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Passaic County Prosecutor's Office

**Notification and Investigation Protocol
for the Special Victims Unit**



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I. Purpose

This Directive is issued in accordance with Attorney General Law Enforcement Directive 2018-5, Implementing Procedures and Protocols for Sexual Assault Response Referrals. It provides a uniform protocol for Passaic County law enforcement referrals of sexual offenses and child physical abuse allegations to the Passaic County Prosecutor's Office ("PCPO") Special Victims Unit ("SVU").

If there is a disagreement between the local police department or agency (hereinafter "Local Law Enforcement Agency") and members of the Passaic County Prosecutor's Office regarding the investigative process, the investigation shall proceed as directed by the County Prosecutor or by a Chief Assistant Prosecutor or Assistant Prosecutor functioning in a management or supervisory capacity within the Passaic County Prosecutor's Office. If there is a disagreement between DCPD and members of the Passaic County Prosecutor's Office regarding the investigative process, the dispute shall be resolved consistent with the *DCF/Law Enforcement Model Coordinated Response Protocol* issued by the Commissioner of the Department of Children and Families and the Attorney General in February 2007.

This Notification and Investigation Protocol is intended to supersede any previously designed and implicated notification and investigation protocols that may have been in effect prior to this date. For the purposes of this Investigative Protocol:

1. "County Prosecutor" shall mean and include any County Prosecutor or Acting County Prosecutor of the County of Passaic, or in cases where the Attorney General has intervened or superseded the County Prosecutor, pursuant to N.J.S.A. 52:17B-106 or 107(a), the Director or Acting Director of the Division of Criminal Justice. Included in this definition is any Assistant County Prosecutor functioning as a designee of the Passaic County Prosecutor.
2. "Local Law Enforcement Agency" shall mean and include all duly appointed sworn members of a state, county, or municipal police department, sheriff's department, or campus police department.

3. “Division of Child Protection and Permanency (DCPP)” shall mean and include any and all members of the State of New Jersey Division of Child Protection and Permanency.

II. Notification Requirements

In accordance with AG Directive 2018-5 and the Passaic County Prosecutor Law Enforcement Directive On Criminal Justice Reform (revised October 3, 2022), all Law Enforcement Agencies operating in Passaic County shall **immediately** notify the Passaic County Prosecutor’s Office Special Victims Unit in the following cases:

1. All sexual assaults involving sexual penetration that occurred within the last five (5) days, regardless of the age of the victim.
2. All sexual acts committed upon a child under the age of 12.
3. All sexual acts committed upon a child under the age of 16 where the actor is more than four (4) years older than the victim.
4. All sexual acts involving a child between the ages of 12 and 17, and the actor is at least 18 years old AND is a parent, stepparent, stands in the place of the parent, or has supervisory or disciplinary power over the victim.
5. Significant physical abuse, neglect, cruelty, or abandonment of a child under the age of 18 where there are significant injuries and/or there is imminent danger to the child.
6. Any fatality of a child under the age of 18 where the fatality is potentially the result of neglect, physical abuse, or sexual abuse. (All other fatalities or suspicious deaths should immediately be reported to the On-Call PCPO Detective assigned to the Fatal Investigations Unit)
7. All other reported offenses falling under Chapter 14 of Title 2C.
8. Any case of Human trafficking falling under Chapter 13 of Title 2C.

The above criteria do not preclude Municipal Police Departments from statutory reporting requirements which mandate they contact the New Jersey Division of Child Protection and Permanency (DCPP) for certain incidents.

In the event of a child sexual abuse disclosure to **any person**, including but not limited to a member of the clergy, a teacher, school employee, or School Resource Officer, or where **any person** including but not limited to a member of the clergy, a teacher, school employee, or School Resource Officer has a reasonable belief that a child has been subject to child sexual abuse: Immediately and without exception, contact the Passaic County Prosecutor's Office (973)-837-7680 and DCPD at 1-877-NJ-ABUSE (1-877-652-2873).

III. Method of Notification to the Passaic County Prosecutor's Office Special Victims Unit

- A. Normal weekday hours (8:45 AM to 4:30 PM): Contact the Passaic County Prosecutor's Office Special Victims Unit at (973) 837-7680, or (973) 881-4800 and ask to speak to a member of the Special Victims Unit. *You must speak with PCPO personnel. Do not leave a message.*

- B. After hours, weekends, and holidays: Contact the Passaic County Sheriff's Office Communications at (973) 389-5951 (follow prompts) and request that they contact the "on-call detective" assigned to the Special Victims Unit of the Passaic County Prosecutor's Office. An on-call member of the Prosecutor's Special Victims Unit will return your call.

IV. PCPO SVU Investigative Protocol

- A. The PCPO SVU Shall Be The Primary Investigative Agency In The Following Cases Involving Child Victims
 - 1) The victim is a child under the age of 12 and the actor is over the age of 16.
 - 2) The victim is a child between the ages of 12 and 17, and the actor is at least 18 years old AND is a parent, stepparent, stands in the place of the parent, or has supervisory or disciplinary power over the victim.
 - 3) When the victim is a child under the age of 12, regardless of the age of the actor when the sexual acts include independent force, violence, or threats; or the sexual acts were facilitated by multiple juvenile actors.

