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June 19, 2014

Office of U.S. Senator Claire McCaskill
United States Senate
Hart Senate Office Building, Ste. 506
Washington, D.C. 20510

Dear Senator McCaskill:

Thank you for inviting me to attend your upcoming roundtable discussion to discuss policies to combat rape and sexual assaults on college and university campuses. As police chief in the host community for the University of New Hampshire the Durham Police are responsible for providing law enforcement services to a very unique municipality. Though the crime rate in Durham is among the lowest in the state, the town's police department nevertheless has its hands full. With 20 sworn officers and 4 support staff, the CALEA™ accredited police department serves a fluctuating population comprised of full-time citizens and 14,000+ students and staff of the University of New Hampshire (UNH).

In many ways, the community is dominated by the UNH school year. Policing in this environment becomes extremely demanding commencing at school opening until Homecoming Weekend in late October, and then again when the weather warms in the spring. During this period 3,000+ in-coming freshmen come to realize that mom and dad aren't around to tell them when to be home nor will parents be checking their sobriety when they return to their residence halls or off campus apartments.

Many of our clients are strangers to the area, have never been away from home, do not know their classmates and often make bad decisions with strangers, and ultimately abuse a variety of substances. Experimentation with alcohol dominates the social scene. In many ways, the officers are challenged with allowing students the flexibility to gain life experiences within the bounds of the law, while remaining responsive to permanent residents!

Sadly there are a number of occasions where sexual violence is one of the end results of an evening of partying where subsequent reporting to the police is clouded by unknown locations, names and memory due to the ingestion of various substances.

A NATIONALLY ACCREDITED LAW ENFORCEMENT AGENCY



Regardless, those students that do report to the police are scared, hesitant and extremely confused as to "what happens next".

As Chief, I agree that collectively we have a lot of work to do to tackle the systemic issues that prevent victims from reporting sexual assaults. These efforts must focus upon law enforcement cultures, prosecutors, the judicial system, support organizations and perhaps the most difficult arena, public perception. My role as police chief focuses upon ensuring that our department's philosophy is that we are not just investigators of criminal acts, but that we have a significant role in supporting the victim/survivor. We accomplish that goal in Durham by working collaboratively with the Sexual Harassment and Rape Prevention Program (SHARPP), an office of the University of New Hampshire. SHARPP's mission is to eliminate sexual and intimate partner violence by offering culturally competent awareness and prevention programs to the University of New Hampshire community, and by providing free and confidential advocacy and direct services to all survivors and their allies.

In Strafford County where Durham and UNH are located, the Strafford County Attorney's Office has a formal Victim Assistance Program which is unique in New Hampshire in that the director and coordinator of the program are trained in conducting interviews with children and adult victims of sexual assault. To protect such victims from multiple interviews, and to protect the integrity of the investigation, Strafford County has long followed a protocol requiring that such victims be interviewed only once, on videotape, in the County Attorney's office. This protocol has been successful in protecting victims from being "re-victimized" by the court process.

Once a victim/survivor reports an allegation to the Durham Police, at each step of the investigative process, a SHARPP advocate is provided to the victim/survivor as an advocate for them, offering support, information and a shoulder if needed so that there are no surprises or mysteries. Through this process, we endeavor to ensure control is placed back with the victim/survivor. At every step along the way the emphasis remains on the victim/survivor. We have worked diligently to retool our systems in Durham to remain focused upon their wellbeing while our investigators are completing a comprehensive criminal investigation of the events which brought the victim/survivor to us.

