

**Model Guidelines and Sex Crimes  
Investigation Manual  
for Illinois Law Enforcement**

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**Illinois Law Enforcement Training and Standards Board  
Thomas J. Jurkanin, Executive Director**



# **Model Guidelines and Sex Crimes Investigation Manual**

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Jackson County State's Attorney's Office

Judge Jeanne E. Scott  
Seventh Judicial Circuit, Sangamon County

**Staff:**

Mary L. Boland

Lisa C. Smith

Polly Poskin

Illinois Coalition Against Sexual Assault

## **History and Acknowledgments**

### **History**

In July 1993, the Illinois Law Enforcement Training and Standards Board (ILETSB) contracted with the Illinois Coalition Against Sexual Assault (ICASA) to develop model guidelines for the investigation of adult sexual assault cases. In addition to the guidelines, a procedures manual for law enforcement officers investigating sexual assault cases would be developed. ICASA and ILETSB selected an Advisory Board for the project. The Advisory Board consisted of representatives of law enforcement, victim advocates, prosecutors and judges. The Advisory Board met regularly for one year providing recommendations, insight and review.

Project staff studied many law enforcement sexual assault protocols from throughout the United States. Two hundred and fifty seven Illinois law enforcement agencies answered a questionnaire requesting detailed information on the handling of sexual assault cases. Over 200 officers attended law enforcement focus groups about how to best respond to the crime of sexual assault. Additionally, focus groups of victim advocates contributed helpful information for completion of the guidelines and the Sex Crimes Investigation Manual (SCRIM).

### **Acknowledgments**

The Advisory Board and project staff wish to thank and acknowledge several individuals who assisted with the completion of this project. Kathi Newell and Maria Keene, ICASA Staff, arranged meetings of the Advisory Board, the law enforcement focus groups which were conducted in nine Illinois cities and the victim advocate focus groups which took place in six Illinois communities. Chiefs of police, officers and sexual assault crisis center personnel helped coordinate and facilitate the many focus groups.

Kathi and Maria revised drafts of the manual. Carol Corgan and Gina McClard made final edits to the manual and Yvonne Bronke typed the last draft which was submitted for publication in October, 1995.

Special thanks to those who gave additional consultation and shared their expertise about the response to the crime of sexual assault: Rodney Anderson, Illinois State Crime Lab, Broadview; Tommy Martin, Illinois State Police, Bureau of Crime Scene Services; Phil Sallee, Illinois State Crime Lab, Springfield; Dean Kennedy, Illinois State Police, Bureau of Crime Scene Services; and Portia Wallace, Investigator, Lake County Sheriff's Department.

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## Purpose of this Document

This document contains three primary sections:

1. Section One: **Overview of Sexual Victimization**
2. Section Two: **Model Guidelines for Illinois Law Enforcement Agencies Responding to the Sexual Assault of Adult Victims**
3. Section Three: **Sex Crimes Investigations Manual for Illinois Law Enforcement**

The Appendices and Resource sections are the final parts of the document.

The opening section is an **Overview of Sexual Victimization**. Facts about sexual assault, community attitudes about victims and the impact sexual assault has on the victim are briefly summarized. We placed this section at the beginning because we believe it creates the context for why sexual assault requires special attention in police work. While the overview is precise and accurate, it may prompt more questions and require clarification. Please contact a rape crisis center or the Illinois Coalition Against Sexual Assault for more information.

Section Two is **Model Guidelines for Law Enforcement Agencies Responding to the Sexual Assault of Adult Victims**. The purpose of the guidelines is to establish uniform application of law enforcement's response to the crime of sexual assault. The chief or sheriff will review the model guidelines and determine if they will be accepted in whole or part by the department.

Section Three is a **Sex Crimes Investigation Manual for Illinois Law Enforcement**. This is an in-depth narrative detailing the approach and procedures for the successful handling of sexual assault cases. Hopefully, all law enforcement personnel who respond to sexual assault crimes will read the manual. The manual is intended as a supplement to what law enforcement professionals already know about sex crimes investigation.

In the Appendices there is a chapter on Offender Motivation and the complete text of the Victim's Bill of Rights. And, finally, the document lists twenty-nine rape crisis centers who provide advocates and counselors for sexual assault victims. These centers, their staff and trained volunteers work to support the victim and collaborate with law enforcement and the criminal justice system to make our communities safer for everyone.

## **Two Explanations**

### **1. Adult Victims/Child Victims**

Due to the existence of child sexual abuse protocols, the focus of this POLICY and INVESTIGATIONS MANUAL is cases involving adult victims, although many of the principles can be effective in cases involving adolescent and child victims. If a victim is under 13 years of age, you may wish to contact a child advocacy center in your county for recommended procedures for investigation. It is important to remember that with victims under 18 years of age who are not emancipated minors, parental involvement may be necessary for certain stages of the investigation.

### **2. Terminology**

**"She"** - In this manual, the sexual assault victim is referred to as "she" because women are most commonly the victims of sexual assault. Men are also sexual assault victims; this manual is for both adult female and male victims.



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## **Section One**

# **Overview of Sexual Victimization**



# Overview of Sexual Victimization

## I. Introduction

For many officers, investigation of a sexual assault is an extraordinary event. The complex nature of a sexual assault crime and common cultural myths and values can impact police personnel as they investigate sexual assault cases. An officer may feel awkward in dealing with the details of the sexual acts, or may feel frustrated and helpless to prevent the crime. The stress of dealing with the emotional issues raised by sex offenses may cause an officer to retreat from the victim to avoid getting personally involved. To overcome these challenges, every officer involved in the investigation of sexual assault must be aware of his or her own thoughts, feelings and values about sexuality in addition to being knowledgeable about the law.

## II. Dynamics

### A. Prevalence

Sexual assault is a pervasive and increasing phenomenon in the United States.<sup>1</sup> Since the 1970's, the FBI statistics show reported rapes have nearly doubled.<sup>2</sup> While reports continue to increase, sexual assault remains an under-reported crime.<sup>3</sup>

Victimization surveys estimate that one-half to two-thirds of rapes are not reported. Victims may be least likely to report crimes by acquaintances, and the non-reporting rate may be even higher for college students. For example, in one survey at the University of Illinois (Urbana-Champaign), only two of 88 sexual assaults were reported to police.<sup>4</sup>

Reasons that victims do not report include those related to the nature of the crime, such as embarrassment, humiliation and fear of retaliation. Some victims also fail to report out of their fear of treatment by the criminal justice system.<sup>5</sup>

Victims fear they will be blamed or not believed and that they will face numerous obstacles in pursuing their case through the criminal justice system.

## **B. Demographics**

Most adult victims are female, however males are also victimized.<sup>6</sup> Women of all ages are at risk of attack, but women aged 16-25 are three times more likely to be raped than other aged women.<sup>7</sup> High school and college-aged women appear to be especially targeted for rape by acquaintances.<sup>8</sup> Martial rape has been well-documented for decades yet remains a rare case for the criminal justice system.

Offenders are overwhelmingly male, and males under the age of 18 commit 30% of reported rapes.<sup>9</sup>

## **III. Community Attitudes**

Researchers have long established that sexual assault is a crime of violence in which victims are selected for their vulnerability and availability.<sup>10</sup> Yet, many people still believe that the victim provokes rape and could avoid it by appearance or behavior. Many victims also scrutinize themselves wondering why they were selected and trying to figure out “what they did wrong.”<sup>11</sup>

Community opinions about the dynamics of sexual assault are filled with myths and biases.<sup>12</sup> Beliefs about the causes and nature of sexual assault often lead to victim-blaming. One of the pervasive “myths” is that false allegations are common in sexual assault cases. Yet, sexual assault reports rarely involve false allegations.<sup>13</sup> There is no legitimate evidence to suggest that sexual assault victims lie any more than victims of other crimes. If a false allegation of rape occurs, it is important to dispense of the case in a manner that does not imply rape victims are liars. To do otherwise sends a message to the community that the department is suspect of rape reports. It is equally important not to let a false allegation of rape influence one’s response to succeeding reports of rape.

The “promptness” of a complaint is still used as a measure of its validity. Yet, the National Victim Center Survey found that only one-fourth of the sixteen percent of the

women who did report to police did so within 24 hours.<sup>14</sup> Sexual assault victims are still tested to see if they are “eligible” for prosecution. Questions about lifestyle, habit and sexual background create the impression that the victim was somehow responsible for, or deserved, the attack. Yet, researchers have consistently found rape to be a crime of violence.

Police who respond to, and investigate, sexual assault must be able to reject the myths and stereotypes about the crime and its victims.

#### **IV. The Sexual Assault Victim**

##### **A. Impact of Sexual Assault**

The cost of sexual victimization to the victim and to society is impossible to accurately measure. The potential for sexual assault causes fear in communities and diminished freedom for potential victims. The impact on an individual victim is also immeasurable. Victims may obtain medical services at a cost to themselves or the state.<sup>15</sup> They may quit work, school or move from their homes. Victims may also suffer psychological, emotional and physical injuries.

A sexual assault victim suffers the ultimate violation of the person. The victim’s most private parts of the body are violated and she is deprived of personal autonomy and control. A victim’s sense of safety and security in the world may be destroyed. Victims may also suffer a general loss of trust if the offender was a trusted acquaintance, friend or family member. The sexual assault will also impact the family members and loved ones of the victim.

A victim’s response and recovery are affected by individual and social support systems. It is also impacted by the response of the criminal justice system. Coping mechanisms can be strengthened with support, and a police officer can have a positive impact on the victim’s recovery.

##### **B. Post Traumatic Stress Disorder**

Post traumatic stress disorder (PTSD) is a type of anxiety disorder. It occurs as a result of a traumatic event, such as witnessing a murder or surviving a natural disaster, which causes the person to develop certain emotional symptoms. Research has led to the inclusion of PTSD in the classification system utilized by those in the field of psychiatry and psychology.<sup>16</sup>

C. **Rape Trauma Syndrome**

In 1973, two Boston College professors undertook a study of rape victims presenting at Boston City Hospital over a one-year period.<sup>17</sup> Results of that initial study led to the adoption of the term “rape trauma syndrome” to describe the cluster of symptoms that many rape victims demonstrate immediately after the assault and sometimes for years thereafter.<sup>18</sup> Later research confirmed the existence of rape trauma syndrome in victims throughout the United States.<sup>19</sup>

Rape trauma syndrome is recognized as a form of PTSD.<sup>20</sup> Common reactions include sleep and eating disorders, phobias, hypersensitivity, startle-responses and flashbacks; many victims are unable to return to work or school. At the core of the reactions is the victim’s fear that they would be killed during the sexual assault.<sup>21</sup>

Recurrent and intrusive memories of the rape are common. The victim’s fear of being followed by the attacker may be prevalent. The victim may also fear that the attacker is around every corner or may report reliving the rape through repeated dreams and nightmares.

The victim may begin to withdraw from routine activities; leaving school or the avoidance of family functions is common. Symptoms may also include the victim feeling overwhelming fear and anxiety and repeated disturbances in sleep patterns. Phobias and fears may appear as a defense against the memories that can trigger flashbacks.



Rape trauma syndrome can be divided into stages. Not every victim shows signs of rape trauma syndrome, but a substantial percentage go through one or more of the following phases.

**Pre-assault.** Some victims experience a pre-assault apprehension. The victim who experiences this apprehension may rationalize it away, “he isn’t the type who rapes” or may ignore warning signs, “I am being silly about this; I don't want to overreact.” As a result, many victims minimized their premonition and did not act on it leaving them vulnerable to the attacker.

**Assault.** During the assault, the victim is in crisis and may experience physical and emotional shock and a pervasive sense of disbelief. The victim’s reactions during the assault will be governed by tactics of self-preservation. Survival is the primary focus and the victim will do what is necessary to survive. Many victims do engage in some level of resistance but are fearful of the potential for increased brutality and may concentrate on survival by submitting. For one victim, this may result in a kind of paralysis, for another it may mean disassociating from her body to avoid the trauma of the attack. Numbing can also be seen in the reports of victims who say, “it felt like I was watching this happen to someone else.”

**Acute.** The acute phase begins after the assault and may last from a few days to several weeks. The victim will use established coping skills to deal with the shock of the trauma. For example, some victims are expressive, while others are very quiet and controlled. The victim’s thoughts are likely to be disorganized and confused. While in this phase, the victim may have initial contact with police and a hospital if the crime has been reported.

Emotionally, victims express a wide range of feelings. Many report the feeling that they had a near death experience. Fear, anxiety and profound personal disruption are very common reactions. Humiliation and embarrassment are

prevalent and self-blame is also common. Less commonly, feelings of anger and revenge may also be present. Many victims develop phobias based on the dynamics of the assault. Some report fear of closed places or of being alone while others curtail their activities to avoid leaving home.

**Adjustment.** In a few days or weeks, most victims will move into an outward adjustment phase. This phase may last for a period of months or years. Victims report “wanting to be normal again.” The victim wants to return to the routine of her life, and may refuse to think about the rape to avoid dealing with the attack. Some victims try to escape from the intrusive thoughts of the rape by changing residences.<sup>22</sup>

These coping mechanisms exist to protect the victim. By recognizing the symptoms, police can better understand why some victims who do report the rape and do prosecute may express a desire to withdraw from the case after a few weeks or months. For other victims, the increased anxiety associated with the pre-trial hearings may cause the victim to question her ability to withstand the lengthy criminal justice process.

Many adult victims cope by repressing their feelings. Some repress the memories of the abuse itself, but others simply avoid facing their emotional and psychological injuries. Over the next several months to years, a victim will utilize coping skills to resume school, work and various activities, but may have heightened feelings of fear, phobias, depression and may have great difficulty engaging in ordinary activities disrupted by the sexual assault. This phase lasts as long as the victim is successful at suppressing thoughts of the assault and its impact.

**Resolution.** The final phase begins when the victim realizes she must resolve her feelings concerning the rape. The trigger into this phase might be an experience that causes the victim to recall the rape, such as seeing a movie, hearing

of a similar occurrence or any experience that recalls the rape. For this victim, the delay in the onset of the crisis is deeply disruptive and may be experienced as a current crisis.

A large percentage of rape victims suffer some symptoms of rape trauma syndrome. Some victims demonstrate symptoms throughout their lives. In one study, 57% of victims showed symptoms, and nearly 20% of victims still suffered the aftereffects of rape 17 years later.<sup>23</sup> The resolution process may take a long time, and some victims never reach this stage.

**D. Special Populations**

Certain sexual assault victims have distinctive issues which add to the complexity of an investigation. Adolescent, elderly or differently-abled victims may present unique challenges. Cultural or sexual orientation issues can also add to the complexity of the case. The sexual assault of a male victim may require special sensitivity. To properly respond to these victims, it is necessary that the officer recognize and address these issues.



## **End Notes - Overview**



## Endnotes - Overview

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19. Pawloski, *Forcible Rape: An Updated Bibliography*, 74 J. Crim. Law and Criminology 601, 1983.
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21. Koss and Harvey, *The Rape Victim: Clinical Community Interventions*, pp. 55-56. Male victims also report trauma after sexual assault, with fear, depression, sleep and sexual dysfunction commonly reported.
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## **Section Two**

# **Model Guidelines for Illinois Law Enforcement Agencies Responding to the Sexual Assault of Adult Victims**



## **Model Guidelines for Illinois Law Enforcement Agencies Responding to the Sexual Assault of Adult Victims**

The purpose of these guidelines is to establish a uniform application for appropriate response to sexual assault of the adult victim. In order for police to effectively respond to these cases, victims must be encouraged to report and then cooperate in the prosecution of the crimes against them. This policy demonstrates law enforcement's commitment to facilitate cooperation of the victim in reporting, investigating and prosecuting sexual assault crimes.

This policy applies to offenses committed under the Illinois Criminal Sexual Assault Act and related sexual offenses committed against victims in Illinois.

### **Policy Statement**

It is the policy of \_\_\_\_\_ (Agency/Department) \_\_\_\_\_ to respond professionally and appropriately to sexual assault crime reports. All sexual assault victims will be treated with respect and appropriate attention will be given to their emotional and physical needs. Each officer will conduct an investigation based on the facts presented. Interviews will be conducted utilizing appropriate techniques. Evidence will be properly identified, collected and preserved. All efforts will be made to achieve prosecution of sex offenders.

### **Policy Components**

In order to achieve an effective, successful response to the sexual assault of adult women, this law enforcement agency will utilize and promote the following goals and procedures:

#### **A. Interagency Cooperation**

Interagency cooperation is a goal that requires a teamwork approach. Coordination of law enforcement, medical, court and evidence personnel, social service and victim advocacy agencies is necessary for a thorough response to a sexual assault crime. All efforts will be made toward developing and maintaining interagency cooperation in responding to sexual assault cases.

**B. Training**

Sexual assault is a complex crime which requires sophisticated intervention. Therefore, any member of the department who handles a sexual assault case should go through specialized training. Training will include sexual assault laws, offender motivation, victim responses, interviewing techniques, investigative strategies, evidence recognition and collection, and interrogation techniques. Like any profession, continuing education and skill-enhancement is critical for the development of expertise. Law enforcement professionals, veterans and recruits, will participate in ongoing education seminars.

