

# A Checklist for Law Enforcement Response to Sexual Assault



## Sexual Assault in America<sup>1</sup>

Although the overall rate of national crime victimization is decreasing, sexual assault rates have not reflected that trend.<sup>2</sup> Approximately 500,000 women are estimated to be the victims of some form of rape or sexual assault each year.<sup>3</sup> The National Violence Against Women survey estimated that 14.8 percent of adult women in the United States had been raped sometime during their lives and that another 2.8 percent had been victims of an attempted rape.<sup>4</sup> Friends or acquaintances of victims commit more than half of these crimes; another quarter of sexual assaults are perpetrated by intimate partners.<sup>5</sup> Strangers are responsible for about one in five rapes or sexual assaults.<sup>6</sup> These figures are only the tip of the iceberg. Sexual assault is acknowledged to be among the

most underreported of violent crimes. Approximately 70 percent of the victims of rape and sexual assault do not report the crimes to law enforcement.<sup>7</sup>

Significant changes to improve the treatment of sexual assault victims and hold perpetrators accountable have occurred in the past two and a-half decades. During the early 1970s, the first community-based sexual assault programs were established. The treatment of victims in the criminal justice system came under scrutiny, and hundreds of laws were passed to protect sexual assault victims in the courts. Rape shield laws were passed in many states to protect the victims and to facilitate their participation in the criminal justice process. Units to address sexual assault were established in law enforcement agencies and prosecutors' offices. Specialized sex offender programs were created in various jurisdictions. Medical protocols were developed and widely implemented. Although the treatment of rape victims today is vastly different from 25 years ago, many victims still do not report the crime and are still not receiving the assistance and treatment they need. And an insufficient number of offenders are arrested and held responsible.

To support victims from the crisis stage through their recovery process, a broad range of services is required. Victim service providers, law enforcement officers, and allied professionals can provide needed support, but not as effectively as they can collectively. Individually, victim service programs, the criminal justice system, and the health care community have developed collaborative approaches to responding to sexual assault, one of the most notable being the establishment of sexual assault response teams (SART) throughout the country.

In 1994, Congress passed the Violence Against Women Act (VAWA) to enhance the ability of states, territories, and Native American tribes to respond to sexual assault, stalking, and domestic violence. In 2000, the Act was reauthorized, with an even greater emphasis placed on addressing sexual assault. The legislation was designed to help communities reduce gaps

in their response to such violence with a commitment of federal dollars and support. The Violence Against Women Office, under the U.S. Department of Justice, has supported the publication of this Checklist to help criminal justice officials build their capacity to respond to the crime of sexual assault.

### **Checklist for Law Enforcement Response to Sexual Assault**

Timely and responsive law enforcement intervention can increase reporting and victim safety, enhance investigations, and facilitate successful prosecution.

The scope of this Checklist is limited to cases involving adult survivors of sexual assault and does not address the special circumstances law enforcement may face in cases involving child victims of sexual abuse or sexual assault that occurs on college campuses.

The relationship between the sexual assault victim and the offender may also dictate different strategies. For example, in cases in which the victim is raped by her husband or coworker, the investigative issues concerning the identity of the suspect are not relevant, whereas in cases of stranger rape, identity is often the most critical issue for law enforcement. We have noted where these distinctions are most relevant.

By using this Checklist, dispatchers and responding and investigating officers as well as supervisors and agency policy-makers can assess their response to sexual assault cases—both as individuals and as an entire agency. This Checklist will help practitioners affirm effective policies and practices already in place and identify weaknesses or gaps that need to be addressed in their current approach to such cases.

### **The Importance of Law Enforcement Response to Sexual Assault**

Law enforcement agencies must provide new recruits and veterans with standardized, crime-specific policies, protocols, and training on response to sexual assault crimes and timely, thorough forensic evidence collection. Cases involving acquaintances and intimate partners should be pursued as vigorously as stranger cases. Officers should be expected to take a serious, victim-centered approach to sexual assault reports and to investigate these crimes in a manner that restores the victim's dignity and sense of control, while decreasing the victim's anxiety. How officers meet this expectation should be a part of their regular performance evaluation.

In an effort to facilitate a more coordinated response to sexual assault cases, many police departments have developed interagency agreements with other justice system personnel and community based sexual assault service providers who interact with victims after an assault and during an investigation. Some jurisdictions have taken additional steps to coordinate with medical providers to maximize evidence collection.

The concerns of sexual assault survivors typically revolve around safety and dealing with the trauma caused by the crime. Some survivors experience their involvement in the criminal justice system as a revictimization. They are often reluctant to report or follow through with prosecution because of pressures placed on them by their communities, family, friends, and the offender (particularly in cases in which victims know their assailants). Police must be aware of common reactions to this crime and barriers victims face in seeking assistance. They should work with victim services to find creative ways to encourage victims to seek assistance, while respecting victims' decisions about

involvement in the criminal justice system. When victims do report sexual assault, police must respond sensitively and collaborate with other agencies to reduce anxiety and provide support.

All sexual assault victims should be informed of their legal rights and how law enforcement can help them. Non-English-speaking victims should receive brochures in their language that describe services or local community organizations that assist sexual assault survivors, and certified bilingual staff or translators should be available to communicate with officers. If a sexual assault victim chooses to participate in criminal justice proceedings, she is more likely to follow through with prosecution when she feels the police are doing everything within their power to thoroughly investigate the crime and to identify any evidence and witnesses to corroborate her allegations.

