

Sexual Assault Investigations

602.1 PURPOSE AND SCOPE

Best Practice

The purpose of this policy is to establish guidelines for the investigation of sexual assaults. These guidelines will address some of the unique aspects of such cases and the effects that these crimes have on the victims.

Mandatory notifications requirements are addressed in the Child Abuse and Adult Abuse policies.

602.1.1 DEFINITIONS

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Definitions related to this policy include:

Sexual assault - Any crime or attempted crime of a sexual nature, to include but not limited to offenses defined in Penal Code § 243.4, Penal Code § 261 et seq., and Penal Code § 285 et seq.

Sexual Assault Response Team (SART) - A multidisciplinary team generally comprised of advocates; law enforcement officers; forensic medical examiners, including sexual assault forensic examiners (SAFEs) or sexual assault nurse examiners (SANEs) if possible; forensic laboratory personnel; and prosecutors. The team is designed to coordinate a broad response to sexual assault victims.

Consent: Words or overt actions by a person who is legally and functionally competent to give informed approval, indicating a freely given agreement to engage in sexual acts.

Medical Forensic Examiner: The health care provider conducting a sexual assault medical forensic examination.

Sexual Assault Medical Forensic Examination: An examination of a sexual assault patient by a health care provider, ideally one who has specialized education and clinical experience in the collection of forensic evidence and treatment of these patients.

Victim Advocate: A service provider, rape crisis counselor, social worker, victim witness provider within a prosecutor's office, or law enforcement officer, including an agency victim assistant, who is trained to assess and address the needs of the victim as well as to provide counseling, advocacy, resources, information and support

602.2 POLICY

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It is the policy of the Indio Police Department that its members, when responding to reports of sexual assaults, will strive to minimize the trauma experienced by the victims, and will aggressively investigate sexual assaults, pursue expeditious apprehension and conviction of perpetrators, and protect the safety of the victims and the community.

Sexual Assault Investigations

602.3 QUALIFIED INVESTIGATORS

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Qualified investigators should be available for assignment of sexual assault investigations. These investigators should:

- (a) Have specialized training in, and be familiar with, interview techniques and the medical and legal issues that are specific to sexual assault investigations.
- (b) Conduct follow-up interviews and investigation.
- (c) Present appropriate cases of alleged sexual assault to the prosecutor for review.
- (d) Coordinate with other enforcement agencies, social service agencies and medical personnel as needed.
- (e) Provide referrals to therapy services, victim advocates and support for the victim.
- (f) Participate in or coordinate with SART.

602.4 INVESTIGATION AND REPORTING

Best Practice **MODIFIED**

In all reported or suspected cases of sexual assaults, a report shall be written and forwarded to the Major Crimes Unit for review. This includes incidents in which the allegations appear unfounded or unsubstantiated. On duty supervisors shall ensure officers document their findings in a report that shall be submitted for approval prior to the end of an officers shift. On duty supervisors shall ensure these reports are forwarded to the Major Crimes Unit prior to the end of their shift.

602.4.1 PROCEDURES

A. Special Considerations—Minors and Incompetent Adults

Prior to responding to calls for service involving the sexual assault of minors or incompetent adults, the on duty supervisor shall identify the appropriate resources or personnel with the necessary knowledge and experience to respond to these sensitive situations. The Major Crimes Unit shall be notified as soon as reasonably possible when investigations of potential sexual assaults of minors and incompetent adults are initiated by patrol officers. Officers responding to reports of sexual assaults involving these sensitive population groups shall limit their actions to the following:

- (a) ensuring that the scene is safe;
- (b) safeguarding evidence where appropriate;
- (c) collecting any information necessary to identify the suspect;
- (d) addressing the immediate medical needs of individuals at the scene.
- (e) obtain a preliminary interview of the victim if possible, witnesses or reporting parties.
- (f) write a report documenting the preliminary investigation.

