



CITY OF PORTLAND, OREGON



Bureau of Police

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Directive 640.20, Sexual Assault Kits and Sexual Assault Investigations (formerly, “Sexual Assault Investigations”) Executive Summary

Introduction

The Portland Police Bureau (PPB) created Directive 640.20, Sexual Assault Investigations, in 2001 and last revised it in 2008. The directive was originally intended to establish the guidelines for Detectives who investigate sexual assault cases. In light of recent state legislative changes, newly-adopted procedures under Melissa’s Law (Oregon Revised Statute 181A.322) change the way sexual assault kits (SAK) are processed and include several requirements that law enforcement agencies must fulfill when handling SAKs. PPB believed that the requirements in Melissa’s Law would be appropriately housed in the existing directive due to the nature of the topic, and as result, the directive and its title have been updated to reflect this.

Public Comments

The Bureau received limited feedback between both comment periods, which were conducted in August 2018 and mid-April 2019. Mostly, commenters identified the need to update old terms and also made the Bureau aware of new guidelines regarding DNA testing. Some other comments received from one source inquired whether sexual assault crimes would be investigated over 120 hours and questioned the timeline between retrieving a SAK at the medical facility to then submitting it to the Property and Evidence Division (PED).

Guidelines for testing DNA

PPB does not prohibit investigating a sexual assault crime older than 120 hours; rather, the 120 hour reference in the directive aligns with the National Institute of Justice’s (NIJ) *National Best Practices for Sexual Assault Kits: A Multidisciplinary Approach* guidelines, which recommend collecting evidence within a certain period because forensic DNA deteriorates over time. NIJ provides varying timeframe recommendations for the collection of DNA based on four types of assault: vaginal, anal, oral, and bite marks/saliva on skin. NIJ identifies 120 hours as the longest amount of time to collect evidence after an assault, and for that reason, the Bureau used this recommended timeframe as the threshold.

Timeline for turning in SAKs to the Property and Evidence Division

Melissa’s Law specifically requires law enforcement agencies to pick up a SAK within seven days after the collection of evidence and submit the SAK to the Oregon State Police (OSP) Crime Lab within 14 days for testing, with the exception of anonymous kits. Therefore, once a member retrieves the SAK from a medical facility, they must forward the SAK to PED within the allotted timeframe so PED can complete their processing as required. Additionally, the SAK Coordinator, in collaboration with PED, is obligated to submit information that would help assist the OSP Crime Lab in prioritizing the testing of a SAK. Melissa’s Law is very specific in terms of timelines for submitting a SAK to the OSP Crime Lab, and the Bureau will comply with the law to ensure that all victims of sexual assault are supported.

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We thank every individual who took the time to provide feedback on this directive. All comments received during both review periods are attached at the end of this document. We have removed all personal information to protect the privacy of commenters.

The Bureau's Revised Policy

The directive required extensive revisions throughout the document and now includes appropriate references to Oregon State laws and definitions. Additionally, the Policy Development Team updated the policy section to address the inclusion of the SAK Coordinator's role between sexual assault victims and the OSP Crime Lab. The majority of added language is housed in section 3; however, the requirements set forth in Melissa's Law are located in various sections of the directive depending on who is responsible for the action. PPB also decided to restructure the document by starting with the procedures members would take when responding to calls of sexual assault rather than addressing what Detectives would investigate. Some other key additions to the directive include section 1.6., which outlines which PPB unit is initially responsible for handling cases that have elements of domestic violence and sexual assault and section 2.3., which discusses the Detective Division Responsibility Unit Manager's role in assigning a case to a particular detective team.

The Bureau believes that the revised directive provides clearer guidance to its members; however, any suggestions to further improve this policy are welcome during its next review.

Directive 640.20, Sexual Assault Kits and Sexual Assault Investigations, will go into effect on July 31, 2019.

Published on 7/1/19

640.20, Sexual Assault Kits and Sexual Assault Investigations

Refer:

- ORS § 163.355 to 163.427 Sexual Offenses Against Persons
- ORS § 107.705 Family Abuse Prevention Act Definitions
- ORS § 181A.322 to 181A.326 Melissa's Law
- ORS § 418.747 Multi-Disciplinary Approach to Child Abuse
- DIR 640.10, Crime Scene Procedures
- DIR 640.30, Child Abuse Investigations
- DIR 660.10, Property and Evidence Procedures
- DIR 825.00, Domestic Violence, Arrests, and Restraining Orders

Definitions:

- **Anonymous Kit:** A sexual assault forensic evidence kit collected from a victim who either has not made a decision to participate in the prosecution of the perpetrator or the sexual assault, or has chosen not to participate in the prosecution of the perpetrator of the sexual assault.
- **Anonymous Reporting of Sexual Assault:** When a victim of a sexual assault does not want to report to law enforcement, but chooses to disclose their abuse to a medical provider who can perform a forensic medical exam to preserve evidence.
- **Family or Household Member:** Spouses; former spouses; adult persons related by blood, marriage, or adoption; persons who are cohabiting or who have cohabited with each other; persons who have been involved in a sexually intimate relationship with each other within two years immediately preceding the filing by one of them of a petition to circuit court for relief; unmarried parents of a child.
- **Non-family Member:** Any person not listed as a family member, including neighbors, friends, teachers, and other temporary child custodians and strangers.
- **Sexual Assault:** Any unwanted sexual contact from an individual, by means of touching the sexual or other intimate parts of a person or causing such person to touch the sexual or other intimate parts of the actor for the purpose of arousing or gratifying the sexual desire of either party, is considered an offense under Oregon State laws. The commission of or attempted commission of a sexual offense chargeable under State laws include rape, sodomy, unlawful sexual penetration, sexual abuse, and purchasing sex with a minor.
- **Sexual Assault Victim Advocates (SAVA):** Volunteers from either a local non-profit organization specializing in serving victims of sexual assault or from the District Attorney's office. These individuals respond to police requests through the Bureau of Emergency Communication (BOEC) to stay with a victim through hospital evaluation and care while also providing support and advocacy as needed.

