



**The City of
OKLAHOMA CITY**
OFFICE OF THE MUNICIPAL COUNSELOR
KENNETH JORDAN
Municipal Counselor

April 23, 2014



Re: Open Records Request of April 10, 2014

Dear Ms. [REDACTED]:

Please be advised that your Open Records Request of April 10, 2014 has been referred to me for response. In this request, you request copies of:

1. Any documentation regarding the number of rape kits that have been collected and booked into police evidence by the Oklahoma City Police Department in the last ten years, broken down by year;
2. Any documentation regarding the number of rape kits that have been collected and booked into police evidence by the Oklahoma City Police Department in the last ten years that have been processed by a public or private crime or forensic laboratory, broken down by year;
3. Any documentation regarding the number of unprocessed rape kits in any storage facilities currently under Oklahoma City's jurisdiction and control; and
4. Any written policies or procedures regarding department practices on the handling of rape kit evidence, including testing protocols.

First, the purpose of the Open Records Act is for the people of Oklahoma to be fully informed about their government. 51 O.S. § 24A.2. I am not sure how your stated goal, as laudable as it may be, is compatible with the stated purpose of this Act. In any event, release of police records are limited by the Act at 51 O.S. § 24A.8, and does not include the records you seek in paragraphs numbered 1-3 and therefore, no such record will be produced. Regarding paragraph numbered 4, please find enclosed OCPD Procedure 253.0-253.40.

Please do not hesitate to contact me at [REDACTED] if you have any questions regarding this response.

Sincerely,



Richard C. Smith
Litigation Division Head

RCS:mc
Encl.

pc: Frances Kersey
Bill Citty

THE CITY OF OKLAHOMA CITY POLICE DEPARTMENT	Police Operations Manual
Procedure Number: 253.0	Revised Date: 04/11

253.0 SEX OFFENSES

Sex offenses are classified as either primary or secondary. Primary offenses involve physical contact between the victim and the offender. Rape, sodomy and child molestation are examples of primary sex offenses. Secondary sex offenses are crimes, which involve no physical contact between the victim and offender, such as obscene calls, indecent exposure and Peeping Tom offenses.

Both primary and secondary sex offenses require thorough investigation and documentation. Victims of these offenses usually suffer psychologically and sometimes suffer physically. Fear and embarrassment are also common reactions. Consequently, all victims will be treated with respect and efforts will be made to conduct the investigation as professionally as possible.

253.10 RESPONSIBILITIES OF FIRST OFFICER AT THE SCENE (Revised 4th Edit., 2000) (Revised 2/03)

The first officer at the scene will provide for the immediate needs of the victim. If necessary, advise Communications to dispatch an ambulance to transport the victim to the hospital. After assessing and providing for any medical needs, provide emotional support. Calm and reassure the victim while obtaining suspect information if the incident recently occurred and there is a chance of apprehending the suspect. Advise Communications of suspect information.

If a male officer is assigned to the call, he should NOT, as a matter of routine, request that the call be reassigned to a female officer. In some cases, it is of greater benefit to the victim if a male officer is able to establish rapport with her and provide for her needs and emotional support. If a male officer is unable to establish such rapport, or if the victim requests a female officer, then the call should be reassigned.

Locate the site of the sexual assault and protect the crime scene. If the scene is located, start the crime scene logbook and contact Crime Scene Investigator to process the scene.

The officer will contact the field supervisor. That supervisor will determine if an Investigations supervisor should be contacted. If a Crime Scene Investigator is not available, the field supervisor will contact the on-call Crime Scene Unit Supervisor.

Advise the victim NOT to bathe, change clothes or drink fluids until after the sexual assault examination. Clothing items and biological specimens will be collected from the victim at the hospital. It is extremely important that the medical examination be conducted as soon as possible. However, before leaving for the hospital, the officer will brief the assisting officer assigned to stand by at the scene. The officer who remains at the scene must be familiar with the case facts in order to assist the crime scene technicians.

253.20 TRANSPORTATION FOR THE VICTIM (Revised 3/97) (Revised 2/03)

If necessary, provide transportation to the hospital for the victim. The victim may prefer to ride with a friend or relative, which is permissible. However, discourage the victim from driving herself to the hospital. An officer must accompany the victim to the hospital in order to sign the evidence collection form.

