

AGENDA

MUNICIPAL POLICE TRAINING COUNCIL 266th Meeting June 5, 2024 at 10:00 a.m.

Live Stream Link:

<https://www.youtube.com/watch?v=zouDGoJ9NC8>

ACTION / APPROVAL ITEMS

- | | |
|--|---------------------|
| 1. Introductory Remarks - Introductions - Adoption of Agenda – Approval of 265th Meeting Minutes | Commissioner Rosado |
| 2. Basic Course for Police Officers Update <ul style="list-style-type: none">• Part 3, Section A - Penal Law Offenses• Part 7, Section I - Narcotics and Dangerous Drugs• Part 7, Section F - Basic Crash Management and Reporting | Michael Puckett |
| 3. Sexual Offense Evidence Kit Model Policy Update | Joshua Vinehout |

INFORMATIONAL / UPDATE ITEMS

- | | |
|---|----------------------------------|
| 1. Regulation Updates | Natasha Harvin-Locklear |
| 2. TraCS Training and Equipment for Law Enforcement Academies | Michael Puckett
Archie Hedges |
| 3. Basic Course for Correction Officers Job Task Analysis | Molly Bates |

NEW BUSINESS

Commissioner Rosado

Next Meeting:
September 12, 2024
1:30pm

Council Member Virtual Attendance:

Name: Sheriff Errol Toulon
Location: 200 Suffolk Avenue
Yaphank, NY 11980

**Minutes of the 265th Meeting
New York State Municipal Police Training Council
March 6th, 2024**

Alfred E. Smith Building
80 South Swan Street
Albany, NY 12210
CrimeStat Room 118

Livestream link: <https://www.youtube.com/watch?v=mNEyUFv-ieM>

Council Members Present

Dr. R. Bruce McBride (Remote)
Maureen Curtis, Vice President, Safe Horizon
Carla DiRenzo, Acting Deputy Superintendent, New York State Police
Opal Rivera, Assistant Commissioner, Department of Corrections and Community Supervision

DCJS Staff Present

Rossana Rosado, Commissioner, Division of Criminal Justice Services
Joseph Popcun, Executive Deputy Commissioner, Division of Criminal Justice Services
Adam Dean, Deputy Commissioner, Office of Operations and Innovation
Colleen Glavin, Deputy Commissioner and Counsel, Office of Legal Services
Natasha Harvin-Locklear, Associate Counsel, Office of Legal Services
Zilka Saunders, Senior Attorney, Office of Legal Services
Janine Kava, Director, Office of Public Information

OPS Staff Present

Michael A. Bonse, Deputy Commissioner, Office of Public Safety
Johanna Sullivan, Director, Office of Public Safety
Joshua Vinehout, Supervisor of Public Safety Programs
Michael Puckett, Public Safety Program Specialist 3
Molly Bates, Public Safety Program Specialist 3
Gavin Boyer, Public Safety Program Specialist 2
Sara Dean, Criminal Justice Program Specialist 2
Janay Gasparini, Criminal Justice Program Specialist 2
Lauren Scarupa, Criminal Justice Program Specialist 1
Kerra Gordon, Criminal Justice Program Specialist 1
Dorthea Medina, Administrative Specialist 1

Guests

Kristine Ryan, Chief Admin. Officer, MTAPD
Olufunmilola Obe, Chief of Training, NYPD
Michael Whiteley, Assistant Director, OPDV
Carla DiRenzo, Acting Deputy Superintendent, NYSP
Thomas Mitchell, Counsel, NYS Sheriff's Association
Phillip Hurst, Technical Sergeant, NYS Police Academy
John McIlwaine, Technical Sergeant, NYS Police Academy
Dr. Paul DiVico, Health Metrics of AZ, LLC/ARA Human Factors
Chris Hippensteel, Reporter, Times Union
Sergeant Gregory McNally, NYPD (Remote)
Sergeant Patrick Wilkens, NYPD (Remote)

ACTION/APPROVAL ITEMS

#1 - Introductory Remarks – Adoption of Agenda- Approval of 265th Meeting Minutes

The 265th session of the Municipal Police Training Council (MPTC or Council) commenced at 10:03 a.m. with Commissioner Rosado leading all attendees in the Pledge of Allegiance, followed by a moment of silence in remembrance for all law enforcement and those who lost their lives serving this country.

Introductions

Commissioner Rosado introduced herself as the interim chair and introductions were made by all in attendance. Dr. McBride joined the meeting remotely.

Adoption of Agenda

Maureen Curtis made a motion to adopt the 265th meeting agenda, with a second by **Dr. McBride**; the motion was passed by unanimous vote. Commissioner Rosado proceeded with the approval of 264th meeting minutes.

Approval of 264th Meeting Minutes

Dr. McBride made a motion to approve the 264th meeting minutes as submitted with a second by **Maureen Curtis**. The motion was passed by unanimous vote.