Policy:

1. In accordance with Oregon State law, the Portland Police Bureau (PPB) shall designate a point of contact to serve as both PPB's Sexual Assault Kit (SAK) Program Coordinator and liaison to the Oregon State Police (OSP). This individual serves as a bridge between the two organizations and will be a resource for victims of sexual assault seeking information on their particular cases. PPB shall ensure that the contact information for the SAK Program Coordinator is communicated to local medical facilities and organizations that work with the Bureau to assist victims, thereby providing those affected by sexual assault with the knowledge on who to engage for further assistance.
2. Contact with first responders is critical to a victim's decision as to whether or not to move forward in the criminal justice system and to the victim's recovery. Although it is necessary for members to investigate the crime scene, potential evidence, and suspects, members must also be sensitive to the difficulty of the situation for the victim. Bureau members are expected to use the following procedures when responding to a sexual assault.

Procedure:

1. Responding Member Responsibilities.
 - 1.1. If emergency medical treatment is required, members shall request ambulance transport for the victim to the nearest hospital or the hospital of their choice.
 - 1.2. Members shall ensure they advise victims of the following:
 - 1.2.1. If a sexual assault occurred within the past 120 hours, members shall inform the victim that they have the option to have a forensic medical exam to collect evidence, also known as a sexual assault kit (SAK), for a criminal investigation at no cost to them.
 - 1.2.1.1. If the victim chooses to go to the hospital for an exam, members shall advise them not to eat or drink, bathe or change clothes prior to the examination, since evidence present on the victim's body and/or clothing may be destroyed or contaminated. Members shall also request through BOEC for a SAVA to respond to the hospital and if possible, members shall conduct an interview with the victim in the presence of the SAVA.
 - 1.2.1.1.1. If a member is present at the time that a SAK is collected and the victim has not received contact information for a SAK liaison from another source, the member shall provide the victim with contact information for the Bureau's SAK Program Coordinator who is responsible for receiving all inquiries (telephonic or otherwise) regarding SAKs.
 - 1.2.2. For an incident older than 120 hours, a forensic exam is not necessary because DNA evidence deteriorates with time and may no longer be present. Members shall inform the victim of this but also explain that they can still go to the hospital for a wellness exam at no cost to them.
 - 1.3. Members shall call the Forensic Evidence Division (FED) so they can take photos of the victim and the scene.

- 1.4. Members shall determine the location of the clothing worn by the victim during and/or immediately after the sexual assault. If the victim is still wearing the same clothes worn during the assault, recommend the victim bring a complete change of clothing to the hospital due to possible seizure of the clothes. If the victim is not wearing the same clothes worn during the assault, collect as evidence the clothes the victim wore during the assault if not yet laundered.
 - 1.5. Members shall gather physical evidence in accordance with Section 3, Evidence Disposition.
 - 1.6. Members shall forward reports of sexual assault in which the victim and suspect are family or household members to the Domestic Violence Reduction Unit (DVRU). The DVRU Supervisor may consult with the Sex Crimes Unit (SCU) Supervisor to determine if specific cases would be better investigated by SCU.
 - 1.7. Members shall complete an appropriate police report submitted through their Responsibility Unit and forward a copy to the Detective Division prior to the end of shift.
2. Detective Division Responsibilities for Sexual Assault Investigations.
 - 2.1. In the event detective contact is needed, responding member(s) shall inform their supervisor. The supervisor shall make contact with the Detective Division who shall determine the appropriate response.
 - 2.1.1. An SCU Detective may be requested and assigned when the victim(s) are 14 years old and older and the perpetrator is a non-family member.
 - 2.1.1.1. The suspect is in custody for:
 - 2.1.1.1.1. Rape I.
 - 2.1.1.1.2. Sodomy I.
 - 2.1.1.1.3. Sex Abuse I.
 - 2.1.1.1.4. Unlawful Sexual Penetration I and II.
 - 2.1.1.2. Cases in which an individual 18 years old or older decides to report an offense that occurred when they were a juvenile shall be referred to SCU detectives.
 - 2.1.2. A Child Abuse Team (CAT) Detective may be requested and assigned when the victim(s) are under 18 years old and the perpetrator is a family member.
 - 2.1.2.1. The suspect is in custody for:
 - 2.1.2.1.1. Rape I.
 - 2.1.2.1.2. Sodomy I.
 - 2.1.2.1.3. Sex Abuse I.
 - 2.1.2.1.4. Unlawful Sexual Penetration I and II.
 - 2.2. Circumstances required for Detective notification:
 - 2.2.1. The victim is able to articulate a crime has been committed or the member is able to determine a crime was committed,
 - 2.2.2. The crime is no more than 120 hours old,
 - 2.2.3. The victim is willing to cooperate with an investigation, and

