



CITY OF STOCKTON

POLICE DEPARTMENT

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August 17, 2017

Sent Via Electronic Mail to [REDACTED]@goodwinlaw.com

[REDACTED]
Goodwin Proctor LLP
[REDACTED]

PUBLIC RECORDS ACT REQUEST OF AUGUST 8, 2017

This letter is in response to your request dated August 8, 2017 for information regarding sexual assault kits received by the Stockton Police Department is being addressed under the California Public Records Act, Government Code section 6250, et seq.

The Stockton Police Department is only able to provide consistent data with regard to your request from 2010 to present and are unable to provide data and information for cases from 2000 through 2009 without manually searching each corresponding investigation.

At this time, we are granting the following information for numbers 1-3 of your request, and a copy of General Order D-05 which explains our sexual assault investigation policy. However, we are partially declining to respond to numbers 4-6 of your request pursuant to Government Code sections 6254 (f) which exempts from disclosure any investigatory files compiled by any local agency for law enforcement.

Item 1:

Any documentation regarding the number of sexual assault evidence kits received by the SCDP From January 1, 2000 through the present, broken down by year, and, if any such documentation exists from prior to January 1, 2000, any documentation showing when maintenance of such records began;

Response:

From 2010 to August 15, 2017 SPD has received 481 sexual assault kits. The number of kits by year are as follows:

2010 – 77
2011 – 60
2012 – 35
2013 – 53
2014 – 72
2015 – 67
2016 – 72
2017 – 45

Item 2:

Any documentation regarding the number of sexual assault evidence kits received by the SCDP which were analyzed for DNA from January 1, 2000 through the present, broken down by year, and, if any such documentation exists from prior to January 1, 2000, any documentation showing the maintenance of such records began;

Response:

From 2010 to August 15, 2017, 462 of the 481 sexual assault kits have been processed for DNA. The number of kits processed by year is as follows:

2010 – 72
2011 – 56
2012 – 33
2013 – 49
2014 – 72
2015 – 63
2016 – 72
2017 – 45

Item 3:

Any documentation regarding the number of sexual assault evidence kits received by the SCDP which were not analyzed for DNA from January 1, 2000 through the present, broken down by year, and, if any such documentation exists from prior to January 1, 2000, any documentation showing when maintenance of such records began;

Response:

From 2010 to present day, 19 of the 481 sexual assault kits have not been sent to the crime lab for DNA analysis. The number of kits not processed by year is as follows:

2010 – 5
2011 – 4
2012 – 2
2013 – 4
2014 – 0
2015 – 4

2016 – 0
2017 – 0

Item 4:

Any documentation providing the reason(s) the sexual assault evidence kits identified in (3) were not sent to a crime lab for DNA analysis, and, if any such documentation exists from prior to January 1, 2000, any documentation showing when maintenance of such records began;

Response:

Your request for information regarding the reason(s) the sexual assault evidence kits identified in (3) were not sent to a crime lab for DNA analysis is being denied because the City does not maintain any database which memorializes that information outside criminal investigative files about such incidents. Government Code sections 6254, subdivision (f) exempts any investigatory file materials compiled by any local agency for law enforcement from disclosure under the Public Records Act.

Item 5:

Any documentation regarding the number of sexual assault evidence kits received by the SCDP that are unprocessed and remain in any storage facilities currently under the police department's jurisdiction and control;

Response:

Your request for information regarding the number of sexual assault kits received that are unprocessed and remaining in any storage facility under the police department's jurisdiction is being denied because the City does not maintain any database which memorializes that information outside criminal investigative files about such incidents. Government Code sections 6254, subdivision (f) exempts any investigatory file materials compiled by any local agency for law enforcement from disclosure under the Public Records Act.

Item 6:

Any documentation regarding the number of sexual assault evidence kits received by the SCDP which have been destroyed from January 1, 2000, broken down by year and, if any such documentation exists from prior to January 1, 2000, any documentation showing when maintenance of such records began; and

Response:

Your request for information regarding the number of sexual assault kits received by the Stockton Police Department that have been destroyed since January 1, 2000 is being denied because the City does not maintain any database which memorializes that information outside criminal investigative files about such incidents. Government Code sections 6254, subdivision (f) exempts any investigatory file materials compiled by any local agency for law enforcement from disclosure under the Public Records Act.