#2 – Amendment to 2024 Meeting Dates: September 4

Commissioner Rosado proposed amending the September 4th meeting by moving it to the afternoon of September 12th at 1:30pm. In doing so, DCJS can express appreciation to both MPTC and the Law Enforcement Accreditation Council members for their work by providing a luncheon. Commissioner Rosado noted that this will be an opportunity for both Councils to meet each other, since often their work overlaps with one another.

Dr. McBride made a motion to amend the September 4th date to September 12th at 1:30pm with a second by **Chief Obe**. The motion was passed by unanimous vote.

#3 – MPTC Physical Performance Standard Transportability Study

Joshua Vinehout of the Office of Public Safety introduced Dr. Paul DiVico of Health Metrics of AZ, LLC/ARA Human Factors (HMAZ). Dr. DiVico updated the Council on the findings of the transportability study to establish a bona fide physical ability occupational requirement for entrance to and exit from the police academy. He described the goal of the project is to specifically assess the New York City Police Department's (NYPD) Physical Ability Test (PAT) transportability for use by the MPTC as a validated and legally defensible training academy entrance and exit requirement for police officers defined in paragraphs (b), (c), (d), (e), (f), (j), (k), (o), (p), (s) and (u) of the Criminal Procedure Law (CPL) 1.20(34). If the NYPD PAT is found to be transportable, the next step would be to assist OPS with the implementation of the NYPD testing system and associated performance standards for police officer candidates required to meet the MPTC Basic Course for Police Officers minimum standards.

Dr. DiVico played a video of the components of the NYPD PAT model previously developed for NYPD, which the MPTC is seeking to transport as a validated test model for municipal police agencies. In addition to the PAT model, there is a Physical Fitness Test Battery (PFTB) performance prediction model that was developed with the original NYPD study used to predict PAT performance time. The PFTB is a regression model of a series of fitness tests demonstrably shown to achieve the goal of predicting the amount of time it would take a

candidate to perform the PAT. The PFTB would be conducted prior to a conditional job offer during the civil service hiring process to minimize the resource strain of conducting the PAT. The PFTB would allow hiring agencies to recruit police officers knowing the police officer candidate would meet the cut score time of the PAT when required to perform it during academy training.

Dr. DiVico explained that a physical ability test must have the ability to determine who can and cannot perform the bona fide occupational requirements of the job of a police officer. He explained that the Americans with Disabilities Act and the Civil Rights Act require that job standards must be based on the essential functions of the work. Any hiring decisions must be based on the candidate's demonstrable ability to perform the required work. In addition to these requirements, the developed test instrument and administrative process must be both objective and devoid of bias, and logistically practical to implement. The NYPD physical ability standard, which the MPTC is seeking to transport, met these requirements as a legally defensible and scientifically validated test developed across 2003-2004. The application of this PAT and associated PFTB to the requirements of the MPTC required the completion of transportability analysis.

Dr. DiVico continued by reviewing the results of the job task analysis survey data used to determine whether NYPD's current physical ability standard can be transported to municipal police agencies in NYS. He began with the demographic composition and survey sample size. He explained the sample size and demographic breakdown between the original NYPD study and sampled municipal officers was very close to matching. He continued by explaining there were 28 tasks that were assessed based on frequency, arduousness, and criticality. The rating of the frequency of tasks performed by survey respondents indicated 26 of 28 tasks were statistically significantly different between NYPD and municipal agencies in NYS.

He then reviewed the arduousness results (perceived exertion) in which 24 of 28 tasks rated by survey respondents were found to be statistically significantly different between NYPD and municipal agencies. NYPD rated 8 tasks as moderate to somewhat hard versus 11 for municipal agencies. NYPD rated 5 tasks somewhat hard to hard versus 1 task by the rest of the agencies.

The last rating category he reviewed was criticality of performance. The survey results found that NYPD rated 9 tasks as very important to extremely important versus 16 for municipal agencies. The highest rated task for the NYPD was use of firearm versus walking for the rest of the state. In both groups, however, compliance and control tasks were among the most highly rated for criticality. Dr. DiVico concluded his review of the survey results by informing the Council the statistical differences were not found to be influenced by sample size or the order of the measurement.

Based on the survey results, Dr. DiVico informed the Council that the physical demands of the job across NY State in 2023 were found to be sufficiently different from those of the NYPD in 2003, such that the NYPD PAT model and associated PFTB were found not to be directly transportable. For the MPTC to establish a valid PAT linked to the bona fide occupational qualifications identified by the current job task analysis results, he suggested a MPTC specific PAT model be developed. He also recommended that the PAT specific performance related fitness testing be conducted that links a MPTC based PAT directly to a PFTB. Because the JTA is complete, roughly half of such a project has already been completed. He then provided an illustration of a suggested work plan that includes developing a PAT model based on the survey results, perform a pacing study of PAT paced trials to conduct a subject matter expert Delphi

analysis to determine PAT cut score, perform PFTB and PAT testing of incumbent officers to establish a PFTB prediction model while simultaneously training physical fitness instructors to deliver the tests, develop a test information package for the police officer applicant, develop a test administrator guide for instructors, and prepare a final validation report. The Council had no questions and moved to make a motion.