Police must also realize that for some sexual assault survivors, their safety, confidentiality, and emotional well-being may make the criminal justice system a less viable option. For instance, the emotional stress of a trial might outweigh a sexual assault survivor's desire to prosecute the offender. Police must respect a victim's decision regarding whether or not to be involved in criminal justice proceedings and always be willing to offer continued assistance and referrals.

The investigation and apprehension of sexual assault offenders represent special challenges to law enforcement officers. However, given the recidivism rates of many sexual offenders,<sup>2</sup> effective police intervention not only brings offenders to justice, but may also prevent future sexual assaults.

### **How to Use This Checklist**

This Checklist is designed to allow law enforcement personnel to assess their response to sexual assault cases on both an individual and agency-wide basis. The Checklist can be used in many ways by various departments within an agency.

This Checklist is divided into sections that correspond with the roles and/or responsibilities of each law enforcement professional involved in the agency's overall response to sexual assault (i.e., dispatcher, initial responding officer, follow-up investigator, supervisor, and manager).

Each section includes a list of specific steps and strategies officers should take to help ensure optimal response to sexual assault cases. Some jurisdictions with more limited resources may find that responsibility for the functions described may rest with a smaller number of officers or even a single officer. In such cases, jurisdictions may have to establish priorities and customize their response in keeping with such limitations.

The Checklist is not intended to provide agencies with all the detailed information they might need to create and implement comprehensive programs, policies, and protocols to address every issue raised in the assessment process. However, this folder includes references to resources that offer such detailed information. It also includes referrals to organizations and agencies that are already implementing many of these promising practices and can provide technical assistance regarding program development and implementation.

***Review the points on the following list that are relevant to your role in responding to sexual assault cases. Check off those points that you (or your agency) successfully perform. Make note of the remaining items and develop a strategy for addressing them.***

## Dispatcher Response

### Obtain Critical Status and Victim Safety Information:

Determine the initial facts of the situation (including age and gender of the victim), whether the victim or others are in imminent danger or in need of emergency medical attention, and call for emergency medical assistance as necessary.

### Obtain Relevant Information from the Caller:

- ☐ Obtain the name, address, phone number, location, and current status of the victim.
- ☐ Explain that the questions being asked will not delay officer response to the scene.
- ☐ Determine the suspect's use or possession of a weapon.
- ☐ Determine whether there is a relationship between the victim and suspect (e.g., stranger or nonstranger, husband, partner, family member).

If you assess that the victim is in imminent danger, advise the victim to move to a safe location (e.g., to the home of a neighbor or a family friend, a police station, a church), as long as moving can be accomplished safely. Obtain the phone number where the victim can be reached at the new location. If the victim is unsure about moving to a new location, stay on the line until responding officer(s) arrive.

Identify the incident as "sexual assault related" and assign the appropriate priority rating and treatment protocol. (For policy on categorizing and priority rating of sexual assault cases, see protocols established by your department management.)

- ☐ Where circumstances warrant, follow the protocol established for crisis intervention with sexual assault victim callers. (For policy related to crisis intervention, see protocols established by your department management.)

Record and preserve the victim's "excited utterances" for evidentiary purposes.

If the suspect is not present, attempt to determine his location, or possible locations, and the likelihood that he may return to the scene or attempt to immediately contact the victim again.

When the reporting party is not the victim, obtain the caller's name, address, phone number, and relationship to the victim, and the names of any other witnesses or parties involved.

### Obtain Related Information:

Obtain information from the caller to assist in apprehension of the suspect, including gender, physical description, clothing, vehicle description, weapon possession, etc.

Obtain initial information to determine whether the suspect's conduct constitutes other crimes (e.g., domestic violence, violation of sexual offender registry requirements, violation of a protection order, firearm possession, trespass).

If the suspect is a law enforcement officer, dispatch a supervisor to the scene immediately.

### Provide Victim with Critical Information:

Remind the victim not to wash herself, change clothes, eat, drink, urinate, or clean the crime scene until responding officers have arrived and forensic examinations can be performed to preserve evidence. (See the section on forensic exams below.)

Notify victim of the availability of crisis response services. If crisis service providers are responding to the scene, notify the victim of the fact immediately. (For policy related to notification of crisis response services, see protocols established by your department management.)

## **Obtain Offender History and Information on the Likelihood of Danger:**

- ☐ Use "Call History," "Criminal History," sexual offender registries, and other available databases to provide responding officers with crucial criminal and civil information, including firearm possession prohibitions, outstanding warrants, or unexecuted sentences (e.g., escape from custody, revoked parole or post-sentence bond, deferred sentence).

- ☐ In nonstranger cases, determine history of previous incidents of violence, particularly those that may have occurred in other jurisdictions.

Use available databases to obtain information concerning protection orders, conditions of release, or sentences that are pending against the suspect. Inform responding officers of such orders and/or the terms of each.

- ☐ Furnish the officer with information on the suspect's dangerousness and specifics about the incident.
- ☐ Review and preserve all "911" and/or emergency dispatch tapes, regardless of the delay in reporting. Preserve tapes for a period sufficient to meet the needs of prosecutors during the trial and post-trial process.