- 2.2.4. The nature or complexity of the crime requires a detective response.
 - 2.2.5. A detective sergeant or shift sergeant may determine a detective response is necessary when circumstances do not fall within the above criteria.
 - 2.3. The Detective Division's Responsibility Unit (RU) Manager shall determine which unit will investigate cases that involve both sexual assault and domestic violence.
 - 2.4. The Detective Division shall investigate further and coordinate with the District Attorney's Office.
3. SAK Program Coordinator Responsibilities.
 - 3.1. The SAK Program Coordinator located in SCU shall receive all inquiries (telephonic or otherwise) from victims regarding their SAK. This Bureau member shall also serve as a liaison between PPB and OSP, being responsible for coordinating and communicating information on a victim's behalf.
 - 3.2. Upon request by a victim, the SAK Program Coordinator may provide details regarding the victim's personal SAK to include, but not limited to, the following information:
 - 3.2.1. SAK Testing location and date;
 - 3.2.2. Testing results;
 - 3.2.3. Whether a DNA sample was obtained from the SAK and if so, whether or not there are matches to DNA profiles in state or federal databases.
 - 3.2.4. The estimated date of destruction for the SAK.
 - 3.3. In the event that a victim makes an inquiry but providing the requested information interferes with the investigation or prosecution of a case, the SAK Program Coordinator shall not disclose details but rather, provide an explanation for why they cannot release the information.
 - 3.4. The SAK Program Coordinator shall respond to a victim's inquiry concerning their SAK as soon as practical, but no later than 30 days from the inquiry.
 - 3.5. The SAK Program Coordinator shall document any request from a victim to have a designee access information on their behalf. The SAK Program Coordinator shall inform the victim that written authorization must be provided to PPB to ensure that access is granted to the appropriate person.
 - 3.6. When requested by a victim to either reclassify an untested non-anonymous kit to an anonymous kit or reclassify an untested anonymous kit as a non-anonymous kit, the SAK Program Coordinator shall notify OSP of the reclassification.
4. Evidence Disposition.
 - 4.1. Upon receiving notification from a medical facility that a SAK has been collected, a sworn member shall retrieve the SAK within seven days.
 - 4.1.1. Members shall collect anonymous kits as well as SAKs at the request of outside agencies when a victim is reporting within Portland jurisdiction. This is commonly referred to as a courtesy report.

- 4.1.2. Upon retrieving a SAK, the member shall scan the kit bar code using the Sexual Assault Kit Tracking System (SAKTS) mobile app to ensure chain of custody.
- 4.2. Once in possession of a SAK from the medical facility, members involved in investigating sexual assaults shall ensure evidence is appropriately packaged by the involved hospital, complete a Property/Evidence receipt, and transport the evidence to the Property and Evidence Room.
 - 4.2.1. Clothing and other evidence with body fluids are considered biohazardous. Members shall refer to Directive 660.10, Property and Evidence Procedures, for more information regarding proper delivery of these items. Members should use the following recommended precautions when handling biohazardous evidence:
 - 4.2.1.1. Wet body fluids and dry blood: Rubber gloves, mask, and eye protection.
 - 4.2.1.2. Dry body fluids and dry blood: Rubber gloves, and, if available, mask and eye protection.
- 4.3. The Property and Evidence Division (PED) shall submit the SAK to OSP for forensic testing within 14 days from the time of receiving the SAK from a medical facility. The SAK Program Coordinator shall provide OSP any information sufficient to allow OSP to prioritize testing.
- 4.4. PED shall not submit any anonymous kits to OSP for testing.
- 4.5. PED shall retain all SAKs, including anonymous kits, for no less than 60 years after the SAK was collected.

History:

- Originating Directive Date: 09/06/01
- Last Revision Signed: 07/01/19
 - Effective Date: 07/31/19
- Next Review Date: 07/31/21

640.20—SEXUAL ASSAULT INVESTIGATIONS Sexual Assault Kits and Sexual Assault Investigations

Index: ~~Title; Molest;~~ Sexual Assaults; Rape; Investigations; Sodomy Investigations

Refer:

- ORS § 163.355 to 163.427 Sexual Offenses Against Persons
- ORS § 107.705 Family Abuse Prevention Act Definitions
- ORS § 181A.322 to 181A.326 Melissa’s Law
- ORS § 418.747 -Multi-Disciplinary Approach to Child Abuse
- DIR 640.10-₂ Crime Scene Procedures
- DIR 640.30-₂ Child Abuse Investigations
- DIR 660.10-₂ Property and Evidence ~~Procedure~~Procedures
Medical Report Sexual Assault form (OHSU and Emanuel Hospital)
Forensic Laboratory Information form (OHSU and Emanuel Hospital)
- DIR 825.00, Domestic Violence, Arrests, and Restraining Orders

POLICY (640.20)

~~Bureau members will be sensitive to the victim, concerned family, and friends while conducting thorough sexual assault investigations.~~

PROCEDURES (640.20)

Directive Specific Definitions

Definitions:

- Anonymous Kit: A sexual assault forensic evidence kit collected from a victim who either has not made a decision to participate in the prosecution of the perpetrator or the sexual assault, or has chosen not to participate in the prosecution of the perpetrator of the sexual assault.
- Anonymous Reporting of Sexual Assault: When a victim of a sexual assault does not want to report to law enforcement, but chooses to disclose their abuse to a medical provider who can perform a forensic medical exam to preserve evidence.
- Family or Household Member: Spouses; former spouses; adult persons related by blood, marriage, or adoption; persons who are cohabiting or who have cohabited with each other; persons who have been involved in a sexually intimate relationship with each other within two years immediately preceding the filing by one of them of a petition to circuit court for relief; unmarried parents of a child.