Motion: The MPTC directs the Office of Public Safety to continue with the project, utilizing Health Metrics of Arizona, in the establishment of a valid physical performance standard linked to the bona fide occupational requirements identified by the results of the conducted job task analysis, consistent with New York State law and policy.

Chief Obe made a motion to move forward with the next steps of the project, with a second by **Assistant Commissioner Rivera**. The motion was passed by unanimous vote.

#4 – BCPO Firearms Instructor Requirement

Michael Puckett of the Office of Public Safety provided the Council with an update on the status of developing firearm instructors to deliver the new recruit firearms curriculum. He began by summarizing to the Council their approval of the new firearm minimum instructional standard for the Basic Course for Police Officers, effective September 1, 2024. He explained that a component of the new standard requires completion of an instructor update for instructors delivering this section of the course, after the implementation deadline. He informed the Council that OPS staff have been facilitating deliveries of the required Instructor Workshops across New York State and will continue to do so.

Mr. Puckett continued by explaining to the Council the need for academy instructors to send their instructors to the update workshops is greater than anticipated, to meet the instructor requirement before the curriculum implementation deadline. He assured the Council OPS will continue to work with academies in assisting them with meeting the instructor requirement, while ensuring academies are not prevented from using existing MPTC Firearms Instructors in safety roles on the range after the implementation of the new program.

Mr. Puckett requested the Council to permit the requirement that all instructors teaching at the BCPO complete the instructor update training be phased in by Training Zone. He informed the Council that he anticipates Training Zones 1, 2, and 3 will be able to meet the instructor requirement previously established by the implementation deadline; however, Zones 4-14 will need more time to develop instructors. These Zones would be required to meet the instructor requirement as more Instructor Workshop courses are delivered.

Mr. Puckett requested the Council to require anyone involved with delivering the new BCPO firearms curriculum for Training Zones 1 through 3, after the September 1, 2024 deadline, to meet the MPTC Firearms Instructor Workshop requirement. For Training Zones 4-14, he requested the Council to permit current Firearms Instructors that have not completed the required workshop training, to serve in a range safety capacity after September 1, 2024. He described a range safety officer as an instructor who possesses a MPTC Firearms Instructor certification but who has not yet completed the 5-day Instructor Workshop. These instructors serving in this capacity will not be permitted to deliver the instruction until completing the workshop. They may be used to monitor trainees and the training environment to ensure an adequate ratio of instructional staff to trainees; however, direct delivery of instruction should be performed only by those instructors who have also

completed the update training.

Mr. Puckett concluded by informing the Council DCJS will continue to offer instructor workshops in increasing numbers for the foreseeable future to assist academies in meeting the instructor requirement. He advised the Council there are currently 159 instructors that have completed the instructor workshop through February 2024 with one currently ongoing. The workshops have a 90% pass rate.

Executive Deputy Commissioner Popcun asked if this was a way to provide additional time for the instructors to get trained. Mr. Puckett affirmed it was because DCJS realizes that some academies need leeway that don't have the same level of staffing resources to train their instructors before the deadline.

No further questions were asked and the Council moved to make several motions.

Motion #1: Require Firearms Instructors delivering the BCPO in Training Zones 1, 2, and 3 to complete the DCJS 5-day Firearms Instructor Workshop training in addition to possessing a valid MPTC Firearms Instructor certification. All firearms instructors serving in this capacity must be listed on the curriculum content to receive DCJS course approval for employers and academies conducting a Basic Course for Police Officers or equivalent beginning on or after September 1, 2024.

Maureen Curtis made a motion to approve instructor requirement for Training Zones 1,2, and 3, with a second by **Chief Obe**. The motion was passed by unanimous vote.

Motion #2: Academies in Training Zones 4 through 14 must at minimum have at least one firearms instructor who has completed the DCJS 5-day Firearms Instructor Workshop training in addition to possessing a valid MPTC Firearms Instructor certification. All firearms instructors serving in this capacity must be listed on the curriculum content form to receive DCJS course approval for employers and academies conducting a Basic Course for Police Officers or equivalent beginning on or after September 1, 2024.

Assistant Commissioner Rivera made a motion to approve instructor requirement for Training Zones 4-14, with a second by **Maureen Curtis**. The motion was passed by unanimous vote.

Motion #3: Firearms Instructors in Zones 4 through 14, that have not completed the DCJS 5-day Firearms Instructor Workshop but possess a valid MPTC Firearms Instructor certification, may only serve as range safety officers. All instructors serving in this capacity must be listed on the curriculum content form and indicated on the form as a range safety officer, to receive DCJS course approval for employers and academies conducting a Basic Course for Police Officers or equivalent beginning on or after September 1, 2024.

Maureen Curtis made a motion to approve instructors serving in a capacity of range safety officers, with a second by **Chief Obe**. The motion was passed by unanimous vote.

INFORMATIONAL/UPDATE ITEMS

#1- Regulations - Updates

Natasha Harvin-Locklear, Office of Legal Services (OLS), updated the Council on the status of the in-person death notification training regulatory amendments for new and current police officers. She explained that they are still under review with the Governor's office and will update the Council when OLS receives further information.

