

NOPD CONSENT DECREE MONITOR
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VIA ELECTRONIC MAIL (tafaverill@nola.gov)

Deputy Superintendent Timothy Averill
Compliance Bureau, New Orleans Police Department
714 Broad Street
New Orleans, LA 70119

RE: Sex Crimes United Standard Operating Guidelines

Dear Superintendent Averill:

This letter constitutes confirmation that the Office of Consent Decree Monitor ("OCDM") has reviewed and provided comments on the revised Sex Crimes United Standard Operating Guidelines connected with Chapter 42.2, Sexual Assault. The OCDM has no objection to the Guidelines as revised.

We believe that the revised Guidelines incorporate all requirements of the Consent Decree and sets forth clear and appropriate rules to guide officer conduct. We will continue to assess the adequacy of this Guideline and policy following its implementation. If we identify any concerns following implementation, we will present those concerns to you and the Department of Justice. Additionally, we note that, pursuant to the Consent Decree, NOPD has agreed to review and revise policies and procedures as necessary upon notice of a significant policy deficiency. We also note NOPD's obligation to review this policy after a year of implementation to ensure it "provides effective direction to NOPD personnel and remains consistent with the Agreement, best practices, and current law." Consent Decree at ¶ 18.

We appreciate your team's effort, cooperation, and responsiveness throughout this process.

Very truly yours,

David Douglass
For SHEPPARD MULLIN RICHTER & HAMPTON LLP*
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CC: HONORABLE SUSIE MORAN (VIA ELECTRONIC MAIL)
EMILY GUNSTON, DEPARTMENT OF JUSTICE (VIA ELECTRONIC MAIL)



Sex Crimes Unit Standard Operating Guidelines

PURPOSE

The purpose of these standard operating guidelines is to provide Sex Crimes detectives and supervisors with guidelines for investigating reports of sexual assault.

DEFINITIONS AND ACRONYMS

- (a) **CODIS**—Combined DNA Index System
- (b) **Cold case**—Any investigation that is not active and has remained unsolved for over a year since the date of report
- (c) **CCMS**—Criminal Case Management System
- (d) **NOFJC**—New Orleans Family Justice Center
- (e) **SAK**—Sexual assault kit
- (f) **SANE**—Sexual Assault Nurse Examiner
- (g) **SART**—Sexual Assault Response Team
- (h) **Unreported SAKs (SAKUs)**—Sexual assault kits for which no report of an incident has been made by a victim

SEX CRIMES UNIT CASES

Sex Crimes Unit detectives should investigate all sexually related incidents with victims 17 years of age and older, including the following signals:

- (a) 24-K (unreported sexual assault kit)
- (b) 42 (first degree rape);
- (c) 43 (second degree rape);
- (d) 43-B (sexual battery);
- (e) 81S (sexting);
- (f) 89 (crime against nature);
- (g) 283 (video voyeurism);
- (h) 542 (sex offender check); and
- (i) 27 (attempted crime) related to any of the above signals.

The Child Abuse Unit shall handle all sex-related incidents with victims under 17 years of age unless otherwise directed by a supervisor. When directed by a supervisor to handle a case with a victim under 17 years of age, Sex Crimes detectives shall handle the case in accordance with the **Child Abuse Unit Standard Operating Guidelines**.

SEXUAL ASSAULT DYNAMICS

Based on the length of time between the assault and the report of the crime as well as the individual's history, the victim may be in crisis and experiencing acute stress disorder, post-traumatic stress disorder (PTSD), or rape-trauma syndrome and exhibiting a range of behaviors that will likely change over time. Detectives should use the strategies outlined herein to respond to the trauma.

INCIDENTS INVOLVING CHILDREN/ADOLESCENTS OR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES

All cases with victims under the age of 17 shall be handled in accordance with the **Child Abuse Unit Standard Operating Guidelines**.

Detectives shall not interview victims or witnesses under the age of 17. In exigent circumstances after consulting a Child Abuse Unit supervisor, only the minimum information necessary to stabilize the situation and secure evidence may be obtained from a child.

Detectives shall immediately make a forensic medical referral and contact the Audrey Hepburn CARE Center (available from 7 a.m. – 5 p.m. Monday through Saturday). When the CARE Center is not available to address an acute incident that occurred within 72 hours, detectives shall direct the victim's caretaker to Children's Hospital or, if the victim is an older adolescent, University Hospital for physical evidence recovery and to schedule a subsequent appointment with the CARE Center.

Detectives may also follow the **Child Abuse Unit Standard Operating Guidelines** for incidents involving an adult victim or witness with developmental disabilities as defined by La. R.S. 28:451.2 and conduct forensic interviews at the Children's Advocacy Center.

SUPPORTING VICTIMS

A supportive and compassionate response decreases the likelihood of a victim experiencing PTSD and *increases the likelihood of successful prosecution*. To provide the victim with assistance and support, detectives should:

- (a) Utilize interview techniques appropriate to victims who have experienced trauma;
- (b) Offer victims assistance as outlined herein; and
- (c) Follow up with the victim throughout the investigative process. The detective shall contact the victim at least once per month, whether or not any new information is discovered during the investigation and document these contacts in the work log section of the Criminal Case Management System (CCMS).