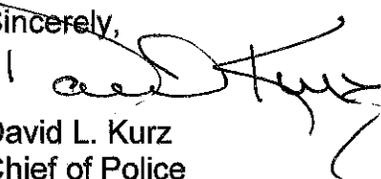
Obviously my viewpoint is from a law enforcement stance. As the municipal police agency serving the host community of a large public university, collaboration is a key component towards successfully building trust where victims/survivors have faith in the "system". The Durham Police achieve that goal by embracing several key components including:

- Ensuring that all police officers are trained in victim/survivor advocacy;
- Developing formal relationships with support providers who will assign an advocate to each victim/survivor;

- Sustaining close collaboration with the University of New Hampshire Police Department;
- Developing, implementing and adhering to clear and defined policy that ensures consistency of sexual assault investigations;
- Embracing the strategy of one interview preferably accomplished by trained victim advocates through the prosecuting attorney's office;—
- Providing continuous support for the victim/survivor.

I want to thank you for inviting me to participate as part of your roundtable discussions in order to offer a perspective from the host municipality. I have included several of our policies pertaining to sexual assaults and offer them to you to use as you see necessary. If you have any questions please feel free to contact me.

Sincerely,


David L. Kurz
Chief of Police

DURHAM POLICE DEPARTMENT**86 Dover Road
Durham, New Hampshire 03824
(603)868-2324****POLICY #: 42.2.1, D****SUBJECT: Investigations, Sexual Assault Protocol**

NOTE: This written directive is for the internal governance of the Durham Police Department, and as provided by RSA 516:36, is not intended and should not be interpreted to establish a higher standard of care in any civil or criminal action than would otherwise be applicable under existing law.

PURPOSE

The Durham Police Department recognizes that sexual assaults are crimes of violence, are unique, and must have special provisions made for their investigation. Sexual Assaults should be considered and treated as a *critical incident*.

The dual mission of an investigation of a sexual assault will be the safety and emotional well-being of the victim as well as the apprehension of a suspect in order to provide for the safety of the community. The Durham Police Department follows the protocol set out by the Strafford County Attorney's Office. That protocol asks the first responding officer to limit their initial questions to the victim prior to a forensic interview.

The purpose of this directive is to provide the first responding police officers with a set protocol on the initial steps they should take when speaking to a victim of sexual assault and the minimal fact finding questions they should ask during the initial encounter with the victim of a sexual assault.

POLICY

The Durham Police Departments' primary responsibility in the investigation of a sexual assault is law enforcement. The department is charged with the responsibility of gathering information, collecting evidence, apprehending offenders, and presenting the case to the Strafford County Attorney for prosecution.

In most instances, patrol officers will be the first law enforcement contact with the victim of a sexual assault. Therefore, officers should initiate the collaborative response by calling the appropriate crisis service center (see policy 55.1.1, Victim/Witness Assistance, SHARPP/SASS) and consider emergency care (EMS). When it is clear that the victim is safe and there is no need for immediate emergency care, the officer shall conduct a minimal facts interview.

Definitions:

Aggravated Felonious Sexual Assault (AFSA) (RSA 632-A:2) is defined as sexual penetration, however slight, into any opening (vagina, mouth or anus) under certain circumstances including but not limited to:

- When at the time of the sexual assault, the victim indicates by speech or conduct that there is not freely given consent to performance of the sexual act.
- When the actor overcomes the victim through the actual application of physical force, physical violence or superior strength.
- When the victim is physically helpless to resist.
- When the actor coerces the victim to submit by threatening to use physical violence or superior physical strength on the victim, and the victim believes that the actor has the present ability to execute these threats.
- When the actor coerces the victim to submit by threatening to retaliate against the victim, or any other person, and the victim believes that the actor has the ability to execute these threats in the future.
- When the victim submits under circumstances involving false imprisonment, kidnapping or extortion.
- When the actor, without the prior knowledge or consent of the victim, administers or has knowledge of another person administering to the victim any intoxicating substance which mentally incapacitates the victim.
- Or under other aggravating circumstances defined in RSA 632-A:2.