#2- Basic Course for Police Officers Professional Communications, Traffic Stops and Crash Management Updates

Michael Puckett of the Office of Public Safety (OPS) provided an update to the Council on a planned revision of the Professional Communications, Traffic Stops and Crash Management sections of the Basic Course for Police Officers (BCPO).

Michael Puckett informed the Council that Janay Gasparini was going to review the Professional Communications section of the BCPO and incorporate concepts and skills related to communication with witnesses, suspects, crime victims, and other police officers and law enforcement professionals. He mentioned that the International Association of Directors of Law Enforcement Training (IADLEST) engaged in an Academy Innovation study funded by the Department of Justice. The IADLEST study involved incorporating communication skills in traffic stops and mental health interventions. OPS is using it as a model to guide the update of the Professional Communications section and integrate further across the curriculum.

Michael Puckett then informed the Council of additional updates to the traffic stop and crash Management sections of the BCPO that would incorporate real-world tools that the police officers use in the field, into their training. He also mentioned New York State Police will be working with academies to install the TRaCS program at the local academies to further contextualize learning that will assist officers in retaining information better. Bert Bouchey will be in charge of incorporating these real-world tools into recruit training. Michael Puckett mentioned to the Council that he hopes to have the updates completed by the June MPTC meeting but if not, by the September MPTC meeting.

Executive Deputy Commissioner Popcun asked if the Professional Communication section, which was updated in 2017, will remain in the BCPO. Michael Puckett said it will remain; however, OPS is seeking to further interleave the principles of communication throughout the basic course.

New Business

There was no new business brought to the council.

There being no further business, the 265th session of the Municipal Police Training Council came to a close at 11:40 a.m. **with a motion to adjourn by Maureen Curtis and a second by Chief Obe.** The motion was unanimously approved.

**NEXT MEETING:
June 5th, 2024, at 10:00 a.m.**

**NYS Municipal Police Training Council
266th Meeting
June 5, 2024**

Action Item #3

Basic Course for Police Officers Updates

The Office of Public Safety will present to the Council for their approval the following completed sections of the Basic Course for Police Officers recently reviewed and updated. They are:

- New York State Penal Law Offenses, Part 3 – Section A

This section has been updated to reflect recent changes to the Penal Law. New sections of *assault on a retail worker* (Penal Law §120.19) and *fostering the sale of stolen goods* (Penal Law §165.66) were added after changed in the 2025 FY budget bill (L. 2024, Ch. 55). Changes were also made to the Penal Law Offenses section where *rape* and *criminal sex act* charges were discussed to be consistent with recent law changes.

- Narcotics and Dangerous Drugs, Part 7 – Section I

This section has been updated to reflect changes to terminology and law sections related to cannabis. Additionally, guidance provided by the NYS Office of Cannabis Management has led to the removal of information regarding medical cannabis cards.

- Basic Crash Management and Reporting, Part 7 – Section F

This section has been updated to reflect that the DMV Accident Report will now be called the MV-104P. This form and guide for completing the form will be added to the appendix.

Motion 1:

Approve updates to Penal Law Offenses – Part 3, Section A as the minimum standard of instruction in the Basic Course for Police Officers or equivalent, the Basic Course for Peace Officers, the Campus Public Safety Officer Course, and the Specialized Investigator Course. All employers and academies conducting these courses beginning on or after September 1, 2024, must utilize the newly approved curriculum.

Motion 2:

Approve updates to Narcotics and Dangerous Drugs, Part 7 – Section I as the minimum standard of instruction in the Basic Course for Police Officers or equivalent, the Campus Public Safety Officer Course, and the Specialized Investigator Course. All employers and academies conducting these courses beginning on or after September 1, 2024, must utilize the newly approved curriculum.

Motion 3:

Approve updates to Basic Crash Management and Reporting, Part 7 – Section F as the minimum standard of instruction in the Basic Course for Police Officers or equivalent and the Campus Public Safety Officer Course. All employers and academies conducting these courses beginning on or after September 1, 2024, must utilize the newly approved curriculum.

**NYS Municipal Police Training Council
266th Meeting
June 5, 2024**

Action Item #4

Sexual Offense Evidence Kit Model Policy Update

The Office of Public Safety will propose a revision to the Municipal Police Training Council's Sexual Offense Evidence Kit Model Policy in accordance with the following information below regarding the storage of unreported sexual offense evidence kits (SOEK).

The New York State Office of Victim Services (OVS) is responsible for storing unreported SOEKs and related items of sexual offenses for a period of 20 years or: until the victim decides to participate in the criminal justice process, requests that the material(s) be returned, or that the materials be destroyed. These guidelines are specified under New York Public Health Law § 2805-i (2).

A consent form must be completed and signed by the victim of the crime or the parent/guardian (where applicable) to initiate a release of the stored SOEK. When OVS receives a request for release of evidence to law enforcement from the victim of the crime, or the parent/guardian of a minor (under 18) or a victim with some other incapacity, OVS will promptly release the SOEK and all associated items to the law enforcement agency to which the offense was reported.

