

SEXUAL ASSAULT INCIDENT PROCEDURE BULLETIN FOR LAW ENFORCEMENT—PUBLIC ACT 099-0801

A new law, Public Act 099-0801, contains requirements for law enforcement agencies regarding the handling of sexual assaults and sexual abuse crimes.

This document outlines the provisions of the Act that must be implemented by law enforcement agencies on January 1, 2017:

- Mandatory Report Writing
- Additional Responding Officer Responsibilities
- Collecting, Storing, and Testing of Sexual Assault Evidence
- Release of Information to the Victim Relating to Evidence Testing

Several other provisions, such as developing and implementing agency policy and training for all officers and those investigating sexual assault and sexual abuse cases, have delayed effective dates to allow for the development of policy guidelines and training curricula.

MANDATORY REPORT WRITING

Officers must document every allegation of sexual assault or sexual abuse and prepare a written report when contacted by any of the following:

1. a person who alleges to have been sexually assaulted or sexually abused,
2. hospital or medical personnel, when reporting under the Criminal Identification Act, or
3. a witness who personally observed what appeared to be a sexual assault or sexual abuse or an attempt of either crime.

The victim is under no obligation to speak to an officer or submit to an interview. The officer shall still prepare a report and document any information made available to the officer.

The officer shall write the report without making a determination of whether the statute of limitations has expired.

Third-Party Reports

A victim of sexual assault or sexual abuse may give consent to another person to provide information about the incident to law enforcement. The third-party reporter does not have to disclose the victim's name. The officer must complete a written report if the person contacting law enforcement:

1. provides their own name and contact information, and
2. affirms that he or she has the consent of the victim to make the report.

Officers must give the person making the third-party report a copy of all victim notices required under this Act and ask that the person give the notices to the victim.

Reports Regarding an Incident Occurring in Another Jurisdiction

Officers must write a report regardless of the jurisdiction where the incident took place. An officer who receives information about an incident in another jurisdiction must prepare a written report. Within 24 hours of receiving the information, the officer must submit the report to the agency having jurisdiction. Agencies may use the Confirmation of Transfer of Sexual Assault Report to Law Enforcement Agency Having Jurisdiction (P.A. 99-0801 – Form D) for this requirement. The law enforcement agency that receives a report from another jurisdiction must confirm receipt. The written confirmation must include:

1. the name of the person who received the report, and
2. a name and phone number of a contact person that can be given to the victim.

Contents of Reports

The written report shall include the following, **if known**:

1. the victim's name or other identifier and contact information,
2. the time, date, and location of the offense,
3. information provided by the victim,
4. information about the suspect, including description and name,
5. names and contact information of persons with knowledge of what happened before, during, or after the sexual assault,
6. names of the medical professionals who examined the victim and any information they provide,
7. if sexual assault evidence was collected, the name and contact information for the hospital, and whether the victim consented to testing of the evidence,
8. if a urine or blood sample was collected and whether the victim consented to testing of a toxicology screen,
9. information the victim consented to allow the medical professionals to disclose, and
10. all other relevant information.

ADDITIONAL RESPONDING OFFICER RESPONSIBILITIES

Officers responding to incidents involving sexual assault or sexual abuse must:

1. provide victims with written information advising them of their rights and options. The written information can be found on the Illinois Attorney General's website, www.illinoisattorneygeneral.gov, and is linked below (P.A. 99-0801-Form A),
2. offer to provide or arrange transportation to a hospital emergency room for medical and forensic services, and
3. if the courthouse is closed but a judge is available, offer to provide or arrange transportation so the victim may file for an order of protection or civil no contact order.

COLLECTION, STORAGE, AND TESTING OF SEXUAL ASSAULT EVIDENCE

All sexual assault evidence collected at the hospital will be released to the custody of law enforcement whether or not the victim has signed a consent form for testing of the evidence. The evidence may include an Illinois State Police Sexual Assault Evidence Collecting Kit, clothing, blood and/or urine samples, and other items.

The hospital will notify the law enforcement agency having jurisdiction when evidence has been collected. The agency shall take custody of the evidence as soon as practicable, but not later than 5 days after the medical forensic exam was completed. If the evidence is not picked up, the hospital will notify the local State's Attorney's Office, which will contact the law enforcement agency within 72 hours to request that the agency take immediate physical custody of the evidence. The mandatory written report of the sexual assault or sexual abuse must include the date and time the evidence was picked up from the hospital.

If the Patient Consent: Collect and Test Evidence or Collect and Hold Evidence Form has been signed indicating the victim's consent to test the evidence, the law enforcement agency must, within 10 days of the receipt of the evidence, send the evidence to an Illinois State Police Crime Laboratory or other appropriate laboratory (Northeastern Illinois Regional Crime Laboratory or DuPage County Forensic Science Center) for testing under the Sexual Assault Evidence Submission Act.