Felonious Sexual Assault (FSA) (RSA 632-A:3) includes the offense often referred to as the “statutory rape law,” which involves sexual penetration of a person between the ages of 13 and 16 when the age difference between the actor and the other person is 4 years or more. The legal age of consent in New Hampshire is 16. It also applies when a person is in a position of authority over another and coerces that other person to engage in sexual contact with the actor or with him/herself in the actor’s presence. Felonious Sexual Assault includes, but is not limited to:

- When the defendant subjects a person to sexual contact and causes serious personal injury to the victim under any of the circumstances named in RSA 632-A:2 (the aggravated felonious sexual assault statute mentioned above).
- Engages in sexual contact with the person when the actor is in a position of authority over the person and uses that authority to coerce the victim to submit under any of the following circumstances:
 - When the actor has direct supervisory or disciplinary authority over the victim by virtue of the victim being incarcerated in a correctional institution, the secure psychiatric unit, or juvenile detention facility where the actor is employed; or
 - When the actor is a probation or parole officer or juvenile probation and parole officer who has direct supervisory or disciplinary authority over the victim while the victim is on parole or probation or under juvenile probation.

Sexual Assault: (RSA 632-A:4) covers a variety of conduct, including, but not limited to, sexual contact with a person 13 years or older under any of the aggravating circumstances defined in RSA 632-A:2. A person may be charged with Sexual Assault if they cause another person to engage in sexual contact with the actor or with him/herself, when the actor is in a position of authority over the other person, as defined in statute.

Victim: The word "survivor" is used to indicate a person that has lived through a sexual assault. "Victim" is often used in professional and educational circles because it indicates that a crime has been committed; that one party was the aggressor and one was the victim. When speaking with a victim of a sexual assault, the officer/advocate team should try to identify which term the victim is more responsive to and then use that term whenever possible. The needs and requests of victims should be accommodated whenever possible.

For the purposes of this directive, victims/survivors shall be referred to as "victims".

PROCEDURE

Initial Responsibilities:

- Intervene in any in-progress assaults and separate all parties
- Detain or apprehend the suspect
- Call for emergency medical care for the victim, if necessary
- Request additional personnel to respond, as appropriate. *The on-duty supervisor will notify the Deputy Chief and a detective will be notified as soon as possible.*

Additional Priorities:

- Attend to the victim. Use appropriate language and sensitivity for the type of investigation being conducted.
- Remove the victim to a neutral, safe place away from the scene.
- Be careful not to stigmatize the victim by speaking loudly or calling unnecessary attention to the victim in any way.
- Recommend all victims to seek medical treatment. Inform the victim that there could be immediate and long-term health concerns that result from the assault and that whether or not they want evidence collected, they can seek medical care.
- If the victim wants to have a medical/forensic (SANE) exam, preserve evidence on the victim by requesting they not shower, wash up, etc. until evidence can be collected by a SANE or other trained professional.
- Secure and protect the scene(s) until additional personnel arrive to assist.

First Responders Should:

- Attempt to determine if a crime occurred during the initial contact with the victim.
- Establish the elements of the crime(s)
- Contact the local crisis center for an advocate to respond for the victim. SHARPP/SASS.
- Explain to the victim what will happen as the process continues.
- Document officer involvement clearly and in detail as soon as possible.

MINIMAL FACTS INTERVIEW

The initial officer's questions should be limited to the questions listed below. The initial statement from a victim of adult sexual assault SHOULD NEVER BE A WRITTEN STATEMENT.

- What happened? (Keeping in mind the elements of the offense)
- Who did it?
- Where are they now?
- Where did it start and where did it end?
- Were any weapons shown or threatened?
- Identify any potential witnesses, evidence and additional scenes.

The initial responding officer must understand and their report must clearly reflect that the minimal facts interview is not intended to be a comprehensive or final interview with the victim. If extenuating circumstances exist and at the direction of the on-call county attorney, the officer may ask appropriate questions beyond the scope of the minimal facts interview questions listed above. The officer shall document the questions and reasons for asking them.

FOLLOW UP

If the victim goes to the hospital for an examination, there is NO NEED for the officer to be present in the examination room. Once any evidence is collected, hospital staff will contact the PD to recover any items. The kit should be refrigerated and urine samples should be frozen.

When completing the initial report, officers should be detailed, BUT note that they conducted a "minimal facts interview" while describing the answers to the above questions.

