



State of New Jersey

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ATTORNEY GENERAL LAW ENFORCEMENT DIRECTIVE NO. 2018-5

TO: Director, Division of Criminal Justice
All County Prosecutors
All County Chiefs
All Police Chiefs
Superintendent, New Jersey State Police

FROM: Gurbir S. Grewal, Attorney General

DATE: November 26, 2018

SUBJECT: **Directive, Implementing Procedures and Protocols for Sexual Assault Response and Referrals (“Directive”)**

Sexual violence touches the lives of far too many New Jersey residents. Although our state’s law enforcement officers and prosecutors have made significant strides in their efforts to eradicate sexual violence, there is always more we can do to ensure that victims are heard and perpetrators are brought to justice.

Decades of research and experience show that sexual assault investigations are most successful when law enforcement officers treat victims with dignity, compassion, and respect. A sexual assault can be one of the most traumatic experiences in a person’s life, and law enforcement officers must work quickly to collect evidence and investigate leads, while also ensuring that victims have access to the medical and supportive services they need and deserve.

This Directive is intended to strengthen and standardize law enforcement’s response to sexual assault crimes; reinforce the “victim-centered” approach that law enforcement takes in such cases; and improve statewide data collection about sexual assault investigations. Concurrent with the issuance of this Directive, I am also issuing the Third Edition of the *Attorney General Standards for Providing Services to Victims of Sexual Assault* (“Standards”), which provide a set of fourteen protocols that prioritize the needs and concerns of sexual assault victims in New Jersey. Last published in 2004, the Standards have been revised and updated in the Third Edition to ensure that victims are treated with respect and understanding in the days, weeks, and months after reporting an assault. Taken together, these efforts ensure that New Jersey remains at the forefront of nationwide best practices as we work to stamp out sexual violence.



Therefore, pursuant to the authority granted to me under the New Jersey Constitution and the Criminal Justice Act of 1970, N.J.S.A. 52:17B-97 to -117, which provides for the general supervision of criminal justice by the Attorney General as chief law enforcement officer of the State in order to secure the benefits of a uniform and efficient enforcement of the criminal law and the administration of criminal justice throughout the State, I hereby direct all law enforcement and prosecuting agencies operating under the authority of the laws of the State of New Jersey to implement and comply with the directives outlined below when responding to or otherwise handling any matters related to offenses under N.J.S.A. 2C:14-2.

I. Compliance with *Attorney General Standards for Providing Services to Victims of Sexual Assault, Third Edition*

The Standards being issued today in conjunction with this Directive focus on delivering services to victims in a timely and non-judgmental manner. This victim-centered approach includes:

- ensuring the victim's safety is the top priority;
- respecting the integrity, choices, and autonomy of each victim;
- protecting the victim's privacy and confidential information;
- identifying and responding to the obstacles some victims may face when seeking help; and
- recognizing the importance of victim feedback in improving responses to sexual assault.

Under the Standards, victims may seek the assistance of a Sexual Assault Response Team, or SART, which is available to any victim 13 years or older who reports an assault within five days of an incident. Each SART consists of a confidential sexual violence advocate (CSVA), a forensic nurse examiner (FNE), and a law enforcement officer.

Pursuant to this Directive, I am directing County Prosecutors to ensure implementation of and compliance with the Third Edition of the Standards in their respective counties. To further this effort, I am directing that the County Prosecutors post the Standards on their public website, distribute the document to all law enforcement agencies in their counties, and undertake public education efforts as described in Section VII of this Directive. Similarly, I am directing the Division of Criminal Justice to post the Standards on its public website and distribute the document to all state law enforcement agencies, including the New Jersey State Police.

II. Immediate Notification of Sexual Assault Incidents by Law Enforcement Agencies to County Prosecutors' Offices

Sexual assault investigations often involve multiple state agencies—including local police departments, medical examiner offices, and County Prosecutor's Offices—and it is crucial that these agencies work together seamlessly to ensure that each investigation is handled thoroughly, promptly, and objectively. County Prosecutor's Offices, as the chief law enforcement agency in their respective counties, are best positioned to serve a coordinating role.

To be most effective, County Prosecutor's Offices must be involved in the investigation from the very beginning. Doing so ensures that all of the participating agencies are communicating regularly and following the best practices described in the Standards. For that reason, I am directing that whenever a state, county, or local law enforcement agency receives a report or complaint of a sexual assault (or otherwise learns about such an incident in its jurisdiction), that agency must notify the relevant County Prosecutor's Office within 24 hours. In addition, I am directing each County Prosecutor's Office to develop and implement protocols that assist law enforcement agencies in complying with this notification requirement.