NOPD prioritizes conducting a thorough investigation of sexual assault claims over prosecuting victims for minor offenses. Illegal activity on the part of the victim should never be used to discredit or discourage the victim from reporting the assault. Detectives shall consult with their supervisor(s) before any charges are brought against the victim and document this consultation in the work log section of CCMS.

VICTIM ASSISTANCE

To support the victim throughout the investigation, detectives should:

- (a) Show understanding, patience, and respect for the victim and attempt to establish trust and rapport;
- (b) Avoid having any conversations or phone calls that may be overheard by other persons not a part of the investigation;
- (c) Commend the victim for coming forward to the police;
- (d) Explain the investigative process and the next steps in the criminal justice process;
- (e) Inform the victim that victim advocacy services are available. If the victim would like an advocate, contact a victim advocate as soon as possible to provide assistance throughout the reporting and investigative process:
 - i. If an arrest has been made, an advocate will be provided by the Orleans Parish District Attorney's Victim Witness Assistance program (see below).
 - ii. If the victim is at University Medical Center for a forensic exam, the detective should contact the Sexual Assault Nurse Examiner (SANE) nurse to ensure a medical advocate is available. The hospital will contact a medical advocate for the victim. If no medical advocate is available, the detective should contact the

Orleans Parish District Attorney's Victim Witness Advocate, who may be able to provide on scene response at University Medical Center.

- iii. If no arrest is made, an advocate is available by phone through the New Orleans Family Justice Center's 24-hour crisis line; and
- (f) Arrange to transport or escort the victim to the University Medical Center or New Orleans Family Justice Center (NOFJC), if desired by the victim.

NOTIFYING THE DISTRICT ATTORNEY'S OFFICE

The District Attorney's Office shall be notified via telephone immediately on all rapes:

- (a) When a report of rape is made within 24 hours of the occurrence of the event;
- (b) When the victim and perpetrator have no known prior relationship; or
- (c) When the safety of the victim or witness may be in jeopardy and relocation of the victim or witness may be necessary.

In all cases investigated by Sex Crimes, detectives shall forward a Major Offense Report Form (MORF) to the District Attorney's Office within 24 hours of an item number's issuance.

BEFORE AN INTERVIEW

Before beginning an interview, the detective should establish a supportive environment. The detective should work with a victim to:

- (a) Identify barriers by asking questions such as:
 - i. "Coming forward isn't easy. What are the main things concerning you?"; and
 - ii. "How can we help you get through this process?"
- (b) Identify and address personal needs whenever possible and give the victim as much control as possible over the location and timing of the interview;
- (c) Establish an understanding of the ground rules with other professionals, such as:
 - i. Who will be present?;
 - ii. What will the role of the victim advocate be?; and
 - iii. How will the victim advocate indicate concerns or interrupt the interview?
- (d) Secure a private location, acceptable to the victim, for the interview that is free from distractions. If possible, detectives should conduct interviews at the New Orleans Family Justice Center.

VICTIM INTERVIEWS

Sexual assault investigations typically include both a preliminary and follow-up, in-depth interview with the victim.

The detective may request, and the victim may choose, to volunteer general information about the incident, or the situation may require that the officer seek immediate information, before an advocate is available. However, the preferred response is to introduce an advocate to the victim as soon as possible and allow the victim to decide if an advocate should be present at the preliminary interview.

PRELIMINARY INTERVIEW

In the preliminary interview, the detective should establish the elements of the crime and identify all witnesses, suspects, evidence, and crime scenes.

The preliminary interview is intended to:

- (a) Identify and locate the suspect;
- (b) Establish jurisdiction;

- (c) Establish the elements of the crime;
- (d) Collect evidence;
- (e) Identify the need for additional resources;
- (f) Determine crime scene considerations, including perishable evidence and exigent circumstances;
- (g) Identify follow-up leads, including potential witnesses; and
- (h) Obtain contact information for the victim, including temporary accommodations and information about the victim's preferred means of communication with detectives.

At the conclusion of the preliminary interview, the detective should:

- (a) Explain the nature of the preliminary interview and the need for follow-up contacts;
- (b) Give the victim the Department's item number sheet (Form #26) with the contact information of the detective and Special Victims Section (SVS) Commander;
- (c) Inform the victim that a detective or supervisor will contact him or her to schedule a follow-up interview if needed;
- (d) Encourage the victim to contact the detective with any additional information or evidence;
- (e) Remind the victim that visible evidence of injury may appear later and to contact the detective for additional photographs or other documentation; and
- (f) Provide transportation if requested.

FOLLOW-UP INTERVIEW

When needed, an in-depth, follow-up interview should be conducted after the victim has been medically examined and treated, and the victim's personal needs have been met. When possible, detectives should wait one sleep cycle before performing the follow-up interview.