Effective June 2, 2014, all calls from law enforcement agencies to schedule forensic interviews will go through one central intake at the Child Advocacy Center (CAC). Phone #: 516-8100. The interview will be assigned through the CAC intake coordinator.

DEBRIEFING

- Once the investigation is completed and turned over to the County Attorney, a meeting will take place to discuss the case. The officer/advocate team, a representative from the advocacy staff and other police department members may attend. This meeting shall focus on how the officer/advocate team functioned during the investigation and may make recommendations for future interaction.

SHARPP: 1-888-271-SAFE (7233)

SASS: 1-888-747-7070

See policy 42.1.4, Investigations, Preliminary and Follow Up, for further guidance during investigations.

DURHAM POLICE DEPARTMENT

**86 Dover Road
Durham, New Hampshire 03824
(603)868-2324**

POLICY #:55.1.1.1

SUBJECT: Victim/Witness Assistance, SHARPP/SASS

NOTE: This written directive is for the internal governance of the Durham Police Department, and as provided by RSA 516:36, is not intended and should not be interpreted to establish a higher standard of care in any civil or criminal action than would otherwise be applicable under existing law.

PURPOSE

The dual mission of an investigation of a sexual assault will be the safety and emotional well-being of the victim as well as the apprehension of a suspect in order to provide for the safety of the community. The purpose of this directive is to govern how the police officer and advocate will work as a team to accomplish the dual mission.

POLICY

The Durham Police Department recognizes that sexual assaults are crimes of violence, are unique, and must have special provisions made for their investigation.

It is the policy of the Durham Police Department to provide officers with training in the investigation and handling of sexual assaults. Officers shall receive sexual assault training through Sexual Harassment and Rape Prevention Program (SHARPP) and Sexual Assault Support Services (SASS).

PROCEDURE

Definitions:

SHARPP: Sexual Harassment and Rape Prevention Program. SHARPP is comprised of dedicated advocates who are skilled in responding to the needs of victims of sexual assault. This program is located on the UNH campus to provide sexual assault advocacy, emotional support and education to victims, other concerned people, as well as the faculty, staff, and students of the University of New Hampshire (UNH) community.

SASS: Sexual Assault Support Services. This program is located in Portsmouth and is comprised of trained advocates that volunteer their time and energy to support victims of sexual assault in Strafford and Rockingham Counties.

The word "survivor" is used to indicate a person that has lived through a sexual assault. "Victim" is often used in professional and educational circles because it indicates that a crime has been committed; that one party was the aggressor and one was the victim. When speaking with a victim of a sexual assault, the officer/advocate team should try to identify which term the victim is more responsive to and then use that term whenever possible. The needs and requests of victims should be accommodated whenever possible.

For the purposes of this directive, victims/survivors shall be referred to as "victims".

POLICE/SHARPP/SASS "TEAM"

- The goal of the police department and SHARPP/SASS advocate collaboration is to empower the victim by providing opportunities for victim input and choice making, as well as to obtain quality evidence. To accomplish this goal, the team will provide several options in reporting sexual offenses:
 1. Anonymous reporting,
 2. Third party reporting,
 3. Reporting with the intention to prosecute, and
 4. Reporting with no intention of prosecuting.
- The officer/advocate team shall treat every case as a valid case and shall investigate the report promptly and thoroughly.
- The officer/advocate team shall treat the victim with compassion and assure the individual that they were not at fault for the assault.

Responsibility

- The Durham Police Departments' primary responsibility in the investigation of a sexual assault is law enforcement. The department is charged with the responsibility of gathering information, collecting evidence, apprehending offenders, and presenting the case to the Strafford County Attorney for prosecution.
- The SHARPP/SASS advocates' primary responsibility is to provide emotional support and assist in the physical and psychological needs of the victim.
- These two needs are not mutually exclusive. Working together, the officer/advocate team can improve the service to the victim, the quality of the information/evidence gathered, and the safety of the entire community. The advocate can assist the investigator by calming the victim so that information about the suspect may be obtained more efficiently.
- The advocate can also assist in getting cooperation from the victim with evidence gathering and explaining procedures that are necessary. The investigator and advocate must weigh the value of the importance of the criminal investigation and

overall community safety against the emotional well-being of the survivor. Teamwork will address these needs to the hopeful satisfaction of all involved.

