



POLICY CHAPTER # 27 COLLECTION AND PRESERVATION OF EVIDENCE	POLICY # 27.2 SEXUAL ASSAULT EVIDENCE COLLECTION KITS
<i>This policy is for internal use only and does not enlarge an employee's civil liability in any way. The policy should not be construed as creating a higher duty of care, in an evidentiary sense, with respect to third party civil claims against employees. A violation of this policy, if proven, can only form the basis of a complaint by this department for non-judicial administrative action in accordance with the laws governing employee discipline.</i>	
Date Implemented: 10/06/2023	Review Date:

I. Purpose: Entering DNA (deoxyribonucleic acid) evidence from sexual assault evidence kits increases the likelihood of prosecution. The importance of DNA evidence in sexual assault cases cannot be overstated. Not only does DNA evidence carry weight in court, but it may prevent future sexual assaults from occurring. Even if the perpetrator is not prosecuted, their DNA may be added to the national database, making it easier to connect the perpetrator to a future crime or a past crime.

II. Policy: The policy of this department will be that when notification of an alleged sexual assault is received from a collecting facility, generally a hospital, clinic, or medical provider that the procedures and timelines outlined in the policy below be utilized.

It is also the policy of the Indian Hills Police Department to utilize the resources of the Louisville Metro Police Department's Sex Crimes Unit and Crime Scene Unit to investigate any and all sexual assaults that are reported in its jurisdiction. The initial responding officer shall promptly contact MetroSafe (via JCSO radio or telephone) and request the assistance of a member of the Sex Crimes Unit.

III. Definition:

A. Sexual Assault Evidence Kit (SAEK) - a container that includes a checklist, materials, and instructions, along with envelopes and containers to package any specimens collected during the exam. The contents of the kit may include:

1. Bags and paper sheets for evidence collection
2. Comb
3. Documentation
4. Envelopes
5. Instructions
6. Materials for blood samples
7. Swabs

IV. Procedures:

- A.** Once DNA is collected, there is a protocol for how the evidence is handled and used in an investigation. The evidence will be provided to law enforcement who will send it to the crime lab. The lab will analyze the material and develop DNA profiles that are unique to a specific person. The lab works with law enforcement officials to compare these profiles to the DNA of potential suspects. If the perpetrator is unknown, they may compare the DNA profile against a large database run by the FBI called CODIS, the Combined DNA Index System. This way, law enforcement can identify suspects that the victim doesn't know or isn't familiar with. Additionally, when an officer is in a situation to accompany the victim to the testing facility prior to or during the testing procedure, the officer should facilitate the presence of a victim advocate at no cost to the victim.
- B.** When this department receives notification that a sexual assault examination has been conducted by a collecting facility/medical provider performed under KRS 216B.400 and a sexual assault evidence kit has been completed and is ready for pick up a member of this department shall within five days of notification respond to the facility and take custody of it. The chief of the department shall designate the officer responsible for the collection of these kits.
- C.** The chief of police or their designee shall ensure that all evidence retrieved from a collecting facility be transmitted to the department of Kentucky State Police forensic laboratory within 30 days of its receipt by this department.
- D.** This department shall handle the evidence sexual assault evidence kit in compliance with best practices associated with crime scene evidence collection.
 - 1. In cases where no criminal report has yet been generated, the receiving officer will generate a department case number.
 - 2. The receiving officer will prepare an evidence form and maintain a proper chain of custody by documenting the date, time, and name of the person who turned over the sexual assault evidence kit to him.
 - 3. On arrival at the department the receiving officer shall ensure the sexual assault evidence kit is turned into the property/evidence custodian or placed in a department authorized temporary storage facility. The facility must be designed to preserve the evidentiary value of the sexual assault evidence kit while it awaits transfer to the Kentucky State Police forensic laboratory.
- E.** The decision to report the crime rests completely with the victim. It is not required for the victim to file a criminal complaint. Having a sexual assault forensic exam ensures that the forensic evidence will be safely preserved while the victim decides how to proceed. Regardless of the victim's decision about prosecuting the crime, this department shall collect the sexual assault evidence kit and comply with stated procedures of this policy. However, this assumes that this department has been notified that a sexual assault examination kit is ready for pick up as set forth in section IV (B) of this policy. A victim is NOT required to notify law enforcement; and, in the situation where the victim advises the hospital NOT to notify law enforcement, then this department should not intervene unless the victim directly requests that the kit be collected.
- F.** In cases where a victim receives treatment at a collecting facility in this jurisdiction but it is determined the sexual assault occurred outside the jurisdiction of this department, officers shall:

1. Respond to the collecting facility to receive the evidence.
2. Ensure that evidence will be collected and maintained in accordance with this department's property and evidence storage policy, as stated above.
3. Ensure that the department will transmit the evidence to a department with jurisdiction of the sexual assault within 10 days of its receipt by this department.