## **Initial Officer Response**

### **Respond to the Call:**

- ☐ Respond to the dispatch call immediately, whether the report itself is immediate or delayed.
- ☐ On the basis of information provided by the dispatcher, evaluate the potential for violence, and secure backup, whenever possible.

### **Approach the Scene:**

- ☐ Determine whether there are multiple crime scenes (e.g., an assault that began at one location, but ended at another).



Determine if crimes may have occurred in different jurisdictions. Follow agency policy concerning case coordination with agencies in other jurisdictions. (For policy related to multijurisdictional case coordination, see protocols established by your department management.)

Suggest that bystanders and others leave the immediate area surrounding the scene to ensure their safety and prevent destruction or contamination of evidence.

### **Enter the Scene:**

- ☐ Enter the premises in compliance with the laws of the state.

### **Assess and Secure the Scene:**

- ☐ Evaluate the scene (e.g., whether it is in damaged or disturbed condition, whether there is evidence of alcohol/drug use, whether there are emergency health issues to be addressed, whether there are other witnesses, or whether additional evidence is present).

- ☐ If the suspect appears to be a law enforcement officer, implement department policies and protocol established for such situations (e.g., request a supervisor to

come to the scene if one has not already been dispatched; secure service revolver pending internal investigation; file a report with internal affairs). (For policy addressing officers as suspects, see protocols established by your department management.)

- ☐ If possible, photograph or videotape the crime scene before it is disturbed.

- ☐ Note the locations of the victim (and suspect) when you arrive at the scene.

- ☐ Take any steps necessary to preserve evidence on the victim's (and suspect's) person(s) and at the scene of the crime.

- ☐ Secure and protect the crime scene, and request that forensic/crime-scene technicians be dispatched, as available and appropriate.

- ☐ Confiscate all weapons actually used or used to threaten the victim, including those in plain sight or in the possession of the suspect in violation of state or federal law (such as gun possession by a convicted felon).

- ☐ Seize and secure all items that may have been used in the perpetration of the sexual assault (e.g., items used in sexual penetration).

#### **Address the Immediate Needs of Victims:**

- ☐ Assure the victim that her immediate safety is the first priority.

- ☐ If they are available and have not been called, summon victim crisis intervention personnel to the crime scene, once the crime scene is secure and the victim is safe. Otherwise, refer the victim in writing and by phone to appropriate sexual assault/rape crisis services. (For policy on notifying victim crisis intervention personnel and referrals, see protocols established by your department management.)

- ☐ Assess the need for a sign-language interpreter or translator for the victim, witnesses, or suspect. Do not rely on family members

or interested parties for interpretation or translation.

- ☐ Take steps necessary to protect the victim's personal privacy and sense of dignity (e.g., allow the victim to cover or change out of ripped or bloodied clothes, in private and as soon as possible, and consistent with evidence collection considerations).

- ☐ Explain to the victim the reason for the forensic exam and validate her discomfort or concerns.

- ☐ Observe agency policy to protect the identity of sexual assault victims (including the victim's address) from the media; coordinate such privacy considerations with the law enforcement public information department, rape advocacy organizations, and the news media. (For policy related to victim privacy, see protocols established by your department management.)

- ☐ Inquire as to the victim's need for emergency medical attention, and provide first aid as necessary.

- ☐ Encourage the victim to undergo a forensic exam. If the victim declines initially, encourage her to undergo such an exam within 72 hours and to make every attempt to preserve the evidence that may still be present on her person (i.e., do not wash or bathe).

Unless circumstances clearly dictate otherwise, every sexual assault victim should be taken to a medical facility to be examined by a trained Sexual Assault Nurse Examiner (SANE) or physician to treat and record her injuries; provide testing and treatment for possible sexually transmitted diseases (STDs); and provide testing and care related to a potential pregnancy that may have resulted from the assault. If the assault occurred more than 72 hours prior to the report, consider whether circumstances still may warrant a forensic exam.

- ☐ Arrange transportation to and from the designated medical facility for medical care, if necessary.

Assess and provide for the safety needs and care of any children present at the scene. Arrange for temporary care if the victim is immediately transported to a medical facility for medical exam and treatment.

### **Conduct an Initial Interview with the Victim:**

If the victim is in critical need of medical attention, do not attempt to interview her until after she has received immediate medical assistance to stabilize her condition and then only if it is suspected that the perpetrator is in the immediate vicinity or poses a continuing threat. If so, limit the interview to those questions necessary to achieve the apprehension of the suspect and only to the extent the victim's physical and emotional condition permits. Additional questions should be withheld until a follow-up interview.

Before attempting to interview the victim, remove the victim to a place that provides privacy and is away from any children (and the suspect in nonstranger cases). If an advocate is available, give the victim the option of including the advocate in the interview. If an advocate is not available at the scene, the officers should proceed with the initial interview.

Indicate to the victim that this is an initial interview intended primarily to elicit the essential information necessary to begin the investigative process, identify evidence and witnesses, identify and/or apprehend the suspect, and meet her immediate medical and psychological needs. Indicate that a follow-up interview will be scheduled at a later date to elicit further details related to the crime.