SHARPP/SASS Notification

- When the Durham Police Department responds to a call of a sexual assault, they shall attempt to determine whether the victim is a student or otherwise affiliated with UNH.
- When a Durham Police Officer responds to a report of a sexual assault and discovers that the offense is a felony assault, the Deputy Chief and Detective shall be notified. The first responding officer shall conduct an initial investigation and then fully brief the Deputy Chief or Detective upon their arrival. The first responding officer shall remain involved in the investigation whenever possible; however, due to the significant time required for a thorough investigation, the Deputy Chief or Detective shall be the lead investigator.
- If the victim is a UNH student or is a faculty or staff member, the officer shall have the dispatch center notify SHARPP.
- If the victim is not a UNH student or faculty or staff member, the officer shall have the dispatch center notify SASS.
- Upon arrival of the advocate, the officer shall brief the advocate of information known to that point in the investigation.
- The officer and advocate will ask the victim if they would like the advocate to stay during the interview.
- Together, the officer/advocate will explain the purpose of the interview, evidence collection, medical examination and the option to report directly to the Strafford County Attorney. Upon request of the victim, this information can be provided by an advocate in the absence of the investigator.
- It is imperative that the advocate stay with the victim throughout the initial stages of the investigation and lend support as long as is needed afterward. While the primary concern of the advocate is the welfare of the victim, part of their role is to inform the victim of the criminal process and the type of information that would be helpful in an investigation. Hence, a high level of communication needs to exist between the investigator, advocate, and victim.
- For all domestic violence cases involving students of the University of New Hampshire, the investigating officer shall complete the Durham Police Department "SHARPP NOTIFICATION FORM" and forward the completed report to the Deputy Chief for action. The Deputy Chief of Police shall fax the form to SHARPP, as applicable.

FOLLOW UP INVESTIGATION

- If the investigator needs to contact the victim for follow up investigation such as additional interviews, composite sketches, photo lineups, etc., the assigned advocate shall be notified. The advocate will assist the victim during and after the procedure, as appropriate.

NOTE: Victims may be concerned with expenses incurred by the physical examination. The State Attorney General will pay for the rape kit evidentiary examination. UNH Health Services will cover any follow up expenses for individuals affiliated with the university.

DEBRIEFING

- Once the investigation is completed and turned over to the County Attorney, a meeting will take place to discuss the case. The officer/advocate team, a representative from the advocacy staff and other police department members may attend. This meeting shall focus on how the officer/advocate team functioned during the investigation and may make recommendations for future interaction.



**DURHAM POLICE DEPARTMENT
INTIMATE PARTNER CALL RESPONSE
SHARPP NOTIFICATION FORM**

CASE # _____

Date of Offense: _____ Reporting Officer: _____

Suspect/Defendant: _____

CFS Type: Domestic Disturbance Stalking Sexual Assault

Victim: _____

Student Faculty Staff Other UNH Affiliation _____

Dorm/On Campus Apartment Off-Campus Apartment Other UNH Facility

Relationship of Victim to Suspect/Defendant: _____

Children Involved/Present? Yes No Number of Children: _____

Names of Children: _____

Description of Investigation:

Source of Call For Service: Victim Neighbor Relative Friend
 Other _____

Advocate Called

SHARPP Contact Information Provided to Victim/Witness

Reporting Officer Signature: _____ Date: _____

Sergeant Signature: _____ Date: _____

Deputy Chief Signature: _____ Date: _____

Faxed to SHARPP @ 862-2996 by _____ Date: _____

The original copy of this report is to be retained with the Durham Police Department case file.