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Item 7:

Any written policies or procedures regarding the SCDP's practices on the handling of sexual assault evidence kits, including testing protocols and retention and destruction policies and also including any documents defining the meaning of any terms or abbreviations used by the SCDP pertaining to sexual assault evidence kits.

Response:

Our handling of sexual assault kits is laid out in the attached General Order D-05 (attached).

If you have any questions or wish to discuss the matter, please contact Captain Antonio Sajor at [REDACTED].

ERIC JONES
CHIEF OF POLICE

[REDACTED]
TERESA ALVAREZ ✓
TECHNICAL SERVICES DIVISION SECRETARY

EJ:AS:ta

Attachment

STOCKTON POLICE DEPARTMENT

GENERAL ORDER

SEXUAL ASSAULT INVESTIGATION
SUBJECT

DATE: July 24, 2013

NO: D-5

FROM: CHIEF ERIC JONES

TO: ALL PERSONNEL

INDEX: **Sexual Assault Investigations**
Rape Investigations

I. POLICY

- A. The primary objective of sexual assault investigation shall be the protection of the victim and the safeguarding of the community.
- B. Investigating officers shall minimize the emotional stress of the victim brought on by having to report the offense, while maximizing the amount of information and evidence obtained for investigation, apprehension, and prosecution of the responsible(s).
- C. Investigating officers shall be patient, understanding, and supportive. They shall strive to calm the victim and assist in restoring the victim's self-confidence.
- D. Investigative personnel have the responsibility to conduct an objective and unbiased investigation and shall protect the rights of all involved parties, to include the victim, accused, and witnesses.
- E. This policy is intended to cover most situations but should not be considered all inclusive.

II. LAW

- A. Officers shall become familiar with Penal Code sections 220, 243.4, 261 thru 264.1, 286, 288, 288a, 289, 293, and 637.4.

III. PROCEDURE

- A. When dispatched to contact a sexual assault victim, the officer should prepare mentally prior to arriving at the scene. After arriving, the officer should:
 - 1. Evaluate the victim's physical condition to determine if immediate medical care is required due to the assault.
 - 2. Be patient and understanding since the victim will probably be highly emotional or in a state of shock.
 - 3. Pursuant to section 293 of the Penal Code, and in accordance with the definition of "Sexual Assault" in the Government Code, section 6254, the officer shall inform the victim of his/her rights to keep their names confidential and to document the information in their report on PD form 1621.
 - 4. Assess the need for additional expertise or investigative support. If a determination is made that a sexual assault investigator is needed, the Watch Commander/Patrol Sergeant will contact the on-duty CASA Sergeant, or, after normal business hours, the on-call Family Crimes Unit Sergeant, who will determine which investigator will be called.

If unable to contact the on-call Family Crimes Unit Sergeant, the Investigations Division Lieutenant will be called.

IV. INVESTIGATION

- A. Substantiate the allegation of sexual assault from reporting parties, victim and available witnesses.
 - 1. As delicately as possible, ask the victim what specific sex acts occurred, so that all applicable offenses can be identified, i.e., 220 PC, 261 PC, etc.
 - 2. Identify all persons with possible knowledge of the incident and obtain statements from those persons.

- B. Secure the crime scene and have an Evidence Identification Technician (EIT) respond.
 - 1. Physical evidence is very important to corroborate the victim's statements when the suspect is apprehended.
 - 2. Have the victim point out places or items the suspect may have touched or moved so the EIT can process for latent prints.
 - 3. Ask if there are items of the victim that the suspect may have in his/her possession, or if the suspect left any article at the crime scene. Advise EIT personnel of any information obtained relating to the evidence.
 - 4. Discuss the investigation with the responding EIT officer and determine if any evidence should be collected, such as bedding, clothing, cushions where the sex acts occurred, photographs, or other items for comparison purposes.
 - 5. Once the crime scene is secured, do not leave it unattended until it has been processed by EIT Personnel.