Prior to a follow-up interview, the detective should:

- (a) Interview agency personnel who responded to the scene, retrieve communications tapes and printouts, and review all related reports;
- (b) Coordinate with relevant agencies, assistance organizations, service providers, and sexual assault response professionals to address the needs of the victim and discuss the best means for keeping the victim informed;
- (c) Ask the victim if he/she would like an advocate present at the follow-up interview. If so, contact the NOFJC to schedule an advocate;
- (d) Secure a location that is convenient, accessible, and comfortable for the victim. The detective should provide or arrange transportation for the victim when requested. When possible and desired by the victim, conduct the follow-up interview at the New Orleans Family Justice center. When interviewing at the NOFJC, inform the NOFJC front desk that an interview has been scheduled and whether the victim is interested in receiving other services at that time; and
- (e) Arrange for equipment to record the interview, so the officer can focus on listening.

At the start of the follow-up interview, the detective should:

- (a) Discuss the purpose and scope of the follow-up interview;
- (b) Review contact information for both the victim and detective that may need to be updated;
- (c) Explain the victim's rights, including confidentiality;
- (d) Explain the need to tape record and/or videotape the interview and request the victim's consent. If the victim does not consent to be recorded, the detective shall note that refusal in CCMS; and

- (e) Explain the status of the case.

While conducting the follow-up interview, the detective should:

- (a) First allow the victim to describe what occurred without interruption, using the Forensic Experiential Trauma Interview techniques described below;
- (b) Confirm what he or she heard for accuracy, identify new information or developments, and ask clarifying questions;
- (c) Clarify any inconsistencies with earlier accounts of the sexual assault in a nonjudgmental manner;
- (d) Document:
 - i. The victim's actions in response to the attack;
 - ii. The victim's state of mind during the attack;
 - iii. Specific statements made by the perpetrator; and
 - iv. The nature of any relationship with the suspect;
- (e) Inquire about any circumstances that may indicate the use of drugs to facilitate the sexual assault (such as whether the victim experienced any loss of memory, disorientation, severe illness, or hallucinations);
- (f) Explain the importance of these questions and responses from the prosecutorial standpoint; and
- (g) Assist the victim in developing a plan if he or she has safety concerns, and encourage the victim to call police if the suspect violates any existing court orders or if the suspect contacts the victim or members of the victim's family.

CONDUCTING VICTIM INTERVIEWS

FACILITATING THE INTERVIEW

Because of the way the brain reacts during trauma, individuals do not record traumatic memories in the same way as non-traumatic memories. A person experiencing trauma may not be thinking logically, be able to recall the incident in a linear manner, be able to override emotional reflexes or habits, or control his/her attention. A successful interview technique will be based upon an understanding of how trauma affects the brain and will allow the victim to tell the story in his/her own words at his/her own pace.

FORENSIC EXPERIENTIAL TRAUMA INTERVIEW (FETI) TECHNIQUE

When conducting interviews, detectives should use the Forensic Experiential Trauma Interview technique, focusing on what victims are able to recall about traumatic memories. Generally, detectives should:

- (a) Use open-ended prompts and avoid interrupting;
- (b) Avoid asking sequential questions (e.g., "What happened next?");
- (c) Engage in active listening;
- (d) Ask for clarification when needed and take responsibility for getting the account right; and
- (e) Understand that a victim may have gaps in memory.

BEGINNING AN INTERVIEW

Detectives should start each victim interview by:

- (a) Expressing empathy;
- (b) Assuring the victim he/she will not be judged; and
- (c) Explaining the interview process and asking if the victim has any questions.

Detectives should be aware the victim does not have to answer any question. The detective may inform the victim that cooperation is essential for the investigation to achieve the correct outcome.

BEGIN WITH AN UNINTERRUPTED NARRATIVE

The detective should begin by allowing the victim to relate, in his/her own words and without interruption, what took place. Since the victim may not be able to recall the incident in an organized, linear way, detectives can use the phrase "What **are you able** to tell me about your experience?"

USE OPEN-ENDED FOLLOW-UP QUESTIONS

After the victim has provided an uninterrupted narrative, the detective should then follow up with clarifying, **open-ended** questions about what the victim **is able to remember** such as:

- (a) "Tell me more about..."
- (b) "What was your thought process during this experience?"
- (c) "What are you able to remember about..."
 - i. Victims who have experienced trauma may be better able to remember sensory details such as sight, sound, smell, touch, or taste.
 - ii. This phrase is preferable to questioning the victim as one might question a witness by asking "What happened first?"

CLARIFY AFTER THE VICTIM HAS FINISHED TALKING ABOUT THE EXPERIENCE

After the victim has been able to tell his/her narrative, the detective should attempt to clarify details of the experience through questions about what the victim is able to remember (rather than focusing on pieces the victim may not be able to remember). Clarifying questions may include:

- (a) "What were your reactions to this experience?"
- (b) "What was your reaction when. . .?"
- (c) "What was the most difficult part of this experience?"
- (d) "What, if anything, can't you forget about your experience?"