~~Family member: A father, stepfather, mother, stepmother, brother, sister, cousin, uncle, aunt, grandparent/step grandparent, parent's/guardian's current or former live in boyfriend or girlfriend, separated or divorced parent, foster parent and a legal guardian.~~

~~Forensic Laboratory Information form: Assists the Oregon State Crime Lab in the evaluation of evidence obtained during the sexual assault investigation.~~

- ~~• Medical Report Sexual Assault form: Used by the officer or detective to authorize the sexual assault examination, done by qualified medical personnel, at an appropriate medical facility. The form documents the results of the sexual assault examination conducted by a physician or sexual assault nurse examiner.~~
- Non-family member: Member: Any person not listed as a family member, including neighbors, friends, teachers, and other temporary child custodians and strangers.
- Sexual Assault: Any unwanted sexual contact from an individual, by means of touching the sexual or other intimate parts of a person or causing such person to touch the sexual or other intimate parts of the actor for the purpose of arousing or gratifying the sexual desire of either party, is considered an offense under Oregon State laws. The commission of or attempted commission of a sexual offense chargeable under State laws include rape, sodomy, unlawful sexual penetration, sexual abuse, and purchasing sex with a minor.
- Sexual Assault Victim Advocates (SAVA): Volunteers from either a local non-profit organization specializing in serving victims of sexual assault or from the District Attorney's office. These individuals respond to police requests through the Bureau of Emergency Communication (BOEC) to stay with a victim through hospital evaluation and care while also providing support and advocacy as needed. Rape (RVA): Volunteers who respond to police requests through the Bureau of Emergency Communication (BOEC), and stay with a victim through the hospital care to deal with possible emotional trauma of the victim.

Policy:

1. In accordance with Oregon State law, the Portland Police Bureau (PPB) shall designate a point of contact to serve as both PPB's Sexual Assault Kit (SAK) Program Coordinator and liaison to the Oregon State Police (OSP). This individual serves as a bridge between the two organizations and will be a resource for victims of sexual assault seeking information on their particular cases. PPB shall ensure that the contact information for the SAK Program Coordinator is communicated to local medical facilities and organizations that work with the Bureau to assist victims, thereby providing those affected by sexual assault with the knowledge on who to engage for further assistance.
2. Contact with first responders is critical to a victim's decision as to whether or not to move forward in the criminal justice system and to the victim's recovery. Although it is necessary for members to investigate the crime scene, potential evidence, and suspects, members must also be sensitive to the difficulty of the situation for the victim. Bureau members are expected to use the following procedures when responding to a sexual assault.

Procedure:

1. Responding Member Responsibilities ~~(640.20)~~.
 - 1.1. If emergency medical treatment is required, members shall request ambulance transport for the victim to the nearest hospital or the hospital of their choice.
 - 1.2. Members shall ensure they advise victims of the following:
 - 1.2.1. If a sexual assault occurred within the past 120 hours, members shall inform the victim that they have the option to have a forensic medical exam to collect evidence, also known as a sexual assault kit (SAK), for a criminal investigation at no cost to them.
 - 1.2.1.1. If the victim chooses to go to the hospital for an exam, members shall advise them not to eat or drink, bathe or change clothes prior to the examination, since evidence present on the victim's body and/or clothing may be destroyed or contaminated. Members shall also request through BOEC for a SAVA to respond to the hospital and if possible, members shall conduct an interview with the victim in the presence of the SAVA.
 - 1.2.1.1.1. If a member is present at the time that a SAK is collected and the victim has not received contact information for a SAK liaison from another source, the member shall provide the victim with contact information for the Bureau's SAK Program Coordinator who is responsible for receiving all inquiries (telephonic or otherwise) regarding SAKs.
 - 1.2.2. For an incident older than 120 hours, a forensic exam is not necessary because DNA evidence deteriorates with time and may no longer be present. Members shall inform the victim of this but also explain that they can still go to the hospital for a wellness exam at no cost to them.
 - 1.3. Members shall call the Forensic Evidence Division (FED) so they can take photos of the victim and the scene.
 - 1.4. Members shall determine the location of the clothing worn by the victim during and/or immediately after the sexual assault. If the victim is still wearing the same clothes worn during the assault, recommend the victim bring a complete change of clothing to the hospital due to possible seizure of the clothes. If the victim is not wearing the same clothes worn during the assault, collect as evidence the clothes the victim wore during the assault if not yet laundered.
 - 1.5. Members shall gather physical evidence in accordance with Section 3, Evidence Disposition.
 - 1.6. Members shall forward reports of sexual assault in which the victim and suspect are family or household members to the Domestic Violence Reduction Unit (DVRU). The DVRU Supervisor may consult with the Sex Crimes Unit (SCU) Supervisor to determine if specific cases would be better investigated by SCU.

1.7. Members shall complete an appropriate police report submitted through their Responsibility Unit and forward a copy to the Detective Division prior to the end of shift.

2. Detective Division Responsibilities for Sexual Assault Investigations.

~~1.1.2.1.~~ In the event detective contact is needed, responding member(s) shall inform their supervisor. The supervisor shall make contact with the Detective Division who shall determine the appropriate response. Responding member (s) will inform his/her supervisor when detective contact is needed. The supervisor will make contact with Detective Division (Detectives), who will determine the appropriate response.

~~a.~~ An SCU Detective may be requested and assigned when the victim(s) are 14 years old and older and the perpetrator is a non-family member. contact will be as follows:

~~1. Victims age 14 years and older involving non-family perpetrators: Sex Crimes Unit (SCU) detectives.~~

~~2.1.1. 2. Victims under 14 years old and all victims under involving family perpetrators:~~

~~2.1.1.1. The suspect is in custody for:~~

~~2.1.1.1.1. Rape I.~~

~~2.1.1.1.2. Sodomy I.~~

~~2.1.1.1.3. Sex Abuse I.~~

~~2.1.1.1.4. Unlawful Sexual Penetration I and II.~~

~~2.1.1.2. Cases in which an individual 18 years old or older decides to report an offense that occurred when they were a juvenile shall be referred to SCU detectives.~~

~~1.1.1.2.1.2.~~ A Child Abuse Team (CAT) Detective may be requested and assigned when the victim(s) are under 18 years old and the perpetrator is a family member. detectives.

~~1.1.1.1.2.1.1.~~ The suspect is in custody for:~~3. A SCU/CAT detective will be contacted when a suspect is in custody for:~~

~~1.1.1.1.1.2.1.2.1.1.~~ a) Rape I.

~~1.1.1.1.2.2.1.2.1.2.~~ b) Sodomy I.

