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We are nearing the end of series of training bulletins designed to explore alternative reporting methods. In these last two installments, we conclude by exploring a number of recommendations for best practice when implementing such options in your community.

1. Record all Reports in Writing and Assign a Tracking Number

First, we strongly recommend that **every report of a suspected sexual assault is recorded in writing and assigned some kind of number for tracking purposes.** This applies regardless of which reporting method a sexual assault victim chooses to pursue. No matter how informal the method of reporting is – even if information on the sexual assault is written down anonymously on a napkin and given to a police officer on his or her lunch break – it should still be recorded in a written report and assigned a number of some kind.

Determine Whether Victims Want Follow-Up Contact

Officers should then be trained to determine how the victim wants follow up contact (whether by cell phone, email, etc.). Of course, there will be times when the victim or third party clearly states that the victim does not want any further contact and does not want an investigation conducted. In these situations, the information being provided is simply intelligence.

Decide Whether to Pursue Investigation

Next, depending on the circumstances and the wishes of the victim, the investigation might (or might not) proceed, to determine whether the elements of a sexual assault crime are present.

- If the investigation does proceed based on the victim's wishes, and it is determined that the elements of a sexual assault offense are present, it should be considered a report of a crime and investigated appropriately. This will require follow-up contact with the victim.
- Even if the elements are not initially present, the information should still be recorded in writing and the victim should receive similar follow-up contact whenever possible. In some cases, this investigation will reveal that the elements of the crime are in fact met and the incident should then be recorded in an official crime report.



Documentation Required for Accountability

We recognize that some sexual assault reports are difficult if not impossible to investigate given the limited information provided. Yet even the most limited information can be documented with a written report and assigned a number, so it can be tracked by the agency.

By creating written documentation and tracking all of these reports with an incident number of some kind, the agency can provide a comprehensive picture of the ways in which all sexual assaults are reported to the agency, how they are recorded, which crime code(s) are involved, and how they are resolved. Officers and investigators can then be held responsible for the investigation and documentation of every single sexual assault call they receive. Written reports are also needed for victims “to pursue protection orders, civil legal remedies, immigration self-petitioning, insurance benefits, and crime victim compensation claims” (*Toolkit to End Violence Against Women*, Chapter 4, p. 3).

2. Decide on Informational vs. Crime Report

Informational reports are often used by law enforcement to record information about an incident that does not yet appear to meet the elements of a criminal offense. When used effectively, informational reports can be an extremely valuable part of the protocol for implementing alternative reporting methods. However, our second recommendation is that **officers and investigators should not be rushed into making a determination to record information in a crime report versus an informational report.**

Informational Reports

To understand this recommendation, it may be helpful to step back and describe the types of situations where informational reports are most commonly used by law enforcement.

- One use for informational reports is when citizens contact the police because they believe that a crime might have been committed. For example, an adult might report a situation where they felt pressured into having sexual contact with another person, but the coercion did not meet the criteria for a forcible sexual assault. Alternatively, citizens may want to provide information about an incident they know does not constitute a crime – but they believe it may be important for law enforcement to have the information. In the law enforcement community, this is often referred to as ‘intelligence,’ or information that may be valuable at some point even if it does not currently meet the elements of a crime.
- Informational reports are also used by law enforcement to record information on a suspicious individual or incident the officer wants to document – again, despite the fact that the information or incident does not currently meet the elements of a crime. They are similarly used when a crime is reported but it took place in another jurisdiction. The informational report would then be forwarded to the appropriate law enforcement agency.

- Another use for informational reports is when mandated reports are made by third or even fourth parties, and the victim denies the allegations or chooses not to participate in an interview or otherwise provide the information that would be needed to complete a crime report.

As long as agencies track every single report, and submit them for secondary review, informational reporting can be an important and extremely effective component of the law enforcement response to sexual assault being perpetrated within the community.

Problems Determining Informational vs. Crime Report

Unfortunately, there are two primary ways in which problems arise when making this determination. Both can be seen as stemming from the all-too-common lack of training for responding officers about the dynamics of sexual assault, which limits their ability to properly determine whether or not an incident meets the elements of a sexual assault offense, at least during the preliminary investigation.

When the Elements Are Not Met

On the one hand, responding officers might improperly generate an official crime report for incidents that *do not meet* the elements of a sexual assault offense.