When the victim of the assault/abuse is a young child, or is mentally retarded with the mental development of a young child, the assigned officer should interview the victim sufficiently to establish the elements of the crime and take whatever action is appropriate. However, an in-depth interview should be deferred to the investigating sergeant assigned to conduct the follow-up investigation in the interest of protecting the child, as much as possible, from the emotional trauma of the incident.

Females and males, 14 years of age or older, will be informed there are specially trained Sexual Assault Nurses available at the participating hospitals. The victim should be taken to the closest one unless there is a stated preference. Females under 14 and males under 14 years of age are treated at The Children's Hospital of Oklahoma.

In cases where the assault/abuse is NOT recent and the child is NOT complaining of any pain or injury, the detectives assigned

the case will make arrangements for a medical exam, if needed.

253.30 FORENSIC EVIDENCE (Revised 3/97) (Revised 2/03) (Revised 04/11)

If the victim insists upon seeking treatment at a hospital other than specified in 253.20, determine if the physician there is willing to collect the evidence and has a Sexual Assault Evidence Kit. If no kit is available, obtain one from the Sex Crimes office, Forensic Lab or one of the participating hospitals.

In order to maintain the chain of custody, the officer who accompanies the victim to the hospital is responsible for ensuring the Sexual Assault Evidence Kit is properly booked. If the officer who accompanies the victim to the hospital is unable to remain with the victim until the rape examination is complete, a supervisor will be notified and that supervisor will ensure the Sexual Assault Evidence Kit is collected and transported to the Serology drop box. The officer will document in his/her report which supervisor was notified. The officer or supervisor who submits this evidence must document it in a report. Prior to placing the Sexual Assault Evidence Kit in the Serology drop box, the officer will ensure the kit has been placed in the plastic bag included in the Evidence Kit. The officer should also ensure the Sexual Assault Report, completed by the Sexual Assault Nurse or the treating physician, is placed in the plastic bag outside of the Evidence Kit.

State law (Victim Compensation Act) provides the victim of a sexual assault the right to a free forensic medical examination (or SANE exam) regardless of their decision to file a police report or pursue a criminal case. In those instances, the officer will complete a Crime Incident Report and submit the Sexual Assault Kit as normal. The report should contain what information, if any, the victim chooses to provide or the SANE nurse provides and should note the victim does not wish to pursue a police investigation at this time.

The Crime Scene Investigator will ensure the victim's clothing and other evidence obtained from the examination at the hospital, are secured and submitted for analysis as specified in OCPD Procedure 184.50-184.59. The submission of the evidence must be documented in a report. If a Crime Scene Investigator is not available to respond to the call, the field supervisor will ensure the victim's clothing and other evidence collected from the scene and the exam of the victim is submitted in accordance with OCPD Procedures 184.50-184.59.

In cases involving physical injury to the victim, request a Crime Scene Investigator to obtain photographs of the injuries under their guidelines. If a Crime Scene Investigator is not available to process the scene, the field supervisor shall contact the on-call Crime Scene Unit Supervisor. If the decision is made to not have a Crime Scene Investigator respond, the field supervisor shall take pictures of the victim with a digital camera. The disk containing the pictures shall be submitted to the Digital Imaging Lab of the Crime Scene Unit.

When the officer transports the victim to the hospital, he/she should determine if the victim has a way home after the sexual assault examination is completed. If necessary, the officer will arrange transportation for the victim.

Conduct a preliminary interview of the victim and complete the Crime Incident Report. Most victims do not stay home alone after they have been sexually assaulted, so determine where the victim can be reached and include this information in the report for the follow-up investigators. A Victim's Rights Statement Card will be provided to the victim.

253.40 RAPE / SEXUAL ABUSE OF CHILDREN (Revised 3/97) (Revised 2/03)

Rape and / or sexual abuse of children will be investigated in the following manner:

- A. If the rape or sexual abuse has occurred recently, clothing and any other physical evidence should be processed in the same manner as all other adult cases.
- B. The officer will transport the child to The Children's Hospital of Oklahoma (EMSA should be called to transport if necessary).
- C. Advise hospital staff if a rape has occurred and have a rape examination performed.
- D. Contact DHS and advise them of the incident.
- E. Have photographs taken of any visible injuries.
- F. Interview the child, if possible.
- G. Complete a detailed Crime Incident Report.

- H. If the relative of the child did not perpetrate the rape or sexual abuse, the officer may release the child to the custody of the parents. However, if the officer decides that release of the child to the custody of the parents may be detrimental to the child's welfare, he/she will have the child placed in the custody of the appropriate Juvenile Shelter, along with all other children in the care of the offending parents(s).
- I. If a social worker is not sent, the officer will contact the Oklahoma County Juvenile Shelter and then transport the child to the Shelter at 5905 N. Classen.