Take careful notes on the questions asked of the victim and the answers given. Note any statements that describe relevant sensory and peripheral details recounted by the victim (e.g., passing siren to corroborate time of rape, scent of suspect's cologne, feel of suspect's clothing).

Assume the accuracy of accusations and statements made by the victim until proven otherwise. Convey confidence in the victim's statement regardless of her relationship with the suspect.

Ask questions in a supportive, blameless, and nonjudgmental manner. Be calm, direct, and patient. Be clear that you want to help. Explain the necessity for asking any personal questions or questions that may make the victim uncomfortable.

Record the "excited utterances" of the victim, family members, and witnesses.

Note the victim's demeanor, body language, and other nonverbal communication indicating her emotional and physical condition.

Ask the victim about circumstances and symptoms that may indicate the use of a drug to facilitate sexual assault (e.g., did she consume a beverage prior to the incident; experience dizziness; experience loss of memory, disorientation, or hallucinations).

Obtain information to determine whether the suspect's conduct constitutes multiple crimes (e.g., domestic violence, assault, violation of a protection order, firearm possession, trespass).

Obtain preliminary information from the victim about the crime and specifics leading up to the assault, and whether there is a relationship between the victim and suspect (e.g., stranger vs. nonstranger), any prior history of such assaults, any court orders, any use of weapons, or any use of alcohol or drugs. Make clear that substance abuse does not justify the assault.

Explain to the victim the importance of evidence collection and medical treatment. Inform her that compensation may be available to pay for the cost of treatment and the forensic exam.

Arrange for transportation to a designated medical center or other facility to have the victim undergo medical treatment and/or a forensic exam, if the victim's condition did not require immediate transportation to a medical facility. If the medical facility to which the victim is taken initially for emergency treatment has not adopted protocols for sexual assault cases, arrange for transportation to a medical facility that conducts forensic exams.

Obtain address/phone information for any temporary residence where the victim may stay following the assault.

Obtain address/phone information for any family member and/or other person entrusted with the victim's forwarding contact information.

Arrange to transport the victim to a place of safety if the victim so desires (shelter, a friend's/relative's house, hotel, etc.).

#### **Determine Violation of Federal Law:**

Determine if suspect's conduct constitutes a violation of federal law (e.g., crossing a state line to inflict bodily injury, to stalk, or to violate a protection order). If so, follow protocol established to notify appropriate federal authorities. (For policy on notification and coordination of response to federal crimes, see protocols established by your department management.)

#### **Provide the Victim with Essential Information:**

Provide the victim with written referrals to victim/witness<sup>28</sup> assistance agencies and community-based advocacy organizations, with an explanation of each resource.

Notify the victim of her rights as a victim under state law (e.g., the rights to notification, to be present, and to make a statement at proceedings; the right to apply for crime victim compensation). Encourage victims who opt for notification to keep the agency informed of any change in their contact information.

Notify the victim of her right to seek an emergency protection order, if available, and provide information concerning how such an order may be obtained.

Provide the victim with basic information (both orally and in writing) about investigative processes and what role she may play in the investigation. To the extent possible, tell the victim what to expect in the process.

Provide the victim with immediate short-term safety recommendations and preliminary safety planning strategies, as necessary, particularly in nonstranger cases.

Advise the victim that arrest of the suspect is not a guarantee of the victim's safety, as the suspect may be released on bond shortly after arrest and may pose an immediate threat to the victim or a family member, particularly in nonstranger cases.

Advise the victim of laws that protect her from harassment and intimidation by the suspect and encourage her to contact law enforcement if those laws are violated.

While still at the scene, provide the victim in writing with the name, badge number, and contact information of responding officers, to the extent practicable, and the number of the incident report filed.

Protect the confidentiality of victim-related information (including identifying information) to the maximum extent possible. Inform the victim of what information in the report will be made public and what will be held as confidential. Obtain written permission from the victim for the release of any case information to other agencies/organizations or to the public.

#### **Identify and Interview Witnesses:**

Identify any witnesses and document their full names, addresses, and phone numbers. Note their relationships to the victim.

Interview nearby residents, coworkers, and any others who may have witnessed the current or previous incidents of sexual assault or other violence in cases of nonstranger assaults.



- In cases where drug-facilitated sexual assault is suspected, interview friends, family members, and associates of the suspect regarding their knowledge of the suspect's access to and use of drugs that might be used to facilitate sexual assault or any knowledge of incidents involving the suspect's use of drugs for that purpose.

Interview children who may have witnessed the assault. In nonstranger cases, inquire as to whether they themselves have been victimized by the suspect. Comply with protocols specifically related to interviews with child witnesses and victims (i.e., do not ask leading questions, use age-appropriate language).

### **Interview the Suspect:**

- Attempt to interview the suspect prior to arrest and custody, if he is present or can be located.
- ▲ Use audio- and/or videotape to record the suspect's interview, and where required and/or appropriate, inform the suspect that you are recording.
- Obtain general information from the suspect (e.g., name, address, relationship to the victim in nonstranger cases).
- Ask the suspect to tell his side of the story. Do not interrupt or challenge his assertions at this point. Listen to the entire story. Note any relevant statements and/or admissions.
- Ask questions to clarify statements and facts asserted by the suspect.
- Record the suspect's excited utterances, his emotional and physical condition, and his demeanor.
- Obtain a suspect forensic exam if the suspect was arrested within a reasonable period of time after the assault or as circumstances otherwise warrant.
- Note any evidence of substance/chemical consumption.