**C. Telecommunicator**

(See **Telecommunicator**, page 3)

**D. Pre-Investigation**

(See **Pre-Investigation**, page 3)

**E. Preliminary Investigation**

(See **Preliminary Investigation**, page 4)

**F. Evidence**

(See **Evidence**, page 5)

**G. Continuing Investigation**

(See **Continuing Investigation**, page 6)

## **Telecommunicator**

The telecommunicator will:

- Determine the facts and whether the victim is in danger and initiate the appropriate response.
- Obtain name, address, phone number, location and other necessary identifying information from the victim.
- Dispatch law enforcement assistance promptly.
- Obtain offender location, existence of a weapon and necessary identifying information.
- Whenever possible, keep the victim on the telephone until patrol arrives in order to minimize the possibility of loss of evidence.
- Remind victim not to bathe or change clothes.
- Keep the victim informed of each stage of the police response.
- Make no judgments about the validity of the call based on the emotional state of the victim.

## **Pre-Investigation**

The officer will:

- Know the prosecution standards set by the State's Attorneys office for accepting sexual assault cases.
- Recommend to investigator that tape of call be saved.
- Maintain an on-going collaborative commitment to working with all agencies and institutions responding to sexual assault.
- Understand the role of police work in responding to the crime of sexual assault and the victim.
- Understand the role of the sexual assault advocate in supporting the victim.

## Preliminary Investigation

The responding officer will:

- Evaluate the potential for violence.
- Identify him/herself by name and agency, and determine what crime occurred.
- Obtain preliminary crime report information and identify or describe the offender and broadcast offender information to effectuate location and arrest.
- Identify all witnesses, including outcry witness.
- Tell the victim what will be expected of her/him in the investigation, i.e., hospital, evidence collection, in-depth interview.
- Attend to the victim's emergency medical needs, and transport, or arrange transportation for, the victim to a hospital for completion of a sexual assault evidence collection kit.
- Furnish the victim with information concerning her rights under the Crime Victim's Rights Act. Advise the victim of the availability of rape crisis services or other social service providers. If victim is taken to hospital, check with hospital to see if a rape victim advocate has been called. If not, offer to make contact with the rape crisis center.
- Conduct an initial interview with the victim. Because of the victim's emotional response to the assault, the preliminary investigator should limit the number of times and individuals interviewing the victim. Most often, a single interview is sufficient to obtain preliminary information, unless additional information is requested by the investigating officer or the crime scene or evidence technician.
- Confer with medical personnel to ensure special collection needs such as swabbing bite marks or photographs, and any additional evidence collection not included in the evidence collection kit materials.
- Identify and protect the crime scene until the crime scene technician arrives. In collecting evidence, avoid touching or moving potential evidence at the crime scene until properly marked.
- In the event a victim is unsure or unwilling to prosecute, advise the victim of her right to file a complaint at a later time and the procedure for so doing.
- Complete the necessary reports, departmental notifications and transfer information to the evidence collector and the continuing investigator, if another officer will assume those roles.
- Respect and protect the confidentiality and the wishes of the victim regarding the notification and participation of others throughout the investigation.

## Evidence

The evidence collection technician or other officer who collects evidence will:

- Determine the available facts of the case by interviewing the appropriate responding and investigating officer(s). Examine the evidence collection checklist.
- Assess the crime scene for physical evidence, including fingerprints, body fluids, footprints, disturbed or disrupted objects or furniture.
- Photograph or videotape the crime scene before touching, moving or disrupting potential evidence.
- Conduct a comprehensive, non-destructive search for all available physical evidence.
- Photograph each item as it originally appeared at the crime scene prior to collection of evidence. Provide an indication of size or scale if appropriate.
- Collect, properly package and mark evidence from the crime scene. Note: Air dry evidence before packaging to avoid deterioration of specimen. This is essential for blood sample to be used for DNA testing
- Complete the necessary documents to transfer evidence to the proper crime lab for processing.
- Contact the investigating agency with preliminary results of crime scene analysis and request follow-up information.
- Transport those items of evidence requiring laboratory analysis to the proper crime lab. Store remaining items of evidence in a secure storage area to properly maintain the chain of custody.
- At the hospital, with the victim's consent, photograph injuries on the victim, or arrange for same sex medical personnel to do so. Re-photograph the victim as the injuries change appearance.
- Finish the final sketch of the scene.
- Complete the final report.

## Continuing Investigation

The investigating officer will:

- Consult with the responding officer and any evidence collectors.
- Develop an investigative strategy.
- Conduct an in-depth interview with the victim. In order to establish rapport with the victim, the interviewer should recognize the victim's emotional responses to the assault and utilize appropriate techniques such as conducting a nonjudgmental interview, explaining the interviewer's role and purpose of the questions, and making the victim feel an essential part of the investigation. In determining the validity of a report, the investigator must consider the facts presented. Judgment should not be based on stereotypes or attitudes or the relationship of the victim and offender.
- Attempt to identify and locate all witnesses. Interview witnesses and collect all pertinent information.
- Contact a crime scene technician and ensure that all evidence has been identified, collected, properly stored and processed from the crime scene, the victim and the offender, including the evidence collection kit (SPECK) from the hospital, pursuant to the procedures set forth in the SCRIM.
- Develop and prioritize suspects, if the offender's identity is unknown. Arrest suspect when probable cause is established and notify the State's Attorney's Office.
- Conduct a thorough interrogation of the offender using the appropriate investigative strategy.
- Complete necessary transfer of evidentiary standards from the victim and/or offender to the appropriate crime lab for processing. Maintain contact with the crime lab to determine and respond to development of evidentiary issues.
- Ensure that the victim has been advised of her rights under the Crime Victim's Rights Act and that the victim has obtained referral information on how to contact a rape crisis center or other social service provider.
- Complete the necessary reports and transfer information to the State's Attorney's Office for prosecution.
- Respect and protect the confidentiality and the wishes of the victim regarding the notification and participation of others throughout the investigation.



## **Section Three**

# **Sex Crimes Investigation Manual for Illinois Law Enforcement**



# **Chapter One**

## **The Teamwork Approach**

### **I. Introduction**

Sexual assault is a serious crime which has a devastating impact on its victims. Effective police response to these complex cases requires a teamwork approach. Law enforcement, the victim, medical personnel, victim advocates, evidence technicians, crime lab personnel and prosecutors, all contribute to the team.

The members of the team have distinct but interdependent responsibilities. Without emotional support the victim may drop out of the investigative process. Without appropriate identification and collection of evidence by medical personnel, critical evidence will be lost. Without thorough police investigation, the report may not result in the arrest of an offender. Finally, a prosecutable case is based on thorough preparation and successful completion of each task in the investigation. Cooperation is essential to successful investigation and prosecution of the sex offense. Because each agency has unique responsibilities and roles, turf issues do occur, but a teamwork approach can reduce conflicts and enhance cooperation.

Cooperation among agencies can be formalized through networking agreements. Such agreements spell out the roles and obligations of each agency in responding to a sexual assault case and provide valuable guidance to personnel.

### **II. Roles of Team Agencies**

#### **A. Law Enforcement**

The police response to a sexual assault begins when a crime is reported. Sexual assault crimes are no different than other crimes in that they require proper response to the report, a search for evidence and identification, apprehension and interrogation of a suspect. But, sexual offense investigations are complex. The officer(s) responsible for the preliminary and continuing stages of the investigation should rely on a teamwork approach

to effectively conduct the investigation. This approach will ultimately benefit the investigator by permitting coordination rather than duplication of effort.

## **B. Victim Advocates**

### **1. Medical Advocates**

An advocate supports the sexual assault victim. She is a source of comfort, support and information for the victim and her loved ones.

The advocate knows about the medical care a victim receives after the attack, how the police can help, and how the court system works. She is the victim's personal link to the medical, police and court systems.

An advocate knows the workers at the hospital, police station, state's attorney's office and courthouse. She works with these people to help the victim. She helps them understand sexual assault and support the victim. The advocate can stay with the victim through every step of every process.

Most advocates work at a rape crisis center. All advocates are specially trained about sexual assault, emergency room procedures and the rape crisis center.

The hospital advocate is often a volunteer for a sexual assault service organization who has received the state-mandated 40 hours of training. This advocate concentrates on addressing the victim's emotional responses to the assault and can prepare the victim for procedures to be encountered during the medical and police response. If the responding officer or investigator meets a victim prior to the arrival of a hospital advocate, an advocate should be contacted. An advocate can be helpful during the process at the hospital by focusing on the victim's emotional needs.

### **2. Court Advocate**

The court or legal system advocate is most often a staff member of a sexual assault services organization who has received the state-mandated 40 hours of training and special training in the criminal justice and legal systems. The advocate comes in contact with the victim once she has been contacted by a hospital advocate, police officer or hospital personnel. The advocate offers ongoing emotional support and advocacy to the victim throughout the victim's involvement in the investigation and court processes. This advocate will also refer the victim for additional support when necessary.

The advocate can support the victim through the emotional responses that she will experience throughout the case. **Due to the requirements stated in Illinois law, Confidentiality of Statements Made to Rape Crisis Personnel, the advocate cannot be present during the investigative interview unless the victim consents. However, the advocate can be present on site to assist with the victim's emotional needs or to clarify any questions the victim may ask of her outside of the interview.** The court advocate can act as a contact person between the police and the victim, explaining each stage of the investigation and prosecution to the victim so that the victim understands what is required.

A court advocate can also be a resource to the legal system. Advocates are aware of changes in the law and research concerning sexual assault and its impact on victims. The advocate can share this information with the police and others in the legal system.

### 3. Privileged Communications

Illinois provides statutory protection for the privacy of all communications between the sexual assault victim and an advocate. The

law requires all advocates to maintain the privacy of all communications made between a victim and a counselor, advocate or other employee of the sexual assault center.<sup>1</sup> This privilege has been upheld by the Illinois Supreme Court.<sup>2</sup>

Because of this grant of confidentiality, victims can express their feelings, fears, frustrations and concerns about the trauma of the assault to an advocate. By permitting the victim a nonjudgmental support person to talk to, Illinois recognizes the importance of the recovery process and the need to maintain privacy for victims from the scrutiny of those outside the confidential relationship.

**The duty of confidentiality means that advocates do not and should not be asked to determine the truthfulness of any statement or idea. They must stay in their role as support person while police investigate.**

### C. Hospitals

Medical personnel at hospitals are significant to the criminal justice team as primary medical care providers and collectors of evidence.

#### 1. Evidence Collection

Hospital personnel will collect the evidence contained on the victim's body.<sup>3</sup> While a police officer should not be present during the evidence collection, police must know what will be collected through use of evidence collection kits, and be able to suggest to hospital personnel what other evidence would be important to collect from the victim.<sup>4</sup> The hospital and police must agree on how the chain of custody for the evidence will be maintained while the evidence is held by the hospital and on how evidence will be transferred from the hospital to the police.

#### 2. Interview of the Victim

Before, during and after the medical examination, the victim will be interviewed by medical personnel. The method in which the interviews are conducted may affect the investigation. Sensitive treatment by medical personnel can help engage the victim in the investigative process; police should work with hospital personnel to ensure that the victim is not further traumatized during the examination process.

**D. Evidence Technicians**

1. Crime Scene Technicians

Crime scene technicians can offer vital assistance to the police in sexual assault investigations. Because of the nature of sexual assault evidence, it is beneficial to contact an expert in evidence identification and collection. The Illinois State Police employs crime scene technicians that are available to every law enforcement agency in the state.

2. Crime Laboratories

Crime laboratories are an integral part of the police response to sexual assault. Crime labs provide detailed information and training on proper collection, packaging and handling of the information. The services and abilities of the labs define what evidence can be analyzed for use in prosecuting the sex offender. Police officers and investigators should be aware of the range of services offered by the lab that serves the area for which the department is responsible.

**E. Prosecutors**

1. Guidelines for Prosecution

The prosecutor's office ultimately makes the charging decision in the sexual assault case. Each case will be evaluated for the presence of probable cause. Police should be aware of a prosecutor's guidelines and standards for prosecution, including the amount and type of evidence

required to accept a case for prosecution. Meeting with the prosecutor's office prior to the investigation of the case will help police understand and clarify what will be required.

2. Assistance in Preliminary Matters

An interagency investigation increases the likelihood of meeting the prosecutor's standards for prosecution of the sexual assault case.

Therefore, it is beneficial to involve the prosecutor's office in the early stages of the investigation. It is crucial that evidence be collected and interviews conducted in accordance with a suspect's constitutional rights.

Prosecutors can assist with obtaining search warrants, conducting identification procedures, and other methods of evidence collection.

Early involvement will also inform the prosecutor of the intricacies of the case. Without such involvement, the prosecutors only source of information about the case may be the written report generated by the police department.



## **Chapter Two**

### **The Illinois Criminal Sexual Assault Act**

#### **I. Overview**

The Illinois Criminal Sexual Assault Act [hereinafter Act] became effective July 1, 1984. The Act allows for gradations of offenses to provide flexibility in charging and sentencing. The Act also provides protection to vulnerable victim populations such as children, the elderly and those with physical and mental disabilities. The Act is gender neutral; males and females are protected as victims and chargeable as offenders.

The Act is divided into four crimes - criminal sexual assault, aggravated criminal sexual assault, criminal sexual abuse and aggravated criminal sexual abuse. Key terms are defined and citations from the Illinois Compiled Statutes are included in this chapter. The complete text of the Act and summary charts are at the end of this chapter.

#### **II. Elements of Offense**

In an adult case, a sex offense will generally require proof of sexual penetration or sexual conduct and force or threat of force. In some cases the force element is not required.

##### **A. Sexual Penetration**

Sexual penetration is defined as: any contact, however slight, between the sex organ or anus of one person by an object, the sex organ, mouth or anus of another person, or any intrusion, however slight, of any part of the body of one person or of any animal or object into the sex organ or anus of another person, including but not limited to cunnilingus, fellatio or anal penetration. Evidence of emission of semen is not required to prove sexual penetration. (720 ILCS 5/112-12(F).)

Penetration includes acts of **intrusion** and **contact**.

Intrusion means any **contact**, however slight. It is the fact that there was an intrusion, not the depth or the length of time that is required.

Sexual penetration includes acts of cunnilingus and fellatio. It also includes penetration of the sex organ or anus by an object such as a bottle, broomstick or any other object. No emission of semen is required to prove penetration.

**B. Sexual Conduct**

Sexual conduct is defined as: any intentional or knowing touching or fondling by the victim or the accused, either directly or through clothing, of the sex organs, anus or breast of the victim or the accused,...for the purpose of sexual gratification or arousal of the victim or the accused. (720 ILCS 5/12-12(e).)

Sexual conduct includes touching, fondling, grabbing, pinching or squeezing. Because it is possible to accidentally touch a person, sexual conduct requires that the touching be for purposes of sexual arousal or gratification of either the victim or offender.

The Act does provide for certain exemptions. For example, it is not an offense for a parent, caretaker or medical personnel to conduct a medical examination or procedure in a manner consistent with reasonable medical standards. (720 ILCS 5/12-18(b).)

**C. Force or Threat of Force**

Because most adults are presumed capable of consenting to sexual activity, the element of “force” is required under most circumstances where the victim is an adult.

“Force or threat of force” is defined as: the use of force or violence, including but not limited to the following situations:

- when the accused threatens to use force or violence on the victim or any other person, and the victim under the circumstances reasonably believed that the accused had the ability to execute that threat; or
- when the accused has overcome the victim by use of superior strength or size, physical restraint or physical confinement. (720 ILCS 5/12-12(d)(1)-(2).)

The Illinois Supreme Court has held that there is no definite standard fixing the amount of force which is required.<sup>5</sup> Thus, “force” includes situations where

resistance would be futile or life-endangering or where the victim is overcome by superior strength or fear. “Threat of force” includes situations in which the victim believed that the offender had the ability to carry out threats of harm.

**D. No Force Required**

Force need not be shown where the victim is unable to understand the nature of the act or unable to give knowing consent. (720 ILCS 12-13(a)(2); 720 ILCS 12-15(a)(2).) Victims who are unconscious, sleeping, “passed out” or mentally impaired are often unable to give consent or understand the nature of the sexual act.

**III. Aggravating Factors**

The Act provides for elevation of the offense of criminal sexual assault to aggravated criminal sexual assault and for criminal sexual abuse to aggravated criminal sexual abuse when there is the presence of an aggravating circumstance.

**A. Aggravated Criminal Sexual Assault**

It is aggravated criminal sexual assault when a criminal sexual assault is committed with any of the following aggravating circumstances present:

- the accused displayed, threatened to use, or used a dangerous weapon or any object fashioned or utilized in such a manner as to lead the victim under the circumstances reasonably to believe it to be a dangerous weapon; or
- the accused caused bodily harm to the victim; or
- the accused acted in such a manner as to threaten or endanger the life of the victim or any other person; or
- the criminal sexual assault was perpetrated during the course of the commission or attempted commission of any other felony by the accused; or
- the victim was 60 years of age or over when the offense was committed; or
- the victim was a physically handicapped person.

It is also aggravated criminal sexual assault if the accused commits criminal sexual assault on a severely or profoundly mentally retarded victim. (720 ILCS 5/12-14(a)(1)-(6).)

## B. **Aggravated Criminal Sexual Abuse**

It is aggravated criminal sexual abuse when a criminal sexual abuse is committed with any of the following aggravating circumstances present:

- the accused displayed, threatened to use or used a dangerous weapon or any object fashioned or utilized in such a manner as to lead the victim under the circumstances reasonably to believe it to be a dangerous weapon; or
- the accused caused bodily harm to the victim; or
- the victim was 60 years of age or over when the offense was committed; or
- the victim was a physically handicapped person. (720 ILCS 5/12-16(a)(1) - (4).)
- The victim was a severely or profoundly mentally retarded person. (720 ILCS 5/12-16(e).)