B. Communications Personnel Response

Indio Police Department

Indio PD Policy Manual

Sexual Assault Investigations

When a caller reports a sexual assault, communications personnel should follow the dispatch standard incident response policy. Communications personnel should inform the victim of ways to ensure critical evidence is not lost, to include the following:

- (a) Advising the victim not to bathe, urinate, or clean him- or herself if the assault has been recent (less than 24 hours).
- (b) Asking the victim to collect any clothing that was worn during the assault and, if possible, place in a paper bag and bring them to the exam site—and instructing the victim not to wash the clothing.
- (c) Informing the victim that other evidence may still be identified and recovered even if he or she has bathed or made other physical changes.

C. Initial Officer Response

When responding to a scene involving a sexual assault, officers shall follow standard incident response procedures;

- (a) Recognize that the victim experienced a traumatic incident and may not be willing or able to immediately assist with the criminal investigation.
- (b) Clearly explain the reporting process including the roles of the first responder, investigator, and anyone else with whom the victim will likely interact.
- (c) Offer to contact local support or advocacy agencies for the victim.
- (d) If none are available, provide information regarding national resource agencies that provide sexual assault support.
- (e) Make reasonable efforts to allow the victim to determine the location, time and date where the initial report is made.
- (f) Collaborate with victims during the investigative process and respect a victim's right to decline future participation in the investigation.
- (g) Offer to contact a victim advocate as soon as practicable.
- (h) Questions should be tailored to the victim's emotional and physical state. Where resources are available, inform the victim that a second interview might occur at a later time and be conducted by a trained investigator.
- (i) Officers shall record via video and audio the initial statement and all subsequent interviews, when reasonable and practical.
- (j) Ask about and document signs and symptoms of injury, to include strangulation.
- (k) Arrange for transportation to the designated facility if a forensic medical exam is needed and the victim consents.
- (l) Consider the victim's body a crime scene and ensure the chain of custody remains intact during transportation.
- (m) Identify and interview anyone the victim told about the sexual assault.
- (n) Understand that recantation of any or all aspects of the initial disclosure is not necessarily indicative of a false report. Victims who recant or decline participation in

Indio Police Department

Indio PD Policy Manual

Sexual Assault Investigations

the investigation should not be asked to sign a non-prosecution statement. In addition, the facts of the case, as provided by the victim may change over time. Officers should understand that this does not indicate deception.

- (o) Collect any and all items of evidentiary value.
- (p) Notify their supervisor and provide a summary of the facts.
- (q) Document the interview in their written report.

D. Supervisors shall do the following:

- (a) Respond to assist officers investigating incidents of sexual assault when possible or if requested by an officer.
- (b) Assess if Detectives need to be called out to the scene depending on the facts and severity of the case.
- (c) Review all sexual assault reports for accuracy and consistency and conduct after action reviews and sexual assault case audits.
- (d) Encourage officers to look for co-occurring and interconnected crimes when responding to sexual assault.
- (e) Ensure officers and investigators understand case coding and appropriately code sexual assault cases.
- (f) Ensure officer complete and submit their sexual assault report before the end of shift.
- (g) Ensure the sexual assault report is approved and submitted to the Major Crimes Unit before their end of shift.

(E) Report Writing for Sexual Assault Cases

When documenting sexual assault cases, officers should take the following actions:

- (a) Complete a confidentiality form.
- (b) If the victim is a minor, contact Child Protective Services and cross report the incident.
- (c) Capture details necessary to establish any premeditation or grooming behavior by the perpetrator.
- (d) Capture details necessary to establish any coercion, threats, and force used by the perpetrator.
- (e) Document attempts by the perpetrator to intimidate or discourage the victim from reporting the assault.
- (f) Document details regarding the victim's reaction during and after the incident (e.g., victim demeanor, emotional response, changes in routines or habits).
- (g) Fully document fear by recording all fight, flight, freeze, or submit reactions the victim expressed or exhibited before, during, and after the assault.
- (h) Unless they are direct quotes (in which case, place them in quotation marks) avoid using terms that indicate consensual behavior (such as participated or engaged in) when describing the specific actions of the suspect.