If the suspect is known, but cannot be found, apply for a warrant. If he is subsequently taken into custody, attempt to interview him only after a proper Miranda warning has been issued to him.

If the suspect is not known, relay suspect description to dispatch for APB or broadcast alert to patrolling units.

### **Collect Evidence at the Crime Scene:**

- Collect and secure evidence of a sexual assault in all cases regardless of the victim's initial willingness to pursue a complaint.
- Determine whether a search warrant is needed (e.g., based on state law, determine whether any aspect of evidence collection will require a search warrant).
- Determine whether there are multiple crime scenes (e.g., did the incident begin in another location, or did a previous and unreported incident occur at another site).
- Determine whether clothing or other evidence may be found at another location.

- Call in a crime-scene technician, as indicated by department policy and facts concerning the case.

*Unless crime-scene technicians or a forensic specialist will be called to the scene, responding officers should undertake the following:*

- ☐ Conduct a preliminary search for all physical evidence without compromising the crime scene.
- Assess the crime scene for physical evidence (e.g., fingerprints, body fluids, clothing, bedding, footprints, displaced objects, property destruction).
- Obtain evidence of other crimes committed by the suspect (e.g., domestic violence, violation of a protection order, illegal possession of drugs, firearm possession, trespass).
- Photograph and/or videotape the crime scene prior to touching, moving, or disrupting potential evidence. Provide an indication of size and scale for all evidence photographed. (See the section on forensic exams below.)
- ☐ Note any evidence of alcohol and/or drug consumption by the suspect (e.g., open beverages, glasses, medicine bottles or packaging).
- ☐ Consider the possibility of drug-facilitated sexual assault. If drug-facilitated sexual assault is suspected, implement agency protocol for investigation and evidence collection in such cases. Collect evidence that may indicate use of drugs to facilitate sexual assault (e.g., beverage containers, medicine bottles, blister packaging). (For policy related to cases where drug-facilitated rape is suspected, see protocols established by your department management.)
- Collect all collateral evidence of the sexual assault (videos, video cameras, pictures, ropes, condoms, pornography, etc.).
- Collect, properly package, and mark all evidence. Ensure that all evidence has

been gathered before releasing the crime scene. Preserve in an appropriate manner samples of all biological evidence gathered (e.g., blood, semen), pending the victim's decision to go forward with the case.

- Diagram the crime scene; use specialized report forms/diagrams and document all findings. (For policy or standardized forms concerning reports, see protocols established by your department management.)

Alert the victim that subsequent appearance of bruising or evidence of injury should also be photographed.

- If the suspect is present, photograph his injuries and take full-body photographs.

Confiscate all weapons or other instruments used in the commission of a crime, including objects that may have been used to facilitate the crime (e.g., objects used in penetration).

Transport all collected evidence to your agency's property room or a designated crime lab in a way that maintains the proper chain of custody.

### **Collection of Evidence Off Site (Forensic Exams):**

- Transport or arrange transportation for the victim to a designated medical facility for emergency care and/or forensic evidence collection, if necessary.
- Explain the medical and legal purposes of the forensic exam. Explain the exam process and the privacy policy related to information and test results.
- Contact victim services to provide accompaniment during the forensic exam. Give the victim an opportunity to decline offers of assistance from victim service advocates once they have arrived at the facility. If the victim declines the offer of assistance, provide her with written referrals to sexual assault programs, where available.
- If the victim chooses not to undergo a forensic exam, respect that decision. Explain in an objective fashion the impli-

ications the decision may have for investigation and prosecution.

- 1. If the victim refuses testing and prophylactic care for STDs or pregnancy evaluation initially, strongly encourage her to pursue these options with her own physicians or medical care providers. Provide her with referrals to follow up supportive counseling services.

☐ Make efforts to ensure the victim is seen promptly at the medical facility.

- 1. If a Sexual Assault Nurse Examiner is available, request that she be called in on the case. If not, request that the existing sexual assault protocol of forensic exams be initiated.

- 1. Confirm that any professionals conducting assault and sexual assault forensic exams have the qualifications to do so.

☐ Confirm that the attending nurse or physician has a standardized evidence collection kit and that he/she is trained in the use of the kit.

Provide a briefing to medical personnel responsible for conducting the exam, regarding the general details of the incident prior to their performing the exam, to assist them in the collection of evidence.

☐ Make efforts to ensure that the victim's injuries are photographed in detail, with full consideration for the victim's comfort and privacy concerns (e.g., leave the room during the exam). If possible, arrange for a same-sex forensic photographer or medical professional who has been trained in forensic photography, victim sensitivity, and crisis intervention.

- 1. Request a urine sample for toxicology testing if drug-facilitated sexual assault is suspected or if the victim states she suspects that she has been drugged.

- 1. Ensure that all necessary physical evidence collection procedures are completed.

Confer with assisting medical personnel to obtain further information about the victim's condition and any evidence collected.

Request that the victim sign a medical information release form for medical records related to the sexual assault independent of the forensic exam. Explain the nature of the release, its purpose, and the confidentiality issues involved. Provide the victim with a copy of the release.