## IV. **Defenses**

The most common defenses raised in a sexual assault case are mistaken identity and consent. When the victim and defendant are unknown to each other, it is likely that the defendant will raise an **identity defense**. However, it is common for defendants to raise **consent as a defense** where there is some degree of acquaintance.

The Act permits the defendant to raise the defense of consent where force is an element of the offense. Consent means:

A freely given agreement to the act of sexual penetration or sexual conduct in question. Lack of verbal or physical resistance or submission by the victim resulting from the use of force or threat of force by the accused shall not constitute consent. The manner of dress of the victim at the time of the offense shall not constitute consent. (720 ILCS 5/12-17(a).)

There is no defense based on marital status or acquaintance. The victim's previous sexual relationship with others or with the defendant is not a valid defense. However, the law does permit the introduction of evidence of the victim's prior sexual relationship with the defendant in a consent defense case. (725 ILCS 5/115-7.)

### A. **Attempt Defense**

An attempted sexual assault or abuse requires an intent to commit an illegal sexual act and a substantial step towards committing the act. (720 ILCS 5/8-1.) For

example, if the defendant threatens to rape the victim and begins to disrobe or orders the victim to disrobe, it is an attempted criminal sexual assault.

## Chapter 3 – Graphic 1

## Chapter 3 – Graphic 2

## Chapter 3 – Graphic 3



**Overview of Criminal Charges Under the Criminal Sexual Assault Act  
in Adult Victim Cases Adult Victims**

Victim Age	Accused Age	Sexual Activity	Offense	Penalty	Citation (720 ILCS 5/)
Any Age	Any Age	Sexual Conduct + Force	CSAb	Class A(M)	12-15(a)(1)
		Sexual Conduct + Force + Aggravating Factor	ACSAb	Class 2	12-16(a)
Any Age	Any Age	Sexual Penetration + Force	CSAs	Class 1	12-13(a)(1)
		Sexual Penetration + Force + Aggravating Factor	ACSAs	Class X	12-14(a)
60+ Up	Any Age	Sexual Conduct + Force	ACSAb	Class 2	12-16(a)(3)
		Sexual Penetration + Force	ACSAs	Class X	12-14(a)(5)

**Disabled Victims**

Victim Status	Accused Age	Sexual Activity	Offense	Penalty	Citation (720 ILCS 5/)
Physically Handicapped	Any Age	Sexual Conduct + Force	ACSAb	Class 2	12-16(a)(4)
		Sexual Penetration + Force	ACSAs	Class X	12-14(a)(6)
Severely/ Profoundly Mentally Retarded	Any Age	Sexual Conduct	ACSAb	Class 2	12-16(e)
		Sexual Penetration	ACSAs	Class X	12-14(c)
Unable to Understand Act	Any Age	Sexual Conduct	CSAb	Class A(M)	12-15(a)(2)
		Sexual Penetration	CSAs	Class 1	12-13(a)(2)
Unable to Give Consent	Any Age	Sexual Conduct	CSAb	Class A(M)	12-15(a)(2)
		Sexual Penetration	CSAs	Class 1	12-13(a)(2)

Key: CSAs = Criminal Sexual Assault  
 ACSAs = Aggravated Criminal Sexual Assault  
 CSAb = Criminal Sexual Abuse  
 ACSAb = Aggravated Criminal Sexual Abuse



## **Text of the Illinois Criminal Sexual Assault Law**

(720 ILCS 5/12-12 e' seq.; formerly Ill.Rev.Stat.. ch. 38. ¶12-12 et seq.)  
(Effective July 1, 1984; including Amendments effective January, 1, 1994.)

### **720 ILCS 5/12-12. Definitions**

For the purposes of Sections 12-13 through 12-18 of this Code. the terms used in these Sections shall have the following meanings ascribed to them:

- (a) "Accused" means a person accused of an offense prohibited by Sections 12-13, 12-14, 12-15 or 12-16 of this Code or a person for whose conduct the accused is legally responsible under Article 5 of this Code.
- (b) "Bodily harm" means physical harm, and includes. but is not limited to, sexually transmitted disease, pregnancy and impotence.
- (c) "Family member" means a parent, grandparent, or child, whether by whole blood, half-blood or adoption and includes a step-grandparent step-parent or step-child. "Family member" also means, where the victim is a child under 18 years of age, an accused who has resided in the household with such child continuously for at least one year.
- (d) "Force or threat of force" means the use of force or violence, or the threat of force or violence, including but not limited to the following situations:
  - (1) when the accused threatens to use force or violence on the victim or on any other person, and the victim under the circumstances reasonably believed that the accused had the ability to execute that threat; or
  - (2) when the accused has overcome the victim by use of superior strength or size, physical restraint or physical confinement.
- (e) "Sexual conduct" means any intentional or knowing touching or fondling by the victim or the accused, either directly or through clothing, of the sex organs, anus or breast of the victim or the accused, or any part of the body of a child under 13 years of age. for the purpose of sexual gratification or arousal of the victim or the accused.
- (f) "Sexual penetration" means any contact, however slight, between the sex organ or anus of one person by an object, the sex organ, mouth or anus of another person, or any intrusion, however slight, of any part of the body of one person or of any animal or object into the sex organ or anus of another person, including but not limited to cunnilingus, fellatio or anal penetration. Evidence of emission of semen is not required to prove sexual penetration.
- (g) "Victim" means a person alleging to have been subjected to an offense prohibited by Sections 12- 13, 12-14, 12-15 or 12-16 of this Code.

### **720 ILCS 5/12-13. Criminal sexual assault**

- (a) The accused commits criminal sexual assault if he or she:
  - (1) commits an act of sexual penetration by the use of force or threat of force; or
  - (2) commits an act of sexual penetration and the accused knew that the victim was unable to understand the nature of the act or was unable to give knowing consent; or
  - (3) commits an act of sexual penetration with a victim who was under 18 years of age when the act was committed and the accused was a family member;
  - (4) commits an act of sexual penetration with a victim who was at least 13 years of age but under 18 years of age when the act was committed and the accused was 17 years of age or over and held a position of trust, authority or supervision in relation to the victim.
- (b) Sentence. Criminal sexual assault is a Class 1 felony. A second or subsequent conviction for a violation of this Section or under any similar statute of this State or any other state for any offense involving criminal sexual assault that is substantially equivalent to or more serious than the sexual assault prohibited under this Section is a Class X felony. When a person has any such prior conviction, the information or indictment charging that person

shall state such prior conviction so as to give notice of the State's intention to treat the charge as a Class X felony. The fact of such prior conviction is not an element of the offense and may not be disclosed to the jury during trial unless otherwise permitted by issues properly raised during such trial.

**720 ILCS 5/12-14. Aggravated criminal sexual assault**

- (a) The accused commits aggravated criminal sexual assault if he or she commits criminal sexual assault and any of the following aggravating circumstances existed during the commission of the offense:
  - (1) the accused displayed, threatened to use, or used a dangerous weapon or any object fashioned or utilized in such a manner as to lead the victim under the circumstances reasonably to believe it to be a dangerous weapon: or
  - (2) the accused caused bodily harm to the victim: or
  - (3) the accused acted in such a manner as to threaten or endanger the life of the victim or any other person; or
  - (4) the criminal sexual assault was perpetrated during the course of the commission or attempted commission of any other felony by the accused: or
  - (5) the victim was 60 years of age or over when the offense was committed; or
  - (6) the victim was a physically handicapped person.
- (b) The accused commits aggravated criminal sexual assault if:
  - (1) the accused was 17 years of age or over and commits an act of sexual penetration with a victim who was under 13 years of age when the act was committed; or
  - (2) the accused was under 17 years of age and (i) commits an act of sexual penetration with a victim who was under 9 years of age when the act was committed: or (ii) commits an act of sexual penetration with a victim who was at least 9 years of age but under 13 years of age when the act was committed and the accused used force or threat of force to commit the act.
- (c) The accused commits aggravated criminal sexual assault if he or she commits an act of sexual penetration with a victim who was an institutionalized severely or profoundly mentally retarded person at the time the act was committed.
- (d) Sentence. Aggravated criminal sexual assault is a Class X felony.

**720 ILCS 5/12-15. Criminal sexual abuse**

- (a) The accused commits criminal sexual abuse if he or she:
  - (1) commits an act of sexual conduct by the use of force or threat of force; or
  - (2) commits an act of sexual conduct and the accused knew that the victim was unable to understand the nature of the act or was unable to give knowing consent.
- (b) The accused commits criminal sexual abuse if the accused was under 17 years of age and commits an act of sexual penetration or sexual conduct with a victim who was at least 9 years of age but under 17 years of age when the act was committed.
- (c) The accused commits criminal sexual abuse if he or she commits an act of sexual penetration or sexual conduct with a victim who was at least 13 years of age but under 17 years of age and the accused was less than 5 years older than the victim.
- (d) Sentence. Criminal sexual abuse is a Class A misdemeanor. A second or subsequent conviction for a violation of subsection (a) of this Section is a Class 2 felony. For purposes of this Section, it is a second or subsequent conviction if the accused has at any time been convicted under this Section or under any similar statute of this State or any other state for any offense involving sexual abuse or sexual assault that is substantially equivalent to or more serious than the sexual abuse prohibited under this Section.

**720 ILCS 5/12-16. Aggravated criminal sexual abuse**

- (a) The accused commits aggravated criminal sexual abuse if he or she commits criminal sexual abuse as defined in subsection (a) of Section 12-15 of this Code and any of the following aggravating circumstances existed during the commission of the offense:

- (1) the accused displayed, threatened to use or used a dangerous weapon or any object fashioned or utilized in such a manner as to lead the victim under the circumstances reasonably to believe it to be a dangerous weapon; or
- (2) the accused caused bodily harm to the victim; or
- (3) the victim was 60 years of age or over when the offense was committed; or
- (4) the victim was a physically handicapped person.
- (b) The accused commits aggravated criminal sexual abuse if he or she commits an act of sexual conduct with a victim who was under 18 years of age when the act was committed and the accused was a family member.
- (c) The accused commits aggravated criminal sexual abuse if:
  - (1) the accused was 17 years of age or over and (i) commits an act of sexual conduct with a victim who was under 13 years of age when the act was committed; or (ii) commits an act of sexual conduct with a victim who was at least 13 years of age but under 17 years of age when the act was committed and the accused used force or threat of force to commit the act; or
  - (2) the accused was under 17 years of age and (i) commits an act of sexual conduct with a victim who was under 9 years of age when the act was committed; or (ii) commits an act of sexual conduct with a victim who was at least 9 years of age but under 17 years of age when the act was committed and the accused used force or threat of force to commit the act.
- (d) The accused commits aggravated criminal sexual abuse if he or she commits an act of sexual penetration or sexual conduct with a victim who was at least 13 years of age but under 17 years of age and the accused was at least 5 years older than the victim.
- (e) The accused commits aggravated criminal sexual abuse if he or she commits an act of sexual conduct with a victim who was an institutionalized severely or profoundly mentally retarded person at the time the act was committed.
- (f) The accused commits aggravated criminal sexual abuse if he or she commits an act of sexual conduct with a victim who was at least 13 years of age but under 18 years of age when the act was committed and the accused was 17 years of age or over and held a position of trust, authority or supervision in relation to the victim.
- (g) Sentence. Aggravated criminal sexual abuse is a Class 2 felony.

**720 ILCS 12-16.1. §12-16.1. Repealed by P.A. 85-1433, §6, eff. Jan. 11, 1989**

**720 ILCS 5/12-16.2. Criminal transmission of HIV**

- (a) A person commits criminal transmission of HIV when he or she, knowing that he or she is infected with HIV:
  - (1) engages in intimate contact with another;
  - (2) transfers, donates, or provides his or her blood, tissue, semen, organs, or other potentially infectious body fluids for transfusion, transplantation, insemination, or other administration to another; or
  - (3) dispenses, delivers, exchanges, sells, or in any other way transfers to another any nonsterile intravenous or intramuscular drug paraphernalia.
- (b) For purposes of this Section:
  - "HIV" means the human immunodeficiency virus or any other identified causative agent of acquired immunodeficiency syndrome.
  - "Intimate contact with another" means the exposure of the body of one person to a bodily fluid of another person in a manner that could result in the transmission of HIV.
  - "Intravenous or intramuscular drug paraphernalia" means any equipment, product, or material of any kind which is peculiar to and marketed for use in injecting a substance into the human body.
- (c) Nothing in this Section shall be construed to require that an infection with HIV has occurred in order for a person to have committed criminal transmission of HIV.

- (d) It shall be an affirmative defense that the person exposed knew that the infected person was infected with HIV, knew that the action could result in infection with HIV, and consented to the action with that knowledge.
- (e) A person who commits criminal transmission of HIV commits a Class 2 felony.

**720 ILCS 5/12-17. Defenses**

- (a) It shall be a defense to any offense under Section 12-13 through 12-16 of this Code where force or threat of force is an element of the offense that the victim consented. "Consent" means a freely given agreement to the act of sexual penetration or sexual conduct in question. Lack of verbal or physical resistance or submission by the victim resulting from the use of force or threat of force by the accused shall not constitute consent. The manner of dress of the victim at the time of the offense shall not constitute consent.
- (b) It shall be a defense under subsection (b) and subsection (c) of Section 12-15 and subsection (d) of Section 12-16 of this Code that the accused reasonably believed the person to be 17 years of age or over.

**720 ILCS 5/12-18. General provisions**

- (a) No person accused of violating Sections 12-13, 12-14, 12-15 or 12-16 of this Code shall be presumed to be incapable of committing an offense prohibited by Sections 12-13, 12-14, 12-15 or 12-16 of this Code because of age, physical condition or relationship to the victim, except as otherwise provided in subsection (c) of this Section. Nothing in this Section shall be construed to modify or abrogate the affirmative defense of infancy under Section 6-1 of this Code or the provisions of Section 54 of the Juvenile Court Act of 1987.
- (b) Any medical examination or procedure which is conducted by a physician, nurse, medical or hospital personnel, parent' or caretaker for purposes and in a manner consistent with reasonable medical standards is not an offense under Sections 12-13, 12-14, 12-15 and 12-16 of this Code.
- (c) Prosecution of a spouse of a victim under this subsection for any violation by the victim's spouse of Section 12-13, 12-14, 12-15 or 12-16 of this Code is barred unless the victim reported such offense to a law enforcement agency or the State's Attorney's office within 30 days after the offense was committed, except when the court finds good cause for the delay.
- (d) In addition to the sentences provided for in Sections 12-13, 12-14, 12-15 and 12-16 of the Criminal Code of 1961. the Court may order any person who is convicted of violating any of those Sections to meet all or any portion of the financial obligations of treatment, including but not limited to medical, psychiatric. rehabilitative or psychological treatment, prescribed for the victim or victims of the offense.
- (e) After a finding at a preliminary hearing that there is probable cause to believe that an accused has committed a violation of Section 12-13 or 12-14 of this Code, or after an indictment is returned charging an accused with a violation of Section 12-13 and 12-14 of this Code, at the request of the person who was the victim of the violation of Section 12-13 or 12- 14. the prosecuting State's attorney shall seek an order from the court to compel the accused to be tested for infection with human immunodeficiency virus (HIV). The medical test shall be performed only by appropriately licensed medical practitioners, and shall consist of an enzyme-linked immunosorbent assay (ELISA) test, or such other test as may be approved by the Illinois Department of Public Health; in the event of a positive result. the Western Blot Assay or a more reliable confirmatory test shall be administered. The results of the test shall be kept strictly confidential be all medical personnel involved in the testing and must be personally delivered in a sealed envelope to the victim and to the judge who entered the order, for the judge's inspection in camera. Acting in accordance with the best interests of the victim and the public, the judge shall have the discretion to determine to whom, if anyone. the result of the testing may be revealed; however, in no case shall the identity of the victim be disclosed. The court shall order that the cost of the test shall be paid by the county, and may be taxed as costs against the accused if convicted.

**Chapter Three**  
**The Telecommunicator**





## **Chapter Three**

### **The Telecommunicator**

#### **I. Role of Telecommunicator**

The telecommunicator's role is to answer the emergency call for assistance, determine the type of response necessary and dispatch assistance as required. The telecommunicator is usually the sexual assault victim's first contact with the police after the assault. The telecommunicator plays a critical role in gaining the cooperation of the victim. The telecommunicator represents the authority of police and sets the tone for future contacts between police and the victim.

Victims may be confused or disorganized in relating information. It is not unusual for a victim to report that they do not know where they are or whether they are injured. The victim may begin by stating that she has been "attacked" instead of identifying the attack as rape or of a sexual nature.

Victims of sexual assault will display a wide range of reactions following sexual assault. The victim may be in a panic or anxious, but the victim can also be highly controlled or may laugh as a coping strategy to survive the assault. The telecommunicator should not evaluate the victim's response as a measure of the validity of a call.

In a case where the offender has threatened to harm the victim if she calls police, the victim may be experiencing extreme fear. She may be unsure whether to proceed with the call or to provide identifying information about the offender. The telecommunicator must remain nonjudgmental and adopt a reassuring manner when responding to the call.

A delayed report is not unusual in a sexual assault case and may stem from fear of the offender or cultural, religious or family pressures. During the call, the victim may be ambivalent or may have difficulty explaining the purpose of the call. Patient, nonjudgmental responses from the telecommunicator can help the victim feel safe enough to disclose.