MAKE THE VICTIM COMFORTABLE THROUGHOUT THE INTERVIEW

Detectives should provide a comfortable environment throughout the interview. Detectives should:

- (a) Avoid touching the victim;
- (b) Monitor the victim's body language;
- (c) Offer breaks frequently;
- (d) Avoid victim-blaming questions;
- (e) Avoid using jargon or police, medical, or legal terms;
- (f) Conclude by asking the victim if there is anything he/she would like to add;
- (g) **Never** ask the victim if he/she wants the assailant prosecuted in the immediate aftermath of a sexual assault; and
- (h) **Never** ask the victim to submit to a lie-detector test.

INVESTIGATIVE STRATEGY

The detective should develop an investigative strategy based on the nature of the assault and the possible defenses available to the suspect (such as denial, mistaken identity, or consent). This strategy can guide interview questions and other evidence collection efforts. Critical evidence collection efforts include evaluating whether a pretext phone call is appropriate and re-photographing injuries to document changes in visible injuries.

KNOWLEDGE OF SEXUAL ASSAULT DEFENSE CLAIMS

Detectives should be familiar with common defenses to charges of sexual assault.

Non-Stranger Assault

The majority of non-stranger sexual assaults result in a "consent" defense.

Evidence of particular importance in a "consent" defense includes:

- (a) Evidence of physical or verbal resistance on the part of the victim.
- (b) Evidence of genital or non-genital injury.
- (c) A detailed account of the victim's thoughts and feelings during the assault.
- (d) Information regarding the suspect's size and strength in comparison to the victim's.
- (e) Information regarding the environment in which the assault took place (such as isolation or soundproofing).
- (f) Information regarding the victim's behavior after the assault, including common traumatic responses.
- (g) People the victim may have told about the assault.
- (h) Evidence that the perpetrator is a serial offender.

Stranger Assault

Evidence in stranger sexual assaults more often centers on a question of identification pending the processing of collected evidence such as biological evidence for DNA, latent fingerprints, lineups, and trace evidence. Therefore, investigative strategies must remain flexible.

IDENTIFY AND LOCATE WITNESSES AND SUSPECTS

Detectives should identify and interview any potential witnesses, bearing in mind that there may be multiple crime scenes. It is especially important that the detective identify and interview the first person the victim told about the sexual assault.

WITNESS INTERVIEWS

Detectives should interview any witness who might have seen or spoken with the victim before, during, or after the assault.

SUSPECT INTERVIEWS

Suspects should be interviewed only by the detective but can be detained by the responding officer.

PRETEXT PHONE CALLS

Pretext phone calls are an important investigative tool that detectives may consider using in all non-stranger sexual assault cases. Although some pretext phone calls result in an admission by the suspect, a suspect's lack of denial or partial admission can also support a detective's investigation. Involvement of a victim in a pretext phone call to the suspect should take into consideration the victim's emotional and physical state. Pretext phone calls should be conducted with a victim advocate present, unless a victim prefers that a victim advocate not be present or it is impossible to arrange for the presence of an advocate due to exigent circumstances.

EVIDENCE COLLECTION

Detectives should ensure that available evidence is collected, including but not limited to:

- (a) Clothing worn at the time of the assault and immediately afterward, especially the clothing worn closest to the genitals (such as undergarments, pants, and shorts). The detective should explain to the victim the benefits of preserving evidence by remaining in

- the clothes he or she wore during the assault. If the victim chooses to change clothes, the detective should place the clothes in separate paper bags to prevent cross-contamination and follow procedures regarding chain of custody for evidence;
- (b) Photographs of the victim's injuries if necessary, preferably by the SANE nurse;
 - (c) Photographs of the suspect's injuries if necessary; and
 - (d) Photographs of the crime scene prior to processing if necessary.

The detective should encourage the victim to contact the detective or the SANE nurse to take photos of injuries if they change over time. The detective can contact the SANE Program Director to arrange for follow-up photos.

Detectives should protect the integrity of evidence and request the assistance or direction of the Scientific Criminal Investigations Section (SCIS – Crime Lab) regarding the collection or preservation of evidence. Detectives should secure the crime scene to ensure that evidence is not lost, changed, or contaminated. In addition, detectives should follow these guidelines:

- (a) Use gloves whenever handling evidence and change gloves after every contact to prevent cross-contamination.
- (b) Evidence should be handled by as few people as possible.
- (c) The detective should encourage the victim not to change clothing, smoke, eat, drink, shower, urinate, or defecate by explaining that those activities could destroy evidence.
- (d) Detectives should carry receptacles for urine samples to be used when necessary.
- (e) If a drug-facilitated sexual assault is suspected, preserve drinks to allow the crime lab to test for the presence of drugs.

ALCOHOL/DRUG-FACILITATED SEXUAL ASSAULT CONSIDERATIONS

Whether ingested voluntarily or without the knowledge of the victim, if a drug-facilitated sexual assault is suspected, special attention should be given to collecting perishable evidence of drug and/or alcohol use by suspects or victims as soon as practical (i.e. urine samples or BAC readings) and alcohol use by witnesses (i.e. BAC readings) whenever possible.

