

Basic Training Module Specifications

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| <u>Functional Area:</u> | I. Investigation                |
| <u>Subject Area:</u>    | G. Special Investigation        |
| <u>Module Title:</u>    | 2. SEXUAL ASSAULT INVESTIGATION |
| <u>Hours:</u>           | Not less than 3 hours           |

Module Objectives:

- I.G.2.1. Demonstrate a Working Knowledge of the Criminal Sexual Conduct Laws.
- a. Defines sexual assault as a wide range of forced or non-consensual sexual acts, characterized by lack of consent, or an inability to consent, and by:
    - (1) force or coercion;
    - (2) penetration or contact;
    - (3) manipulation or intimidation, which includes:
      - (a) marital rape;
      - (b) intimate partner rape; or
      - (c) victimization of males, females, and persons of all sexual orientations.
  - b. Identifies the elements of Michigan’s Criminal Sexual Conduct Act, which contain a range of conditions and misconduct (MCL 750.520a-g):
    - (1) definitions (e.g., sexual penetration, sexual contact, victim, etc.);
    - (2) first degree criminal sexual conduct, a felony, which includes forced or coerced sexual penetration, including rape;
    - (3) second degree criminal sexual conduct, a felony, which includes forced or coerced sexual contact;
    - (4) third degree criminal sexual conduct, a felony, which includes forced or coerced sexual penetration, including incest;
    - (5) fourth degree criminal sexual conduct, a misdemeanor, which includes forced or coerced sexual contact; and
    - (6) assault with intent to commit criminal sexual conduct (incomplete acts), a felony.
  - c. Determines that the lack of voluntary *consent* is an essential element of sexual assault and that a victim’s compliance does not mean there was consent (resistance is not an element of sexual assault and surrender is not consent).

I.G.2.2. Demonstrate an Understanding of the Dynamics of Sexual Assault.

- a. Considers an *offender-focused* response by recognizing that offenders:
  - (1) are most likely to be repeat or serial offenders;
  - (2) select opportunities for victimization (most sexual assaults are planned);
  - (3) use strategies that create victim vulnerability and accessibility;
  - (4) use coercion to complete the assault;
  - (5) target those who are less likely to be believed or create situations that diminish victim credibility; or
  - (6) target victims known to them.
  
- b. Considers a *victim-centered* approach by recognizing that emotional reactions to trauma will vary and even seem counterintuitive, but may include:
  - (1) anger;
  - (2) embarrassment;
  - (3) guilt or denial;
  - (4) shame or self-blame;
  - (5) fear; or
  - (6) numbness.
  
- a. Recognizes that the victim's emotional reactions to trauma may result in:
  - (1) difficulty in reporting facts logically and in sequence;
  - (2) denial or rationalization of the sexual assault;
  - (3) difficulty making a decision;
  - (4) a reluctance to talk about the crime;
  - (5) a delay in reporting the crime;
  - (6) forgetting specific facts or details; or
  - (7) depression or mood swings.

**Notes to Instructor**

By knowing the dynamics of sexual assault, officers will be better equipped to identify an appropriate strategy for questioning, locate relevant evidence, and conduct a thorough investigation. During training, be sure to address vulnerability, accessibility, and believability. Offenders want to place potential victims in vulnerable situations, often using alcohol, and will select victims who are less apt to be believed by authorities. Alcohol is the most frequently used substance, although other substances like GHB, Rohypnol, or prescription medication may also be used. Offenders also seek ways to gain access to victims.

During the sexual assault training, be sure to address stereotyping and misconceptions. For example, the public believes that victims should be out of control, hysterical, extremely emotional, and should report the assault immediately to law enforcement. Often, these beliefs are based on unrealistic depictions on television and in the movies. Such myths may be held by responding officers as well, which may negatively influence the quality of their investigation.

I.G.2.3. Respond to a Complaint of Sexual Assault.