Indio Police Department

Indio PD Policy Manual

Sexual Assault Investigations

- (i) If a consensual encounter turned nonconsensual, clearly document the details of how and when the suspect's behavior changed and how the victim expressed or demonstrated non-consent to the continued acts.
- (j) Document any injuries and medical aid.
- (k) Document any evidence collection.
- (l) Document any witness interviews and knowledge of any potential digital evidence available.
- (m) Document any evidence of potential additional victims.

602.5 RELEASING INFORMATION TO THE PUBLIC

Best Practice **MODIFIED**

In cases where the perpetrator is not known to the victim, and especially if there are multiple crimes where more than one appear to be related, consideration should be given to releasing information to the public whenever there is a reasonable likelihood that doing so may result in developing helpful investigative leads. The Major Crimes Unit or Street Crimes Unit supervisor should consult with the Department's public information officer..

602.6 TRAINING

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Subject to available resources, quarterly briefing training should be provided to:

- (a) Patrol Officers who are first responders. Training should be provided by patrol supervisors, sex crimes detectives or the supervisors designee which shall include:
 - (a) Initial response to sexual assaults.
 - (b) Legal issues.
 - (c) Victim advocacy.
 - (d) Victim's response to trauma.
 - (e) Proper use and handling of the California standardized SAFE kit (Penal Code § 13823.14).
 - (f) This training should specifically address the provisions of this policy, as well as the realities, dynamics, and investigations of these crimes and legal or scientific developments pertaining to sexual assault.
- (b) Qualified investigators, should receive advanced training on additional topics. Advanced training should include:
 - (a) Interviewing sexual assault victims.
 - (b) SART.
 - (c) Medical and legal aspects of sexual assault investigations.
 - (d) Serial crimes investigations.

Sexual Assault Investigations

- (e) Use of community and other federal and state investigative resources, such as the Violent Criminal Apprehension Program (ViCAP).
- (f) Techniques for communicating with victims to minimize trauma.
- (g) Post accredited Sexual assault Investigation course.
- (h) Post accredited Advanced sexual assault investigations course.

602.7 VICTIM INTERVIEWS

State **MODIFIED**

The primary considerations in sexual assault investigations, which begin with the initial call to the Dispatch Center, should be the health and safety of the victim, the preservation of evidence, and preliminary interviews to determine if a crime has been committed and to attempt to identify the suspect.

Whenever possible, a member of SART should be included in the initial victim interviews. An in-depth follow-up interview should not be conducted until after the medical and forensic examinations are completed and the personal needs of the victim have been met (e.g., change of clothes, bathing). The follow-up interview may be delayed to the following day based upon the circumstances. Whenever practicable, the follow-up interview shall be conducted by a qualified investigator.

No opinion of whether the case is unfounded shall be included in the report.

Victims shall not be asked or required to take a polygraph examination (34 USC § 10451; Penal Code § 637.4).

Victims should be apprised of applicable victim's rights provisions, as outlined in the Victim and Witness Assistance Policy.

During victim interviews, personnel shall note the following information:

- (a) If the suspect was known by the victim, determine the following facts.
- (b) How long the victim knew the suspect
- (c) The circumstances of their meeting
- (d) The extent of their previous or current relationship
- (e) Any behavioral changes that led the situation from one based on consent to one of submission, coercion, fear, or force
- (f) The location where the assault took place, including any isolation strategies used by the suspect.
- (g) Actions, threats (real, perceived, or implied), gestures, coercion, and other behaviors used by the suspect to cause the victim to submit.
- (h) Ways in which the victim resisted or indicated non-consent, both verbally and nonverbally.