OK City

----- Forwarded message -----

From: [REDACTED] @goodwinprocter.com>

Date: Wed, Jul 2, 2014 at 3:26 PM

Subject: JHF - Open Records Request Oklahoma City

To: [REDACTED] @joyfulheartfoundation.org"

[REDACTED] @joyfulheartfoundation.org, [REDACTED]

[REDACTED] @joyfulheartfoundation.org" [REDACTED] @joyfulheartfoundation.org>

Cc: [REDACTED] @goodwinprocter.com, [REDACTED]

[REDACTED] @goodwinprocter.com, [REDACTED]

[REDACTED] @goodwinprocter.com>

[REDACTED] and [REDACTED],

After playing a little phone tag with Rick Smith, the Litigation Division Head for Oklahoma City , and signatory on the response letter we got from Oklahoma City (attached for your reference), I finally managed to speak with him today.

I explained the purpose of our request again and inquired as to whether there was any room (despite the letter denying us the information) to go back and speak with the Oklahoma City PD about whether they could provide the requested information, even if not through the formal FOIA process. He confirmed that they sent the original response, because “police are a little paranoid” and when they got a formal request, they felt they had to send a protective response. He is willing to go back to the powers that be and ask whether there is information they can provide. He said that the purpose seems “benign” and that there doesn’t seem to be any intent to embarrass the city or its PD, so he will see what he can do and get back to me. He added that it would take more than a few days, but that he hoped to get back to me within a few weeks.

I suggested that I could send him links to Joyful Heart’s website and other information explaining the purpose of the End of the Rapekit Backlog initiative that he could share with the folks he talks to. He said that would be very helpful. Can you suggest material that we send to him? I’d like to get him the information today or tomorrow, if possible, while our call is still fresh in his mind.

Thanks,

[REDACTED]
Goodwin Procter LLP
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] @goodwinprocter.com

Ok City

----- Forwarded message -----

From: [REDACTED] [@goodwinprocter.com>](mailto:@goodwinprocter.com)
Date: Thu, Jul 10, 2014 at 12:09 PM
Subject: JHF - Follow up on Oklahoma City
To: [REDACTED] [@joyfulheartfoundation.org>](mailto:@joyfulheartfoundation.org),
[REDACTED] [@joyfulheartfoundation.org>](mailto:@joyfulheartfoundation.org), [REDACTED] [@joyfulheartfoundation.org>](mailto:@joyfulheartfoundation.org),
Cc: [REDACTED] [@goodwinprocter.com>](mailto:@goodwinprocter.com), [REDACTED] [@goodwinprocter.com>](mailto:@goodwinprocter.com)

[REDACTED] and [REDACTED]

After playing a little bit of phone tag, I finally was able to speak with Deputy Chief (Investigations) Johnny Kuhlman of the Oklahoma City PD today. He started by saying that Oklahoma City has no backlog. He said their crime lab has 4 full time DNA analysts and that they can handle the full load of kits received. He said, for example, that the total number of kits awaiting any sort of DNA analysis from last month – not limited to sexual assault, but including all crimes (robbery, homicides, etc) from which there was DNA evidence – was 41. He does not consider it a backlog because those kits will be tested within the next month or so. He did say, however, that this does not include sexual assault cases where the victim declines to prosecute. He said in Oklahoma City, victims of sexual assault can choose to get a rape kit done and then not even report the crime. Those kits are not tested. Same goes for situation where victim reports the crime but declines to prosecute. He volunteered that he understands that some may say there is value in testing those kits, but also said that the PD has to weigh the benefit of testing those against the cost of doing so, and the alternative enterprises that those resources could be allocated to. He also noted that their DA believes that those kits need not be saved for more than 1 year. It is Kuhlman's decision, as the one who manages the crime lab, as to how long to retain those kits in storage and his inclination is to save them for longer than 1 year, but I got the sense he struggles with that issue and needs to weigh the benefit of saving them against the limited resources.

He was extremely nice on the phone and expressed admiration for the work of the Joyful Heart Foundation. I asked whether he'd be willing to have a follow up call with me and with folks from Joyful Heart on the phone so we could ask him any follow up questions you might have. He was happy to do that and gave me his email address so that we can set up a call. Please let me know whether that sounds like something you would be interested in doing.

Thanks,

[REDACTED]
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