Signs of drug-facilitated sexual assault include:

- (a) The victim reports being under the influence of a drug during the sexual assault;
- (b) The victim experiences vaginal soreness or other signs of sexual activities and cannot remember the entire incident;
- (c) The victim reports becoming heavily intoxicated very rapidly; and/or
- (d) The victim reports symptoms of amnesia.

FORENSIC EXAM

Detectives should explain the benefits of a medical examination to the victim and its importance to investigative and apprehension efforts as well as for the victim's well-being. Although important to the case, examinations are voluntary, and detectives should not coerce victims to go to the hospital or to provide samples for drug screening.

The detective should:

- (a) Ask the victim whether there is anyone who should be called or notified and facilitate this contact;
- (b) Address any special needs of the victim, such as communication or mobility, and notify the victim advocate of the special need;
- (c) Inform the victim of the right to decline any or all parts of the examination;
- (d) Inform the victim that he/she will not be charged for a forensic exam;

- (e) Transport the victim to the University Medical Center if a forensic examination is warranted and the victim consents;
- (f) Advise the victim that the forensic examiner may collect clothing worn during or immediately after the sexual assault;
- (g) Inform the victim that clothing will be provided after the examination if necessary but that he/she may bring personal clothing if preferred;
- (h) If drug-facilitated sexual assault is suspected, transport the victim as soon as possible to University Medical Center for a forensic exam and treatment. If transport is not possible, or if the victim declines a forensic exam, seek permission from the victim to collect a urine sample for drug screening; and
- (i) Encourage a victim who is unwilling to undergo a forensic exam to get medical attention as soon as possible, including testing for pregnancy and sexually transmitted diseases.

COORDINATION WITH FORENSIC EXAMINER

When a victim decides to undergo a forensic examination, the detective should brief the examining nurse or physician about the details of the sexual assault to facilitate the collection of evidence.

Detectives need not be present in the examining room because the forensic examiner will testify about collection of evidence and the chain of custody.

The detective should obtain a copy of the forensic exam report from the SANE nurse and include it in the case file.

PROTOCOL FOR SUSPECT EXAMINATION

This protocol is an exception to the body cavity searches section of **Chapter 1.2.4 – Search and Seizure**.

Immediately after the preliminary suspect interview, the detective should determine whether a forensic sexual assault examination of the suspect should be conducted. Factors to consider in that decision include:

- (a) The length of time since the assault occurred;
- (b) The nature of the assault;
- (c) Whether the victim believes he or she injured/marked the suspect;
- (d) The likelihood that cells, fluid, or other types of biological or trace evidence were transferred from the victim to the suspect; and
- (e) Unusual or highly distinctive physical characteristics of the suspect's body that are normally not visible due to clothing.

Detectives must obtain a search warrant prior to conducting the exam. Detectives should keep in mind that the items or evidence explicitly identified on the search warrant are the only items or samples that can be obtained during the suspect's examination, including photographs of the suspect's body. The detective should clearly articulate the type and number of samples needed that can be supported by the probable cause alleged in the search warrant application.

Detectives shall conduct the exam with a supervisor present in a private room that cannot be viewed from the outside. The detective and supervisor present shall be of the same sex of the suspect (Refer to **Chapter 41.14 –Discriminatory and Bias-Based Policing, LGBT Community** for transgendered searches). The detective shall first explain what will be taking place, advise the suspect that the exam is pursuant to a signed search warrant, and offer the suspect the opportunity

to cooperate and voluntarily swab the necessary areas of the body. If the suspect refuses, the detective shall consult with the supervisor present as to the method to be used, the number of additional detectives or officers required, and the amount of force to be used to execute the actions that are necessary and reasonable to recover the evidence.

If detectives collect clothing or footwear as evidence, they will provide the suspect with replacement clothing or footwear. All evidence collection procedures to prevent cross-contamination or spoilage of evidence shall be followed. Each recovered item shall be packaged and tagged immediately.

While executing the search warrant and conducting the forensic sexual assault exam, the detective shall document all evidence and take photographs as necessary.

The detective shall document any spontaneous statements made by the suspect during the exam.

It is critically important to note that the victim's and suspect's examinations must take place in different locations. It is important that every effort be made to avoid cross-contamination of evidence from the victim and suspect.

STORING EVIDENCE

The sexual assault kit (SAK) should not be accepted from the medical staff until it has been properly sealed and labeled. The detective should transport the kit directly to Central Evidence and Property, and it should be stored according to the Louisiana State Crime Lab's recommended practices.

The Investigation and Support Bureau (ISB) shall track evidence that has been submitted to the Louisiana State Police for testing.

The decision not to submit evidence for testing shall be documented in a supplemental report.

DOCUMENTATION

Detectives shall submit an incident report in EPR which protects the confidentiality of the victim to the maximum extent possible per **Chapter 42.2 – Sexual Assault**.

Detectives shall provide an overview of the investigation in the gist section of CCMS to produce the Major Offense Reporting Form.

Detectives shall document every investigation of a reported sexual assault by completing a supplemental report. The detective should compile the Major Crime Scene Officer Statements completed by other responding officers.