If the victim declines to consent to test the evidence on the Patient Consent: Collect and Test Evidence or Collect and Hold Evidence Form, the law enforcement agency must store the evidence. If the victim is an adult, the evidence must be stored for 10 years. If the victim is under 18 years of age, the evidence must be stored until the victim's 28th birthday. If a law enforcement agency adopts a longer storage policy, it shall notify the victim or the victim's designee in writing of the longer period. The hospital will provide the original consent form to test the evidence to the law enforcement agency that picks up the evidence, for the agency's case file. A sample of the Patient Consent: Collect and Test Evidence or Collect and Hold Evidence Form is linked below.

After leaving the hospital, the victim may consent to testing in any of the following ways:

1. signing a designated form in the presence of a sexual assault advocate who will deliver the written consent to the law enforcement agency on behalf of the victim, or
2. providing verbal consent to the law enforcement agency and confirming the verbal consent by email or fax

Each law enforcement agency shall develop and implement a protocol for providing information to victims on how to consent to testing after leaving the hospital and the process for notifying a victim or the victim's designee of the impending expiration of the storage period, if such notice is requested by the victim.

RELEASE OF INFORMATION TO THE VICTIM RELATED TO EVIDENCE TESTING

Upon request, each law enforcement agency shall provide the following information in writing to a victim.

1. The date the sexual assault evidence was sent to an Illinois State Police Crime Laboratory or other appropriate laboratory. If this information is requested, it must be provided to the victim within seven days of the transfer of the evidence to the laboratory.
2. Test results provided to the agency by the laboratory, including, but not limited to:
 - whether a DNA profile was obtained from the testing of the evidence;
 - whether the DNA profile developed from the evidence has been searched against the DNA Index System or any state or federal DNA database;
 - whether an association was made to an individual whose DNA profile is consistent with the sexual assault evidence DNA profile, provided that disclosure would not impede or compromise an ongoing investigation; and
 - whether any drugs were detected in a urine or blood sample and information about any drugs detected.

If this information is requested, it must be provided to the victim within 7 days of the law enforcement agency receiving the results from the laboratory.

When a victim has signed a consent form to test evidence at the hospital, the law enforcement agency shall provide the victim, either at the hospital or during the investigating officer's follow-up interview, with written information informing the victim of his or her right to request this information. This information must also be provided to a victim who signs a consent form to test sexual assault evidence at the law enforcement agency or with the assistance of a rape crisis advocate. A victim may designate another person or agency to receive this information.

FORMS FOR LAW ENFORCEMENT USE

Available at www.illinoisattorneygeneral.gov

- Mandatory Notice for Survivors of Sexual Assault (P.A. 99-0801 – Form A)
 - Pursuant to 725 ILCS 203/25(a), at the time of first contact with a victim, a law enforcement officer shall advise the victim of the information on this form, written in a language appropriate for the victim or in Braille, or communicate this information in the appropriate sign language.
- Mandatory Notice of Victim's Right to Information Regarding Sexual Assault Evidence Testing (P.A. 99-0801 – Form B)
 - Pursuant to 725 ILCS 203/35(c), this form must be provided by a law enforcement officer to a victim who has signed a consent form, while at the hospital, to test evidence, either at the hospital or during the investigating officer's follow-up interview. This form must also be provided to a victim who signs a consent form to test sexual assault evidence at the law enforcement agency or with the assistance of a rape crisis advocate.
- Storage and Future Testing of Sexual Assault Evidence (P.A. 99-0801 – Form C)
 - Pursuant to 725 ILCS 203/30(e), this form shall be provided by a law enforcement officer to a victim who has not signed a consent form to test evidence at the hospital, either at the hospital or during the investigating officer's follow-up interview.
- Confirmation of Transfer of Sexual Assault Report to Law Enforcement Agency Having Jurisdiction (P.A. 99-0801 – Form D)
 - Pursuant to 725 ILCS 203/20(c), a law enforcement agency which receives a report of an incident occurring in another jurisdiction must prepare a written report and send the report to the agency having jurisdiction in person or via fax or email within 24 hours.
 - Pursuant to 725 ILCS 203/20(d), the law enforcement agency that receives a report from another jurisdiction must confirm receipt in person or via fax or email within 24 hours.
- Patient Consent: Collect and Test Evidence or Collect and Hold Evidence Form (Presented to the victim for completion by the hospital and provided to the law enforcement agency picking up the evidence.)
 - Pursuant to 410 ILCS 70/6.5, the hospital will complete the consent form with the victim as part of the medical forensic exam. The hospital will provide the consent form to the law enforcement agency that picks up the evidence, for the agency's case file.

If you have questions regarding this document, please contact David Haslett, Law Enforcement Training Bureau Chief, Office of Illinois Attorney General, at david.haslett@ilag.gov or your agency's legal counsel.