Sexual Assault Investigations

- (i) The victim's actions and responses before, during, and after the sexual assault including indications of his or her state of mind during the assault.
- (j) The victim's thoughts and feelings during the assault.
- (k) Sensory evidence and peripheral details of the victim's experience.
- (l) The victim's behavior and thoughts since or after the assault, including changes in routine, depression, mood instability, sleep and diet disturbances, flashbacks, nightmares, and stress.
- (m) Circumstances that may indicate the use of drugs or alcohol to facilitate the sexual assault, including memory loss, disorientation, severe illness, or hallucinations.
- (n) If any prescription drugs were taken.
- (o) Any pre- or post-assault contact, monitoring, stalking, or other behaviors of the suspect.
- (p) If any weapons were used.
- (q) If the victim ingested alcohol or recreational drugs prior to the assault on her own terms.
- (r) if the victim has any visible injuries.
- (s) If the victim was moved by force or fear prior to the sexual assault.

Contacting and Interviewing Suspects

Prior to contacting the suspect, personnel should do the following:

- (a) Conduct a background and criminal history check specifically looking for accusations, criminal charges, and convictions for interconnected crimes, especially crimes involving violence.
- (b) Consider conducting a pretext or confrontational call or messaging in coordination with the district attorney's office.
- (c) Involvement of a victim should be based on strong consideration of the victim's emotional and physical state.
- (d) A victim advocate should be present whenever possible to offer support.

602.7.1 VICTIM RIGHTS

State

Whenever there is an alleged sexual assault, the assigned officer shall accomplish the following:

- (a) Advise the victim in writing of the right to have a victim advocate and a support person of the victim's choosing present at any interview or contact by law enforcement, any other rights of a sexual assault victim pursuant to Penal Code § 680.2, and the right to have a person of the same or opposite gender present in the room during any interview with a law enforcement official unless no such person is reasonably available (Penal Code § 679.04).

Indio Police Department

Indio PD Policy Manual

Sexual Assault Investigations

- (b) If the victim is transported to a hospital for any medical evidentiary or physical examination, the officer shall immediately cause the local rape victim counseling center to be notified (Penal Code § 264.2).
 - 1. The officer shall not discourage a victim from receiving a medical evidentiary or physical examination (Penal Code § 679.04).
 - 2. A support person may be excluded from the examination by the officer or the medical provider if his/her presence would be detrimental to the purpose of the examination (Penal Code § 264.2).

602.7.2 VICTIM CONFIDENTIALITY

State

Officers investigating or receiving a report of an alleged sex offense shall inform the victim, or the victim's parent or guardian if the victim is a minor, that his/her name will become a matter of public record unless the victim requests that his/her name not be made public. The reporting officer shall document in his/her report that the victim was properly informed and shall include any related response made by the victim, or if a minor, any response made by the victim's parent or guardian (Penal Code § 293).

Except as authorized by law, members of this department shall not publicly disclose the name of any victim of a sex crime who has exercised his/her right to confidentiality (Penal Code § 293).

602.8 COLLECTION AND TESTING OF BIOLOGICAL EVIDENCE

Best Practice

Whenever possible, a SART member should be involved in the collection of forensic evidence from the victim.

When the facts of the case indicate that collection of biological evidence is warranted, it should be collected regardless of how much time has elapsed since the reported assault.

If a drug-facilitated sexual assault is suspected, urine and blood samples should be collected from the victim as soon as practicable.

Subject to requirements set forth in this policy, biological evidence from all sexual assault cases, including cases where the suspect is known by the victim, should be submitted for testing.

Victims who choose not to assist with an investigation, do not desire that the matter be investigated, or wish to remain anonymous may still consent to the collection of evidence under their control. In these circumstances, the evidence should be collected and stored appropriately.

602.8.1 COLLECTION AND TESTING REQUIREMENTS

State

Members investigating a sexual assault offense should take every reasonable step to ensure that DNA testing of such evidence is performed in a timely manner and within the time periods prescribed by Penal Code § 803(g). SAFE kits should be submitted to the crime lab within 20 days after being booked into evidence (Penal Code § 680).