Detectives will utilize the Supplemental Report Form to document any information obtained during the investigation, including all contact with the victim. Detectives shall use the SVS Investigative Case File Index, located in the resources folder on n opd.org, to ensure that they have performed a complete investigation.

Detectives should, as accurately as possible, use the victim's own words in written reports and utilize quotation marks for exact quotations. Be careful not to substitute language inadvertently suggesting consent for the victim's own description. For example, avoid writing that the suspect and victim "had intercourse" when the victim claims that he or she was raped.

Detectives shall document every contact with the victim in the work log section of CCMS.

CASE FILE

The entirety of the case file on all cases investigated by the Sex Crimes Unit shall be submitted to the District Attorney's Office within 20 calendar days of the arrest of the perpetrator. In sexual abuse cases with victims under the age of 18, detectives shall submit the case file to the District Attorney's Office within 20 days of receiving the allegation of sexual abuse. This case file shall include, but is not limited to the following:

- (a) Incident recall and 911 audio recording;
- (b) Incident report (EPR);
- (c) Major Crime Scene Officer Statements;
- (d) All related supplemental police reports;
- (e) All photographs related to the case;
- (f) Medical and/or SANE reports;
- (g) EMS run sheets;
- (h) All victim and witness interviews (video, audio, or transcribed);
- (i) Perpetrator statements (video, audio, or transcribed);
- (j) All surveillance video;
- (k) All body camera video applicable to the case;
- (l) All crime scene tech reports;
- (m) All crime lab submittal forms;
- (n) All crime lab reports;
- (o) Central Evidence and Property receipts;
- (p) All search warrants, including application, order, and return;
- (q) Arrest warrants applicable to the case;
- (r) All electronic evidence;
- (s) All composite sketches applicable to the case; and
- (t) All Crimestoppers tips applicable to the case.

The supplemental report shall detail any pending investigation. Once the pending investigation has been completed, an additional supplemental report shall be submitted.

Detectives shall utilize the SVS Investigative Case File Index, located in the resources folder on n opd.org, to ensure complete case files.

CASE SIGNAL

Detectives shall document in a supplemental report any decision to classify a reported sexual assault as a Signal 21 (miscellaneous complaint). A Sex Crimes Unit supervisor **and** the Criminal Investigations Division (CID) Commander **must approve this decision in writing**.

To change the signal from a sexual assault to any other criminal signal, the detective must:

- (a) Mark up the original signal as unfounded;
 - i. If the original signal is a 42 or 43, the detective shall change the original signal to 42-U or 43-U (unfounded).
- (b) Generate a new item number with the new signal;
- (c) Receive written authorization for the signal change from a Sex Crimes Unit supervisor and the Special Victims Section Commander.

UNREPORTED KITS

Unreported SAKs (SAKs for which no report of an incident has been made by a victim) that have been collected shall be reported and classified as a Signal 24-K, and an incident report (EPR) shall be written documenting the collection of evidence.

Signal 24-K shall be used only for unreported kits.

CASE STATUS

Detectives should utilize the following case statuses:

- (a) Open
- (b) Cleared by arrest
- (c) Cleared by warrant
- (d) Cleared by exception: No formal charges are issued due to elements beyond law enforcement control (i.e. death of offender, prosecutor declines to take the case after an offender has been identified, offender is arrested but will be prosecuted in a different jurisdiction). To be cleared by exception, NOPD must have:
 - i. Identified the offender.
 - ii. Gathered enough evidence to support an arrest on a sexual assault charge and turned over the offender to the court for prosecution.
 - iii. Identified the offender's location so that the suspect could be taken into custody.
 - iv. Encountered a circumstance outside the control of law enforcement that prohibits the agency from arresting, charging, and prosecuting the offender.
- (e) Unfounded: False or baseless complaint.
 - i. Unfounded, false: Evidence obtained through an investigation shows that a crime was not committed or attempted.
 - ii. Unfounded, baseless: A case does not possess all necessary elements of the crime or was improperly classified as a sexual assault.

A Sex Crimes Unit supervisor and the Special Victims Section Commander should closely review and approve in writing any decision to classify a report as "unfounded."

Detectives must file a supplemental report for all unfounded cases to explain the disposition decision.

A Sex Crimes Unit supervisor and the Special Victims Section Commander shall review all dispositions of cleared by exception.

CODIS HITS

In all cases wherein a Combined DNA Index System (CODIS) Match Notification is received from the Louisiana State Police Crime Laboratory regarding a sex crime, the Sex Crimes Unit shall:

- a) Attempt to locate and conduct substantive interviews with all relevant victims and witnesses;
- b) Apply for a search warrant for the buccal swab of the potential perpetrator; and
- c) Submit to the District Attorney's Office the entirety of the case file including any Supplemental Reports relative to the receipt of any DNA confirmation.

Sex Crimes shall track all CODIS hits in the CODIS Hit Outcome Program (CHOPs).

PROCEEDING WITHOUT THE VICTIM'S INVOLVEMENT

Detectives shall respect a victim's inability or decision not to be involved in criminal justice proceedings and always be willing to offer continued assistance and referrals.