- C. Medical Examinations.
 - 1. Where the assault has recently occurred [within three (3) days] or when the victim has obvious physical injuries (no matter how long after the assault), the victim should have an acute medical examination.
 - a. In situations where the investigating Officers and/or Supervisor feels an acute medical exam of the victim is needed, the investigating Officer will contact the on-duty CASA Sergeant, or, after normal business hours, the on-call Family Crimes Sergeant to provide a synopsis of the crime and investigation. The Family Crimes Sergeant will determine if the medical exam will be needed. In the event no Family Crimes Unit Sergeant is available, the Watch Commander will determine if an exam is needed.
 - 2. Determine whether the victim will consent to a medical examination for the following reasons:
 - a. So immediate measures may be taken to prevent pregnancy or venereal disease.
 - b. To obtain evidence, this might assist in the apprehension and conviction of the assailant.
 - 3. Explain that the medical examination should take place at Child Advocacy Center (CAC),

as the Sexual Assault Response Team (SART) staff is trained to examine sexual assault victims, and that the cost for the exam, when requested by the police, is paid by the Stockton Police Department.

- a. Acute medical exams of adult male victims will occur at the San Joaquin County Hospital.
4. When consent for an examination is given (and approved by the Family Crimes Sergeant), have the victim take a complete change of clothing if the same clothes are being worn as when the crime occurred. The clothing worn during the assault will be taken as evidence.
 - a. Do not allow victim to change clothing prior to arriving at hospital. The clothing will be collected and bagged individually by the SART nurse during the sexual assault examination.
 - b. Collect any tampon or sanitary pad worn by the victim and book as evidence.
 - c. If the victim has already changed clothing prior to your response, collect the clothing in the manner which it was given to you. If the victim hands you all the clothing at once, simply place it in a brown paper bag(s) all together. Book it in this manner. The clothing will be separated at the DOJ lab when it is analyzed. This will minimize the potential loss of any trace evidence.
 5. To expedite victim registration and the examination at the CAC, the investigating officer will call the San Joaquin County Hospital operator at 468-6000 and ask to speak to the on-call SART nurse. Information regarding the assault should be relayed to the nurse to determine if an acute exam is suggested, (it is ultimately the department's decision). The SART nurse should be advised of the type of case, name of patient, date of birth, address, etc.
 - a. If the SART nurse does not believe an acute medical exam is needed at that time, the Officer will again re-contact the on-duty CASA Sergeant, or, after normal business hours, the Family Crimes on-call Sergeant for a determination.
 - b. When an exam is approved and during regular business hours, the officer will contact the Child Advocacy Center (CAC) 468-6185, and notify them of the victim's arrival time. After hours and on weekends, the officer will contact the Mary Graham Children's Shelter (MGCS) 468-6966, and notify them of the arrival time. After hours and on weekends, the officer must check and sign in at the MGCS front desk before they open the CAC facility. After hours and on weekends, the officer is required to stay until the exam is complete. Upon completion of the exam, the officer will notify MGCS for the securing of the facility.
 - c. Before arrival, the officer will also call the Women's Center, 941-2611 or after hours, 465-4878, and request a victim advocate. Victim Witness advocates are also able to respond if during their work hours/days (Monday - Friday 0800-2400 hours and Sunday 1600-2400 hours). Prior to the interview and pursuant to Section 679.04 of the Penal Code, officers shall advise the victim of a sexual assault (for crimes listed in Penal Code Section 264.2 PC) that they have the right to have a victim advocate/support person of their choosing present during the interview. The officer shall also advise the victim that they have the right for a victim advocate or support person to be present during any subsequent interview by a defense attorney or defense investigator. The officer shall document this advisement in their report and indicate if the victim wanted an advocate/support person present during the interview.