Sexual Assault Investigations

In order to maximize the effectiveness of such testing and identify the perpetrator of any sexual assault, the assigned officer shall ensure that an information profile for the SAFE kit evidence has been created in the California Department of Justice (DOJ) SAFE-T database within 120 days of collection and should further ensure that the results of any such test have been timely entered into and checked against both the DOJ Cal-DNA database and the Combined DNA Index System (CODIS) (Penal Code § 680.3).

If the assigned officer determines that a SAFE kit submitted to a private laboratory for analysis has not been tested within 120 days after submission, the officer shall update the SAFE-T database to reflect the reason for the delay in testing. The assigned officer shall continue to update the status every 120 days thereafter until the evidence has been analyzed or the statute of limitations has run (Penal Code § 680.3).

If, for any reason, DNA evidence in a sexual assault case in which the identity of the perpetrator is in issue and is not going to be analyzed within 18 months of the crime, the assigned officer shall notify the victim of such fact in writing no less than 60 days prior to the expiration of the 18-month period (Penal Code § 680).

Additional guidance regarding evidence retention and destruction is found in the Property and Evidence Policy.

602.8.2 DNA TEST RESULTS

State

A SART member should be consulted regarding the best way to deliver biological testing results to a victim so as to minimize victim trauma, especially in cases where there has been a significant delay in getting biological testing results (e.g., delays in testing the evidence or delayed DNA databank hits). Members should make reasonable efforts to assist the victim by providing available information on local assistance programs and organizations as provided in the Victim and Witness Assistance Policy.

- (a) Upon receipt of a written request from a sexual assault victim or the victim's authorized designee, members investigating sexual assault cases shall inform the victim of the status of the DNA testing of any evidence from the victim's case (Penal Code § 680).
 1. Although such information may be communicated orally, the assigned officer should thereafter follow-up with and retain a copy of confirmation by either written or electronic mail.
 2. Absent a written request, no member of this department is required to, but may, communicate with the victim or the victim's authorized designee regarding the status of any DNA testing.
- (b) Subject to the commitment of sufficient resources to respond to requests for information, sexual assault victims shall further have the following rights (Penal Code § 680):
 1. To be informed if a DNA profile of the assailant was obtained from the testing of the SAFE kit or other crime scene evidence from their case.

Indio Police Department

Indio PD Policy Manual

Sexual Assault Investigations

2. To be informed if there is a match between the DNA profile of the assailant developed from the evidence and a DNA profile contained in the DOJ Convicted Offender DNA Database, providing that disclosure would not impede or compromise an ongoing investigation.
 3. To be informed if the DNA profile of the assailant developed from the evidence has been entered into the DOJ Databank of case evidence.
- (c) Provided that the sexual assault victim or the victim's authorized designee has kept the assigned officer informed with regard to current address, telephone number, and email address (if available), any victim or the victim's authorized designee shall, upon request, be advised of any known significant changes regarding the victim's case (Penal Code § 680).
1. Although such information may be communicated orally, the assigned officer should thereafter follow-up with and retain a copy of confirmation by either written or electronic mail.
 2. No officer shall be required or expected to release any information which might impede or compromise any ongoing investigation.

602.8.3 STANDARDIZED SEXUAL ASSAULT FORENSIC MEDICAL EVIDENCE KIT

State

The Property and Evidence Section supervisor should make California standardized sexual assault forensic medical evidence (SAFE) kits available to members who may investigate sexual assault cases. Members investigating a sexual assault should use these SAFE kits when appropriate and follow related usage guidelines issued by the California Clinical Forensic Medical Training Center (Penal Code § 13823.14).

602.9 DISPOSITION OF CASES

Best Practice

If the assigned investigator has reason to believe the case is without merit, the case may be classified as unfounded only upon review and approval of the Major Crimes Unit or Street Crimes Unit supervisor.

Classification of a sexual assault case as unfounded requires the Major Crimes Unit or Street Crimes Unit supervisor to determine that the facts have significant irregularities with reported information and that the incident could not have happened as it was reported. When a victim has recanted his/her original statement, there must be corroborating evidence that the allegations were false or baseless (i.e., no crime occurred) before the case should be determined as unfounded.