- a. Responds immediately to the scene but recognizes that reports of sexual assaults are usually not crimes “in-progress” and that the victimization probably occurred prior to the call to law enforcement.
- b. Assesses the situation safely and formulates response strategies by:
  - (1) identifying the nature of the call before deciding which response will be the most effective (in-progress call, delayed reporting, etc.);
  - (2) obtaining relevant information en route from dispatchers (e.g., physical injuries, presence of weapons, suspect at scene, etc.);
  - (3) determining if immediate medical attention is needed;
  - (4) evaluating accurately victim behaviors and reactions; and
  - (5) recognizing how an officer’s non-verbal cues can affect the initial response (e.g., body language, facial expressions, etc.).
- c. Manages the investigation by determining the need to:
  - (1) locate and detain corroborating witnesses;
  - (2) obtain a search warrant;
  - (3) locate and interview the suspect (the suspect may be a source of evidence);
  - (4) request additional resources, assistance, or back-up units;
  - (5) notify crime scene technicians or investigators; and
  - (6) arrange for a medical examination by a medical professional (SANE, e.g.).
- d. Uses a victim-centered response by:
  - (1) understanding the range of reactions to trauma;
  - (2) giving power and control back to the victim (e.g., explaining options, giving choices, respecting choices, etc.);
  - (3) suggesting the involvement of an advocate; and
  - (4) recognizing the advantages to providing SANE services to the victim.

**Notes to Instructor:**

Often, responding officers may not observe physical injuries. The sexual assault itself is an injury and victims fear for their lives. If a victim is a child, refer to state procedures for the proper investigative protocols and Michigan Child Protection Law. See Module I.G.1.

Officers must avoid an approach that may create a “cycle of mistrust.” Mistrust may occur if an officer approaches the case with skepticism, the victim senses this doubt, and becomes defensive. This, in turn, may cause the officer to be even more frustrated during the interview and believe that the report is a waste of time.

In court, the offender’s attorney will want to convince the judge or jury that the victim did not behave like a “real” victim and will play on the general public’s misconceptions and stereotypes. They may argue that the behaviors displayed by the victim are counter-intuitive and therefore should not be believed.

I.G.2.4. Investigate a Complaint of Sexual Assault.

- a. Recognizes the need to conduct a thorough investigation of every sexual assault incident and to locate, identify, and document all relevant evidence.
- b. Prepares an appropriate strategy for the initial questioning of the victim by:
  - (1) maintaining honesty, patience, and understanding;
  - (2) treating the victim with dignity and respect (no victim blaming);
  - (3) spending extra time to open lines of communication;
  - (4) asking direct, open-ended questions and remaining impartial;
  - (5) offering choices so the victim can make decisions; and
  - (6) evaluating information to determine the elements of a crime.
- c. Interviews the victim of a sexual assault at an appropriate (private) location and allows time for the initial trauma to subside:
  - (1) puts the victim at ease and encourages a conversational interview by:
    - (a) exercising patience and sensitivity (open-ended listening);
    - (b) establishing rapport and trust, but making no promises;
    - (c) using plain language and explaining the purpose of the interview;
    - (d) believing what the victim is saying; and
    - (e) allowing the victim to select who will be present during the interview;
  - (2) asks open-ended questions to obtain basic information and to identify:
    - (a) the elements of the offense (what specific acts took place);
    - (b) where the assault took place (crime scene);
    - (c) where evidence or potential evidence may be located;
    - (d) if force or the threat of force was used by the offender;
    - (e) if a weapon was involved;
    - (f) a description of the offender and any statements made during the crime;
    - (g) the nature of the assault from the victim's point of view;
  - (3) provides information and assistance about support services (e.g., victim advocacy); and
  - (4) plans for follow-up interviews, as necessary.
- d. Takes photographs and/or collects physical evidence, including evidence:
  - (1) from the scene itself (e.g., hair, fingerprints, debris, weapons, etc.);
  - (2) contained in bedding, clothing, towels, carpets, etc.;
  - (3) that may have been taken from the scene by the perpetrator;
  - (4) of physical injuries;
  - (5) from the victim's body (collected by medical professionals); and
  - (6) from the suspect (biological, physical, etc.).

I.G.2.4. Investigate a Complaint of Sexual Assault (continued).