- 1) A Victim Advocate/Support Person may be excluded from the interview if the officer determines the presence of that individual would be detrimental to the purpose of the interview. A supervisor should be consulted in this situation.
 - 2) The initial investigation by officers to determine whether a crime has been committed and to identify the suspect does not require the admonition.
6. Upon arrival, the SART staff will provide the investigating officer with Department of Justice (DOJ) form 923. Sections C and as much of section D, items 1 through 7, should be completed by the officer. This written information should be returned to the assigned nurse before the victim is examined. In addition, the officer should inform the nurse performing the examination about any specific type of evidence that would assist the investigation. The SART personnel will not begin the examination until the officer signs the authorization for the medical examination, on DOJ form 923.
 7. When the assault or molest occurred more than three (3) days prior to the report and there are no apparent injuries, the Investigations Division, CASA Unit, will schedule the medical examination with the victim, if one is needed.

D. MEDICAL EXAMINATION PROTOCOL

1. During the medical examination of a sexually-assaulted victim, the examining nurse should collect each item of the victim's clothing and place each article in an INDIVIDUAL paper bag. DO NOT PLACE ALL CLOTHING IN ONE BAG. There are a sufficient number of evidence bags contained in the sexual assault kit.
2. The SART nurse should have the victim undress on a clean sheet of paper. Fold the sheet of paper as to protect any items of evidence which may be dropped onto it.
3. All paper bags or envelopes (evidence containers) must be marked, "Stockton Police Department," and show the DR number. The sexual assault kit is handled in the same manner.
4. The sexual assault kit will be processed by SART staff and placed in a locked refrigerator at San Joaquin General Hospital. A Community Service Officer (CSO) will be dispatched weekly to retrieve the sexual assault kit(s) from the County Hospital, and transport them to the DOJ lab in Ripon. After DOJ completes their examination and releases the kit, a Community Services Officer will book it at the Police Facility.
5. Per the rape kit instructions, and per DOJ request, the victim's/suspect's underpants are to be retained in the rape kit itself, (this is frequently an important item of evidence and is best preserved by freezing with the kit).
6. Due to air drying requirements, the kits cannot be sealed until approximately one hour after being obtained. Officers will be unable to pick up the white copy of the triplicate medical exam form until the kit is sealed, due to chain of evidence sign-off requirements.
7. If officers are at the CAC at the time the kit is sealed, they should obtain the white (law enforcement) copy of the exam report. The white copy should not be attached to the crime report, but forwarded to the CASA Unit for follow-up.
8. If officers are not at the CAC at the time the kit is sealed, medical staff will place the white (law enforcement) copy in an envelope attached to the outside of the kit. Medical staff will also place the pink copy, which is for DOJ lab, in an envelope marked "DOJ."

9. Any officer or CSO booking a sexual assault kit into evidence, will forward both the white and pink copies to the Family Crimes Unit by placing them in the Investigations box at Headquarters. NOTE: Do not place the blood sample from the kit in the freezer.
 10. The investigating officer will obtain a verbal account of the injuries from the nurse who examined the victim. This information will be stated in the crime report.
- E. The investigating officer should seek to identify the suspected offender, and upon doing so, decide whether or not to interview and/or make an arrest. The following factors should be taken into consideration when making the decision:
1. The suspect's awareness of the investigation and impact on case follow-up.
 2. Imminent danger to the victim or suspect, and the likelihood of continued criminal activity.
 3. The nature of the offense (Felony/Misdemeanor).
 4. The likelihood that the suspect will flee the jurisdiction.
 5. The likelihood of evidence destruction.
 - a. The on-duty CASA Sergeant or the on-call Family Crimes Sergeant should be consulted in situations requiring investigative expertise regarding arrest/contact with the suspect.
 - b. Medical exams on suspects (and adult male victims) will occur at the San Joaquin General Hospital and not at the CAC. The applicable procedures listed above should be followed with the exception that these exams will be performed by Hospital staff, at San Joaquin County Hospital. Officers should attempt to contact the receiving desk at the Emergency Room in advance and advise them of the impending arrival.
- F. The investigating officer shall provide the victim with information pertaining to benefits afforded victims of violent crimes.