G. Suspect Standard:

1. During the course of investigation, a suspect sample (DNA), may be obtained by this department.
2. A suspect standard, if available, shall be transmitted to the Kentucky State Police forensic laboratory with the sexual assault evidence kit received from a collecting facility.
3. If the suspect standard is not available at the time of the transmission of the sexual assault evidence kit, it shall be transmitted to the Kentucky State Police forensic laboratory by the obtaining agency as quickly as practical once it is collected.

H. Elimination Standard:

1. During the course of investigation, a voluntary elimination sample (DNA) may be obtained by this department to eliminate persons identified by the victim from suspicion of criminal involvement.
2. An elimination standard shall be clearly identified on the DNA evidence submission form as an elimination standard to avoid confusion with suspect standards.
3. An elimination standard shall be submitted to the Kentucky State Police forensic laboratory with the sexual assault evidence kit received from a collecting facility.
4. If the elimination standard is not available when the sexual assault evidence kit is transmitted, it shall be submitted to the Kentucky State Police forensic laboratory as soon as practical.

I. Elimination DNA Samples

DNA samples collected as a result of an examination performed under KRS 216B.400 that are voluntarily submitted solely for elimination purposes shall not be checked against any DNA index, retained, or included in any DNA index.

J. Victim Notification:

1. This department will work collaboratively with the Kentucky State Police forensic laboratory and the prosecutorial authority regarding victim notification on the progress of testing and whether the testing resulted in a match to other DNA samples.
 - a. This department will work collaboratively with the Kentucky State Police forensic laboratory and the prosecutorial authority regarding victim notification if any of the evidence is going to be destroyed.
 - b. The investigator(s) assigned to a sexual assault investigation is not required to immediately disclose to the victim the identity of any person to whom the evidence matched. This department may delay notice until a suspect is apprehended or the commonwealth's attorney consents to the notification.

V. Kentucky State Police Forensic Laboratory

- A. The Kentucky State Police forensic laboratory will analyze and classify all sexual assault evidence kits it receives. In cases where a suspect has been identified, the Kentucky State Police forensic laboratory may give priority to analysis and classification of sexual assault evidence kits where the reference standard for comparison is provided with the kit.
- B. Kentucky State Police forensic laboratory testing times: Except as provided in subsection Section 3. KRS 17.175 (3)(e) by July 1, 2018, the average completion rate for this analysis and classification shall not exceed 90 days, and by July 1, 2020, the average completion rate for this analysis and classification shall not exceed 60 days.
- C. Officers of this department shall use the above testing completion turnaround times to guide them when making requests for testing results.

VI. Property and Evidence Function:

- A. It shall be the responsibility of the property/evidence custodian to ensure the sexual assault kit received from a collection facility is maintained in such a manner as to preserve the integrity of the evidence. The property/evidence custodian shall forward all sexual assault kits to the Kentucky State Police forensic laboratory in accordance with this policy.
- B. Auditing: It is the policy of this department that during department auditing procedures of the property and evidence room the auditor shall examine all sexual assault kits held by this department to ensure compliance with this policy and Kentucky state law. Any discrepancies or violations of this policy shall immediately be reported to the chief of police in writing.

VII. Disposal

No item of evidence collected by this law enforcement agency shall be disposed of except as provided by KRS 524.140. Destruction of evidence in violation of this statute could result in conviction of a Class D Felony. Prior to any decision to dispose of evidence, the property/evidence custodian shall consult with the commonwealth attorney's office to ensure compliance with KRS 524.140.

Notes on Hospital Standards:

KRS 216B.400 sets forth the standards for hospitals, or, "sexual assault examination facilities" KRS 216B.015.

KRS 216B.400 (4) - The Secretary of the Justice Cabinet, in conjunction with SART AC, shall develop a statewide "medical forensic protocol". Also, this section states that physicians and SANE nurses shall provide both basic medical care related to the incident, as well as a sexual assault examination upon request of an officer or a prosecutor (with the victim's consent) or upon the request of the victim.

KRS 216B.400 (5), (6) - The facility shall inform the victim of available services for treatment of sexually transmitted infections, pregnancy (not to include abortion counselling or referral) and any other medical or psychiatric problems; the facility shall also inform the victim about crisis intervention and mental health services provided by regional rape crisis centers.

KRS 216B.400 (7) - A minor may consent to this exam without a parent or guardian.

KRS 216B.400 (8), (9) – The crime victim’s compensation board shall pay for the exams and the victim is not to be charged.

KRS 216B.400 (10) – A victim shall not be denied an examination due to refusing to report the assault to law enforcement.

If a victim chooses to report, the facility shall notify law enforcement within 24 hours.

If a victim chooses not to report, samples shall be stored, released and destroyed where appropriate in accordance with KAR to be promulgated by the Justice Cabinet and SART AC as mandated by KRS 403.707

All samples shall be stored for at least one year from the date of collection.

Notwithstanding KRS 524.140, samples collected during exams where the victim chose not to report within one year may be destroyed as set forth in the KAR required by KRS 403.707