III. Promptly Advising Sexual Assault Victims of Available Resources, Regardless of Whether Case Results in Criminal Charges

From the moment a victim reports a sexual assault, law enforcement agencies should be working with the victim to determine what, if any, support services he or she requires. I am therefore directing that the investigating law enforcement agency promptly advise each victim of the availability of such resources, regardless of whether the County Prosecutor's Office ultimately pursues criminal charges in the case. As outlined in the Standards, these services include, but are not limited to, assisting victims with obtaining medical and psychological treatment. In addition, the victim should be advised of his or her ability to apply for a protective order against his or her perpetrator, pursuant to the Sexual Assault Survivor Protection Act, N.J.S.A. 2C:14-13 to -21.

IV. Supervisory Approval of Decisions Regarding Criminal Charges

Given the significant number of sexual assault cases that County Prosecutor's Offices investigate every year, it is important that each Office establish a consistent standard for deciding whether to bring criminal charges in a particular case. The best way to accomplish this is by instituting an internal review and approval process that ensures an experienced career prosecutor reviews each case before making a final charging decision. For that reason, I am directing that each County Prosecutor's Office require that a supervisor in the Office's Special Victims Unit¹ or Juvenile Unit review and approve all final dispositions, including decisions about whether to bring or decline criminal charges. When conducting these reviews, the supervising prosecutor should ensure that the investigating officers and prosecutors complied with the protocols outlined in the Standards.

V. Consultation with Victims During Plea Negotiations and Before Declining Criminal Charges

Our state's victim-centered approach requires that law enforcement officers and prosecutors remain in regular communication with sexual assault victims as their investigations progress, including as prosecutors make decisions about whether to bring criminal charges. Such communication is particularly important in those cases where the prosecutor declines to bring

¹ For the purposes of this Directive, a "Special Victims Unit" shall include any investigative unit within a County Prosecutor's Office that is responsible for handling sexual assault investigations and prosecutions.

charges. It is vital that prosecutors explain to victims—in a respectful and compassionate way—that sometimes criminal charges are simply not viable, and that a prosecutor can decline to charge a sexual assault case for a variety of reasons unrelated to the victim’s credibility. I am therefore directing that, when a County Prosecutor’s Office declines to prosecute a sexual assault case, the Assistant Prosecutor (AP) handling the case must provide the victim with an opportunity to meet in person with the AP, during which meeting the AP must explain the basis for declining prosecution.

It is similarly important that prosecutors communicate with victims prior to entering into a plea agreement with a defendant. I am directing that County Prosecutor’s Office ensure compliance with N.J.S.A. 2C:14-2.1, which requires that sexual assault victims be provided an opportunity to consult with the prosecuting authority “prior to the conclusion of any plea negotiations.”

VI. Improved Reporting and Data Collection Involving Sexual Assault Cases

New Jersey’s policies regarding sexual assault cases can and should be informed by the best available data. Although County Prosecutor’s Offices already collect some information about sexual assault investigations, there is much more we can learn through more rigorous data collection protocols. In particular, prosecutors and policymakers would both benefit from better data about how often sexual assault referrals result in criminal charges; why some cases are declined by prosecutors or dismissed by a judge; and how frequently and when in the process do victims decline to proceed with pursuing criminal charges.

To achieve these data collection goals, we must standardize the data that law enforcement agencies collect and report. I am therefore directing that County Prosecutor’s Offices complete and submit the attached Report of Sexual Assault Response and Referrals. Each Office shall submit this Report to the Attorney General twice during the first year following the issuance of this Directive, and at six-month intervals in accordance with the schedule set forth in Section X of this Directive, after which time the Attorney General shall evaluate and determine future reporting intervals. I am also directing that the Division of Criminal Justice develop policies for determining when and how this data can be made available to the public, provided that any personal data must be anonymized to protect the identities of victims.

VII. Community Relations, Outreach Programs, and Training

To better serve the needs of sexual assault victims, all law enforcement agencies—including the Division of Criminal Justice, County Prosecutor’s Offices, and local police departments—must stay current on best practices for investigating and prosecuting sexual assault cases. They also must better educate the public on how to report sexual assault crimes and what services are available when they do report such incidents. To further this objective, I am directing that each County Prosecutor shall submit a plan outlining improved public education efforts. The plans shall be due at the same time County Prosecutors submit their first Report of Sexual Assault Response and Referrals, as described in Section VI. I am also directing that County Prosecutors post a copy of their plans on their Office’s public website.