The decision whether or not to proceed with the investigation shall be made by a Sex Crimes Unit supervisor after consultation with a victim advocate or social worker who has spoken or attempted to speak with the victim. This decision shall be documented in writing in the case file.

CASE SUMMARY MEETINGS

When a detective has exhausted all available leads and still does not have sufficient information to establish probable cause, the detective shall conduct a case summary meeting with the victim. At the case summary meeting, the detective shall:

- (a) Meet in person with the victim if possible;
- (b) Summarize the investigation;
- (c) Provide the contact information of the cold case detective to the victim as the new primary contact;
- (d) Document the victim's contact preferences and information on the Victim Contact Form (Form # 347) and store this form in the case file; and
- (e) Document the occurrence of the case summary meeting in the work log section of CCMS.

COLD CASE

A cold case is any investigation that is not active and has remained unsolved for over a year since the date of report. Cold cases will be handled by a cold case detective unless the SVS Commander decides that the original detective or another detective should handle the case. Before deeming the investigation a cold case, the original detective shall conduct a Case Summary Meeting.

When new developments prompt a re-examination of a cold case, a Sex Crime Unit supervisor shall determine if the investigation shall remain with the cold case detective or be reassigned to the original detective. If the original detective is no longer with Sex Crimes or otherwise unavailable, the Sex Crimes supervisor shall determine if the investigation shall remain with the cold case detective or be reassigned to a new detective.

CONTACTING COLD CASE VICTIMS

If the status of a cold case changes, the detective shall attempt to contact the victim in person or over the phone in a timely manner unless the victim previously requested to not be contacted further about the investigation or contacting the victim could harm the investigation. All attempts and contacts shall be documented in the work log section of CCMS.

CONTACTING COLD CASE VICTIMS THROUGH SOCIAL MEDIA

If a victim cannot be reached over the phone or in person, the detective may contact the victim through a private social media message sent from an NOPD social media account. An officer shall not contact a victim via a private social media or e-mail account.

Detectives shall not disclose confidential information or the nature of the investigation through social media.

When contacting victims through social media, detectives should:

- a) Introduce him/herself.
- b) Inform the victim that this contact is not an emergency.
- c) Explain why the contact is being made without compromising the confidentiality of the case.
- d) Request an alternative, safe way to contact the victim in the future.

FALSE REPORTS

In the event that the detective has found evidence establishing probable cause that a false report has been made, the SVS Commander and the CID Commander will determine whether an arrest should be made.

SEX CRIMES SUPERVISORS

Sex Crimes supervisors shall:

- (a) Set clear expectations for the treatment of victims;
- (b) Respond to the scene to assist detectives on all felony sexual assault investigations;
- (c) Closely review investigative reports and case dispositions;
- (d) Ensure thorough, timely investigations and document supervision on the SVS Investigative Case File Index;
- (e) Review all dispositions of "cleared by exception";
- (f) Review all dispositions of "unfounded" with the SVS Commander;
- (g) Ensure detectives follow up on all CODIS hits;
- (h) Build relationships and enhance cooperation with victim advocates and forensic examination programs to respond to and reduce the risk of sexual assault;
- (i) Seek and create opportunities for ongoing training to improve the skills needed to properly respond to and investigate sexual assault;
- (j) Provide feedback based on the NOFJC's anonymous, aggregated victim surveys;
- (k) Incorporate victim interactions and services into member performance evaluations; and
- (l) Recognize and reward officers for rendering effective victim services.

SVS COMMANDER

The SVS Commander and the CID Commander must both sign to indicate approval on the SVS Investigative Case File Index for each case.

This oversight shall emphasize proper investigation and documentation to accurately charge a case. In addition to the responsibility of supervising Sex Crimes detectives, the SVS Commander also shall assist platoon supervisors in maintaining the quality of platoon officer reports and help promote and maintain connections between the Department and responsible agencies.

The SVS Commander should demonstrate a detailed understanding of victim issues and proper response by detectives and responding officers.

The SVS Commander, in conjunction with a supervisor in the Sex Crimes Unit, shall closely review and approve in writing any decision to classify a report as "unfounded."

The SVS Commander shall provide the Superintendent of Police with a summary report of all "unfounded" cases on a semi-annual basis.

CASE ASSIGNMENT

The SVS Commander shall promptly review every report of sexual assault and assign cases to detectives. Cases with the following factors will receive the highest priority in case assignment:

- (a) An imminent time deadline before which the suspect must be charged or released (701 release);
- (b) Significant injury or impairment of the victim;
- (c) A weapon is involved;
- (d) Allegations of witness tampering, strangulation, or stalking behavior; and/or
- (e) A victim expresses a fear or risk of imminent bodily harm by the perpetrator.