This process has been added to the model policy under Section IV. OBTAINING DNA EVIDENCE VIA SEXUAL OFFENSE EVIDENCE KIT EXAMINATION. A link to the consent form and additional information regarding the process has also been footnoted in the model policy.

Motion:

Adopt the amendments made to the MPTC Sexual Offense Evidence Kit Model Policy as presented by OPS.

Sexual Offense Evidence Kit Model Policy

June 2024



**Municipal Police
Training Council**

New York State Division of Criminal Justice Services
80 South Swan Street, Albany, New York 12210

www.criminaljustice.ny.gov



Sexual Offense Evidence Kit

Model Policy



STATE OF NEW YORK
Division of Criminal Justice Services
Office of Public Safety

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THE 2024 EDITION IS PUBLISHED BY THE:

New York State Division of Criminal Justice Services
Office of Public Safety
80 South Swan Street
Albany, New York 12210

<http://www.criminaljustice.ny.gov>

VERSION June 2024

PRINTED IN THE UNITED STATES OF AMERICA

Sexual Offense Evidence Kit Model Policy

The Sexual Offense Evidence Kit Model Policy is intended to allow for the individual needs of each of the police departments in New York State regardless of size or resource limitations. Law Enforcement are encouraged to customize these protocols to meet their regional needs, while being mindful of the intent of the policy. As with all model policies adopted by the Municipal Police Training Council (MPTC), this policy is non-binding upon agencies within New York State and is meant to serve as a guide to be used in developing a department's individual policy.

The Municipal Police Training Council (MPTC) approved the model policy during their December 2015 meeting and amended the policy during their June 2019 and 2024 meetings pursuant to Executive Law §838 and N.Y. Public Health Law section 2805-i(2).

Acknowledgements

The New York State Division of Criminal Justice Services (DCJS) acknowledges the extensive work done by the following associations and agencies:

District Attorneys Association of the State of New York

New York State Association of Chiefs of Police

New York State Police

New York City Police Department

New York State Sheriff's Association

New York State University Police

New York State Office of Victims Services

Albany Medical Center Sexual Assault Nurse Examiner Coordinator

Sexual Offense Evidence Kit - Model Policy

Municipal Police Training Council

I. PURPOSE

This policy is designed to provide guidance to law enforcement agencies in developing victim-focused written procedures – focused on the needs and concerns of victims to ensure compassionate and sensitive delivery of services in a nonjudgmental manner – for the collection, submission, notification, retention, and disposal of Sexual Offense Evidence Kits (SOEK) in accordance with Executive Law §838-a (3).

II. POLICY

This is a model policy and law enforcement agencies are encouraged to customize these protocols in collaboration with the Office of the District Attorney to meet their agency's needs, while being mindful of the intent of the policy.

The procedures identified in this policy regarding the handling and prompt submission of SOEK evidence are intended to further the interests of justice and provide guidance on the requirements of Executive Law §838-a.

III. DEFINITIONS

- A. **Sexual Offense Evidence Kit (SOEK)** – Developed to create a standard protocol for hospital personnel to follow in the collection of evidence from persons involved in any criminal incident involving a sexual offense. SOEKs contain all the materials, instructions and forms necessary for the collection and preservation of DNA evidence by medical and forensic personnel.
 - 1. **Drug Facilitated Sexual Offense Evidence Collection Kit (DSOEK)** - To be collected in conjunction with the SOEK in cases where it is suspected that drugs were used to facilitate the assault.
- B. **Qualified Medical Facility** - All hospitals within New York State that are compliant with 10 NYCRR sections 405.9(c) and 405.19.
- C. **Forensic Laboratory**
 - 1. Any New York State laboratory operated by state or local government that is accredited pursuant to Executive Law article 49-b and 9 NYCRR Part 6190 et seq.; *OR*

Sexual Offense Evidence Kit - Model Policy

Municipal Police Training Council

2. Any clinical or forensic laboratory that performs testing on NYS samples that are materials derived from the human body must hold a New York State Department of Health(DOH) clinical laboratory permit in the required permit category (forensic identity, forensic paternity or forensic toxicology).

Note: NY state and local government forensic laboratories are exempt from obtaining a DOH permit, as are federal government laboratories or laboratories acting for the federal government.

- D. **Sexual Assault Nurse Examiner (SANE)** - A registered nurse (R.N.) or other medical professional who has advanced education and clinical preparation in the forensic examination of sexual assault victims.
- E. **Sexual Assault Forensic Examiner (SAFE)** – Medical professionals currently licensed as a nurse, doctor, and/or physician assistant who receive comprehensive training in the care and treatment of victims of sexual assault.
- F. **DNA** - Deoxyribonucleic acid, which is the genetic material present in all nucleated cells of all living organisms.
- G. **CODIS** - The “Combined DNA Index System” is the term used to describe the FBI’s program of support for three levels of DNA databases: local, state, and national. A DNA profile may be submitted and searched against CODIS.
- H. **New York State DNA Databank¹** - Represents the state level of CODIS containing DNA records (profiles) from crime scene evidence, missing persons and relatives of missing persons, and from offenders either designated to provide a sample by law or who have to provide a sample as a result of a plea bargain; participation in a Department of Community Correctional Services temporary release program; or release on parole or probation. Profiles contained in this database may also be indexed in CODIS.
- I. **Biological evidence** - Semen, blood, saliva, mucus, vomit, hair, tissues, bones, teeth and body organs, sweat, urine and feces, fingernail scrapings, vaginal secretions, skin cells, or any other items that have a reasonable likelihood of containing biological

¹ The State DNA Index System is authorized pursuant to Executive Law Section 995-C.