## II. **Communication Procedures**

The following dispatch procedures are intended to provide uniformity in the method by which Illinois law enforcement agencies respond to sexual assault. The telecommunicator will follow the steps in sequence for each sexual assault report.

### A. **Information**

1. The telecommunicator will obtain minimal response information, including  
1) caller's identity; 2) exact location; 3) injury; 4) weapons description; 5) identity of victim and perpetrator and 6) whether perpetrator is still at scene.
2. If the caller is the victim, she may be disoriented or confused and may require assistance in relating the purpose of the call and necessary identifying information.

### B. **Dispatch Assistance**

The telecommunicator will promptly dispatch a patrol officer to the victim's location and to the crime scene (if different). The victim's location may be the hospital emergency room. When necessary, dispatch emergency medical services to the victim's location. When the assault has just occurred or the offender has just fled, dispatch an additional unit to the offender's residence/location, if known.

### C. **Inform the Victim**

Whenever possible, the telecommunicator should remain on the line with the victim. This "contact" with police can be very reassuring to the victim. Tell the victim that "help is on the way" and that assistance will arrive shortly. Keeping the victim on the line may also protect evidence from contamination or destruction, since it is unlikely that the victim will bathe or change clothes while talking to the telecommunicator.

If resources do not permit a telecommunicator to remain on the line, the telecommunicator should caution the victim against bathing, changing clothes or

touching anything at the scene. If possible, she should avoid wiping or washing any area that was penetrated by the assailant.

## Chapter 3 – Graphic 1

## **Chapter Four**

### **Emergency Response and Preliminary Investigation**

A sexual assault investigation is conducted in two stages: preliminary and continuing. In Illinois a **preliminary response investigation** is usually conducted by the responding officer. The responding officer will attend to the emergency needs of the victim, obtain information about the attack, protect the evidence at the crime scene, and identify, detain and arrest a suspect, if appropriate.

For delayed reports, respond to the report as if it had happened recently. It may be more difficult to obtain evidence, but an attempt should be made. The victim should be encouraged to have the evidence collection kit completed. Offer to transport the victim to a hospital or medical services facility.

The following procedures are intended to provide uniformity in the method by which Illinois law enforcement responds to sexual assault.

#### **I. Initial Response**

##### **A. The Crime Scene**

1. Arrive at the Scene - Upon receipt of the call, the responding officer should request background information from the dispatcher to evaluate the potential for violence at the scene. Take all of the precautions used during any other violent crime.

Upon arrival, the responding officer should identify him/herself by name and agency, and determine what crime occurred.

2. Protect the Scene - A sexual assault crime scene may include a stain, hair, piece of fiber, fingerprint, or a footprint. It is very fragile and changeable. Since one of the most frequent reasons given for discontinuing sexual assault investigations and prosecutions is that there is “no” evidence, the initial securing and collection of evidence is essential.

Do not touch or move anything in the area of the crime. The victim should not shower, bathe, wash, change clothes or wash any bed linens or other surfaces on which the assault took place. If the victim has bathed, towels or other items used should be preserved and collected. If the victim has changed clothes or must change clothes, collect the clothes in accordance with Chapter Eight Evidence.

Access to the crime scene should be limited to an investigating officer, the victim and evidence technician. Use a crime scene log to regulate who has access to the crime scene.

**B. Arrest**

1. Offender is Present - If the offender is present and probable cause exists, make an arrest. Do not assume that a non-threatening offender who may be a friend or acquaintance could not commit a sexual assault.
2. Offender is not Present - If the offender is not at the scene or has not been identified, obtain identifying information about the offender. Let the victim know how important the information is and why the description is needed. Begin an area search and broadcast the information as soon as possible. An immediate broadcast increases the probability of locating an escaping offender.

**C. Witnesses**

Canvas or survey for witnesses. The scene and the surrounding area may change quickly, so the canvas should be completed as soon as possible. While there will rarely be eyewitnesses to the sexual assault, there may be any number of witnesses who saw part of the crime, such as a neighbor who saw the victim pulled into the apartment, or the gas station attendant who noticed the victim crying in the car.

In a case where the victim makes a prompt complaint, there may also be an “outcry” witness.<sup>6</sup> The outcry witness is the first person the victim told of the assault. It is important to identify and interview the outcry witness, because that witness can testify to the fact that the complaint was made, and may become an essential part of the case. A police officer may be the outcry witness.

**D. Guidelines for Informing Family**

Officers should be aware that sexual assault is traumatic for non-offending family members, especially children. If the officer is the only respondent and has immediate contact with family members, it is important to put non-offending family members in contact with the rape crisis center or related social service. If advocates are available, asking them to meet and talk with non-offending family members can be very helpful.

If responding to juvenile victims over the age of 13 and the perpetrator is not a family member or caretaker, ask the victim if, how and when she would like family member(s) to be notified.

**II. Victim Assistance**

**A. Medical Care**

All victims should be transported to a hospital for medical care and collection of evidence by medical personnel. Make the victim aware that the examination is given free of charge if the victim does not have medical insurance to pay for the treatment. Contact a rape crisis center and ask that an advocate be dispatched to the hospital.

Some victims are afraid of the medical examination. This is especially true of victims who have had little or negative experiences with gynecological exams. It may ease the victim’s fears if the officer explains the importance of the medical treatment and the need to promptly collect evidence.

Confer with medical personnel on evidence collection. While this may be difficult in a busy emergency room, it is essential that certain evidence be promptly collected. It is important to remember that the police officer is not to be present during the medical exam itself. Ensure that necessary photographs of the victim's injuries are taken, any bite marks are swabbed for saliva, and any other necessary evidence collection procedures are completed. At the end of the medical exam, confer with medical staff for any additional information which can lead to physical evidence.

**B. Rape Crisis Services**

Prior to leaving the victim at the hospital, the responding officer should furnish the victim with information concerning her rights under the Crime Victim's Rights Act. If a rape victim advocate is not present, the officer should ensure that the victim is aware of the availability of a social service agency, such as a rape crisis center, to provide for the continuing needs of the victim. Do not leave the victim at the hospital without support personnel and transportation.

**C. Victim Rights**

The Illinois Constitution grants victims certain rights which are implemented in the Rights of Crime Victims and Witnesses Act [Victims Right Act] which ensures fair and compassionate treatment for victims and witnesses of crime.<sup>7</sup> The Victims Rights Act guarantees victims two basic rights: the right to obtain certain information from the criminal justice system and the right to be treated in a humane way by the system. Many of the rights are automatic while others can be requested by the victim. Police should be aware of the duties required of them by this law.

[See Appendix B]

**III. Preliminary Interview of Victim**

The purpose of this interview is to obtain sufficient information to complete the preliminary investigation. Other detailed interviews of the victim will be conducted by



medical personnel and other law enforcement personnel as the investigation continues. Because of the victim's emotional response to the assault, the preliminary investigator should limit the number of times and individuals interviewing the victim. Most often, a single interview is sufficient to obtain preliminary information, unless additional information is requested by the investigating officer or the crime scene or evidence technician. Guidelines for conducting successful interviews follow.

**A. Select the Proper Setting**

The preliminary interview often occurs at the hospital. Regardless of the interview site, respect the privacy of the victim. Find a quiet setting, free from distraction. Make sure the victim feels secure in the location. If possible, ask the victim where she would like to give the statement.

The victim should be allowed to choose who is present during the interview unless this choice would hamper the investigation. If a rape crisis advocate is on site, she will be present during the interview only if the victim has signed a written waiver of confidentiality. Otherwise, the advocate will remain on site and be available for the victim at the conclusion of the interview.

**B. Develop Positive Rapport**

1. Provide information - The victim may not understand the police role or what to expect from the investigation. The responding officer should explain and clarify the method and stages of the investigation, and the purpose of the interview. It is important that the victim feels she is a "partner" in the process by understanding the necessity and relevance of the questions asked.

The victim may be unsure or unwilling to prosecute. Explain the importance of making a report and the need to respond quickly to apprehend the offender. If the victim persists in the refusal to give a statement, advise the victim of the right to file a complaint at a later time and the procedure for

doing so. Also explain that some of the evidence may be lost by passage of time and may not be available at a later date. Refer the victim to medical treatment and local sexual assault crisis intervention service.

2. Remain nonjudgmental - A successful interview requires the victim's cooperation. The attitude and conduct of the responding officer is key to gaining the victim's cooperation. The victim will assess the officer's body language, demeanor and language for reaction and understanding throughout the period of initial contact. An officer who is nonjudgmental and sympathetic will put the victim at ease.
3. Be aware of victim's emotional state - There is no "normal" response to a sexual assault. Sexual assault is often experienced by the victim as a degrading, traumatic and life-threatening attack. The victim may be in shock, she may be controlled or "matter of fact," or may be loud and laughing or crying. The victim may be angry and direct this anger at the responding officer. Respond in a professional manner, recognizing that the victim's anger is misdirected.

The victim's thoughts and statements may be disorganized. The victim may be confused as to the timing or sequence of the assault(s). It is common for an individual in crisis to experience lapses of memory or confusion in details. Do not assume inconsistent statements or missing details result from lies and fabrications.

Recognize that the victim's responses are attempts to cope with the crisis and drama of the event. The victim's response is not a measure of the validity of the complaint.

### **C. Conduct the Interview**

1. Tone of Interview - Begin with "you" statements and questions (how are you?; where would you like to do this?). Keep the victim informed with

“we” questions (“we need to broadcast some information to try to find the offender”) and tell the victim what you need with the “I” questions (“I need you to remember as much of the details of the offender’s description as possible”). Be careful not to convey any judgment about the victim’s actions prior to, during or after the assault. Instead of asking: “Did you try to run away?”, ask instead: “What did you do then?”

2. Type of Case - In questioning the victim, the officer should be mindful of the type of case the victim is reporting. Sexual assault cases are of two types: “consent” or “identification.”

The difference between a “consent” and “identification” case may affect the kind of investigation and evidence which will become crucial to the success or failure of the case. In consent cases, questions should focus on evidence of a confrontation and use of force. Identity cases require collection of information to find and apprehend the offender.

3. Take a Statement - The victim’s initial statement will include essential information about the crime. No attempt should be made to obtain detailed information regarding the sexual acts beyond that necessary to establish an element of an offense. If one officer will be responsible for the preliminary and continuing investigation of the case, more detailed information may be taken. However, the better practice is to conduct a second more in-depth interview after the preliminary investigation is conducted.

Specifically, determine:

- the extent of injuries to the victim, if any;
- what happened;
- where the attack took place;
- the direction in which the offender fled and by what means;
- whether a weapon was involved; and

- whether the attack(s) meet the elements of sexual offense.

Allow the victim to provide information in her own words and at her own pace. Avoid interrupting. Repeat the information using the victim's words. Encourage the victim to interrupt to include a fact or correct a mistake.

Give the victim permission to ask for an explanation of any question to be sure that the victim understands the nature of the question.

Throughout the interview, watch the victim's body language and other non-verbal responses. Pay close attention to whether she is uncomfortable with you and the questions asked; reassure the victim that her cooperation is vital.

4. Ask Clarifying Questions - Clarifying questions may be needed to establish one or more facts. These questions might require the victim to disclose very personal and highly embarrassing information. It may be indicative of the victim's discomfort with the information, that certain details were omitted in the initial description of the attack.

The responding officer should be sensitive to the embarrassing nature of this information. Explain why the information is needed. Once the victim describes the sexual acts, use the victim's vocabulary to ask clarifying questions which describe sexual acts or parts of the body.

5. Close the Interview - The close of the interview is important to continued cooperation of the victim. The victim may look to the officer for a reaction and assessment of guilt. After taking the statement, compliment the victim of her ability to survive the attack. Thank her for assisting in the investigation.

Explain the next step of the investigation. Let the victim know that she may request information on the status of the investigation by contacting

the police department, and provide the victim with the report number and follow-up phone number for the police department. If not already provided, give the victim referral information on rape crisis services, and explain the Crime Victims Rights Act.

Respect the victim's wishes as to notification of others. If the victim does not want someone notified or requests help in notifying someone of the sexual assault, offer appropriate assistance.

Explain that it is possible for a victim to remember additional details of the assault as time passes. Request that the victim write down the facts and details as she remembers them. Suggest that the victim also write down questions to ask the investigator.

#### **IV. Documentation**

The initial report documents the investigative procedures taken by the responding officer and records the logistical details about the assault:

- time and date of assault;
- time of officer's arrival;
- location of crime;
- reporter of crime; and
- all relevant identification information.

The narrative portion of the report must completely and accurately summarize the accounts of the incident given by the victim, any witness and the offender. The report must include information regarding what crime occurred and identifying information about the offender. It is not appropriate to make judgments or give opinions about the truthfulness of the victim in this report.

In departments where an investigating officer will be assigned, the investigator's report will provide detailed information about the sexual acts. In these cases, the narrative

section of the initial report will not include detail about sexual activity beyond that required to establish an element of the offense.

If the responding officer will continue into the next phase of the investigation, follow the guidelines set forth in the chapter on Continuing Investigation.

## Chapter 4 – Graphic 1





## **Chapter Five**

### **Continuing Investigation - Overview**

The continuing investigation begins after the immediate emergency needs of the victim have been met and preliminary information has been gathered to identify the offense and the offender. In many departments, the responding officer will continue to investigate the case at this stage. In larger departments, a detective or investigator will be assigned to do the follow-up investigation; this detective will consult with the responding officer and any evidence collectors to review the preliminary investigation.

It is the nature of the investigator to probe information, since proof of each element of the offense will be required to prosecute the case. An investigator will test the evidence and seek corroboration. A balance must be maintained between the need to question and the duty to remain nonjudgmental. One of the most difficult aspects of a sexual assault investigation is maintaining this balance. Do not prejudge the case based on an impression, the circumstances presented or the acquaintance of the victim and offender.

#### **I. Investigation Strategy**

Adoption of an investigative strategy will clarify and focus the investigation. Knowing the elements of the offense and the kinds of evidence and defenses that may be raised will provide a framework for the investigative strategy.

Cases can be categorized by primary issues raised in prosecution. In most cases, identity of the offender or the **element of force** and the **issue of consent** are the key issues. While it is difficult to pigeonhole cases with certainty, most cases follow an identity or consent classification. Less commonly the classification will change. For example, a mistaken identity defense may become a consent defense when physical evidence shows that the offender was at the scene.

#### **A. The Identity Case**

Identity cases are the “stranger rape” variety in which an unknown offender attacks the victim. This kind of case includes most pattern or serial offenders. It is likely that the offender will not be in custody.

Since identity will be the main issue, the investigation should focus on obtaining as much information about the offender as possible to develop suspects. Obtain a comprehensive physical description of the offender. Analyze the method of operation of other offenders who might have been previously arrested for a similar crime to determine whether a pattern exists.

## **B. The Consent Case**

Consent cases are usually those in which there is some prior level of interaction between the offender and the victim. The offender may be the victim’s former boyfriend, spouse, co-worker or other acquaintance. Because of the prior social or sexual relationship between the offender and victim, the offender will often contend that the victim consented to the sexual activity. The existence of force becomes the primary issue in consent cases.

To thoroughly investigate this kind of case, the investigator must identify and document evidence which demonstrates that a confrontation took place.

When the victim has submitted due to the threat of force, there will be little physical evidence to corroborate. There may be an “ear” witness who heard the victim pleading, or crying for help. In many cases, however, there won’t be any witnesses to the crime. Illinois law recognizes that some victims fear if they resist they will be seriously injured and does not require that the victim physically resist to establish the element of force.

Where there is little physical evidence of force, the question is one of credibility of the victim versus the offender. Information about the victim’s resistance efforts and state of mind must be recorded. Document:

- any of the victim’s efforts at resistance;

- exact information concerning the victim's submission;
- conversation that the victim used to dissuade the offender from continuing the assault;
- victim's fear of the offender; and
- fears related to the environment or situation in which the sexual assault took place. For example, the victim may have been taken to an unknown area or a sparsely populated location or locked in a high-rise apartment adding to the threatening environment.

A comprehensive statement from both the victim and offender can then be compared for logical and factual consistencies.

## II. **Determination of Facts**

The officer who conducts the continuing investigation will assemble all the known facts of the case. Assembling the facts is a multi-step process that includes:

- interviewing the victim
- apprehending and interviewing the offender
- identifying and interviewing witnesses
- collecting evidence

All of these steps are completed with the investigative strategy in mind.

### A. **Interview the Victim**

A detailed interview will be conducted with the victim to confirm all the facts of the case, identify the offender, cross-check information made during the preliminary investigation and clarify discrepancies. A protocol for this interview is contained in Chapter 6.

### B. **Apprehend/Interview Offender**

During the continuing investigation, the offender will be identified, apprehended and interviewed. A protocol for apprehension and interview is contained in Chapter 7.

### C. **Collect Evidence**

During the preliminary investigation phase, the crime scene will have been secured by the on-scene officer. The continuing investigator is responsible for following up to ensure proper collection of evidence is completed. A protocol for evidence collection and analysis is contained in Chapter 8.

**D. Identify and Interview Witnesses**

The responding officer may have conducted interviews with some witnesses. The continuing investigation will include a review of those interviews with any additional witnesses.

At the scene of the crime, search for and interview witnesses in the surrounding area that may have seen or heard anything connected with the crime. Search for and interview witnesses that may have seen the offender exiting the crime scene.