~~1.1.1.1.3.2.1.2.1.3.~~ c) Sex Abuse I.

~~2.1.2.1.4.~~ d) Unlawful Sexual Penetration I and II.

2.2. Circumstances required for Detective notification:

2.2.1. The victim is able to articulate a crime has been committed or the member is able to determine a crime was committed,

2.2.2. The crime is no more than 120 hours old,

2.2.3. The victim is willing to cooperate with an investigation, and

2.2.4. The nature or complexity of the crime requires a detective response.

2.2.5. A detective sergeant or shift sergeant may determine a detective response is necessary when circumstances do not fall within the above criteria.

~~4. Incident circumstances include:~~

~~a) Victim is able to articulate a crime has been committed and,~~

- ~~1.1.2. b) Crime is no more than 84 hours old, and,~~
- ~~1.1.3. c) Victim is willing to cooperate with an investigation (i.e. submit to a rape exam), or,~~
- ~~1.1.4. d) The nature or complexity of the crime requires a detective response.~~
- ~~1.1.5. A detective sergeant or shift sergeant may determine if a detective response is applicable if crime does not fall within parameters.~~

2.3. The Detective Division's Responsibility Unit (RU) Manager shall determine which unit will investigate cases that involve both sexual assault and domestic violence.

2.4. The Detective Division shall investigate further and coordinate with the District Attorney's Office.

2.3.SAK Program Coordinator Responsibilities ~~(640.20)~~.

3.1. The SAK Program Coordinator located in SCU shall receive all inquiries (telephonic or otherwise) from victims regarding their SAK. This Bureau member shall also serve as a liaison between PPB and OSP, being responsible for coordinating and communicating information on a victim's behalf.

3.2. Upon request by a victim, the SAK Program Coordinator may provide details regarding the victim's personal SAK to include, but not limited to, the following information:

3.2.1. SAK Testing location and date;

3.2.2. Testing results;

3.2.3. Whether a DNA sample was obtained from the SAK and if so, whether or not there are matches to DNA profiles in state or federal databases.

3.2.4. The estimated date of destruction for the SAK.

3.3. In the event that a victim makes an inquiry but providing the requested information interferes with the investigation or prosecution of a case, the SAK Program Coordinator shall not disclose details but rather, provide an explanation for why they cannot release the information.

3.4. The SAK Program Coordinator shall respond to a victim's inquiry concerning their SAK as soon as practical, but no later than 30 days from the inquiry.

3.5. The SAK Program Coordinator shall document any request from a victim to have a designee access information on their behalf. The SAK Program Coordinator shall inform the victim that written authorization must be provided to PPB to ensure that access is granted to the appropriate person.

3.6. When requested by a victim to either reclassify an untested non-anonymous kit to an anonymous kit or reclassify an untested anonymous kit as a non-anonymous kit, the SAK Program Coordinator shall notify OSP of the reclassification.

4. Evidence Disposition

4.1. Upon receiving notification from a medical facility that a SAK has been collected, a sworn member shall retrieve the SAK within seven days.

- 4.1.1. Members shall collect anonymous kits as well as SAKs at the request of outside agencies when a victim is reporting within Portland jurisdiction. This is commonly referred to as a courtesy report.
- 4.1.2. Upon retrieving a SAK, the member shall scan the kit bar code using the Sexual Assault Kit Tracking System (SAKTS) mobile app to ensure chain of custody.
- 4.2. Once in possession of a SAK from the medical, members involved in investigating sexual assaults shall ensure evidence is appropriately packaged by the involved hospital, complete a Property/Evidence receipt, and transport the evidence to the Property and Evidence Room.
- 4.2.1. Clothing and other evidence with body fluids are considered biohazardous. Members shall refer to Directive 660.10, Property and Evidence Procedures, for more information regarding proper delivery of these items. Members should use the following recommended precautions when handling biohazardous evidence:
- 4.2.1.1. Wet body fluids and dry blood: Rubber gloves, mask, and eye protection.
- 4.2.1.2. Dry body fluids and dry blood: Rubber gloves, and, if available, mask and eye protection.
- 4.3. The Property and Evidence Division (PED) shall submit the SAK to OSP for forensic testing within 14 days from the time of receiving the SAK from a medical facility. The SAK Program Coordinator shall provide OSP any information sufficient to allow OSP to prioritize testing.
- 4.4. PED shall not submit any anonymous kits to OSP for testing.
- 4.5. PED shall retain all SAKs, including anonymous kits, for no less than 60 years after the SAK was collected.

Officer/Detective Investigative Responsibilities (640.20)

- ~~a. If the rape and/or sodomy occurred within the past 84 hours, advise the victim not to bathe, douche, or change clothes prior to hospital examination, since evidence present on the victim's body and/or clothing may be destroyed.~~
- ~~b. Advise the victim to bring a complete change of clothing to the hospital due to possible seizure of the clothes currently being worn.~~
- ~~c. Gather physical evidence, see Evidence Disposition section.~~
- ~~d. Request through BOEC for a RVA to respond to the hospital and conduct a thorough victim interview in his/her presence (if available).~~
- ~~e. If emergency medical treatment is required, the victim should be transported by ambulance to the nearest hospital or the hospital of their choice. If the particular hospital does not have Sexual Assault Evidence Kits, an officer or detective must obtain one from either Oregon Health Science University (OHSU) or Emanuel Hospital.~~

~~f. If emergency medical treatment is not required, but a sexual assault examination is needed, transport the victim to an appropriate hospital. If a detective is responding, notify the detective prior to leaving the scene to determine what investigative processing should occur.~~

~~1. Victims under the age of 15 years will be examined at Emanuel Hospital; victims 15 years and older will be examined at OHSU.~~

~~2. If needed, the responding member will provide transportation for the victim following the examination.~~

