. (This may be different for each individual.)
- Breaks should be offered.
- Investigators should consider asking open-ended questions in an effort to elicit details which the victim may have forgotten.
- Let the victim know that it may be necessary to ask some questions in several different ways but that this does not mean that you do not believe her/him.
- Be sensitive to the nature of the information the victim is providing.
- Once the victim describes sex acts or parts of the body, use the victim's own vocabulary to ask clarifying questions.

- It may be helpful to repeat the same words back to the victim immediately so as to "give permission" to continue using those words which the victim may feel uncomfortable using (e.g., "So he stuck his \*\*\* in your \*\*\*. Then what did he do?").
- Clarify terms as needed.

Make sure to elicit specific details of the assault necessary for the case, including details of the act which establish the elements required by New York State Laws:

- Information about the crime scene(s).
- Any information about the offender's identity or description.
- Any information about the point of entry to the crime scene, if the offender entered a dwelling, place of business, car, etc.
- Whether the offender brought anything to the crime scene, such as a cigarette, or took anything from the scene, such as the victim's purse.
- Whether the offender touched or moved anything.
- Whether the offender took any pictures or videos.
- Whether the offender showed any videos, magazines, pictures, books, or photos to the victim.
- Any objects used during the assault.
- Any threats made by the offender.
- Any use of force or weapons.
- Anyone the victim told about the assault. Determine when and what she/he told them.
- Information about anyone who may have seen or heard anything before, during, or after the assault.

## Concluding the Interview

- Inform the victim that the decision whether to arrest the suspect is a complex one that will be made by police in consultation with the District Attorney's Office.
- Inform the victim what to do if she/he is contacted directly or indirectly by the offender.
- Provide information about future safety in case the offender returns and in cases of family violence.
- Ask the victim to keep the police department informed of any developments related to the investigation, including if she/he remembers anything else about the assault or if the offender tries to contact her/him. Provide the victim with information on how to contact the investigating officer and provide the case number, and any additional information the victim may need.
- Keep the victim as informed as possible about the case.
- Ask the victim if she/he has any questions.
- Provide the victim with information on obtaining an order of protection, if applicable.

## Dealing with Secondary Victims

Remember, family members and friends might be angry and possibly behave in inappropriate ways. These individuals may also be emotionally distraught. Listen to the loved one's anger, and permit venting. Reassure the victim's family of law enforcement's role in the investigation of the crime. Inform them that support is available from their local Rape Crisis Program.

## Statutory Rape Cases

In statutory rape cases, evidence of sexual intercourse between persons defined in the statute may create enough probable cause to support charges of First Degree Rape and in some cases Second Degree Rape or Third Degree Rape.

Evidence regarding consent and/or use of force is not necessary. In all sexual assault cases use of force should be thoroughly investigated and documented, regardless of the age of the victim or offender, in order to determine whether First, Second or Third Degree Rape is the appropriate charge.

In cases of statutory rape the victim may be resistant to providing information regarding the sexual activity. Often, victims of statutory rape do not see themselves as victims of a crime, nor do they see the offenders as persons who have committed crimes.

Many of these cases are reported to police by a person other than the victim, such as a parent or guardian. Many victims of statutory rape may believe that the sexual activity was consensual, however NYS Penal Law § 130.05 does not recognize such consent. The activity defined in the statute is still a crime and should be pursued. Even though statutory rape victims may not consider themselves victims of crime, they should be encouraged to contact a Rape Crisis Program advocate.

## Offenders

Offenders may provide:

### Information

- Alibi facts/witnesses
- Excuse/justification for assault
- Admission/confession

### Forensic Evidence

- Trace evidence (hairs, fibers, soil, etc.)
- Victim's body fluids/tissues (vaginal fluids, blood, saliva, skin cells, etc.)
- Reference standards (known specimens from suspect to compare with other specimens from suspect, victim or at crime scene).

### **Initial Response to Offenders**

- Determine as soon as possible the suspect's identity, description, and location.
- If located, avoid allowing a suspect to engage in any activity which may result in the destruction of perishable evidence on the body or clothing.
- As soon as possible, photograph the suspect for purposes of identification at a later time.
- Determine whether clothing and/or other forensic evidence should be collected from a suspect.

### **Initial Response to the Crime Scene**



- In sexual assault cases, there may be more than one crime scene (e.g. house and car).
- Be aware of surroundings while approaching the crime scene.
- Upon arrival, secure and protect the crime scene.

### **Types of Crime Scene Evidence**

Conduct a detailed search for evidence based on an evaluation of the possible types of physical evidence which may be present.

There are certain categories of forensic evidence which are likely to be present in a sexual assault investigation (see below). However, it is extremely important to remember that anything can turn out to be important evidence in any given crime, even seemingly unrelated evidence or information. The following is a list of possible sources of evidence in sexual assault investigations but are not limited to:

- Saliva
- Ropes, twine, cordage
- Body tissues and/or body parts
- Bedding
- Witnesses (saw/heard assault, saw/heard anything, lead to other witnesses)
- Descriptive photos and sketches
- Forensic evidence (hairs, fibers, soil, etc.)
- Victim's/Suspect's body fluids/tissues (semen, blood, vaginal fluids, etc.)
- Tampons or sanitary napkins
- Latent fingerprints
- Items used in the assault (condom, lubricants, burglary tools, etc.).
- Other items related to assault (clothing, bedding, facial/toilet tissues, items left by suspect/victim, etc.).