If the suspect is in custody, make sure physical and medical evidence is collected from him, and at a facility different from that where the victim is being taken, if possible. In all cases, ensure that the victim and the suspect do not come in contact with one another. Ensure exam rooms are separate to avoid cross-contamination of evidence.

Arrange for the collection of samples from the suspect for forensic testing.

- 1. Make arrangements to transport collected evidence needing analysis to a designated forensic lab and/or to a designated property room for storage in a way that maintains the chain of custody and best preserves evidence.

- 1. Retain all evidence regardless of victim's initial willingness to press charges or go forward with the case. Preserve all evidence collected during the investigation for a reasonable period pending the victim's decision to go forward with the complaint.

### **Arrest and Charging:**

If the suspect is not known, determine the identity of the suspect(s). Once the suspect's identity is established, consider making an arrest based on probable cause and surrounding circumstances. Where appropriate, consult with the prosecutor to ensure there is sufficient basis to hold and charge the suspect.

- 1. If the identity of the suspect is not known, provide the agency communication center with the description of the suspect, suspect's

vehicle, direction of flight, and other identifying information for broadcast to other law enforcement units on patrol.

- 1. Serve all warrants in a timely manner.
- Charge the suspect with all crimes arising from the incident (e.g., assault, sexual assault, violation of a protection order, trespass, breaking and entering, firearm possession). Contact the prosecutor with any questions or concerns regarding appropriate charges.
- Adhere to state law regarding the arrest decision. Do not consider other factors (e.g., speculation that the victim will not go forward; past sexual history; likelihood of conviction; the victim's behavior prior to the incident; the race, culture, sexual orientation, class, or profession of either party).
- If the suspect is not arrested immediately, explain to the victim and her support person the nature of and rationale for the decision (e.g., lack of evidence, inability to establish the identity of the suspect, prosecutor not sufficiently prepared to charge).

Notify the sexual assault victim of any arrests made in connection with the case.

### **Write an Incident Report:**

- Complete a written report, whether or not an arrest is made. If an arrest was not made, explain the rationale and circumstances for that decision in the report.
- Include all information, as indicated above.
- Include diagrams specifying the nature and location of all injuries; note injuries that are not visible.
- Indicate in the report that the interview with the victim is preliminary in nature and is not intended to elicit the victim's recollection in detail and that the agency will discuss the case with the victim again.

Provide the follow-up investigator with all related information, reports, and documentation.

- 1. Provide victim with a copy of the incident report without cost.

## **Follow-up Investigator Response**

### **Serve and Enforce Protection Orders:**

- Make every effort to serve all protection orders obtained by the victim against the suspect as soon as he is located.
- Enforce all criminal and civil protection orders, restraining orders, or conditions of parole or probation against the suspect, including those issued in other jurisdictions or states.

### **Gather Further Information to Support Charges:**

- Consult with the initial responding officer(s) and any agency personnel who were subsequently called to the scene.
- Develop an investigative strategy based on the nature of the assault and possible defenses (e.g., question of identity or consent). Investigators should seek strategies to address key issues and consult with the prosecutor as necessary.
- Determine whether a search warrant is needed with regard to any aspect of the investigation.
- Arrange for a follow-up interview with the victim as soon as possible, if additional or clarifying information is needed.
- Explore strategies to corroborate the victim's statements, including those that support the victim's sensory and peripheral recollections of the crime (e.g., victim recollections concerning sound, smell).

- ☐ Re photograph the victim to document changes in the appearances of her injuries. Remind the victim that bruises and other evidence of injury may appear later, and if so, request that the victim contact you to arrange for additional photographs or other documentation.

- Encourage the victim to contact you or other investigative officers with any new information or evidence that arises after the interview.

- Identify and obtain statements from any additional witnesses not interviewed at the scene—collect all pertinent information.

- Cross reference fact pattern and M.O.s of the crime with previously unsolved sexual assaults or crimes.

- ☐ Based on information gathered during the investigation, identify and contact others who may have been victimized by the suspect (e.g., previous friends and partners of the suspect).

- Submit a forensic lab service request after evaluating the evidence for its possible relevance based on the statements of parties involved and surrounding circumstances.

- Maintain contact with the forensic lab to obtain results. Identify and follow up on any evidentiary leads or issues that may arise.

- Obtain further information on the suspect's criminal/civil histories and other relevant background, when available. (For policy on criminal history, see protocols established under the Data Collection and Communications Section.)

- Coordinate the prompt return of any of the victim's property seized as evidence as soon as it is no longer needed for prosecutorial purposes.

## **Address Victim Safety and Support Needs:**

- Arrange for a follow-up discussion with the victim to address her safety and support needs.

- Allow victim to have a support person (family member, friend, spiritual advisor, etc.) present during the interview if she so desires.

- Explain the scope and purpose of the follow-up interview to the victim.

- Adhere to agency policy against the use of polygraphs to establish veracity of victim statements. (For policy prohibiting the use of polygraphs in investigations, see protocols established by your department management.)

- If available, activate the sexual assault response team (SART) protocol.

- Coordinate with other relevant agencies, assistance organizations, service providers, or SART to address the needs of the victim, including additional medical testing, mental health counseling, financial assistance, and guidance throughout the criminal justice process, and provide safety planning that takes into consideration suspect's capture and release, safety issues around protective orders, and general safety enhancement strategies.