- e. Considers the standards, protocols, and timing regarding a forensic examination and the collection of evidence by trained medical professionals (sexual assault evidence kit and sexual assault victim's access to justice (MCL 752.953) and crime victim rights act (MCL 780.751 et seq.).
- f. Prepares for the suspect interview by:
  - (1) considering the legal authority to detain and question (e.g., Miranda);
  - (2) selecting an appropriate location (usually non-custodial);
  - (3) obtaining corroborative statements from witnesses, if possible;
  - (4) recognizing that the suspect will often insist the act was consensual;
  - (5) recognizing that suspects may know the victim and will not be interested in hiding their involvement;
  - (6) observing body language and reactions to questioning;
  - (7) obtaining partial admissions, then re-affirming and expanding; and
  - (8) considering audiotaping or video-taping the interview, when possible.
- g. Questions the suspect as part of the sexual assault investigation:
  - (1) at the outset, build rapport with the suspect;
  - (2) obtain relevant background information on the suspect;
  - (3) determine the relationship between the victim and suspect;
  - (4) obtain provable lies or implausible accounts of the incident;
  - (5) use the suspect's rationalizations to formulate the direction of the questioning;
  - (6) allow the suspect to make an uninterrupted statement (admission);
  - (7) confront the suspect directly and obtain details;
- h. Gathers information so a thorough sexual assault report can be written:
  - (1) documents the sexual assault;
  - (2) uses the victim's own words or terms for the assault and contact;
  - (3) uses accurate anatomical terminology;
  - (4) writes impartially and objectively; and
  - (5) avoids police jargon but includes direct quotes.

**Notes to Instructor:**

Discuss the basic requirements of the Sexual Assault Kit Submission Act (MCL 752.931-935) and make recruits aware of the “Track-Kit” software system. The purpose of this system is to prevent processing delays and provide accountability at all levels of evidence handling. Software training for the Track-Kit system is intended to take place at the agency level.

It is not necessary to report the incident to law enforcement in order to obtain a forensic examination by a medical professional. The primary purpose of the medical examination is to diagnose and treat the victim.

Handling calls involving sexual victimization can be complex and problematic for responding officers, calling on their ability to make appropriate decisions and to properly solve problems at the scene. A thorough knowledge of the legal authority surrounding such incidents is essential. Sexual assault victims deserve to be treated with dignity and officers must not act outside the bounds of legal authority or violate settled constitutional principles.

Although there are commonalities in the response to sexual assaults, there may be departmental differences based on agency policies and procedures, organizational culture, and agency best practices. Some departments may have sexual assault or violent crimes investigators who specialize in these types of investigations. In other agencies, the responding officers may participate in all phases of the case.

All too often, sexual assault victims feel that they are not believed. Use real-life situations to illustrate how important this concept is from an enforcement perspective. Emphasize the necessity to conduct a thorough investigation.

Sexual assault investigations can sometimes uncover sexual exploitation and/or clues of human trafficking. Recruits should be aware of the National Human Trafficking Resource Center, which is open 24 hours a day and can be reached at (888) 373-7888.

I.G.2.5. Demonstrate an Understanding of a Sexual Assault Personal Protection Order.

- a. Describes a sexual assault Personal Protection Order (PPO) as a court order that restrains an individual from engaging in stalking, aggravated stalking, or unlawfully posting messages on the internet (cyberstalking). (See MCL 750.411s).
- b. Recognizes that a sexual assault PPO (MCL 600.2950a(2)(a)) may be issued if the respondent:
  - (1) had been convicted of committing a sexual assault against the petitioner, or
  - (2) for furnishing obscene material to a minor petitioner (MCL 750.142).
- c. Recognizes that a sexual assault PPO (MCL 600.2950a(2)(b)) may be issued if the petitioner had been:
  - (1) subjected to a sexual assault by the respondent;
  - (2) threatened with a sexual assault by the respondent; or
  - (3) placed in reasonable apprehension of a sexual assault by the respondent.
- d. Determines that the procedures for obtaining a sexual assault PPO are substantially similar to those for obtaining other PPOs (see objectives I.H.2.7. and I.H.2.8.).
- e. Considers that Michigan’s rape shield law (MCL 750.520j) apply in sexual assault PPO proceedings to protect victims of sexual assault from irrelevant and unwarranted intrusions into their sexual history.

**Module History**

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| Revised  | 07/04 |
| Revised  | 07/06 |
| Revised  | 12/10 |
| Revised  | 03/11 |
| Revised  | 09/15 |
| Revised  | 12/18 |
| Reviewed | 09/21 |
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