VIII. Questions

Questions concerning the interpretation and implementation of this Directive should be addressed to the Director of the Division of Criminal Justice, or the Director's designee.

IX. Non-Enforceability by Third Parties

This Directive is issued pursuant to the Attorney General's authority to ensure the uniform and efficient enforcement of the laws and administration of criminal justice throughout the State. This Directive imposes limitations on law enforcement agencies and officials that may be more restrictive than the limitations imposed under the United States and New Jersey Constitutions, and federal and State statutes and regulations. Nothing in this Directive shall be construed in any way to create any substantive right that may be enforced by any third party.

X. Effective Date

This Directive shall take effect the next business day after signing, with the first Report, detailed in Section VI of this Directive, due to the Attorney General on June 1, 2019, and the second Report due on December 31, 2019. The provisions of this Directive shall remain in force and effect unless and until it is repealed, amended, or superseded by Order of the Attorney General or the Director of the Division of Criminal Justice.



Gurbir S. Grewal
Attorney General

ATTEST:



Veronica Allende
Director, Division of Criminal Justice

Dated: November 26, 2018

State of New Jersey
Department of Law And Public Safety
Report of Sexual Assault Response and Referrals

County: _____ Preparer of Form: _____

Date Completed: _____ Time Period of Data: _____ to _____

This report shall be supplied to the Division of Criminal Justice on June 30th and December 30th each year.

Please submit electronically via report@njdcj.org.

Sexual Assault Response Team (SART)/Forensic Nurse Examiner (FNE) Information

Age of Victim	Number of SART Activations	Number of Forensic Medical Exams Performed	Number of SAFE Kits Referred to Law Enforcement (L.E.)	Number of SAFE Kits Held When Victim Opts Not to Provide to L.E.
0 to 12	N/A			
13 to 17				
18 and over				

County Prosecutor's Office Information on Juvenile Offenders (age 17 and under)

Number of Referrals Involving SART/FNE*	Number of Referrals Declined Without Charges Filed	Number of Defendants Charged	Number of Charged Cases Dismissed	Number Advised of Right to Restraining/Protective Orders	Of SAFE Kits Referred to L.E., Number Tested

Number of Referrals <u>Not</u> Involving SART/FNE*	Number of Referrals Declined Without Charges Filed	Number of Defendants Charged	Number of Charged Cases Dismissed	Number Advised of Right to Restraining/Protective Orders

County Prosecutor Reasons for Declinations Prior to Charges

Victim Requested No Prosecution	Incident Occurred in Another Jurisdiction	Victim Chose Not to Participate in the Investigation	Inability to Move Forward Due to Victim Vulnerability	Insufficient Evidence	Other

County Prosecutor Dismissals Post-Charges

Victim Requested No Prosecution	Further Investigation Revealed Incident Occurred in Another Jurisdiction	Victim Chose Not to Participate in the Investigation	Inability to Move Forward Due to Victim Vulnerability	Insufficient Evidence	Other

*Each defendant counts as one referral.

County Prosecutor's Office Information on Adult Offenders (age 18 and older)

Number of Referrals Involving SART/FNE*	Number of Referrals Declined Without Charges Filed	Number of Defendants Charged	Number of Charged Cases Dismissed	Number Advised of Right to Restraining/Protective Orders	Of SAFE Kits Referred to L.E., Number Tested

Number of Referrals Not Involving SART/FNE*	Number of Referrals Declined Without Charges Filed	Number of Defendants Charged	Number of Charged Cases Dismissed	Number Advised of Right to Restraining/Protective Orders

County Prosecutor Reasons for Declinations Prior to Charges

Victim Requested No Prosecution	Incident Occurred in Another Jurisdiction	Victim Chose Not to Participate in the Investigation	Inability to Move Forward Due to Victim Vulnerability	Insufficient Evidence	Other

County Prosecutor Dismissals Post-Charges

Victim Requested No Prosecution	Further Investigation Revealed Incident Occurred in Another Jurisdiction	Victim Chose Not to Participate in the Investigation	Inability to Move Forward Due to Victim Vulnerability	Insufficient Evidence	Other

*Each defendant counts as one referral.