Many agencies use computer aided case tracking, so every incident is assigned a number – and this will include third party reports (such as those submitted by health care professionals or others with mandated reporting requirements). Such reports often fail to meet the elements of a sexual assault offense, because they have not been established either by the victim or the evidence. Therefore, the appropriate practice would be to record the information with an informational report and not a crime report.

When the Elements Are Met

On the other hand, responding officers also have problems when they do not realize that the incident they are investigating actually *does meet* the elements of a sexual assault offense – and they improperly record it with an informational report, rather than a crime report. This can be seen, for example, in some cases where the sexual assault was perpetrated without the use of force, threat, or fear.

Most states now have laws prohibiting sexual acts with a person who is extremely intoxicated, incapacitated, severely disabled, unconscious, or otherwise physically helpless. Yet responding officers all too often focus only on the question of force or fear. If they cannot establish the element of force based on the victim's initial interview, they often determine that the incident does not meet the elements of the offense and either record it as an informational report or, worse, generate a crime report and then unfound it.

Yet in many states, if the offense meets one of those criteria (extremely intoxicated, incapacitated, severely disabled, unconscious, or otherwise physically helpless), *the element*

of force or fear is not needed to establish a sexual assault offense. Rather, the sexual assault offense is established on the basis of the victim's state (e.g., intoxication, incapacitation, disability, helplessness, or unconsciousness). Training is therefore needed for officers to identify the elements of various sexual assault offenses, so they can better identify incidents that meet the criteria – even when the offense appears to lack a particular element (e.g., force, threat, or fear).

Unwarranted Suspicion of Sexual Assault Reports

Training is also needed on the common dynamics of sexual assault victimization and response, because the other reason why reports are often recorded improperly is because officers either do not recognize that the victim is trying to report sexual assault victimization or they do not believe the report is valid. This can happen when victims initially report that they were drunk, drugged, or passed out and are uncertain about exactly what happened.

What is important for officers to remember in such a situation is that victims are *frequently* unable to provide enough information to determine exactly what happened, especially in the case of alcohol- and drug-facilitated sexual assault. Investigators therefore need to utilize other investigative steps such as interviewing witnesses, suspects, evaluating the crime scene and potential evidence, utilizing pretext phone calls, etc.

Make the Determination Based on Evidence

These problems highlight the importance of not rushing to judgment about whether a crime actually occurred and whether it should be recorded as an informational report or a crime report.

Even the best-trained officer or investigator cannot always determine whether an incident meets the elements of a sexual at the time a report is first made. A preliminary investigation is often insufficient to make that determination, either because the victim is unclear as to what happened (as is often the case in suspected drug and alcohol facilitated sexual assaults or sexual assaults involving victims with developmental disabilities) or because the victim is simply unable to communicate with police at that time (either because of incapacitation or as a result of trauma).

This is why we recommend that the decision to document a call with a crime report or an informational report can often be left for later in the investigative process if there is any doubt. The same is true for decisions regarding which specific crime code(s), if any, were involved. This type of procedure allows the most flexibility, so determinations are made based upon investigative facts rather than initial judgments of the victim or crime that might be made by the responding officer.

Informational Reports Can Later Be Scored as Crime Reports

The reality is, many sexual assault reports that are initially filed as informational reports may later become official crime reports after a thorough, evidence-based investigation is conducted.

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- In some cases, victims who are originally unable to participate beyond an informational report later decide they are able to participate in a full law enforcement investigation.
- In others, additional information becomes available that requires that an informational report be re-evaluated and classified as a crime report requiring a full police investigation with an eye toward criminal prosecution.

It is therefore essential to implement a system that is flexible enough to accommodate such changes. This is particularly important now that many states are abolishing or extending the statute of limitations because DNA technology provides the opportunity to identify suspects years – even decades – after a crime occurred. It is in the best interest of victims and communities to have such cases recorded in an informational report just in case further investigation or additional information later reveals that the elements of some criminal offense(s) have been met. In such a situation, the status of the informational report can be changed to a crime report and an investigation initiated.

Up Next

In this installment, we focused on our first two recommendations for best practices with respect to alternative reporting methods. In our final training bulletin in this series, we will discuss our remaining recommendations for best practices in this area.

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