- Work closely with available victim assistance and advocacy providers to support the victim through interviews, other investigation procedures, and court hearings.

- Encourage the victim to call law enforcement if the suspect violates any existing criminal or court orders, or if the suspect contacts the victim.



### **Provide Victims with Essential Information:**

- ☐ Inform the victim of her rights to notification during the criminal justice process. Discuss with her the best means to keep her informed during the investigative process.
- ☒ Adhere to state law and agency policy concerning the victim's rights to notification (e.g., notice of arrest, bail hearings, pretrial release).
- ☐ Keep the victim informed of all developments in the investigation, to the extent that such information will not compromise the investigation.
- ☐ Notify the sexual assault victim of any arrest made in connection with the case.
- ☐ Notify the victim in a timely fashion of the release of the suspect from custody.
- ☐ Provide the victim with report forms and guidance to assist her in documenting the

suspect's further actions, if appropriate (e.g., log to track suspect attempts of intimidation, additional details the victim recalls).

### **Deliver the Case to the Prosecution Office:**

- ☐ Discuss the case with the prosecutor's office and conduct any further investigation as requested, securing any additional evidence and communicating any additional information obtained to the prosecutor assigned.

Provide the victim with the name and contact information for the prosecutor assigned to the case, if such information is known, and facilitate the initial contact and/or meeting between them.

Facilitate contact between the victim and prosecutor and victim services, if available (e.g., provide contact information, arrange a meeting, notify victim services with the victim's permission).

Complete necessary reports and forms, and transfer the information to the prosecutor's office.

Testify as requested throughout any criminal justice proceedings.

When possible, provide victim with the secure transportation necessary to enable her participation in the criminal justice process and to facilitate her access to assistance services.

### **Supervisor Response:**

Create tracking procedures to document and facilitate compliance with statutorily mandated duties and all relevant departmental policies and procedures.

Oversee officer compliance with agency policies and procedures related to sexual assault (e.g., incident reporting, weapons confiscation, evidence collection).

Oversee officer compliance with inter-agency agreements related to sexual assault.

Oversee officer performance concerning enforcement of protection orders.

- [-] Review the performance of each officer in his/her response to sexual assault cases. Reward officers for appropriate and exemplary performance. Undertake corrective action with officers whose performance fails to meet appropriate standards. Reassign officers whose response to sexual assault cases consistently fails to meet performance standards.

Determine and identify the need for additional officer training or supervision. Work with managers to develop an approach that will address the identified needs.

Review officers' incident reports to ensure proper investigation procedures are being followed and appropriate charges are being filed.

#### **Data Collection and Communications:**

- ☐ Designate and retrieve all sexual assault-related case information.

[-] Automate case information to expedite access.

- [-] Track cases from first call forward, including case substantiation and follow through.

- [-] Review case classification practices and procedures throughout the process to ensure sexual assault cases are being properly classified as such.

Provide a method to track cases that are charged or filed as sexual assault cases, regardless of how they may later be reclassified as the result of a plea or recharging decisions.

- [-] Develop policy and procedure to compare and identify fact patterns and M.O.s among sexual assault cases.

[-] Develop policies for interagency coordination in cases involving multiple jurisdictions.

- [-] Develop policies, protocols, and interagency agreements necessary to integrate criminal and civil histories of offenders into available databases.

## **Management Response**

### **Set Tone Through the Development of Protocols, Practices, Training, and Other Mechanisms:**

Establish protocols and practices that are grounded in an understanding of sexual assault and embody values such as victim safety and welfare; respect for victim dignity, privacy, and autonomy; and offender accountability.

Develop police procedures for handling sexual assault and other crimes of violence against women committed by law enforcement and other justice system personnel.

- [-] Develop a policy and protocol to give sexual assault calls priority rating and treatment by dispatchers.

Develop a crisis intervention policy and protocol for use by dispatchers when responding to calls from reporting victims.

Develop a program, policy, and protocol to provide victim crisis intervention services to respond to the scene of sexual assaults. Such programs should take into consideration the safety of the service provider.

Develop specialized report forms for sexual assault, complete with diagrams to document injuries consistent with existing statewide protocols.

- [-] Develop agency policy prohibiting the use of polygraphs in sexual assault investigations.

Develop a clear and comprehensive policy to protect the identity and privacy of sexual assault victims from the media.

public, and others. Coordinate the policy with the law enforcement public information department, sexual assault advocacy organizations, and members of the media. Secure all agency information systems containing victim-related information.

Develop a strategy for addressing complex cases (e.g., convening problem-solving meetings with officers; designating officers to assume assignment or assist with such cases; consulting and coordinating with the prosecutor's office, with victim services, and with other relevant agencies or professionals).

Develop protocols for secondary response to sexual assault cases (e.g., calling out forensic/crime-scene technicians in cases where kidnapping, attempted murder, home invasion, drug-facilitated sexual assault, police impersonators and assaults, or strangulation is suspected).

Develop policies, protocols, and agreements to identify and coordinate response with federal authorities in sexual assault cases involving violations of federal law.

Promote proactive intervention in all sexual assault cases.

Allocate funds, resources, and personnel specifically for sexual assault cases (e.g., for evidence analysis and collection, training, victim assistance).