During the interview of each witness, ask whether they can identify anyone else who may have seen or heard anything related to the attack. Information taken from any witness should be as detailed and as thorough as possible. All interviews should be reduced to writing by police and signed by witnesses. Have the witness read the interview information aloud and initial and date each page of the statement. Ask the witness to call with any additional information and any change of phone or address since it may be months before the case is ready for trial.

**III. Write Investigation Report**

**A. Purpose**

The written report summarizes the actions taken throughout the case. It closes out all current leads. All positive and negative information affecting the investigation of the case is recorded. All evidence is identified, all witness interviews are included and the final report will support the decision made by the investigation.

**B. Case Status**

The report will reflect whether the case is unfounded, cleared, closed exceptionally or administratively. If the case is cleared by arrest, the report should address all elements of the case and all the anticipated legal issues. If the case is closed exceptionally, all I-UCR (Illinois Uniform Crime Report) criteria must be met. The case may also be unsolved and the report will reflect whether it remains pending or is administratively closed.

**C. Unfounded Case**

There are occasional unfounded sexual assault cases. The same criteria should be applied in this type of case report as in other criminal cases. The I-UCR states that the criteria for unounding a case is that, after investigation, the report is false. This standard means that the investigator should determine that the case is without merit in order to unound the report. If the officer is unsure or needs more information before making the decision, then the case should not be unounded at this point.

A case should not be unounded on the following basis: criminal history of the victim, delayed reporting, prior relationship of the victim and offender. None of these factors is sufficient to unound the case. The investigation must reveal that, in fact, the incident did not occur for a valid unounding decision to be made.

The unounding decision should not be made simply where the defendant raises the issue of consent. The defendant's claim of consent must be sufficient under the law for consideration in the case. As defined in the Criminal Sexual Assault Act, consent means a "freely given agreement." Lack of resistance or submission does not equal consent. (720 ILCS 5/12-17.) Thus, the defendant's contention must meet the elements of the law to be considered for unounding.

## Chapter 5 – Graphic 1

## **Chapter Six**

### **Continuing Investigation - Victim Interview**

The in-depth interview of a sexual assault victim is a difficult and sensitive process. It is painful for the victim and can produce emotional outbursts. It may be stressful for the investigator who must remain objective and professional in demeanor.

Unlike the preliminary interview, this interview is very detailed. It is necessary to discuss the details of sexual acts that the victim may find embarrassing and disturbing. While it is the skill and attitude of an investigator that is most important to complete the interview, the victim may express a desire for a same sex interviewer. Whenever possible, respect the victim's wishes.

#### **I. Set Up the Interview**

##### **A. Timing**

1. Offender Arrest - The timing of the in-depth interview may be dependent on whether a suspect has been apprehended. If so, it should be conducted soon after the assault occurs. While it is not generally the best timing to obtain information from a highly traumatized person, the circumstances may make it necessary. If the offender has not been identified or is not in custody, the interview can be conducted at a time more convenient to the victim and investigator.
2. Victim Readiness - The physical and emotional state of the victim should be considered when scheduling the interview. For example, medication prescribed for the victim may interfere with the victim's ability to think clearly. If the interview must be conducted shortly after the attack, make sure that the victim has received medical treatment and is physically comfortable.

##### **B. Give the Victim Choices**

During the sexual assault, the victim has lost control over fundamental choices. The victim may have been terrified and traumatized by the offender. The interviewer should provide the victim with the opportunity to make choices and begin to regain control over as many decisions as possible.

1. Participants - If the victim chooses a support person or an advocate, her presence may help the victim feel comfortable. The victim may not feel comfortable being interviewed in the presence of others. Family members or friends may or may not be supportive of the victim. Offer to include or exclude people on the victim's behalf within the parameters of good investigative procedures.
2. Setting - Give the victim some control over the location of the interview, if possible. Respect the victim's privacy. Ask the victim to choose a private, quiet location for the interview. Let the victim choose where to stand or sit and whether to have a drink or smoke.

These choices may seem insignificant to the investigator, but will greatly assist the victim in feeling more in control and may lead to greater rapport between the interviewer and the victim.

## **II. Develop Positive Rapport**

### **A. Provide Information**

The interviewer should begin initial contact by providing the victim with the interviewer's name and agency and a brief explanation of the purpose of the in-depth interview. Clarify that the goal is to help and protect her from the offender.

The victim may not know why a second interview is being conducted. Explain that although some of the information has already been provided to the dispatcher, responding officer and medical personnel, this interview is necessary to establish and/or confirm each of the required elements of the case. This will help



alleviate the victim's frustration and irritation at having to repeat painful or embarrassing information.

**B. Explain the Need for Detail**

The victim does not have to justify her behavior, but all the details need to be provided. A victim who engages in risk-taking behavior may be reluctant to talk about it because of the fear that it was a "bad" choice and may feel guilty or responsible for the attack. Let the victim know that complete information needs to be shared with the interviewer so that the defense cannot surprise the victim.

Prepare the victim for the fact that she may not know the answer to some of the questions or may not remember certain details.

**C. Interviewing Techniques**

While each investigator will develop his or her own methods of interviewing, one very effective method follows a three step process prior to focusing on the details of the assault. The following method was adopted and utilized by a veteran New York City detective who participated in the establishment of the city's Sex Crimes Analysis Unit and supervised the investigation of numerous sexual assault crimes.<sup>8</sup>

1. The "You" Phase - Begin the interview using the word "you" in your statements and by asking "you" questions. The goal of this phase is to develop rapport by showing concern for the victim's well-being. These questions help the victim release tension and can be calming.

- How are you feeling?
- I'm sorry this happened to you.
- Where would you like to do this?
- Would you like something to drink?
- May I call you by your first name?
- How long have you lived/worked/gone to school here?

2. The “We” Phase - Once the victim begins to relax, move into the “we” phase of the interview. Use of the word “we” provides the victim with the sense that this is a team effort, and gives the victim a sense of control. The victim has a vital role to play.
  - We have some things to do now.
  - We need to review some information together.
  
3. The “I” Phase - Once rapport has been established, explain the investigative process. The victim should be told that all of the experience and expertise of the investigator will be brought to bear on the case, but there is a need for information and observations that only the victim can provide.
  - In order to catch the offender I need more information.
  - I’m going to be asking you a lot of questions.
  - I have worked on other cases of sexual assault.
  - I have worked with other victims.
  - I have heard this type of information in other cases.
  - I will sometimes ask you to repeat information so that I can understand what you mean.

### **III. Conduct the Interview**

Begin the interview by asking the victim questions about the entire chain of events associated with the crime. Then ask for a description of the offender and for information about witnesses. Finally, discuss any inconsistent statements with the victim. Questions of the victim fall into five categories: targeting, testing, threat, assault and termination.

#### **A. Targeting**

These questions are designed to establish how the offender made initial contact with the victim. The offender may be using an established pattern or method of targeting the victim. Or the offender may be in the area for employment or other reasons.

- Where/when did the victim first observe the offender.
- Where was the victim coming from/going to or what was the victim doing at the first moment she became aware of the offender's presence.
- Establish whether the victim followed a routine or pattern.
- What was the victim thinking? feeling?
- If the offender is an acquaintance, when did the victim become aware that the situation was changing and that there might be a problem or that something wasn't right?
- Did the offender act similarly in the past? Under what circumstances?

## **B. Testing**

In this phase of the assault, the offender "tests" the victim. The offender may be trying to establish the vulnerability or availability of the victim. Depending on the offender's style, the testing phase may involve a brief period of conversation or the offender may immediately become physical.

- What did the offender say to test the victim's reactions?
- Did the offender ask for directions, the time, or ask to come into the victim's home to use the phone, bathroom, have a drink?
- Have the victim state the exact words the offender used, if possible.
- What physical testing occurred?
- Did the offender block the victim's path?
- Hold or grab the victim?
- Lock the door to the car?
- Lock the door to the residence?
- What was the victim doing during this time?
- Have the victim describe the actions precisely.
- What was the victim thinking? feeling?

## **C. Threat**

In this phase, the offender has made clear the intent to commit the assault. Examination should be made to determine how the offender acted on the intent to assault.

- How did the offender threaten the victim?
- Was there a weapon? Describe the weapon as exactly as possible.
- Did the offender threaten to use a weapon?
- What exactly was said?
- What commands or orders did the offender give the victim?
- What threats did the offender make to obtain submission?
- Did the offender offer to let the victim live if the victim followed directions?

#### **D. Assault**

Before moving into this section, the interviewer should pause a moment to remind the victim that although this is the hard part, nothing the victim says will shock the interviewer. Explain that many victims have difficulty talking about the sexual acts, but that the information is important and all the details are necessary.

Ask factual questions. For example, ask whether the penis made contact with the victim rather than whether penetration occurred. This permits the victim to explain whether and how contact was made.

Use proper terminology to describe the acts. Do not label the acts as “perverted” or “bizarre.” After the victim describes the sexual acts, use the victim’s language in describing sexual acts which need clarifying. This technique can ease the victim’s embarrassment.

- What did the offender do to the victim?
- What part of the offender touched what part of the victim?
- Did the offender put his penis in or on the victim? Where? Anywhere else?
- Did the offender have an erection?
- Did he have trouble having an erection?

- Did the offender ejaculate? How many times?
- Did he say anything at the time?
- Did the offender tell the victim to put the victim's mouth on the offender's body? Where?
- Did the offender tell/make the victim do other things to the offender's body? to the victim's body? What exactly?
- Did the offender have any deformities, scars, tattoos? Where?
- Was the offender circumcised?
- Did the victim see anything on the offender's body that the victim wouldn't have seen if the offender was clothed?
- What did the offender say during the sexual activity?
- Did the offender call the victim by any names?

#### E. **Termination**

In order to prevent the victim from reporting, an offender may terminate the sexual assault by giving orders or warnings. These are important to establish an offender's state of mind and, perhaps, identify movement of the offender after the assault and direction of flight for evidence collection purposes.

- What did the offender say after the sexual assault was completed?
- Did the offender boast? Make an apology?
- Did the offender ask for a date with the victim?
- Did the offender tell the victim to follow any instructions?
- Did the offender warn the victim not to move or look or call anyone?
- Did the offender impose a time limit?
- What were the offender's actions after the sexual assault?
- Did the offender use the bathroom? Wash up? Have a snack, take a drink? Turn on the television?
- Did the offender use the telephone?
- How long did the offender remain on the scene after the sexual assault?
- How did the offender leave the scene?

- Did the offender use a car? Leave on foot? Was the offender running, walking?
- Did the offender drive around?
- Did the offender take anything from the scene?
- Did the victim see or hear anything as or after the offender left the scene?

**F. Description of Offender**

After the victim has provided the details of the sexual assault, it is necessary to obtain a detailed description of the offender. Before continuing with the interview, it may be important to ask the victim if she needs a break. This may aid in her concentration. In cases where the offender is unknown, the detailed description is essential to identify suspects. It can also be used in different ways: to link other cases, prioritize suspects, develop interrogation strategies and develop an investigative plan.

For a known or recognized offender, ask the victim to provide as much identifying information about the offender as possible - including name, address, phone number, work, routines, friends, etc. For known offenders, the details of the description will not usually be at issue, but the information is important to apprehend the offender and to corroborate the victim's statement.

Begin at the offender's head and continue down through the offender's body. For example, ask:

- Hair: Color, style, amount, density
- Eyes: Color, size, unusual characteristics (crossed, etc.) glasses (kind, style), eyebrows (bushy)
- Nose: Flat, broken, pointed, thick
- Mouth: Lips, moustache (thin, thick, type), beard (full, thin, thick, type)
- Teeth: Missing, gold, broken, crooked, spaces, braces
- Voice: Accent, speech impediment, harsh, refined, pitch

Breath:	Odor (foul, sweet), alcohol, smoke, garlic
Body:	Type (thin, fat, muscular), scars, marks (tattoos, moles, birthmarks), Odor ( cologne, etc.) hand/body part/method(s) used to restrain or strike victim.
Height:	Range (compared to interviewer)
Weight:	Range (compared to interviewer)
Jewelry:	Rings, earrings, nipple rings, nose rings, watch, bracelet, necklace, etc.
Clothing:	Brand, color, markings, drawings, shoes (clean/new, dirty/ old) work clothes, sweats)

Document the comparisons used for any height, weight or other range comparisons. The documentation will help explain any later discrepancies that might occur.

**G. Witnesses**

Ask the victim if there were any loud noises during the assault: screams, furniture knocked to the floor, doors slammed, etc. Determine whether the victim knows of the existence of any witnesses that may have seen or heard the offender:

- make the initial contact
- use physical restraint or force
- exit the crime scene.

**H. Inconsistent Statements**

It is not unusual for a victim’s statement to include discrepancies. The circumstances of the sexual assault can cause a victim to be disorganized or confused. Make no assumptions about the validity of the inconsistency. Allow the victim to finish the initial description of the attack, then point out that the victim needs to clarify some detail.

If inconsistency remains, explain that to the victim. Be nonjudgmental; the investigator may not have understood the victim correctly. Explore the basis for the inconsistency. The investigator can request the victim to make sense of the inconsistent details, but do not ask the victim to justify a particular behavior or statement ( e.g., why victim was drinking; why victim got into a car with a stranger).

Risk-taking behaviors may be the subject of the inconsistent statements. The officer should realize that it is not unusual for victims to omit risk-taking behaviors out of fear that such behaviors will be reviewed negatively. The officer should encourage clarity in this area, because the credibility of the victim will be enhanced if the behaviors are identified and addressed early in the investigation.

#### **IV. Close the Interview**

##### **A. Review Statement**

Close the interview by reviewing the victim's statement to determine if it is complete. Ask the victim to confirm the correctness of the information. The majority of counties in Illinois use the interviewer's report to summarize the victim's statement.

##### **B. Refer for Services**

If the victim has not already been informed of the availability of rape crisis or other social services, provide referral information and offer to make contact for the victim. The interviewer should also ensure that the victim has been furnished with information on crime victim rights. (Appendix B)

##### **C. Explain Next Steps**

Explain the next steps to the investigation and provide a contact telephone number. Remind the victim that it is possible for the details of the sexual assault to be more clearly remembered over the next hours or days. Tell the victim to make contact if this should occur. The victim should also be reminded to make contact



with new phone number or address information, since it may be months before the case is ready for trial.



## **Chapter Seven**

### **Identify and Apprehend the Offender**

#### **I. Develop Suspects**

If the offender was at the scene of the crime when the responding officer arrived, and the victim positively identified the offender, no further identification procedures are necessary.

If the offender was not at the scene of the crime when the responding officer arrived, the offender will be identified through the victim's description and by developing and prioritizing suspects based on previous arrests, identified profiles, patterns of behaviors, composite pictures and photographs or physical evidence.

#### **A. Photograph, Composites**

An offender file or photograph book of previous offenders may assist in the development of suspects. Request the victim come to the police station and look through photo books of prior offenders. If possible, request the victim to work with a composite artist to recreate the offender's facial features on a composite sketch.

#### **B. Profile**

The characteristics of the sexual assault will be examined to identify certain behaviors and traits of the offender. Modus operandi information includes:

- type of crime (other crimes)
- approach
- victim
- means
- object
- "signature"
- verbal information (language used)

- vehicle, method of entry, exit
- items taken (souvenir, theft)
- description of offender
- type and order of sexual act(s)

### C. **Physical Evidence**

Physical evidence may include fingerprints, footprints, tool marks, hairs, fibers and body fluids for DNA analysis and databank comparison.

Latent fingerprints obtained from the crime scene can be matched using AFIS to a previously fingerprinted individual. The Chicago Police Department maintains an AFIS database, which is separate from the state, and should also be checked. In many sexual assault cases, fingerprints are of more value in confirming the identity of a suspect rather than initially identifying the suspect. Less commonly, footprints and tool marks may be present at the scene. These can also assist in confirming the identity of a suspect.

It is important to note there may be a delay of several months in receiving the reports of DNA analysis. It is important to let the victim know about this lengthy, but necessary process.

### D. **Noncustodial Suspect Interview**

An investigator may interview any person for information concerning an investigation. Asking an individual to come to the police station to talk or going to the residence or employment of an individual are proper methods of investigation. In some cases, the offender voluntarily contacts police to provide information.

The issue, in such instances, is whether the suspect was “in custody,” i.e., whether a reasonable person would have felt free to leave under the circumstances. Deprivation of freedom is the question, not whether the suspect was officially placed under arrest. *Miranda* warnings should be given when appropriate.<sup>9</sup>

## II. **Identify the Offender**

If the victim did not identify the suspect as the offender at the time of the initial report, a **show-up or line-up** identification procedure may be required.

The victim may be unfamiliar with the method of identifying an offender. Many victims fear for their safety if the offender can see them in the identification process. Try to keep the victim out of the offender's sight during the procedures. Even in cases where the offender cannot see the victim, the victim may fear that the offender "knows" the victim is present. Prepare the victim to deal with these fears by explaining the procedures and providing reassurance that the offender cannot see the victim.

The victim should be free from pressure or suggestion when viewing the identification procedure. The victim should be told to identify anyone viewed that she recognizes.

#### A. **Conduct a Show-Up**

If a suspect is identified within a short time after the commission of the crime, ask the victim to identify the offender through a show-up procedure.