Sexual Offense Evidence Kit - Model Policy

Municipal Police Training Council

evidence and might be able to provide probative evidence related to guilt or innocence through DNA identity testing.

IV. OBTAINING DNA EVIDENCE VIA SEXUAL OFFENSE EVIDENCE KIT EXAMINATION

- A. DNA evidence from SOEKs may be collected, provided the sexual offense victim consents to an examination, by the following methods:
1. Sexual offense victim contacts law enforcement and, after providing consent, is brought or directed to a qualified medical facility; or
 - a. Not all New York State qualified medical facilities employ SANE or SAFE personnel. Accordingly, law enforcement agencies should be aware of which facilities do and do not employ such personnel and encourage and facilitate the victims' use of such facility that employs SANE or SAFE personnel.
 - b. Providing this information to sexual offense victims will allow them the opportunity to choose a qualified medical facility with SANE or SAFE personnel who are trained in caring for victims of a sexual offense.
 - c. Ensure New York State qualified medical facilities, within the law enforcement agency's jurisdiction, are provided the contact information, including name, phone number and e-mail address of the trained² personnel designated to receive all inquiries concerning sexual offense evidence kits from victims.
 2. Sexual offense victim self-reports and goes to a qualified medical facility.
- B. An examination and SOEK is completed by a Sexual Assault Nurse Examiner (SANE), Sexual Assault Forensic Examiner (SAFE), or other qualified medical professional.
- C. Law enforcement personnel should not be present during the examination, unless requested by the victim.

² NYS Executive Law §838-a Section 3(a) requires each police agency, prosecutorial agency and other law enforcement agency within New York State to designate at least one person, who is trained in trauma and victim response that meets the minimum trainings standards in Appendix A.

Sexual Offense Evidence Kit - Model Policy

Municipal Police Training Council

- D. Upon completion of the examination, provided the victim consents to initiating a law enforcement investigation, or the hospital is legally mandated to report, hospital staff will notify law enforcement of the existence of a completed kit.
- E. Law enforcement, within the jurisdiction in which the offense is believed to have occurred, will:
1. Coordinate the custody transfer of the SOEK within 24 hours, where practicable, after notification by the qualified medical facility;
 2. Obtain all necessary paperwork when retrieving the SOEK, including the release of evidence and consent form;
 3. Only take possession of an SOEK if it is sealed. Sealing of the SOEK should be done by the qualified medical facility. Law enforcement should not open the sealed SOEK; and
 4. Ensure the victim, at the time an SOEK is collected or interview is conducted, is provided with:
 - a. A copy of the sexual assault victim bill of rights³; and
 - b. contact information, including name, phone number and e-mail address of the trained personnel designated to receive all inquiries concerning sexual offense evidence kits from victims.
- F. Once the SOEK is in possession of the law enforcement agency, the SOEK is to be properly secured and stored in the agency evidence room/facility, until it is submitted to a forensic laboratory for analysis pursuant to a strictly documented chain of custody.
1. SOEKs should not be stored in plastic such as a plastic bag.
 2. Biological evidence will be stored in a cardboard box or brown paper bag. Biological evidence stored in plastic may degrade the quality of the evidence.
 3. DSOEK evidence should be refrigerated. SOEK evidence does not need to be refrigerated.

³ Victim Bill of Rights: <https://www.health.ny.gov/professionals/safe/>

Sexual Offense Evidence Kit - Model Policy

Municipal Police Training Council

- G. If the victim does not consent to reporting and initiating a law enforcement investigation, the SOEK, DSOEK and/or other potential evidence will be stored and maintained by the New York State Office of Victim Services (OVS) Storage Facility for a period of 20 years or: until the victim decides to participate in the criminal justice process, requests that the material(s) be returned, or that the material(s) be destroyed.⁴
1. Upon receiving a request from the victim of the crime, or the parent/guardian of a minor (under 18) or a victim with some other incapacity, OVS will promptly release the stored SOECK, DSOEK, and all associated items to the law enforcement agency to which the offense was reported for submission to a forensic laboratory.
 2. A consent form authorizing the release must be completed and signed by the victim of the crime or the parent/guardian (where applicable) to initiate the release.⁵
 - a. If the victim contacts law enforcement to initiate an investigation after the evidence has been stored at the OVS facility, the victim will be directed to complete and submit the OVS consent form.
 - b. Any other form of consent to release the evidence will not be accepted by OVS.