*For a specific checklist, follow all departmental procedures in sexual assault cases.*

### **Some Facts about Drug-Facilitated Sexual Assault (DFSA)**

Sexual assaults can be facilitated by the use of drugs, both "street" and legal. While alcohol is often a factor in sexual assaults, illegal drugs (also called "club drugs") can also be a factor. The use of these drugs may be the result of consensual activity, but increasingly, some victims are drugged without their knowledge. Some drugs are

particularly amenable to being “slipped” into someone’s drink. NYS Penal Law section 130.90 covers facilitating a sex offense with a controlled substance



**Signs that someone has been under the influence of (but not limited to) these substances:**

- Thinks she/he may have been assaulted, but is not sure (unexplained soreness or injuries, woke up in a different place, etc.).
- Victim’s recollection of assault is patchy and confused; she/he may remember only parts of the assault, or not at all.
- Victim remembers the assault, but was unable to move or speak. Memory maybe detached (“It was like I was watching the whole thing. I tried to scream, but no words came out...”).
- Victim felt extremely drunk or “weird” after only one drink.

The following is a list (not comprehensive) of substances that may be present in Drug-facilitated sexual assault:

**Ethanol/Alcohol**

Beer, wine, liquor

**Methylenedioxymethamphetamine (MDMA)**

Slang or Street Names: Ecstasy, XTC, X, Adam, Clarity, Lover’s Speed, Esto

**Gamma-hydroxybutyrate (GHB)**

Grievous Bodily Harm, G, Liquid Ecstasy, Georgia Home Boy, Easy Lay, Scoop, Salty Water, Soap

**Hallucinogens**

Ketamine/PCP, Marijuana, Scopolamine, LSD, mushrooms, MDMA, etc.

**Benzodiazepines**

Diazepam (Valium®), Flunitrazepam (Rohypnol®), Triazolam (Halcion®), Clonazepam (Klonopin®), Alprazolam (Xanax®), Temazepam (Restoril®)

For more information, please contact:

**The National Clearinghouse for Alcohol and Drug Information 1-800-729-6686**

**Or Visit the National Institute on Drug Abuse at [www.drugabuse.gov](http://www.drugabuse.gov)**

**About Computer Crimes**

The proliferation of the Internet has brought with it some unintended consequences: increased access of strangers to the personal identity information one might ordinarily keep confidential. Because much of the traffic is unregulated, and in many cases—young people are more knowledgeable about the “Net” than their parents—children can easily and unwittingly become the victims of pedophiles who search chat rooms for sexual contacts.

Adults, too, can be victimized by pornography and criminals intent on terrorizing their prey with unsolicited email, identity theft, and other forms of harassment. To learn more about these issues - including Internet stalking and child safety - please contact:



**New York State Internet Crimes Against Children Task Force**  
(877) 474-KIDS

[http://criminaljustice.state.ny.us/missing/i\\_safety/icac.htm](http://criminaljustice.state.ny.us/missing/i_safety/icac.htm)

**Reforms in Sexual Assault Law**

Sexual assault law in New York State is always subject to revision and reform. During the preparation of this guide, the Sexual Assault Reform Act of 2000 (SARA) passed and went into effect February 1, 2001. The Sexual Assault Reform Act of 2000 was updated in June of 2003. For the specific ways in which this new law affects the justice system, please visit

**New York State Division of Criminal Justice Services**  
<http://www.criminaljustice.state.ny.us>



## Appendices

### NYS Criminal Procedure Law §Article 30 Timelines of Prosecution

The Statute of Limitations in New York State is 5 years for a felony offense and 2 years for a misdemeanor offense. Under a law signed in 1996, if a child, under the age of 18, is sexually abused, the statute of limitations does not begin tolling until the child has reached the age of 18 or the offense is reported to law enforcement or statewide register of child abuse, whichever occurs earlier. **This law applies to abuse which occurred after August 5, 1996.**

So, if a 13-year-old was the victim of a felony sexual assault in June 1996, the statute of limitations would expire five years from the date of the last incident. If a 13-year-old was a victim of a felony sexual assault in June of 1997, the statute of limitations would expire five years from first report to law enforcement or state central registry or the child's 23<sup>rd</sup> birthday whichever is earlier.

As of June 2006, four of the Class B felonies in Penal Law section 130.00 no longer have time limitations to bring forth a criminal action. Those include First degree rape, First Degree Criminal Sexual Act, First Degree Sexual Conduct against a child, First Degree Aggravated Sexual Abuse. Unfortunately, these crimes had to have happened after June 2006, for this to apply.

**For a complete listing of New York State Penal Law §130 Sex Offenses, please refer to the New York State Assembly Website:**

<http://assembly.state.ny.us/>

As of April 2005, a law (SARA) provides for the direct reimbursement to providers of sexual assault forensic health care services to victims by the Office of Victim Services (formerly the Crime Victims Board).

**For more information, please visit the Office of Victim Services (formerly CVB)**

<http://www.ovs.ny.gov/Services/FRE.aspx>

For Additional Information

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*It is the mission of the New York State Coalition Against Sexual Assault to end all forms of sexual violence and exploitation by advocating effective response to all people affected by sexual assault, providing technical support and assistance to Rape Crisis Programs, working legislatively to improve public policy, and confronting societal denial of the impact of sexual violence through statewide outreach and education.*

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