~~g. If a detective does not respond; the officer is responsible to:~~

~~1. Transport the victim to the appropriate medical facility.~~

~~2. Sign, list agency, DPSST, and date the Medical Report Sexual Assault form to authorize a sexual assault examination as appropriate.~~

~~3. Conduct a thorough interview of the victim in the presence of an RVA (if one is available).~~

~~4. Call Forensic Evidence Division for photos of the victim and the scene.~~

~~5. Complete an Investigation Report and fax it to Detectives prior to the end of the shift.~~

~~h. If a detective does respond, follow directions given by the detective and leave a completed Special Report with the detective prior to leaving the hospital.~~

Detective Responsibilities (640.20)

~~a. Conduct a thorough investigation and gather evidence as appropriate. Provide direction on investigative responsibilities and procedures to the responding officer.~~

~~b. Conduct thorough follow-up on assigned cases and assist the District Attorney's (DA's) office with prosecution.~~

~~c. Complete a Forensic Laboratory Form and transfer the Sexual Assault Evidence Kit and any other items of evidence to the Oregon State Police Crime Lab, if necessary.~~

Evidence Disposition (640.20)

~~a. Members involved in investigating sexual assaults will complete a Property/Evidence receipt.~~

~~1. List the Sexual Assault Evidence Kit and the victim's undergarments (underwear/panties) on one Property/Evidence Receipt. Any other clothing or evidence must be listed on a separate receipt and may be placed in any satellite property room.~~

~~2. At OHSU, issue a property receipt listing University Hospital in the Location Where Seized section. Record the name of the nurse placing the Sexual Assault Evidence Kit and victim undergarments~~

~~in the OHSU satellite evidence locker in the Property Taken From section of property receipt. The pink copy is placed in the OHSU satellite evidence locker. The yellow copy is retained by the hospital or the nurse placing the evidence into the locker. Property Evidence Division (PED) personnel will pick up completed sexual assault kits and undergarments only from OHSU once a week.~~

~~3. At Emanuel and Portland Adventist hospitals, issue a Property Receipt listing the corresponding hospital in the Location Where Seized section. Since these hospitals have no on-site evidence lockers, members will need to collect the kit and undergarments, if any, and place them in any satellite property room lockers.~~

~~b. Clothing and other evidence wet with blood or other body fluids are biohazards. Refer to DIR 660.10 Property and Evidence Procedure, for proper delivery of such evidence items. Universal precautions are recommended, including:~~

~~1. Wet body fluids and dry blood: Rubber gloves, mask, and eye protection.~~

~~2. Dry body fluids and dry blood: Rubber gloves. If available, mask and eye protection.~~

Anonymous Sexual Assault Report Guidelines (640.20)

~~House Bill 2154, signed into law on June 1, 2007, eliminates the requirement for law enforcement authorization prior to collection of an Oregon State Police (OSP) SAFE Kit. HB 2154 establishes a fund for victims of sexual assaults to obtain complete or partial medical assessment. Victims can obtain a medical assessment without law enforcement involvement. The identities of victims can be kept confidential to medical facilities per the victims' request.~~

~~a. 9-1-1 will inform victims of their options of reporting and nonreporting and provide information to the crisis line for assistance, including transportation needs.~~

~~b. Medical facilities will contact advocacy services and will provide the victim their Jane Doe SAFE kit number for reporting purposes, should they choose to report within six months.~~

~~c. Members will assign a case number and retrieve evidence. Jane Doe reports are anonymous and confidential. Complete separate Property Evidence Receipts for rape kits and clothing evidence and document their evidence on the report.~~

~~d. Property Evidence employees collect kits from OHSU only. Members will collect kits from any other facility and place them in any satellite property room locker.~~

~~For questions, members are encouraged to contact a SCU on-call detective. CAT should be contacted if the victim is under 14 years of age.~~

#1

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Wednesday, August 01, 2018 8:41:33 AM
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Time Spent: 00:20:38

Page 1

Q1 Please provide feedback for this directive

There have been 2 audits of the sexual assault unit that made recommendations that may need to be included in the directive.

A qualified Medical personnel is a Sexual Assault Nurse Examiner (SANE). Victims have up to 120 hours post assault to have Sexual Assault Forensic Exam (SAFE).

Law Enforcement does not need to authorize a sexual assault examination.

Emanuel Hospital is misspelled in the entire document (EmanuelHospital).

SANE nurses are required to call dispatched to have sexual assault kit picked up at the hospital, SA kits should not be put in the evidence locker at OHSU (this locker will be removed once the bar code tracking app is deployed).

Detectives no longer complete a Forensic Laboratory Form, the Program Coordinator of the sex crime unit submits all SA kits to the Oregon state crime lab. All SA kits are required by state law to be tested except anonymous reporters. Kits must be submitted within 14 days to the crime lab.

Q2 Contact Information (optional)

Name

Email Address

Phone Number

#2

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Wednesday, August 01, 2018 10:00:19 AM
Last Modified: Wednesday, August 01, 2018 10:13:50 AM
Time Spent: 00:13:31

Page 1

Q1 Please provide feedback for this directive

Under section 4b, the Directive mentions the 84 hour guideline.

Also under "Officer/Detective investigative responsibilities", section a., the Directive mentions the 84 hour guideline.

This guideline has changed.

Many months ago, the National Institute of Justice came out with updated guidelines because DNA testing has improved. Their new guidelines are as follows:

1. Vaginal swabs - up to 120 hours
2. Anal swabs - up to 72 hours
3. Oral swabs - up to 24 hours
4. Bite marks/saliva on skin - up to 96 hours

Also, under "Detective Responsibilities", section c., the directive states that the Detective should complete the Forensic Lab Form and send the SAFE kit to the OSP Crime Lab.