V. EVIDENCE SUBMISSION DETERMINATION

- A. All newly received SOEK evidence shall be submitted to the forensic laboratory within 10 days after being received from a qualified medical facility.⁶
- B. When necessary, assist forensic laboratories in assessment of case specific information to determine CODIS eligibility of SOEK evidence.⁷
- C. All DSOEK evidence should be submitted to the forensic laboratory as soon as possible, but no later than 72 hours, when practicable. Prior to submitting DSOEK evidence law enforcement agencies

⁴ These guidelines are specified under N.Y. Public Health Law section 2805-i(2).

⁵ The consent form and additional information can be found at the [Information for Law Enforcement](#) section of the OVS website.

⁶ The time frame of 10 days is required by law, as stated in N.Y. Executive Law 838-a Section (1)(a).

⁷ Forensic laboratories must assess case specific information as required by law, as stated in N.Y. Executive Law 838-a Sections (1)(b) and (1)(e).

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should be aware of which forensic laboratories do and do not test DSOEK and if not, coordinate with your local District Attorney to identify an alternative laboratory.

- D. SOEKs should be submitted whether or not a suspect has been identified.
- E. In instances when the victim rescinds consent to an investigation following testing, the law enforcement agency should consult with the Office of the District Attorney to determine if further investigation is appropriate.
- F. Law enforcement will maintain a strict chain of custody when submitting evidence to the laboratory.

VI. LABORATORY RESULTS

- A. Forensic laboratories that receive a SOEK from a law enforcement agency, , are required, within 90 days of receipt, to access case specific information for CODIS eligibility and, if such kit is eligible, to analyze and attempt to develop a CODIS eligible profile from the kit, and to report the results to the submitting agency.⁸
- B. Chain of custody will continue to be maintained and strictly documented by law enforcement when receiving evidence back from the forensic laboratory.

VII. VICTIM NOTIFICATION PROCESS

- A. Law enforcement and/or the Office of the District Attorney with jurisdiction over a sexual offense should collaborate with advocates, healthcare providers, counseling services, and other service providers, to inform victims about the case status throughout the course of the investigation and prosecution.
- B. Upon request of a victim, who has consented to report a sexual offense to law enforcement, the following notifications and release of information are to be made to the victim obtained from the final laboratory analysis report⁹:
 - 1. Date and location at which sexual offense evidence collected or received from the victim is assessed for

⁸ The time frame of 90 days is required by law, as stated in N. Y. Executive Law 838-a Section

⁹ Pursuant to N.Y. Executive Law §838-b

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CODIS eligibility;

2. Whether a CODIS eligible profile was developed; and
 3. Whether or not a DNA match was identified.
- C. Release of DNA match information to victim may be temporarily delayed, prior to the arrest of the suspect alleged to have committed the offense, if the law enforcement agency documents in writing and notifies the victim that release of such information would compromise the successful investigation of the sexual offense.¹⁰
- D. Notification of the laboratory results to the victim should be coordinated with the investigating agency and/or the Office of the District Attorney and victim advocate. A mutually agreed upon decision should be made regarding when and how to notify the victim. The timing, location and method of notification will vary by case, and all options should be carefully considered.

VIII. EVIDENCE RETENTION

- A. Procedure where no arrest has been made, acquittal after trial, or dismissal of charges.
1. All tested SOEKs will be retained for the duration of the statute of limitations for the offense, or longer if a request is made from the Office of the District Attorney. The investigating police agency should coordinate with the Office of the District Attorney to determine applicable statute of limitations.
 2. With written consent of the Office of the District Attorney and the investigating police agency, tested SOEKs may be disposed of after the duration of the statute of limitations.
- B. All tested SOEKs, for cases resulting in conviction, will be retained until conclusion of the direct appellate process unless the investigating police agency receives written consent for disposal from the Office of the District Attorney.

IX. REPORTING REQUIREMENTS

¹⁰ Pursuant to N.Y. Executive Law §838-b

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- A. Law enforcement agencies are required to submit quarterly¹¹ reports pursuant to the DCJS required reporting form.
- B. Reporting requirements include:
 - 1. Number of kits that the law enforcement agency received during the quarter.
 - 2. Number of kits that were submitted to labs for processing of the total number of kits received during the quarter.
 - 3. Total number of kits “in custody or control”¹² not submitted for processing at the end of the quarter.
 - 4. Length of time between law enforcement being in receipt of kits and submission to labs during the quarter:
 - a. Number of kits received sent to lab within 10 days of receipt
 - b. Number of kits received sent to lab 11 or more days after receipt

¹¹ N.Y. Executive Law 838-a (2)(b) outlines reporting requirements for law enforcement.

¹² “in custody and control” refers to a kit that has been collected by a law enforcement agency and not submitted for testing. This does not include kits that have been collected and tested and then returned to a law enforcement agency by a forensic laboratory.

Appendix A

Sexual Offense Trauma-Informed Victim Response Training Standards



Sexual Offense Trauma-Informed Victim Response Training Standards

Established pursuant to NY Executive Law §838-a Section 3(a)

NYS Executive Law §838-a Section 3(a) requires each police agency, prosecutorial agency and other law enforcement agency within New York State to designate at least one person, who is trained in trauma and victim response that meets the minimum trainings standards outlined in this document.

