

# Sexual Assault Investigations

## 701.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the investigation of sexual assaults ([Utah Code 53-24-101](#)).

### 701.1.1 DEFINITIONS

Definitions related to this policy include:

**Examiner** - The health care provider conducting the sexual assault medical forensic examination. Also known as Sexual Assault Nurse Examiners (SANE), Sexual Assault Forensic Examiners (SAFE), and Forensic Nurse Examiners (FNE).

**Restricted Sexual Assault Kit** - A sexual assault kit collected from a victim who is at least 18 years old and, at the time of collection, declines to have the kit processed or to have the examination form shared with any entity outside of the collection facility ([Utah Code 53-10-902](#)).

**Sexual Assault** - Any crime or attempted crime of a sexual nature, including but not limited to offenses defined in [Utah Code, Title 76, Chapter 5, Part 4](#) (Sexual Offenses).

**Sexual Assault Kit** - A package of items that is used by medical personnel to gather and preserve biological and physical evidence following an allegation of sexual assault ([Utah Code 53-10-902](#)).

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

**Trauma-Informed Victim Interview (TIVI)** - An interview conducted by a qualified investigator following the principles of the neurobiology of trauma. This interview technique allows the victim to provide as much information about the crime as possible according to their ability to do so. This interview technique maximizes the qualified investigator's ability to obtain corroborating information or evidence while minimizing the possibility of further victim traumatization. The interview also allows the victim to ask questions, express concerns, and become informed as to the next steps in the investigation and their role in the investigative process.

**Victim Advocate** - This generic term may apply to a wide range of service providers, rape crisis counselors, social workers, or departmental crime victim advocates. Depending on the primary functions of these different advocates, the levels of confidentiality and privilege they have will vary and should, therefore, always be understood by each member of the Sexual Assault Response Team and communicated to the victim.

## 701.2 POLICY

It is the policy of the University of Utah Department of Public Safety that its members when responding to reports of sexual assaults will prioritize victims' health and safety while striving to

minimize the trauma experienced by victims through the use of trauma-informed methods. The Department will aggressively investigate sexual assaults and pursue expeditious apprehensions and convictions of perpetrators, while respecting victims' preferences regarding investigations.

### **701.3 QUALIFIED INVESTIGATORS**

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

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

### **701.4 REPORTING**

In all reported or suspected cases of sexual assault, a report shall be written and assigned for follow-up investigation. Initial officers and qualified investigators will treat each report as factual. No opinion of whether the case is unfounded should be included in a report.

### **701.5 DELAYED REPORTS**

Delayed victim reporting is common in sexual assault cases due to the trauma and fear experienced by victims of sexual assault and shall not deter a thorough investigation. Officers and qualified investigators shall inquire about and document the reasons for a delayed report while avoiding questions that could be perceived as judgmental or accusatory.

### **701.6 PROCEDURES**

#### **701.6.1 INITIAL OFFICER RESPONSE**

Upon notification of a crime of a sexual nature, the initial officer should respond as soon as possible to the victim's location to contact the victim, address safety concerns, and summon emergency medical assistance if needed. If emergency medical assistance is unnecessary, the initial officer should ensure that the victim receives any other necessary medical care.

In conducting the initial investigation, the initial officer should attempt to determine the location and time of occurrence, type of sexual assault, and victim contact information including alternative contact information such as family members or close friends. Contact information of witnesses, if any, and suspect(s) information. Any interview conducted by the initial officer with the victim

should be limited in scope to these essential factors. A detailed, trauma-informed interview will be conducted with the victim by a qualified investigator at a later time.

The initial officer shall conduct themselves in a manner that establishes trust and rapport with the victim. Patience, understanding, and respect for the victim's dignity shall always be expressed. Officers should understand that their conduct during the initial investigation may serve to increase or decrease a victim's willingness to disclose important case facts and participate in the investigation.

The use of alcohol or drugs by a victim, including the use of alcohol under 21 years old, shall not be a reason to discourage a victim from reporting a sexual assault or be considered by members to evaluate a victim's credibility.

### **701.6.2 EVIDENCE COLLECTION CONSIDERATIONS**

Responding officers shall protect the integrity of evidence and the chain of custody by properly collecting, marking, packaging, and labeling all evidence collected.

Document the victim's and suspect's injuries, including photographs. In cases where a SANE exam is conducted, the SANE nurse will document the victim's injuries during the exam. On-scene photographs should also be taken as appropriate.

When an investigating officer suspects that a sexual assault may have been facilitated with drugs or alcohol, the officer should determine the time of the incident as soon as possible to make decisions regarding the collection of biological samples by a forensic nurse.

Officers shall introduce the need for a medical examination to the victim, explaining its importance relative to the victim's wellbeing and to the investigation. Officers shall not coerce victims into receiving a SANE exam or providing samples for drug screening.

DNA evidence plays a crucial role in sexual assault investigations. Officers and qualified investigators will collect DNA evidence and submit for testing as appropriate.