We no longer do it this way. The Program Coordinator for the SAKI grant, Susan Lehman, is now responsible for sending in all the SAFE kits to the Crime Lab. All kits are now submitted to the lab, since the law now requires this.

It would probably be worthwhile to talk directly with SCU Detective Supervisor Molly Daul about these two parts of the directive. But the language about the 84 hour guideline certainly needs to be changed; otherwise some evidence might be lost.

Q2 Contact Information (optional)

Name

Email Address

Phone Number

#3

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Wednesday, August 01, 2018 10:44:26 AM
Last Modified: Wednesday, August 01, 2018 10:45:02 AM
Time Spent: 00:00:35

Page 1

Q1 Please provide feedback for this directive

There are multiple instances of "EmanuelHospital" (missing space). Also, why must officers write "University Hospital" in the location on their property receipt instead of the briefer "OHSU"?

Q2 Contact Information (optional)

Respondent skipped this question

#4

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Wednesday, August 01, 2018 12:35:21 PM
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Time Spent: 00:03:24

Page 1

Q1 Please provide feedback for this directive

a. 1&2 - who responds to 18+ year old family situations?
Who responds to domestic violence sex assaults?
RVA = Sex Assault Victim's Advocate (SAVA)
5.h) PPB does not do Specials anymore
HB2154 should have an ORS number if it was passed in 2007.
Should contact SCU and FSD about how sex assaults in domestic situations are handled.

Q2 Contact Information (optional)

Name
Email Address
Phone Number

#5

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Friday, August 03, 2018 1:59:22 PM
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Time Spent: 00:00:46

Page 1

Q1 Please provide feedback for this directive

RVA is a deprecated term, the modern vernacular is SAVA (sex assault victim's advocate).

Q2 Contact Information (optional)

Respondent skipped this question

#6

COMPLETE

Collector: Web Link 1 (Web Link)
Started: Tuesday, August 14, 2018 3:04:13 PM
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Page 1

Q1 Please provide feedback for this directive

COMMENTS ON SEXUAL ASSAULT DIRECTIVE AUGUST 2018

To Chief Outlaw, Capt. Bell, Lieutenant Morgan, PPB Policy Analysts, Compliance Officer/Community Liaison Team, Community Oversight Advisory Board staff, US Dept. of Justice, Citizen Review Committee and the Portland Police Bureau:

Portland Copwatch (PCW) is submitting comments on Directive 640.20 Sexual Assault Investigations posted for review in the first half of August . This Directive was up for review in October 2015 in a revised format with substantial changes, and we made comments at that time. (We have posted that draft on line at http://pju.info/copwatch/640_20_Sex_Assault_Invns1015.doc). Since the Directive was never changed, we have re-edited our 2015 comments to address both then-proposed changes and the Directive as it is currently written.

This review comes at an important time, after an officer whose off-duty sexual assault allegations were not fully investigated by Clark County law enforcement was reinstated to the Bureau in April this year. That officer, Alfonso Valadez, Jr., then went on to chase a man the wrong way down and exit ramp onto the freeway, where the man died in a head on collision. Serious thought should be given as to assigning sexual assault cases involving PPB personnel to another agency-- both to avoid a conflict of interest and to avoid going to an agency which does not take this kind of crime seriously.

We continue to encourage the Bureau to number (or assign a letter to) each major section (Definitions/ Policy/ Procedure) to avoid the confusion of having multiple Sections marked "1." Since the posted Directive is in the old format, now is a good time to consider doing so when re-numbering the new draft.

640.20 SEXUAL ASSAULT INVESTIGATIONS

--One overall comment is that there is no consideration given to the gender identity of the sexual assault survivor and their preference of gender for the officer who conducts the investigation.

--In 2015, the proposed Policy section directed officers merely to "be sensitive" to the victim. PCW suggested the Bureau should state "Members will conduct themselves in a compassionate, professional manner with all due care and concern for the dignity and needs of all persons involved in the investigation."

--While the responding officer is given discretion on whether to call Detectives to the scene, including surmising whether an incident occurred at all (Section 1 / 1.1 in the 2015 version) and based on the nature and complexity of the incident (Section 4e / 1.1.1.4.4), some of the determining factors probably should be better defined. For instance:

---Section 4a (/ 1.1.1.4.1) requires that the victim be able to articulate a crime has been committed, but doesn't allow for disabilities or language barriers.

Directive 640.20 Feedback

---Section 4e (/ 1.1.1.4.3) requires that the victim agree to submit to a forensic exam, without consideration that such an invasive process may cause the person to feel re-victimized; and

---Our most pressing concern is that the Bureau change Section 4b (/ 1.1.1.4.2) so that rather than dismiss the idea of having detectives investigate a crime that is over 84 hours old, an explanation be included regarding that timeline (presumably, most evidence will be unusable afterward) but to note that other evidence or witnesses coming forward after that time can still be subject to investigation. After all, the Legislature extended the statute of limitations on sexual assault crimes from six to 12 years. Regardless, there should not be pressure to submit to such an exam that comes off as a threat not to investigate.

--Especially after the 2015 scandal regarding the testing of rape kits, the Valadez case and the recent failed actions of the Clackamas County Sheriff's Office investigating child sex abuse, the Directive should require a deadline to process evidence, perhaps four weeks. If there is a lag in an investigation by a rank and file officer, the PPB should call in a detective or outside agency to take over the case if this deadline is missed.

--We're not sure of the legislative history, but we did note that in the 2015 draft, an entire chunk of the old Directive describing anonymous reporting of sexual assault, based on 2007's HB 2154, was removed ("Anonymous Sexual Assault Report"). Clear guidelines reflecting state law should be in the Directive.

--Paragraphs about separating particular pieces of clothing, and procedures at specific hospitals in the "Evidence Disposition" Section, currently labeled a1, a2 and a3 were also removed in the 2015 draft for unknown reasons.