In addition to the standards discussed below, the Municipal Police Training Council has developed a best practices Sexual Offense Evidence Kit Model Policy to provide guidance to law enforcement agencies in developing victim-focused written procedures for the collection, submission, notification, and disposal of Sexual Offense Evidence Kits.

DCJS with the endorsement of the MPTC sets forth the following training standards in compliance with the Executive Law requirements. All training for law enforcement personnel designated to be trained on trauma-informed response must include but not be limited to: a definition of trauma and its effects on the brain; and application of victim centered trauma informed principles during an investigation and interview. The topics and standards are discussed in more detail below.

Training Standards

I. Definition of Trauma

- a. An event that combines fear, horror, or terror with actual or perceived lack of control and represents a fundamental threat to one's physical integrity or survival. Results from event, series of events or set of circumstances.
- b. Trauma physically changes an individual's brain, triggers the release of chemicals that influence memory, perception, reaction, and distorts time or distance.
- c. Common signs and symptoms of trauma

II. Neurobiology of the Brain

- a. Brain function – automatic responses to trauma/sexual assault
Survival Reflexes to trauma
 - i. Dissociation – coping mechanism that disconnects victim from incident – victim non-responsive, doesn't experience pain of assault
 - ii. Tonic Immobility – being unable to move or speak – victim "present" for assault
 - iii. Collapsed Immobility – decreased heart rate and blood pressure – causes passing out/faintness – victim not understanding what occurred
- b. Trauma, Attention and Memory



Sexual Offense Trauma-Informed Victim Response Training Standards

Established pursuant to NY Executive Law §838-a Section 3(a)

- i. Brain “focuses” on details that allow the victim to survive and cope with the threat when trauma occurs
- ii. Failure to remember specific details about assault
- iii. Details not associated with survival likely not to encode into memory, i.e. time, distance, perception and reaction

III. Application of Trauma Informed Principles

- a. Interaction/Interview with Victim
 - i. Supporting immediate and long-term recovery of victim through empathy, patience and respectfulness
 - ii. Identifying an interview location taking into consideration physical space and surroundings (NYS Executive Law §642)
 - iii. Victim option to have victim advocate or others present, considerations and potential discovery implications when a Victim Advocate or other is present during an interview (NYS Executive Law §642)
 - iv. Establishing rapport – establish common language, avoid leading questions, use open ended questions, avoid blaming language and tone
 - v. Encouraging victim to give statement in their own words uninterrupted.
 - vi. Seeking additional details using trauma informed questions after uninterrupted narrative
- b. Trauma Informed Questions
 - i. Focusing on sensory information (sight, smell, etc.)
 - ii. Painting the picture (i.e., What are you able to tell me about your experience? Help me understand your thoughts when..., Tell me more about...)
 - iii. Explaining questions to eliminate misconceptions
- c. Areas of caution during the interview which could affect victim’s account of the event:
 - i. Interruption
 - ii. Leading/Assumptive questions
 - iii. Why questions
 - iv. Confrontational questions
 - v. Yes/no questions, choice questions
 - vi. Compound questions
 - vii. Paraphrasing, rephrasing or repeating
 - viii. Sequencing



Sexual Offense Trauma-Informed Victim Response Training Standards

Established pursuant to NY Executive Law §838-a Section 3(a)

- ix. Minimizing
 - x. Sharing personal information, advice or opinions
- d. Closing the interview
 - i. Address concerns and questions
 - ii. Inform victim it is normal to recall additional information and to contact interviewer when this occurs
 - iii. Explore potential barriers for future engagement
 - iv. Inquire as to victim's desire for updates, the extent of updates to be provided, and the preferred means of communicating updates

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Informational Item #1

Regulation Updates

The Office of Legal Services staff will update the Council on the status of the regulatory amendments to Title 9 of the Compilation of Codes, Rules, and Regulations of the State of New York sections 6020.3 and 6022.3 (in-person death notification training for new and current police officers) which was approved by the Council during the March 2023 meeting.

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Informational Item #2

TraCS Academy Training and Equipment for Law Enforcement Academies

The Office of Public Safety and the New York State Police will update the Council on plans for the State Police TraCS Local Support Program to assist police academies in obtaining access to a TraCS training environment that can be used to add contextual relevance and to further integrate real-world practice into deliveries of the Basic Course for Police Officers (BCPO). The Council will also be informed about future plans to equip academies with computer equipment as part of this effort.

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Informational Item #3

Basic Course for Correction Officers Job Task Analysis

The Office of Public Safety (OPS) will be conducting a correction officer job task analysis (JTA) as a component of the redesign of the Basic Course for Correction Officers. The JTA results will be utilized to design the curriculum and delivery methods for the development of the necessary knowledge and skills needed to perform the essential job tasks of a correction officer. OPS staff is currently identifying an appropriate vendor and plans to begin the JTA this summer.