### **701.6.3 DOCUMENTATION**

Any officer or qualified investigator who participates in a sexual assault investigation shall write a report detailing the actions taken.

Documentation shall be completed and entered into the official case file promptly to ensure all documentation is completed in a manner contemporaneous to the activity being documented and in sufficient detail to document the the investigative activity thoroughly. All recordings shall also be promptly included in the case file.

### **701.7 VICTIM ADVOCATES**

Victim advocacy services shall be offered to victims of sexual assault as early in the investigative process as possible (See Victim and Witness Assistance Policy). If a victim declines victim advocacy services, the victim shall be informed of applicable victim's rights provisions and sexual assault resources as outlined in the Victim and Witness Assistance Policy.

### **701.8 TRAUMA INFORMED VICTIM INTERVIEW (TIVI) PROTOCOL**

Victims of sexual violence may be unwilling or unable to assist in an investigation due to the physiological effects of trauma or other factors. Officers and qualified investigators play a significant role in both the victim's willingness to cooperate in the investigation and ability to cope with the emotional and psychological effects of sexual violence. Consequently, these cases must be handled from a non-judgmental perspective with an understanding of the human body's neurobiological response to trauma. For this reason, sexual offense-related investigations conducted by members of the Department will be conducted in a manner consistent with trauma-informed methods.

Because individual responses to trauma vary significantly from person to person, the response to the trauma of a sexual assault shall not be used in any way by officers or qualified investigators to evaluate the credibility of a victim. Officers and qualified investigators should recognize that a victim who has experienced a traumatic event may have limited recollection or be unable to give a complete account of the crime, including the fact that not knowing the details of what happened may exacerbate the trauma experienced by the victim.

### **701.9 VICTIM INTERVIEWS**

The primary considerations in sexual assault investigations should be the health and safety of the victim, the preservation of evidence, preliminary interviews, and an attempt to identify the suspect.

Whenever possible, a member of the SART should be included in the initial victim interviews.

An in-depth follow-up interview should not be conducted until after the medical and forensic examinations are completed, and the personal needs of the victim have been met. The follow-up interview should be conducted as soon as possible and in accordance with trauma-informed methods.

Officers and qualified investigators are prohibited from asking a victim to submit to a polygraph or other truth-telling device examination (34 USC § 10451).

#### **701.9.1 INTERVIEWS OF JUVENILES IN STATE CUSTODY**

Officers should not interview a child in the custody of the Utah Division of Child and Family Services (DCFS) without the consent of the child's guardian ad litem. If a guardian ad litem has not been appointed, consent may be given by DCFS ([Utah Code 80-2-705](#)).

#### **701.9.2 ADDITIONAL CONSIDERATIONS**

Throughout the investigation, officers shall protect the confidentiality of the victim's information to the maximum extent possible by law and policy.

In addition, victims shall be provided information as follows:

- (a) An explanation of contacting police if the victim is harassed or intimidated by the suspect.

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- (b) As appropriate, the victim should be advised of the possibility of media coverage as well as information the media and public have access to regarding sexual assault crimes.

### **701.10 DECISIONS OF ARREST AND PROSECUTION**

In the immediate aftermath of a sexual assault, a victim shall not be expected nor encouraged to make decisions regarding the investigation or criminal charges related to the sexual offense.

### **701.11 MEMBER RESPONSIBILITIES**

Upon written request from the victim or their designee, an officer or qualified investigator receiving a report or investigating an alleged sexual assault shall inform the victim or their designee of the following ([Utah Code 77-37-3](#)):

- (a) That the victim has the right to request a test for the HIV infection.
- (b) Whether a DNA profile was obtained from the forensic medical exam or other evidence in their case.
- (c) Whether that DNA profile was entered into the Utah Combined DNA Index System (CODIS).
- (d) Whether there is a match between that DNA profile or other crime scene evidence and a DNA profile in the Utah CODIS unless such notice would impede or compromise an ongoing investigation.
- (e) The victim has a right to designate a person to act as a recipient of the above information.

### **701.12 NOTIFICATION UPON ARREST OR ISSUANCE OF A CITATION**

When an officer arrests or issues a citation to someone 18 years or older for a qualifying sexual offense, the officer shall provide the individual with the written notice required by [Utah Code 78B-7-802](#). Victims shall be provided information in accordance with the Victim and Witness Assistance Policy.

### **701.13 FORENSIC MEDICAL EXAMINATIONS**

Officers and qualified investigators shall be familiar with the process related to the administration of sexual assault medical examinations in Salt Lake County. Victim-centered care is most important during the medical examinations of victims of sexual assault. A timely medical examination increases the likelihood that injuries will be documented and evidence collected to aid in the investigation and prosecution of sex offenders. The medical examination also addresses other needs related to the overall well-being of a victim of sexual assault. Evidence may potentially be collected as long as 144 hours after the sexual assault. In some circumstances, it may even be possible to gather evidence beyond 144 hours after the sexual assault. Thus, officers and qualified investigators will consult with medical examiners regarding forensic medical examinations related to specific cases.