A show-up is a one-on-one procedure. It must be conducted within a short time after the offense is committed. Show-ups held within an hour of the offense have satisfied the time requirement.<sup>10</sup>

While a show-up can be done on the street, the suspect should not be in handcuffs or otherwise be detained, except for questioning. The suspect should not be isolated or highlighted in any way. The suspect can be required to speak so that the victim can hear the suspect's voice.

If the victim is physically and emotionally able, take the victim to look for the offender. The victim must make a positive identification. If more than one witness will view a show-up, make sure each independently views the suspect so as not to taint the identification procedure.

**Suggestibility.** Courts look to both the perceived need of an immediate showing of the defendant and to the intent of the police in determining whether a

show-up is admissible. A show-up may be suppressed if the court determines it was suggestive. Due to the circumstances under which a show-up will be conducted - close in time to the crime, highly excitable victim, possibility of error - it is more likely that a show-up will be found suggestive than a line-up. It is therefore preferable to conduct a line-up when feasible.

In determining the reliability of the identification, courts examine the need to have a one-to-one confrontation and the circumstances under which it occurred. Show-ups have been upheld where the victim had an excellent opportunity to observe,<sup>11</sup> and where the victim knew the defendant before the crime.<sup>12</sup> A show-up in a hospital has also been upheld where the victim was severely injured and it was uncertain that the victim would live.<sup>13</sup>

#### **B. Conduct a Line-Up**

A line-up is conducted if a suspect is identified and a significant amount of time has elapsed after the attack. Ask the victim to identify the offender through this line-up procedure. A line-up identification should also be conducted if the victim identifies the suspect in police photograph books, or a composite drawing.

A line-up can be conducted by photograph or in-person. Due to the unavailability of personnel in smaller jurisdictions, many line-ups will be done by photograph. Photographic line-ups should not be used when the suspect is in custody and a line-up is otherwise feasible unless police can offer extenuating circumstances, such as a situation in which the victim is in intensive care in the hospital.<sup>14</sup>

For photo line-ups, use an array of photos; photos may be either black or white or color, but color differences should not be combined in one array. The photos should be the same size and taken in a similar manner. Any writing should be on all photos.

**Suggestibility.** While there is no requirement that the participants in a line-up be identical, the techniques of a line-up should not be suggestive. For example, if the suspect is different in size and wears different clothing than other line-up participants, it may be held unnecessarily suggestive and suppressed in court.

**C. Suspect Rights**

If the suspect has been charged, his attorney must be notified and be given an opportunity to be present at the line-up.<sup>15</sup> A suspect has no right to refuse to participate in a line-up.<sup>16</sup>

**III. Apprehend and Arrest**

**A. Locate Offender**

Interview all leads to determine the offender's location. If necessary, begin surveillance of all appropriate locations: home, work, school, relatives, friends. If the victim recognized the offender as someone seen prior to the attack, investigate all leads provided by victim regarding the offender's identity or location. If necessary, visit locations that coincide with expected behavior from the offender.

**B. Arrest**

The officer must document probable cause for the arrest of an offender. Probable cause for arrest exists when an officer is aware of facts and circumstances to reasonably believe that a crime occurred and that the suspect committed the crime. For example, "the offender fits the description of the wanted suspect."

The officer must also record that the identification was made. For example, "Victim identified the physical appearance of the offender and asked him to say something to confirm."

If the victim is positive in the identification, arrest the offender. Unless the offender is arrested at or near the scene, there must be more than probable cause to arrest an offender in his home. A warrant is highly suggested unless the officer is

in hot pursuit or exigent circumstances exist. It is critical to remember that a search or arrest warrant may be required to enter the home.

### C. **Evidence Collection**

When a timely arrest is made, the suspect's clothing should be collected, marked and packaged for delivery to the crime lab. Photographs may be taken. If needed, hair standards may be collected from the suspect. The consent of the suspect, a search warrant or a court order is required to collect biological standards from the suspect. Biological standards should be collected by medical personnel. Portions of the SPECK kit can be used to package samples.

A search warrant should be obtained to search the suspect's residence, vehicle or place of employment for items which may have been taken from the victim or the crime scene or which may have been transferred to the victim or crime scene from the defendant.

## IV. **Interrogation**

The interrogation of the suspect is a crucial phase of the investigation, and a strategy should be determined prior to the interrogation. The questioning of the suspect will focus on the consistency of the statements given. Therefore, the interviewing officer should know the facts and theory of the case prior to the questioning, so that incriminating statements can be recognized. Consider the motive, the profile and the demeanor of the suspect in adopting a strategy/tactic for interrogating the suspect. The investigator should remain nonconfrontational and professional.

### A. **Miranda Rights**

The statement of rights required by *Miranda* must be given to a suspect in custody prior to questioning. The investigator should read the statement from a written source and have the suspect waive his rights prior to questioning. An interrogation should not be conducted if the suspect appears to be under the influence of alcohol or drugs.



If the suspect indicates that he wants to remain silent, all questioning must cease. If the suspect later initiates further discussion with police, give the *Miranda* rights again and resume questioning. If the suspect asks for an attorney, all questioning must cease until an attorney is present. If the suspect has been charged and counsel has been retained or appointed, do not question him without his attorney present.

Document all facts which establish compliance with *Miranda*. This information will be essential if challenged in a motion to suppress the suspect's statement.

**B. Setting**

The time, place and date of the interrogation must be recorded. The suspect should be permitted to smoke, drink, eat, rest and use bathroom facilities as appropriate. Document all necessities and amenities which were available and offered to the suspect.

**C. Orientation**

The investigator should explain the crime which is the subject of the interrogation, including a description of the time and place of the offense. Explain that the goal is to ascertain the truth. Ask the suspect for "his side of the story."

**D. Preliminary Questions**

The interviewer should obtain the suspect's background and medical information. Establish the routine or schedule of the suspect. Note observations of the suspect's demeanor during specific questioning.

**E. Interviewer Considerations**

1. Evaluate statements with attention to preparation for prosecution. - All statements made by suspects fall within a continuum of exculpatory to confessional. A confession is a statement made by the suspect which admits all the elements of the crime, offers no affirmative defense or

evidence of mitigating behavior, and provides information regarding at least one piece of corroborative evidence. While a “confession” is an important piece of evidence in a sexual assault case, it is more common for the suspect to make “incriminating statements” which can be useful at a later trial.

What makes a statement incriminating, neutral, or exculpatory depends on the facts and theory of the case. For example, a suspect’s admission that he had sex with the victim will not be incriminating if the case is based on a consent defense. However, if the suspect explains the sexual acts as being a gentle and private experience but a witness heard screams and breaking furniture, the same statement may be incriminating.

2. Be aware of offender motives and rationalizations. - Most sex offenders deny the allegations outright or rationalize their behavior to justify their actions. A common rationalization is entitlement. “I paid for dinner, the evening, this is my girlfriend, wife, etc.” This offender believes he has a right to take what he believes he is entitled to. Another offender may rationalize that the victim “disrespected” him. For example, “I give you drugs, you pay me with sex.” This offender believes that the victim knew that the true price of the drugs was sex.

Recognition of the offender type may assist in focusing questions on the assault. Listen closely to any rationalization by the suspect. Agree, if necessary, that the suspect’s actions were “understandable.” Do not condemn the suspect for the crime.

Offenders are capable of enormous self-delusion. They may describe romance and great enjoyment where the victim reports being terrified. An effective investigative technique is to get into the mind of the offender; feed the rationalizations back to him with statements such as:

- “you’ve got this need which has to be fulfilled and I understand that...”

- “you were out of control...”
  - “everyone does things that they don’t mean when they are angry.”
3. Multiple interviews - If the suspect does not communicate well with you as an interviewer, consider bringing in another interviewer that may have a different style.

**F. Questions About the Assault**

Encourage the suspect to elaborate and provide as thorough a recital as possible.

1. General Questions

- Ask the suspect to describe the physical act from start to finish, and let the suspect tell the story.
- Ask questions to elicit details.
- Seek information that can be corroborated or contradicted by the physical evidence.
- Try to obtain statements that include references to physical evidence - then attempt to collect that evidence.

If the suspect makes admissions or confesses to the attack, continue the interview to gain information that corroborates the admission or confession.

2. Consent Case

- If the suspect states that the victim consented, ask the suspect to describe how the victim consented - what exactly indicated the victim’s consent to the suspect.
- If the suspect states that the victim consented to the act because of the victim’s failure to resist, ask the suspect what the victim could have done to stop the act.

3. Identity Case

- If the suspect states that he is not the person that committed the act, continue to interview to determine whether corroboration can be obtained on the suspect’s statement.
- Ask the suspect for an alibi.

- Document each alibi or denial in writing.

**G. Prepare the Suspect's Statement**

If the suspect consents, prepare all statements made by the suspect.

- The statement should be transcribed or otherwise reduced to writing.
- Allow the suspect time to read the statement and encourage him to correct any errors.
- Let the suspect initial any changes, sign, date, and time each page.
- To ensure that the suspect can read, have the suspect read the statement aloud to the interviewer.
- The original statement should be properly secured as evidence and a copy should be forwarded to the State's Attorney's office for review.

## **Chapter Eight**

### **Continuing Investigation - Evidence**

#### **I. Purpose of Evidence**

The type of evidence sought will guide the search and collection process. For example, in a sexual assault where the identity of the **offender is unknown**, physical evidence such as fingerprints or DNA analysis of body fluids may be essential identifying information to locate and apprehend a suspect. However, in an **acquaintance case** where the identity of the offender is known, evidence of the force used to accomplish the crime is essential to overcome an anticipated “consent” defense. Evidence serves multiple purposes:

##### **A. Connect the Victim and Offender**

Due to the nature of the crime, sex offenses usually produce evidence of physical contact between the offender and victim. The victim may have on her body certain traces of evidence associated with the offender such as hairs, fibers and body fluids. Semen may be deposited on areas near the victim’s body.

##### **B. Reconstruct the Crime**

The crime scene can yield valuable information regarding how the crime occurred. The entry, exit and movements of the offender may be identified through fingerprints and footwear evidence corroborating the victim’s information.

##### **C. Establish an Element of the Offense**

1. Sexual Penetration or Conduct. - Sexual activity, either penetration or conduct, must be proven as an element of the offense. When the victim and offender are acquaintances, the offender commonly does not deny the sexual activity but contends that the victim consented. In this type of case, evidence of sexual activity is still important to prevent the offender from changing the defense or to establish inconsistencies in statements taken.

2. Force - In most sex offenses where the victim is an adult, the law requires that the sexual activity be accomplished by force or threat of force. Signs of a struggle, including torn clothing, bruises, scratches or disrupted or broken furniture, may assist in demonstrating that a violent confrontation occurred at the scene.

In other sex offenses, physical evidence generated during the commission of the crime may be more difficult to detect. For example, where the victim submits to the sex offense due to the threats of the offender, the evidence collector will establish the connection by examination of the victim's statement.

The state has the burden of proof to show beyond a reasonable doubt that the defendant committed the charged crime. To remove doubt, the charge must be supported by as much evidence as possible. Physical evidence properly identified, collected and analyzed will assist in obtaining a conviction.

## **II. Victim**

The victim may be a source of physical evidence. In most cases, the victim will have been taken to the proper medical facility for emergency treatment and collection of evidence.

### **A. Medical Evidence**

The Illinois State Police Evidence Collection Kit (I-SPECK) is used to collect evidence when the victim is brought to the hospital. The I-SPECK kit contains materials for collecting vaginal, oral and rectal swabs, blood specimens, saliva, fingernail scrapings and hair combings. Effective October, 1994, envelopes for the collection of hair standards are not contained in the I-SPECK kit. The collection of hair standards may be requested at a later time, if pertinent to the case.

### **B. Clothing**

The clothing the victim wore during and immediately after the assault will also be collected and transferred to the lab for processing.

C. **Bruises, Bites**

With victim's consent, take photographs of any bruises on the victim. Look for the pattern and shape that the bruises demonstrate. Pay special attention to the wrists and throat of the victim. Recognize that the bruises may show up a day or two later and will change over the course of a few days. Document bruising with photographs each day.

Bite marks may be present on the victim and can contain the offender's saliva. The hospital should be directed to swab a bite mark. After swabbing, a cast can be made if the mark is deep enough. Take photographs of bite marks.

D. **Release Kit**

Once the kit is completed at the hospital, and the victim gives permission to release it to police, it should be immediately transferred to the appropriate crime laboratory for analysis. If the I-SPECK kit cannot be immediately transferred to the crime lab, it should be refrigerated (but not frozen) to maintain the liquid blood samples.

E. **Victim Statements**

Police should be made aware of any statements made by the victim to hospital personnel as to the nature of the assault and the identity of the perpetrator. All of these statements should be carefully recorded by hospital personnel as these statements may also be used in the investigation and prosecution. The investigator may want to interview the victim to determine where additional physical evidence may be located.

To establish sexual activity, the victim's initial report should indicate whether and where the offender ejaculated. Although emission of semen is not

required to establish the offense, presence of semen can be collected to establish sexual activity.

The victim should also identify whether she has engaged in sexual intercourse with any other person in the 72 hours immediately preceding the assault or between the time of the assault and the hospital examination. Elimination standards can then be collected to identify any body fluids remaining on the victim.

If the victim is not at the hospital or if the victim did not immediately report the attack, ask the victim to provide any unwashed clothes, bedsheets or other surface materials that may have been involved in the attack and collect the evidence.

### **III. Offender**

Upon arrest, the offender becomes a source of evidence. Depending on the circumstances, the offender's clothes and body may contain evidence.

#### **A. Clothing/Photos**

If apprehended shortly after the offense, the offender may provide evidence of scratches, marks, bruises or torn clothing to corroborate the force element.

- The offender's clothing may be taken as evidence. Require the offender to strip over a sheet.
- Photos of the offender may be taken.

#### **B. Biological Evidence**

The collection of biological standards in a physical exam requires the offender's consent or a court order. The I-SPECK kit components can be used to collect body fluid samples from the offender. It is important that evidence air dry before packaging to avoid deterioration of specimens.

- The saliva sample should be collected on a paper filter disk, dried, and placed in an envelope or paper fold. Do not lick any envelope to avoid contamination of the sample.
- Penile swabbings may be taken to compare with the victim's samples.
- Hair standards should also be collected from the offender, if pertinent to the case.



Properly package evidence and deliver or send to crime lab.

#### **IV. Analyze the Crime Scene**

##### **A. Arrival at the Scene**

The collection of evidence in a sex offense must be conducted as soon as possible. Some procedures may be done simultaneously. The crime scene will dictate the order of procedure.

1. **Protect Scene** - The responding officer will immediately secure the scene to protect fragile physical evidence from contamination or destruction, and, if possible, will remain on scene until the technician or other officer arrives to collect evidence. Once the responding officer has secured the crime scene, a trained crime scene or evidence technician should be called; Illinois State Police provides to any law enforcement agency trained evidence collection technicians to process sex offenses crime scenes.
2. **Assess Scene** - Assessment of the scene will be done prior to touching or moving any potential item of evidence. Any required movement in the scene should be done with great care to avoid contaminating the scene.
3. **Collection of Evidence** - Only where the technician will be delayed for a significant period of time should the responding officer assume the duty to identify and collect crime scene evidence that may become contaminated or destroyed through the passage of time. Every officer who is charged with the duty to identify, collect and preserve evidence should know:
  - what kind of “evidence” is useful in a sexual assault case.
  - how to collect and preserve such evidence.
  - how to submit evidence to the appropriate crime lab for processing.

##### **B. Complete Crime Scene Checklist**

The responding officer should complete a crime scene checklist for the evidence collector based on the preliminary interview with the victim and witnesses noting:

1. How was entry gained? (Force, invited)
2. What did the offender do/touch at the scene? What movements did the offender make?
3. If the offender moved out of sight of the victim, did the victim hear any sounds, such as a refrigerator door opening, drawers being opened, etc.?
4. What did the offender do immediately prior to, during and after the sexual assault? (E.g., did offender eat, drink, use the bathroom, run water, wash hands, use towels?)
5. What footwear did the offender wear?
6. What smells can the victim/responding officer remember? (E.g., did offender smoke?)
7. What did the victim do after the assault? (E.g., did the victim wash, change clothes?)
8. Where was the site of the sexual attack? (E.g., if bed, were covers on floor before, during attack?)

**C. Photograph the Scene**

Photography provides a permanent record of the crime scene. It supplements notes, measurements and sketches or diagrams. Photograph the entire scene taking overall, mid-range and close-up photos prior to touching, moving or disrupting potential evidence. Some departments now use videotape to record the crime scene. Photograph objects as they appear with a measurement guide, as per crime scene photography guidelines. All photographs should be dated and numbered consecutively.

**D. Search the Scene**

The method of search depends on the case and scene. If a single officer does the search, the scene will be disturbed the least. Any other officers present should assist in locating the evidence, but they should not collect it.

The method of search depends on the availability of information on the offender's actions. If the crime scene checklist is detailed, follow the movement of the offender. Another method of searching is to sector the scene in contiguous areas of importance or the scene can be divided into a grid to search manageable areas.

If a search is done outdoors, section the search to make it more manageable and move back and forth grid by grid until the identified area is searched.

1. The Victim's Residence - Where the victim's residence is the crime scene, no search warrant is required because the victim has invited the police to search.
2. The Offender's Residence - If the scene is under the offender's control, there must be consent to search or a search warrant must be obtained.
3. Vehicle - If a vehicle is the crime scene, the vehicle should be impounded. First obtain a search warrant and search for physical evidence in the interior, exterior and trunk, as appropriate.