DETECTIVE OVERSIGHT

The SVS Commander shall:

- (a) Ensure and document that every Sex Crimes detective is familiar with the Department's policies, Sex Crimes Unit Standard Operating Guidelines and monitor compliance with policies, including the Child Abuse Unit Standard Operating Guidelines;
- (b) Respond to the scene when required or requested;
- (c) Monitor investigative files to determine if all necessary actions were taken in the investigation and direct any necessary follow-up;
- (d) Ensure thorough, timely investigations and document supervision on the SVS Investigative Case File Index;
- (e) Return unsatisfactory investigation files to the detective with specific instructions on actions to take;
- (f) Provide consultation on cases as needed and monitor investigations to determine if additional training may be necessary. If additional training is warranted, the SVS Commander shall direct the detective to appropriate training and monitor the detectives' investigations to determine the effectiveness of their training;
- (g) Review at least one taped interview with a victim for each detective each month for consistency with Department standards for engaging with victims, using the Interview Skills Evaluation, located under resources on nopd.org, to document the review.

TRAINING & POLICY MAINTENANCE

The SVS Commander shall review the Department's sexual assault policies and procedures with new detectives assigned to the unit within 30 days of their assignment and prior to their handling of any cases.

The SVS Commander shall provide Sex Crimes detectives initial training of no fewer than 32 hours and ongoing annual in-service training. This training shall include realistic dynamics of sexual assault, including issues related to response to trauma and delayed reporting; overcoming the perception of false/unfounded allegations to successfully investigate non-stranger sexual assault; drug and alcohol facilitated sexual assault; skills-based training on interviewing, including taped mock victim interviews; sexual assault report writing; discovery, collection, preservation, and submission of evidence; and other related topics. The SVS Commander shall be responsible for identifying any additional training needs that will improve the performance of the detectives.

The SVS Commander shall update **Chapter 42.2 – Sexual Assault** and the Sex Crimes Unit Standard Operating Guidelines annually to reflect changes in policy, law, and best practices.

VICTIM ENGAGEMENT

The SVS Commander shall meet regularly with the District Attorney's Victim Witness to ensure that victims are receiving follow-up contact and that any additional information gathered by victim witness advocates is communicated to NOPD as necessary.

LIAISON TO DISTRICT ATTORNEY'S OFFICE & NEW ORLEANS FAMILY JUSTICE CENTER

The SVS Commander shall:

- (a) Meet as needed with representatives from the District Attorney's office to discuss and review problematic cases;
- (b) Work to increase interagency communication between law enforcement and prosecutors to ease the transition for victims moving from the investigation phase to prosecution;
- (c) Coordinate with the New Orleans Family Justice Center in handling sexual assault cases in New Orleans; and
- (d) Participate in Sexual Assault Response Team (SART) meetings to help maintain a coordinated and victim-centered approach to sexual violence.

CID COMMANDER

The SVS Commander and the CID Commander must both sign to indicate approval on the SVS Investigative Case File Index for each case.

The CID Commander, in conjunction with a Sex Crimes Unit supervisor, **must approve in writing** any decision by a detective to classify a reported sexual assault as a Signal 21 (miscellaneous complaint).

The CID Commander, with the SVS Commander, will determine whether filing a false police report should result in an arrest.

CASE TRACKING

Sex Crimes Unit supervisors shall utilize a case-tracking database to ensure thorough and timely investigations.

This system shall separately track all reports of sexual assault, including drug-facilitated sexual assault, sexual assaults involving persons with disabilities rendering them unable to consent, sodomy, and male victims of sexual assault.

This system shall also track the final disposition of sexual assault investigations, including whether an arrest was made and whether the DA charged the suspect or rejected the case and, if so, the reason for the rejection if the DA provides a reason.

An ISB member not assigned to SVS, and appointed by the Deputy Chief of ISB, shall perform a quarterly review of every case to ensure the accuracy of the information in the tracking system.

The Compliance Bureau shall monitor and audit the tracking system as necessary.

STAFFING

When possible, NOPD should staff Sex Crimes with sufficient detectives to limit the workload to 26 cases per detective per year.

NOPD should refrain from pulling Sex Crimes detectives for special events when possible.

SEXUAL ASSAULT RESPONSE TEAM & CASE REVIEW

The NOPD shall participate in monthly SART meetings to provide a coordinated, victim-centered approach to sexual assault.

In addition, NOPD will perform case reviews with the SART Case Review Committee on an at least semi-annual basis. The SART Case Review Committee shall be composed of rape crisis advocates, service providers, and/or legal providers selected by the SART and NOFJC in collaboration with NOPD. Participation in the Committee will be formalized in a cooperative endeavor agreement (CEA).

The SART Case Review Committee shall review:

- (a) Sexual assault investigations disposed of as "unfounded";
- (b) A random sample of open sexual assault investigations with victim information redacted with the approval of the DA; and
- (c) Reported sexual assaults placed in a miscellaneous or non-criminal category.

This Committee may offer written recommendations on policies, general training, remedial training for specific officers or detectives, as well as recommendations to re-examine and re-open investigations, if warranted, and with the approval of the DA. The ISB Chief shall respond in writing within 30 days of receiving these recommendations outlining its decision on how to proceed.

This process shall include appropriate safeguards to protect ongoing criminal or administrative investigations, confidential or privileged information, and personal information that is protected from disclosure by applicable laws.