### **701.14 RESTRICTED SEXUAL ASSAULT KIT**

A restricted sexual assault kit is a kit collected from a victim who is at least 18 years old, and at the time of collection, declines to have the kit processed or to have the examination form shared with any entity outside of the collection facility. Restricted sexual assault kits will be processed by the requirements of [Utah Code 53-10-904](#).

### **701.15 COLLECTION AND TESTING OF BIOLOGICAL EVIDENCE**

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

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

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

Subject to the requirements outlined in this policy, biological evidence from all sexual assault cases, including cases where the victim knows the suspect, should be submitted for testing.

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

#### **701.15.1 COLLECTION AND TESTING REQUIREMENTS**

Officer and qualified investigators investigating sexual assaults or handling related evidence are required to:

- (a) Notify the victim or the victim's designee if evidence will not be analyzed in a case involving an unknown perpetrator ([Utah Code 77-37-3](#)).
- (b) Take possession of sexual assault kits within one business day after receiving notice from a collecting facility ([Utah Code 53-10-904](#); [Utah Code 53-10-907](#)).
  1. The member taking possession of the kit should ensure that the required information is entered into the statewide sexual assault kit tracking system within five days of receiving the kit from a collection facility.
- (c) Transfer the kit to the appropriate law enforcement agency within ten days in cases where the incident occurred in another jurisdiction ([Utah Code 53-10-904](#)).
- (d) Submit the kit to the Utah Bureau of Forensic Services within 30 days of obtaining possession, except for cases involving restricted kits ([Utah Code 53-10-904](#)).
  1. If available, a suspect standard or a consensual partner elimination standard shall be submitted with the sexual assault kit.
  2. If not obtained until later, the standards shall be submitted as soon as possible but no later than 30 days after the Division obtained possession of the kit.
  3. If the victim informs the University of Utah Department of Public Safety that the victim wants to have the kit processed and agrees to release the sexual assault

examination form with the kit, the kit may no longer be classified as restricted and shall be submitted to the Utah Bureau of Forensic Services as soon as possible, but no later than 30 days after the victim chooses to unrestrict the kit ([Utah Code 53-10-904](#)).

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

### **701.15.2 DNA TEST RESULTS**

Officers and qualified investigators investigating sexual assault cases should ensure that a victim or their designee is notified of any DNA test results as soon as reasonably practicable ([Utah Code 77-37-3](#)).

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

Officers and qualified investigators investigating sexual assaults cases should ensure that DNA results are entered into databases when appropriate and as soon as practicable.

### **701.16 DISPOSITION OF CASES**

If the assigned qualified investigator has reason to believe the case is without merit, the case may be classified as unfounded only upon review and approval of the Investigations Lieutenant, and in consultation with a prosecutor.

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

### **701.17 CASE REVIEW**

The Investigations Lieutenant should ensure sexual assault cases are reviewed periodically using an identified group that is independent of the investigation process. The reviews should include an analysis of the Department's overall response to reports of sexual assaults.

The SART and victim advocates should be considered for involvement in this audit. An annual summary report of these reviews should be forwarded to the Chief Safety Officer through the chain of command.

### **701.18 JEANNE CLERY CAMPUS SECURITY ACT**

Certain sexual assaults reported to the Department may be subject to specific reporting requirements or disclosures under federal law (Jeanne Clery Disclosure of Campus Security Policy and Crime Statistics Act ([20 U.S.C. 1092\(f\)](#)). A qualified investigator or victim advocate shall inform the victim of a sexual assault whenever a reported sexual assault requires reporting or disclosure as required by federal law and the Department's Jeanne Clery Campus Security Act Policy.

### **701.19 RELEASING INFORMATION TO THE PUBLIC**

In cases where the perpetrator is not known to the victim, and especially if there are multiple crimes where more than one appears to be related, consideration should be given to releasing information to the public whenever there is a reasonable likelihood that doing so may result in developing helpful investigative leads. The Investigations Lieutenant should weigh the risk of alerting the suspect to the investigation with the need to protect the victim(s) and the public, and to prevent more crimes.

### **701.20 TRAINING**

Subject to available resources, periodic training should be provided to:

- (a) Members who are first responders. Training should include:
  - (a) Initial response to sexual assaults.
  - (b) Trauma-informed methods.
  - (c) Legal issues.
  - (d) Victim advocacy.
  - (e) Victim's response to trauma.
- (b) Qualified investigators should receive advanced training on additional topics. Advanced training should include:
  - (a) Interviewing sexual assault victims.
  - (b) Trauma-informed methods.
  - (c) SART.
  - (d) Medical and legal aspects of sexual assault investigations.
  - (e) Serial crimes investigations.
  - (f) Use of community and other federal and state investigative resources, such as the Violent Criminal Apprehension Program (ViCAP).
  - (g) Techniques for communicating with victims to minimize trauma.

### **701.21 PUBLIC ACCESS**

This policy shall be published for public access on the Department's website ([Utah Code 53-24-101](#)).