Develop policies concerning academy and continuing officer education that accurately reflect the nature and extent of sexual assault (e.g., stranger vs. nonstranger, drug-facilitated sexual assaults).

Support ongoing sexual assault training for all new and veteran staff (e.g., during orientation, roll call, continuing education/training). Support reimbursement for any overtime associated with such training.

Build a staff that reflects the demographics of the community it serves.

Develop strategies to remove barriers facing underserved populations that prevent them from having access to victim assistance services and utilizing the criminal justice system (e.g., translation of materials into relevant languages, 24-hour access to translation and interpreter services, education and outreach).

Revise policies and practices to accommodate the rights, resource needs, and interests of sexual assault victims.

### **Provide Leadership in Community Initiatives to Reduce Violence Against Women:**

Facilitate the development of a community-wide multidisciplinary response to sexual assault cases (e.g., Sexual Assault Response Team-SART). Develop interagency agreements as appropriate. Participate in community task forces or other collaborative efforts (e.g., system review committees) to enhance system response.

In addition to utilizing a multidisciplinary response to sexual assault cases, develop an agency strategy for addressing particularly difficult or complex cases (e.g., convening problem-solving meetings with officers; designating officers to assume assignment or assist with such cases; consulting and coordinating with the prosecutor's office, with victim assistance and other relevant agencies or professionals).

Support statewide policy changes and legislation that positively address sexual assault issues.

Recognize and support community-based advocacy programs and the critical role they play in supporting individual victims through all stages of the criminal justice process and in working with the criminal justice system to improve its response to sexual assault.



Promote community education concerning sexual assault and its unacceptability in society.

Provide a process for obtaining and responding to victim/citizen complaints regarding the handling of sexual assault cases. Inform victims of their opportunity to avail themselves of such a process. Proactively promote public awareness of the process and its availability to the general public.

Require updated or continuing education training for all officers on sexual assault response issues.

Include information on all new statutes, protocols, and procedures related to sexual assault in all updated training or continuing education programs.

Include information about local community resources and referral sources in officer and staff training programs. Verify and update the information as necessary.

Adopt agency policies that establish "appropriate response to sexual assault cases" as a job performance measure for all relevant personnel.

Utilize command-level monitoring to ensure policy compliance.

## Footnotes

<sup>1</sup> The legal definition of sexual assault varies considerably from state to state. For purposes of this Checklist sexual assault is defined as any nonconsensual sexual act that is forced upon an intimate partner, other family member, friend, acquaintance, or stranger. Sexual assault includes rape or attempted rape (vaginal, anal, or oral penetration), fondling, exposure, voyeurism, and sexual harassment.

Karen Baker, "Overall Crime Victimization Rate Decreases 10% But Rape Increase 20%," National Sexual Violence Resource Center, *Enola, PA* (September 5, 2000).

<sup>2</sup> Ronet Bachman and Linda Saltzman, "Violence Against Women: Estimates from the Redesigned Survey," *Bureau of Justice Statistics Special Report*, U.S. Department of Justice, Bureau of Justice Statistics, Washington, D.C. (August 1995).

<sup>3</sup> Patricia Tjaden and Nancy Thoennes, *National Violence Against Women Survey*, National Institute of Justice, U.S. Department of Justice (2000). *Editor's note:* While victims and offenders of sexual assault are both women and men, the vast majority of victims are female and offenders are male (see Patricia Tjaden and Nancy Thoennes, above). For this reason, as well as for consistency of style, this manual refers to victims as women and offenders as men.

<sup>4</sup> *Ibid.*

<sup>5</sup> *Ibid.*

<sup>6</sup> Baker, *supra*.

<sup>7</sup> G. Ahof, J. Becker, M. Mittelman, J. Cunningham-Rathner, J. Bourdeau, W. Murphy, Self-reported sex crimes of nonincarcerated paraphiliacs, *Journal of Interpersonal Violence*, 2 (1), 5-25.

<sup>8</sup> The cost of forensic exams is covered in most jurisdictions by third parties—either by governmental entities or private assistance programs or insurance. Law enforcement and/or prosecutors' offices or counties will often cover the costs. States receiving VAWA funding are required to cover the costs of forensic exams. The crime victim compensation programs of each state are also required to cover the costs of forensic exams for qualified sexual assault victims. However, to be eligible many governmental programs require the victim to cooperate with the investigation and prosecution process. Some private assistance organizations or programs provide reimbursement even in cases where the victim does not report the crime.

<sup>9</sup> Victim service providers and advocates work both inside and outside the criminal justice system. As such their titles and functions vary considerably. Victim service professionals in prosecutors' offices are often referred to as victim/witness coordinators. Service providers in law enforcement offices may use the title of rape crisis specialists. In the private setting, providers with organizations may call themselves counselors, advocates, or service providers. For purposes of this Checklist, our use of the title *victim/witness specialist* is intended to encompass all service providers based in criminal justice agencies.

<sup>10</sup> Premature arrest may lead to the suspect's flight, destruction of evidence, and/or intimidation of witnesses or the victim.

This project was supported by Grant No. 95-MJ-ME-K020, awarded by the Office of Justice Programs' Violence Against Women Grants Office, U.S. Department of Justice. Points of view or opinions stated in this document are those of the authors and do not necessarily represent the official position or policies of the U.S. Department of Justice.