## **V. Collect the Evidence**

### **A. Guidelines**

1. Collect degradable/fragile evidence such as blood, hairs and fibers first.
2. When collecting biological samples, wear latex gloves to prevent transfer of evidence.
3. When swabbing a potential blood stain, try to obtain the darkest stain possible. Swab gently to avoid flecks of evidence from becoming airborne and possibly getting into the eyes, face, or nose of the collector.

4. **High Traffic Areas** - While it may be easier to collect physical evidence from a less-trafficked area, public or high-traffic areas may also produce evidence. Common sense will dictate what evidence should be collected from high traffic areas. For example, fresh stains should always be collected, but older stains may not be useful since elimination standards may not be available to identify or otherwise associate the stain with a person.
5. **Mark Evidence** - All items collected must be properly identified and marked. It is generally best to mark the package and not the item directly since marking the item may obliterate the evidence. The label should include case number, initials, date, exhibit number, and description of the contents.
6. **Package Evidence** - Package body fluids in paper, never plastic. Clean paper bags should be used for this purpose. Let all wet items air dry before packaging. Loosely fold items; do not rub stains. To protect minute quantities of hairs and fibers, place in a paper fold, then package. Seal the package with tape, preferably evidence tape and put the evidence collector's initials across the seal. Make sure to use a biohazard sticker if biological materials are packaged.

**B. Common Types of Physical Evidence**

1. **Bedding, Linens**

If the sexual assault took place on a bed, collect relevant bedding linens and mattress pieces; fold inward to preserve any evidence. Hairs, fibers and body fluids are recoverable from these materials.
2. **Walls, Floors - Stains**, including body fluids and blood, may be splattered on the walls or floor. Collect each stain by swabbing with a cotton swab dampened only with clean water. Also collect a swab of a nearby unstained area. Air dry (do not fan or sun dry) and package in paper.

3. Carpets, Sofas, Chairs - Body fluids, hairs and fibers are also commonly found on floors, furniture and carpets. If a rug is small, collect it. If the carpet is large, clip the relevant area together with an unstained portion of the item. Collect cushions or clip upholstery.
4. Bathroom - Offenders often use the bathroom facilities prior to or after a sexual assault. They may lean on a wall or lift up a toilet seat, leaving handprints. They commonly use a tissue or towel to clean themselves. These items may be thrown in the wastebasket after use. A sex offender may have used a condom. A used condom may be discarded at or near the scene.
5. Ligatures - Examine the scene for any rope, wire, cord, tape or other material used to bind the victim. Do not untie or cut at the knot. The type of knot is important to provide background information on the offender. These items can also demonstrate premeditation and force. For example, if the offender contends that the sexual activity was consensual, physical evidence that shows the electrical cord was cut or that the offender arrived at the scene with the ligature item may contradict the offender's contention.
6. Weapons - Examine the scene for any weapons. The offender may have used a weapon taken from the scene. It may be discarded nearby.
7. Clothing of Victim - The victim may have changed or discarded soiled clothing prior to calling police or while waiting for the responding officers to arrive. Make sure all of the clothing worn during the attack is collected.

**C. Documentation**

Take notes throughout the investigation as it may be months or years before evidence collection methods become an issue in the case. Notes should include:

1. time started
2. names of personnel involved

3. weather and light conditions (if relevant)
4. description of scene
5. any special equipment used (e.g., alternate light source)
6. scene sketches or diagrams
7. recording of location and measurements of items (reference photos)
8. disposition of evidence
9. damage or disturbance to objects

**D. Maintain the Chain of Custody**

In order to ensure that collected evidence is not tampered with, the chain of custody must be maintained. Collected evidence that requires analysis by a crime laboratory should be taken to the appropriate lab for processing or should be sent by registered mail pursuant to the guidelines issued by Illinois State Police. Items of evidence not requiring lab analysis should be properly stored in secured storage area.

**VI. The Crime Laboratory**

**A. Locations**

Illinois State Police, Division of Forensic Services and Identification, Bureau of Forensic Sciences operates eight (8) crime laboratories in Illinois: Rockford, Chicago, suburban Chicago, Joliet, Morton, Springfield, Southern Illinois and Metro East. DuPage County, Chicago and Northern Illinois Crime and Police Lab (serving Lake County) also analyze evidence. Many police agencies may have the capability to process fingerprints. All departments send evidence for DNA analysis to the Illinois State Police laboratories.

**B. Submission of Evidence**

Cases can be submitted to the forensic laboratories in person or by mail. Submission in person is preferred because it allows the analyst to talk to the investigator about the evidence to be submitted. If submitted by mail, registered

mail is preferred. Shipping packages should have an evidence receipt enclosed identifying the name of victim, offender, agency and officer name, case number, type of crime, an itemized list of the evidence, and the examinations requested.

The crime lab will examine the package to see if it has been tampered with. The lab will not accept improperly sealed packages.

The laboratory will screen the I-SPECK kit upon arrival to identify biological samples such as semen and blood. Semen will be preserved until the necessary comparison standards from the victim and offender can be collected and submitted. Samples are then compared with standards to determine whether they share a common origin. After analysis, the kit is returned to the submitting law enforcement agency.

#### C. **DNA Analysis**

DNA analysis can be the most discriminating test in forensic biology. It can be performed on small amounts of a variety of body fluids, stains, tissues and hair. Results can greatly narrow the number of potential donors possible in the general population.

Illinois law requires the collection of blood samples from certain convicted sex offenders for DNA analysis and entry into a computerized database.<sup>17</sup> This database can associate previously convicted sex offenders with evidence samples submitted in cases with no suspects. The database may also link cases with unknown suspects. The computer search is useful in identifying serial crimes or repeat offenders. The database is linked with the FBI and several other states.

#### D. **Fingerprint Analysis**

Fingerprints collected from the scene can be compared with those submitted from the offender or victim. The Automated Fingerprint Identification System (AFIS) permits a computer comparison of latent fingerprints to millions of known fingerprints in minutes.

E. **Hair, Fiber Analysis**

The microscopy section of the crime lab compare hair and fiber evidence to determine whether they may be associated with the offender or victim.

F. **The Lab Report**

The laboratory analyst will submit a report of findings to the submitting law enforcement agency. The analyst is also available to interpret or explain the report results.



## Chapter 8 – Graphic 1



## **Chapter Nine**

### **Anticipating Prosecution**

#### **I. Prosecutorial Decision-Making**

Illinois law provides that the State's Attorney shall have the power and the duty to determine and file charges in felony cases. While some prosecutors make charging decisions after meeting with the victim, in many counties, the decision to approve charges is made on the basis of the police reports. Thus, the officer(s) characterization of the case may be the most important consideration for the prosecutor.

##### **A. Prosecutorial Standards**

Throughout the stages of the investigation, preparation for prosecution should include recognition of the standards by which the prosecutor will accept or reject the case for prosecution. The decision to accept a case for prosecution includes consideration of:

- consistency of the victim's statement(s);
- presence of physical evidence;
- corroborating evidence;
- suspect's statement, if any.

##### **B. Importance of Documentation**

A prosecutor will rarely go to the crime scene and may rely on the paperwork to visualize the scene for the presence of environmental factors and corroborating evidence present. These factors must be identified by the police and included in the paperwork for review by the prosecutor.

##### **C. Consultation with Prosecution**

It is important that the officer consult closely with the prosecutor to evaluate the legal issues in the case from the preliminary stages of the investigation. For example, a request for a search warrant will bring a prosecutor into the case. A

search warrant is a useful tool which may provide valuable evidence of the assault to corroborate the victim's statement. In many instances, a search warrant will be required prior to entry into an defendant's vehicle or residence.

## II. **Theory of the Case**

Throughout the investigation of the case, each officer follows an investigative plan, recognizing the elements to be proven, evidence to be collected and defenses which will likely be raised.

The investigative plan forms the foundation for the prosecution's theory of the case. In most cases, one of the two major defenses of **mistaken identity** and **consent** will become the focal point at trial.

### A. **Consent**

In a consent case, the responding and investigating officers are extremely important witnesses. The factfinder must be convinced that a thorough and objective investigation was completed. The documented observations of the officers as to the victim and defendant will be scrutinized and weighed very carefully by a jury or judge.

In the prosecution of a case where the victim is bruised or suffers broken bones or torn clothing, consent will not usually be an issue. However, this is not true of every case. When the anticipated defense is consent, the prosecutor will pay particular attention to the details of the account provided by both the victim and the defendant. Anything which is inconsistent with a consensual act should be documented during the investigation for evaluation. Any differences between the defendant's and victim's version should be investigated to corroborate the information provided.

The prior acquaintance of the victim and defendant may be raised at trial, and the existence and nature of such a relationship must be determined. The use of

alcohol or drugs may also arise as an issue at trial, and the presence or use of such substances should be investigated.

## **B. Identity**

In cases where identification of an offender is the main issue, the prosecutor will rely heavily on the officer's detailed investigation at the early stages of the case. The comprehensive description of the offender given by the victim will be scrutinized for inconsistencies, and every detail that the victim can provide - time of attack, place, offender's description including height, weight, speech, odors, lighting and weapons - is important.

If the defendant offers an alibi, the prosecutor will rely on the investigator to investigate all of the details essential to maintain the alibi - who was the defendant with, who else was present, what was the defendant doing? If the defendant identifies witnesses who may corroborate his account, these individuals should be identified and statements promptly taken for use at trial.

## **III. Preparation Of The Victim**

The victim needs to be thoroughly prepared for all court appearances. The victim advocate will work with the state's attorney to keep the victim updated on the case can make sure the victim's rights are respected.

During the court process, the advocate can:

- go with the victim to the state's attorney's office to discuss the case and how it will be handled
- talk with the state's attorney to make sure the proper charges are filed
- explain the trial process to the victim, answer her questions and get information to her
- work with the state's attorney to prepare the victim to testify at the trial
- go to court with the victim when she testifies
- keep the victim updated on the case
- contact the victim's employer to explain why she may need to miss work to go to court

- help the victim write a Victim Impact Statement to give to the judge if the attacker is convicted.

An advocate will help the victim through every step of the medical care, police process and trial.

1. An advocate does not make decisions for the victim. She does not persuade the victim to make a particular decision about reporting, filing charges or taking the case to court. The advocate will give the victim all the information she needs to make a decision, and make sure that decision is respected at all times.
2. An advocate does not investigate the case. If the victim decides to report the crime or prosecute the attacker, the advocate does not investigate or gather facts to be used at trial.
3. An advocate is not the victim's lawyer. The advocate helps the victim work with the state's attorney if she decides to prosecute the attacker. The state's attorney is the victim's lawyer and will handle the case at trial.
4. An advocate does not testify in court for the victim. The advocate will sit in the courtroom with the victim. But she will not testify. This is so she can protect the victim's right to confidentiality about whatever the victim has said to the advocate.
5. An advocate does not counsel the victim. As part of helping the victim through the medical, police and court systems, the advocate talks with the victim about the victim's feelings during these steps. But, if a victim wants more counseling, the advocate will find a counselor to help the victim with her emotional recovery from the attack.

## **Endnotes - Scrim**





## Endnotes - Scrim

1. Confidentiality of Statements Made to Rape Crisis Personnel, 735 ILCS 5/8-802.1
2. *People v. Foggy*, 121 Ill.2d 337, 521 N.E.2d 86, 118 Ill.Dec. 18 cert. den. 108 S. Ct. 2044 (1988).
3. The Sexual Assault Survivors Emergency Treatment Act (SASETA) covers the cost of emergency treatment for sexual assault survivors not paid by insurance or public aid, 410 ILCS 701 *et seq.* (1993).
4. IL Admin. Code tit. 77, 545.60(d)(7)(1988).
5. *People v. Haywood*, 113 Ill.Dec. 236 (Ill. Supreme Ct. 1987).
6. *People v. Lawler*, 154 Ill.Dec. 674 (Ill. Supreme Ct. 1991).
7. 725 ILCS 120/1.
8. Retired Sergeant Harry O'Reilly, Supervisor, Sex Crimes Analysis Unit, Office of the Chief of Detectives. New York City Police Department, developed this method of establishing rapport with victims. He currently teaches throughout the United States on sexual assault investigations.
9. *Miranda v. Arizona*, 384 U.S. 436 (1966).
10. *People v. Lippert*, 59 Ill.Dec. 819 (Ill. Supreme Ct. 1982).
11. *People v. Speck*, 41 Ill.2d 177 (1968) *rev'd* on other grounds. 403 U.S. 946 (1971).
12. *People v. Robinson*, 73 Ill.2d 192 (1978).
13. *Stovall v. Denno*, 388 U.S. 293 (1967).
14. *People v. Williams*, 322 N.E.2d 819 (Ill. Supreme Ct. 1975).
15. *People v. Curtis*, 100 Ill.Dec. 735 (Ill. Supreme Ct. 1986).
16. *People v. Nelson*, 238 N.E.2d 378 (Ill. Supreme Ct. 1968).
17. 730 ILCS Sec. 5/5-4-3.



# **Appendices**



## **Appendix A**

### **Sex Offender Motivations**

To properly identify, apprehend and interrogate the offender, the investigator must have a clear understanding of offender dynamics and motivations. Research on the motivation for sexual assault has led to the conclusion that the crime is one of violence and not primarily sex.

Researchers have attempted to classify rapists by their behaviors. Since the overwhelming majority of sex offenders are male, most research has included convicted sex offenders who may compromise a disproportionately higher percentage of violent sexual offenders and who were incarcerated most often for “stranger rapes.”

These offenders often commit “nuisance offenses” such as voyeurism, obscene phone calls, and flashing type offenses prior to more serious crimes. Many of the convicted sex offenders began in their early teens sexually assaulting acquaintances prior to committing stranger sexual assaults for which they were later incarcerated. Research has shown that sex offenders typically committed their first sexual assault by age twenty-one.<sup>1</sup> The majority of these offenders committed numerous sexual assaults for which they were not charged.<sup>2</sup>

While different labels are placed on behavioral approaches, most research identifies three major types of sexual offenders in adult victim cases: anger, power and sadistic. Although not every offender will neatly fit within a model, the classifications can be useful to establish clues to the identity of the offender, assist in adoption of an interrogation strategy, and prioritize offenders.

#### **I. Anger**

The offender releases anger and tension through the sexual assault of the victim. The offense is characterized by more physical force than necessary to subdue the victim. The offender will hit, kick, bite and physically beat the victim before, during and after the sexual assault.

The language may be verbally abusive, This offender may insult and degrade the victim. He may verbally taunt and threaten the victim throughout the assault. In this way, he can rationalize that the victim “deserved” it.

There may be a precipitating event which causes the offender to be in a depressed mode or feel rejected or “disrespected” prior to the assault. The offender may perceive the victim as owing retribution for the wrongs done to him. After the assault, the offender may feel more relaxed.

The offenses are likely to be episodic. There may be two victims in one week, then none for a few years. The offense is less likely to be planned, but more often explosive. This offender is more likely to be a stranger. He may not clearly remember the details of the sexual assault or even much about the victim since he will be preoccupied with anger.

The offender may use alcohol or other substances prior to the assault. He may have sexual dysfunction - no erection or difficulty sustaining erection - since the sexual act is not physically satisfying.

There may be signs of the physical violence on the victim, since this offender will batter his victims. The victim may be considerably older than the offender. If a weapon is used, it is often one of opportunity.

## II. **Power**

This is the most common type of offender. The offense is characterized by the offender’s primary need to exercise power over the victim. The offender may hit the victim, but the force used is usually no more than necessary to subdue the victim. If the victim resists, more force is applied and the victim may be physically harmed as a consequence. A weapon may be threatened, but is usually displayed only to gain submission. If the victim submits, this offender will not usually further physically harm the victim.

The assault is usually premeditated, at least as to location. Sometimes a particular victim is stalked or even dated to gain access. This offender may have persistent rape

fantasies in which what begins as a rape ends up as consensual sex. This offender is not interested in mutuality, however, and speaks of “taking it” or feeling entitled to sex.

The language may be instructional or commanding. This offender may like to hear his thoughts spoken by the victim. He may command the victim to “moan” or say particular words or phrases. In this way, he can rationalize that the victim “wanted” it.

This offender may also be inquisitive. He may inquire as to the work, school, home, family of the victim. He may warn the victim about “lying” to him and may go through the victim’s purse looking for identification materials or other personal information.

This offender’s primary need is to control the victim. He may extend the period of control by driving around after the assault or taking the victim to a motel room or otherwise keeping the victim in his presence. Since he may have obtained personal information about the victim, he may call the victim later, send her flowers or show up at her place of employment. He may tell the victim that no one will believe her. He may even ask for a date.

If the offender develops a pattern, it may increase in the level of aggression over time. This offender is likely to have specific phrases or pet names which can help identify him. The amount of time the offender spends with the victim will typically increase as the offender gains experience in committing the sexual assaults.

### **III. Sadistic**

The least common type of sex offender is frequently a serial attacker, who commits the most brutal of sexual assaults. The victim is likely to be physically injured and physical trauma to the genitals can be severe. Instruments of torture may be used. He may also commit murder as part of this sexually assaultive behaviors.

The offender will have a plan that is practiced and refined before committing the offenses. He usually has a ritual that is acted out with each victim. The offender may keep a souvenir from the victim.