--The admonition against multiple questioning of child abuse victims (to avoid re-traumatizing them) which was proposed at the time in Directive 640.30 (2015 draft 640.30 Section 1.8) should also apply here to sex assault survivors.

--Similarly, the provision for someone other than a uniformed officer to take the complaint in 640.30 under BOEC Responsibility (in 2015 draft 640.30 Section 6.2) should be incorporated into this Directive.

We thank you again for the opportunity to comment. As noted in previous comments, we sincerely look forward to the ability of the new Portland Committee for Community Engaged Policing to weigh in on Bureau policies, whenever they finally are seated and operating.

--Portland Copwatch

Q2 Contact Information (optional)

Name

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Directive 640.20 Feedback

2nd Universal Review: 4/15/19 - 5/15/19

#1

COMPLETE

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Page 1

Q1 Please provide feedback for this directive

COMMENTS ON IMMIGRANT CONTACT, LAWSUITS AND SEXUAL ASSAULT DIRECTIVES, MAY 2019

To Chief Outlaw, Capt. Parman, Lieutenant Morgan, PPB Policy Analysts, Compliance Officer/Community Liaison Team, Portland Committee for Community Engaged Policing, US Dept. of Justice, Independent Police Review, Citizen Review Committee and the Portland Police Bureau:

Below are comments from Portland Copwatch (PCW) on the three Directives posted mid-May for comment (<https://www.portlandoregon.gov/police/73677>). Of the extensive comments we sent in last August on Directive 810.10, now titled in part "Bureau Contact with Members of Immigrant Communities," only one led to meaningful change. It seems as if the comments submitted collectively by the ACLU, Innovation Law Lab and Causa* had a much higher success rate. We last commented on the Lawsuits Directive (220.40) in September, and, frustratingly, on the Sexual Assault Directive (640.20) in May 2015, but the Bureau's proposed changes were never made so now we're making most of the same comments again.

We've said many times before and repeat here that the Bureau should change the structure of the Directives so that the definitions sections have numbers like all the other sections, and each section has a letter or other designation so there are not multiple sections marked "1." We also continue to believe the Bureau should give a longer time period for comments for those groups, particularly city-run advisory groups, who only meet once a month (or once every two months, like the Training Advisory Council) have time to weigh in.

The references below are to Procedure Sections unless otherwise noted.

640.20 SEXUAL ASSAULT KITS AND SEXUAL ASSAULT INVESTIGATIONS

Again, this Directive has been extensively rewritten and is only just now getting standardized Section numbers added. This means the Bureau could have used the opportunity to number the Refer and Definitions Sections and assign letters to each section for easy navigation. One day the PPB will see how that would be helpful-- it took years to start numbering individual subsections for easy reference.

Most of these comments are carried over from our 2015 submission.

While there are extensive new policies around the use of Sexual Assault Kits (hence the new title), there is still no consideration given to the gender of the sexual assault survivor and their preference of gender for the officer who conducts the investigation.

--In the Policy section, rather than directing officers merely to "be sensitive" to the victim, perhaps the Bureau should state "Members will conduct themselves in a compassionate, professional manner with all due care and concern for the dignity and needs of all persons involved in the investigation."

--One improvement is that rather than requiring the victim to agree to submit to a forensic exam (which we noted ignores the consideration that such an invasive process may cause the person to feel re-victimized), officers now give the person an option to do so.

Directive 640.20 Feedback

--The responding officer is given discretion on whether to call Detectives to the scene, based on the nature and complexity of the incident (2.2.4). The determining factors probably should be better defined. For instance:

----Section 2.2.1 requires that the victim be able to articulate a crime has been committed, but doesn't allow for disabilities or language barriers.

----Section 2.2.2 should not prohibit investigation of a crime that is over 120 hours old (though that time frame is 36 hours longer than it was) without referring to the explanation regarding that timeline, which is covered in Section 1.2.2 (that evidence may have deteriorated in that time). While 1.2.2 says officers shall inform the victim they can still go to the hospital for a wellness exam, the policy should also note that other evidence or witnesses coming forward after that time can still mean the incident is subject to investigation. The statute of limitations on sexual assault crimes was raised in 2015 from six to 12 years. The 120 hour timeline should not be used to either pressure victims to submit to an exam nor to make them feel that there is no hope for their case if they fail to do so.

--Though there is a timeline to respond to a victim about what's going on with their Sexual Assault Kit (a lengthy 30 days-- Section 3.4) and to retrieve a Kit from a hospital (within seven days-- Section 4.1.2), there is no deadline for the officers to turn the Kits over to the Property/Evidence Room (Section 4.2). If there is a lag in an investigation by a rank and file officer, a detective or outside agency should be called in to take over the case if this deadline is missed.

--The admonition against multiple questioning of child abuse victims (to avoid re-traumatizing them) in Directive 640.30 Section 1.8 should also apply here to sexual assault survivors.

--We appreciate that the Directive now says officers should have an ambulance bring victims to the hospital if they need emergency treatment (Section 1.1), but it is unclear who is to transport the person if they choose to go to a hospital for an exam (Section 1.2.1.1). In Directive 640.30 Section 6.2 it provides for someone other than a uniformed officer to transport the victim.

CONCLUSION

As always, we appreciate the opportunity to make comments on Bureau policy. We do wish more of our concerns would be addressed even though we are not a professional organization made up of practicing attorneys. We also hope that the example of the Training Advisory Council needing to consider the Directive on Field Training after the deadline passed will lead to the Bureau giving longer timelines to respond.

--Portland Copwatch

* Note: we had to obtain an original copy of the three groups' comments since the Bureau's version attached to the new draft confusingly includes "redline" inserts and deletions without markings.

Q2 Contact Information (optional)

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