## Endnotes - Appendix A

1. Allison, Julie and Wrightsman, Lawrence S., *Rape: The Misunderstood Crime*, Sage Publications, Inc. Newbury, Park, CA, 1993, p. 24.
2. Groth, A.N., Longo, R. and McFadin, B., "Undetected Recidivism Among Rapists and Child Molester," *Crime and Delinquency*, July, 1982. 67% of convicted offenders admitted to committing at least five undetected assaults.



## Appendix B

### Rights of Crime Victims and Witnesses Act

725 ILCS 120 *et seq.*; formerly Ill. Rev. Stat., ch. 38, §1401  
(Includes amendments through P.A. 88-489, §10, eff. Jan. 1, 1994.)

#### **120/1. Short title**

This Article I be cited as the “Rights of Crime Victim and Witnesses Act.”

#### **120/2. Purpose**

The purpose of this Act is to implement, preserve and protect the rights guaranteed to crime victims by Article I, Section 8.1 of the Illinois Constitution to ensure that crime victims are treated with fairness and respect for their dignity and privacy throughout the criminal justice system and to increase the effectiveness of the criminal justice system by affording certain basic rights and considerations to the witnesses of violent crime who are essential to prosecution.

#### **120/3. Definitions**

The terms used in this Act, unless the context clearly requires otherwise, shall have the following meanings:

- (a) “Crime Victim” means (1) a person physically injured in this State as a result of a violent crime perpetrated or attempted against that person or (2) a person who suffers injury to or loss of property as a result of a violent crime perpetrated or attempted against that person or (3) a single representative who may be the spouse, parent, child or sibling of a person killed as a result of a violent crime perpetrated against the person killed or the spouse, parent, child or sibling of any person granted rights under this Act who is physically or mentally incapable of exercising such rights, except where the spouse, parent, child or sibling is also the defendant or prisoner or (4) any person against whom a violent crime has been committed or (5) any person who has suffered personal injury as a result of a violation of Section 11-501 of the Illinois Vehicle Code, or of a similar provision of a local ordinance, or of Section 9-3 of the Criminal Code of 1961, as amended;
- (b) “Witness” means any person who personally observed the commission of a violent crime and who will testify on behalf of the State of Illinois in the criminal prosecution of the violent crime;
- (c) “Violent Crime” means any felony in which force or threat of force was used against the victim, or any offense involving sexual exploitation, sexual conduct or sexual penetration, domestic battery, violation of an order of protection, stalking, or any misdemeanor which results in death or great bodily harm to the victim or any violation of Section 9-3 of the Criminal Code of 1961, or Section 11-501 of the Illinois Vehicle Code, or a similar provision of a local ordinance, if the violation resulted in personal injury or death and includes any action committed by a juvenile that would be a violent crime if committed by an adult. For the purposes of this paragraph, “personal injury” shall include any Type A injury as indicated on the traffic accident report completed by a law enforcement officer that requires immediate professional attention in either a doctor's office or medical facility. Type A injury shall include severely bleeding wounds, distorted extremities, and injuries that require the injured party to be carried from the scene;
- (d) "Sentencing Hearing" means any hearing where a sentence is imposed by the court on a convicted defendant and includes hearings conducted pursuant to Sections 5-6 4, 5-6 4.1, 5-7-2, and 5-7-7 of the Unified Code of Corrections except those cases in which both parties have agreed to the imposition of a specific sentence.
- (e) "Court Proceedings" includes the preliminary hearing, any hearing the effect of which may be the release of the defendant from custody or to alter the conditions of bond, the trial,

sentencing hearing, notice of appeal, any modification of sentence, probation revocation hearings or parole hearings.

**120/4. Rights of victims**

- (a) Crime victims shall have the following rights:
  - (1) The right to be treated with fairness and respect for their dignity and privacy throughout the criminal justice process.
  - (2) The right to notification of court proceedings.
  - (3) The right to communicate with the prosecution.
  - (4) The right to make a statement to the court at sentencing.
  - (5) The right to information about the conviction, sentence, imprisonment and release of the accused.
  - (6) The right to the timely disposition of the case following the arrest of the accused.
  - (7) The right to be reasonably protected from the accused through the criminal justice process.
  - (8) The right to be present at the trial and all other court proceedings on the same basis as the accused, unless the victim is to testify and the court determines that the victim's testimony would be materially affected if the victim hears other testimony at the trial.
  - (9) The right to have present at all court proceedings, subject to the rules of evidence, an advocate or other support person of the victim's choice.
  - (10) The right to restitution.
- (b) A statement and explanation of the rights of crime victims set forth in paragraph (a) of this Section shall be given to a crime victim at the initial contact with the criminal justice system by the appropriate authorities and shall be conspicuously posted in all court facilities.

**120/4.5 Procedures to implement the rights of crime victims**

To afford crime victims their rights, law enforcement, prosecutors, judges and corrections will provide information, as appropriate of the following procedures:

- (a) At the request of the crime victim, law enforcement authorities investigating the case shall provide notice of the status of the investigation, except where the State's Attorney determines that disclosure of such information would unreasonably interfere with the investigation, until such time as the alleged assailant is apprehended or the investigation is closed.
- (b) The office of the State's Attorney:
  - (1) shall provide notice of the filing of information, the return of an indictment by which a prosecution for any violent crime is commenced, or the filing of a petition to adjudicate a minor as a delinquent for any offense defined in Sections 12-13 through 12-16 of the Criminal Code of 1961;
  - (2) shall provide notice of the date, time, and place of trial;
  - (3) or victim advocate personnel shall provide information of social services and financial assistance available for victims of crime, including information of how to apply for these services and assistance;
  - (4) shall assist in having any stolen or other personal property held by law enforcement authorities for evidentiary or other purposes resumed as expeditiously as possible, pursuant to the procedures set out in Section 115-9 of the Code of Criminal Procedure of 1963;
  - (5) or victim advocate personnel shall provide appropriate employer intercession services to ensure that employers of victims will cooperate with the criminal justice system in order to minimize an employee's loss of pay and other benefits resulting from court appearances;
  - (6) shall provide information, whenever possible, of a secure waiting area during court proceedings that does not require victims to be in close proximity to defendant or

- juveniles accused of an offense defined in Sections 12-13 through 12-16 of the Criminal Code of 1961, and their families and friends;
- (7) shall provide notice to the crime victim of the right to have a translator present at all court proceedings;
  - (8) in the case of the death of a person, which death occurred in the same transaction or occurrence in which acts occurred for which a defendant is charged with an offense, shall notify the spouse, parent, child or sibling of the decedent of the date of the trial of the person or persons allegedly responsible for the death;
  - (9) shall inform the victim of the right to have present at all court proceedings, subject to the rules of evidence, an advocate or other support person of the victim's choice, and the right to retain an attorney, at the victim's own expense, who, upon written notice filed with the clerk of the court and State's Attorney; is to receive copies of all notices, motions and court orders filed thereafter in the case, in the same manner as if the victim were a named party in the case: and
  - (10) at the sentencing hearing shall make a good faith attempt to explain the minimum amount of time during which the defendant may actually be physically imprisoned. The Office of the State's Attorney shall further notify the crime victim of the right to request from the Prisoner Review Board information concerning the release of the defendant under subparagraph (d)(1) of this Section; and
  - (11) shall request restitution at sentencing and shall consider restitution in any plea negotiation, as provided by law.
- (c) At the written request of the crime victim, the office of the State's Attorney shall:
- (1) provide notice a reasonable time in advance of the following court proceedings: preliminary hearing, any hearing the effect of which may be the release of the defendant from custody, or to alter the conditions of bond and the sentencing hearing. The crime victim shall also be notified of the cancellation of the court proceeding in sufficient time, wherever possible, to prevent an unnecessary appearance in court;
  - (2) provide notice within a reasonable time after receipt of notice from the custodian, of the release of the defendant on bail or personal recognizance or the release from detention of a minor who has been detained for any offense defined in Sections 12-1; through 12-16 of the Criminal Code of 1961;
  - (3) explain in nontechnical language the details of any plea or verdict of a defendant, or any adjudication of a juvenile as a delinquent for any offense defined in Sections 12-13 through 12-16 of the Criminal Code of 1961;
  - (4) where practical, consult with the crime victim before the Office of the State's Attorney makes an offer of a plea bargain to the defendant or enters into negotiations with the defendant concerning a possible plea agreement, and shall consider the written victim impact statement, if prepared prior to entering into a plea agreement;
  - (5) provide notice of the ultimate disposition of the cases arising from an indictment or an information. Or a petition to have a juvenile adjudicated as a delinquent for any offense defined in Sections 12-13 through 12-16 of the Criminal Code of 1961;
  - (6) provide notice of any appeal taken by the defendant and information on how to contact the appropriate agency handling the appeal;
  - (7) provide notice of any request for post-conviction review filed by the defendant under Article 122 of the Code of Criminal Procedure of 1963, and of the date, time and place of any hearing concerning the petition. Whenever possible, notice of the hearing shall be given in advance;
  - (8) forward a copy of any statement presented under Section 6 to the Prison Review Board to be considered by the Board in making its determination under subsection (b) of Section 3-3-8 of the Unified Code of Corrections.

- (d)(1) The Prisoner Review Board shall inform a victim, upon written request, of the prisoner's release on parole, mandatory supervised release, electronic detention, work release or by the custodian of the discharge of any individual who was adjudicated a delinquent for any offense defined in Sections 12-13 through 12-16 of the Criminal Code of 1961, from State custody and by the sheriff of the appropriate county of any such person's final discharge from county custody. The Prisoner Review Board, upon written request, shall inform a victim when feasible at least 7 days prior to the prisoner's release on furlough of the times and dates of such furlough. Upon written request by the victim, the State's Attorney shall notify the victim once of the times and dates of release of a prisoner sentenced to periodic imprisonment. notification shall be based on the most recent information as to victim's residence or other location available to the notifying authority.
- (2) When the defendant has been committed to the Department of Mental Health and Developmental Disabilities pursuant to Section 5-24 or any other provision of the Unified Code of Corrections, the victim may request to be notified by the releasing authority of the defendant's discharge from State custody.
- (3) In the event of an escape from State custody, the Department of Corrections immediately shall notify the Prisoner Review Board of the escape and the Prisoner Review Board shall notify the victim. The notification shall be based upon the most recent information as to the victim's residence or other location available to the Board. When no such information is available, the Board shall make all reasonable efforts to obtain the information and make the notification. When the escapee is apprehended, the Department of Corrections immediately shall notify the Prisoner Review Board and the Board shall notify the victim.
- (4) The victim of the crime for which the prisoner has been sentenced shall receive reasonable written notice not less than 15 days prior to the parole hearing and may submit, in writing, on film, videotape or other electronic means or in the form of a recording or in person at the parole hearing, information for consideration by the Prisoner Review Board. The victim shall be notified within 7 days after the prisoner has been granted parole and shall be informed of the right to inspect the registry of parole decisions, established under subsection (g) of Section 3-3-5 of the Unified Code of Corrections. The provisions of this paragraph (4) are subject to the Open Parole Hearings Act.
- (5) If a statement is presented under Section 6, the Prisoner Review Board shall inform the victim of any order of discharge entered by the Board pursuant to Section 3-3-8 of the Unified Code of Corrections.

**120/5. Rights of witnesses**

Witnesses as defined in subsection (b) of Section 3 of this Act shall have the following rights:

- (1) To be notified by the Office of the State's Attorney of all court proceedings at which the witness' presence is required in a reasonable amount of time prior to the proceeding, and to be notified of the cancellation of any scheduled court proceeding in sufficient time to prevent an unnecessary appearance in court, where possible;
- (2) To be provided with appropriate employer intercession services by the Office of State's Attorney or the victim advocate personnel to ensure that employers of witnesses will cooperate with the criminal justice system in order to minimize an employee's loss of pay and other benefits resulting from court appearances;
- (3) To be provided, whenever possible, a secure waiting area during court proceedings that does not require witnesses to be in close proximity to defendants and their families and friends;
- (4) To be provided with notice by the Office of the State's Attorney where necessary, of the right to have a translator present whenever the witness' presence is required.

**120/6. Rights to present victim impact statement**

- (a) In any case where a defendant has been convicted of a violent crime or a juvenile has been adjudicated a delinquent for any offense defined in Sections 12-13 through 12-16 of the Criminal Code of 1961, except those in which both parties have agreed to the imposition of a specific sentence, and a victim of the violent crime is present in the courtroom at the time of the sentencing or the disposition hearing, the victim upon his or her request shall have the right to address the court regarding the impact which the defendant's criminal conduct or the juvenile's delinquent conduct has had upon the victim. If the victim chooses to exercise this right, the impact statement must have been prepared in writing in conjunction with the Office of the State's Attorney prior to the initial hearing or sentencing, before it can be presented orally at the sentencing hearing. The court shall consider any statements made by the victim, along with all other appropriate factors in determining the sentence of the defendant or disposition of such juvenile.
- (b) The crime victim has the right to prepare a victim impact statement and present it to the Office of the State's Attorney at any time during the proceedings.
- (c) This Section shall apply to any victims of any offense defined in Sections 12-13 through 12-16 of the Criminal Code of 1961 during any dispositional hearing under Section 5-22 of the Juvenile Court Act of 1987 which takes place pursuant to an adjudication of delinquency for any such offense.

**120/7. Responsibilities of victims and witnesses**

Victims and witnesses shall have the following responsibilities to aid in the prosecution of violent crime.

- (a) To make a timely report of the violent crime;
- (b) To cooperate with law enforcement authorities throughout the investigation, prosecution, and trial;
- (c) To testify at trial;
- (d) To notify law enforcement authorities of any change of address.

**Enrolled bill contained no "Section 8"**

**120/9. Other rights or responsibilities of victims or witnesses-Damages**

This Act does not limit any rights or responsibilities otherwise enjoyed by or imposed upon victims or witnesses of violent crime. nor does it grant any person a cause of action for damages or attorneys fees. Any act of omission or commission by any law enforcement officer, State's Attorney, Prisoner Review Board, Department of Corrections, Department of Mental Health and Developmental Disabilities or other State agency, or by any employee of any State agency acting in good faith in rendering crime victim's assistance or otherwise enforcing this Act shall not impose civil liability upon the individual or entity or his or her supervisor or employer. Nothing in this Act shall create a basis for vacating a conviction or a ground for appellate relief in any criminal case. Failure of the crime victim to receive notice as required. however. shall not deprive the court of the power to act regarding the proceeding before it; nor shall any such failure grant the defendant the right to seek a continuance.





## **Resources**

### **Sexual Assault Crisis Centers**



## Sexual Assault Crisis Centers

- **North**

**Arlington Heights**

NorthWest Action Against Rape

24 hrs. 708/228-0990

**Aurora**

Mutual Ground

24 hrs. 708/897-8383

**DuPage County**

YWCA of Metropolitan Chicago,

DuPage District

DuPage Women Against Rape

24 hrs. 708/971-3927

**Elgin**

Community Crisis Center

24 hrs. 708/697-2380

**Galena**

Riverview Center, Inc.

Sexual Assault Intervention and Prevention Services

24 hrs. 815/777-8155

**Gurnee**

Lake County Council Against Sexual Assault

24 hrs. 708-872-7799

**Kankakee**

Kankakee County Center Against Sexual Assault

24 hrs. 815/932-3322

**Matteson**

YWCA of Metropolitan Chicago

South Suburban District

24 hrs. 708/748-5672

**Quad Cities**

Quad Cities Rape/Sexual Assault Counseling Program

24 hrs. 309/797-1777

**Rockford**

Rockford Sexual Assault Counseling

24 hrs. 815/964-2991

**Sterling**

YWCA of the Sauk Valley

24 hrs. 815/626-7277

**Streator**

ADV & SAS of Streator  
24 hrs. 800/892-3375

**Summit**

DesPlaines Valley Community Center  
24 hrs. 708/482-9600

- **Chicago**

Community Counseling Centers of Chicago/Quetzal Center  
24 hrs. 312/506-2323

YWCA of Metropolitan Chicago  
Harriet M. Harris Center  
312/955-3100

YWCA of Metropolitan Chicago  
Loop Women's Services  
312/372-4105

Rape Victim Advocates  
312/733-6954

- **Central**

**Charleston/Mattoon**

Sexual Assault Counseling and Information Service  
24 hrs. 217/348-7666 Charleston  
24 hrs. 217/234-6405 Mattoon

**Danville**

YWCA Sexual Assault Crisis Services  
24 hrs. 217/443-5566

**Decatur**

Growing Strong: Sexual Assault Center  
24 hrs. 217/428-0770

**Macomb**

Western Illinois Regional Council  
Community Action Agency  
Sexual Assault Program  
24 hrs. 309/837-5555

**Peoria**

The Center for Prevention of Abuse  
InnerStrength  
24 hrs. 309/691-4111

**Quincy**

Sexual Assault Prevention and Intervention Services  
24 hrs. 217/223-2030

**Springfield**

Rape Information and Counseling Service  
24 hrs. 217/753-8081

**Urbana**

A Woman's Fund/Rape Crisis Services  
24 hrs. 217/384-4444

- **South**

**Belleville**

Sexual Assault Victim's Care Unit  
24 hrs. 618/397-0975

**Carbondale**

Rape Action Committee  
24 hrs. 618/529-2324

**Collinsville**

Sexual Assault Victims 1st  
24 hrs. 618/344-0605

**Vandalia**

Sexual Assault and Family Emergencies  
24 hrs. 618/283-1414

**The above listed sexual assault crisis centers are members of the Illinois Coalition Against Sexual Assault**