- 4) Cases involving physical abuse or neglect where the victim is a child under the age of 18 and has suffered serious bodily injury or there is an imminent risk of such injury.
- 5) All cases involving a child fatality when the victim is under the age of 18 and the fatality is suspected to be the result of neglect, physical abuse, or sexual abuse.
- 6) Based on the facts provided by the reporting agency during the mandatory AG Directive 2018-5 notification, the PCPO SVU retains the discretion to assume the lead investigative role on any reported allegation of a sexual assault or criminal sexual contact based on the nature and circumstances of the alleged offense on a case by case basis.

B. The PCPO SVU Shall be the Primary Investigative Agency in All Sexual Assault Response Team (SART) Activations Where the Victim Requests the Participation of Law Enforcement

In all allegations of sexual assault, initial information should be obtained to determine whether the circumstances warrant the activation of the Sexual Assault Response Team ("SART"). The SART is comprised of three disciplines; law enforcement, Forensic Nurse Examiners ("FNE") and a Confidential Sexual Violence Advocate ("CSVA"), working in a victim centered team approach to best address issues relating to cases of sexual violence.

A victim qualifies for SART activation if he or she is at least 13 years old, the assault occurred within the last five (5) days, and the victim consents to the activation. A forensic examination should be recommended for any form of penetration, including but not limited to penile/vaginal intercourse, cunnilingus, fellatio, anal or digital penetration, or in cases of contact where there may have been a transfer of bodily fluids.

If a victim qualifies for a SART activation, the responding officer shall inform the victim of the right to immediate medical attention, the value of prompt evidence collection, and the availability of SART in accordance with the simple script as promulgated by the Attorney General (See Attachment A).

A victim has the right to choose or decline to activate any or all SART components. If the victim chooses to activate any of the SART components, local law enforcement shall immediately contact, or confirm that hospital personnel have

contacted the Passaic County SART Coordinator to advise them that there is a SART activation. The Passaic County SART Coordinator will be responsible for contacting the members of the SART whom the victim is requesting. The Passaic County SART Coordinator will also confer with the victim, whether in person or via telephone, to answer any immediate questions. All activated members are expected to respond to the victim's location as soon as practicable. In emergent situations where public safety and/or destruction of evidence are factors, law enforcement shall consult with the victim and team members to prioritize services.

In ALL cases where a victim requests to activate the law enforcement component of the SART team, the SART Coordinator will contact the On-Call SVU Detective to respond and the PCPO SVU will open an investigation and assume the role as the lead investigative agency.

C. The Local Law Enforcement Agencies Shall Be The Primary Investigative Agency For All Sexual, Abuse, or Neglect Cases Not Delineated in In Sections A and B Above

The Local Law Enforcement Agency shall be the lead investigative agency for all cases involving sexual, abuse, or neglect offenses not expressly delineated in parts A (sexual or physical abuse of children) and B (SART activation and the victim requests law enforcement involvement) of Section IV outlined above. When such a case is reported to a local agency, the Local Agency shall take all appropriate steps to conduct the investigation.

For any legal guidance or legal questions that may arise during the investigation, for review and approval of search warrants, and for Charging approval, the local agency conducting the investigation shall contact the On-Call SVU Assistant Prosecutor. Pursuant to the Passaic County Prosecutor Law Enforcement Directive On Criminal Justice Reform (Revised October 3, 2022) NO CRIMINAL COMPLAINTS ON THE FOLLOWING ENUMERATED OFFENSES MAY BE FILED WITHOUT THE PRIOR REVIEW AND APPROVAL OF AN SVU ASSISTANT PROSECUTOR:

- 1) All offenses falling under Chapter 14 of Title 2C

- 2) All offenses Falling under Chapter 24 of Title 2C that involve child pornography, or the physical or sexual abuse of a child.
- 3) Any offense falling under Chapter 13 of Title 2C where the victim is under the age of 18, or the underlying conduct involves a sexual assault regardless of the age of the victim.
- 4) Any offense under Chapter 13 of Title 2C involving human trafficking.
- 5) All allegations of prostitution under Chapter 34 of Title 2C that involve a child under the age of 18.

Additionally, Pursuant to AG Directive 2018-5, all decisions by a Local Law Enforcement Agency to CLOSE an investigation involving an allegation of SEXUAL ASSAULT or CRIMINAL SEXUAL CONTACT WITHOUT filing charges shall be referred to an SVU Assistant Prosecutor for final approval prior to closing the investigation. Upon receiving such notification, the SVU Assistant Prosecutor shall coordinate the in-person victim consultation required by AG Directive 2018-5, as well as review all available options and resources as described on page 11 of this protocol, prior to the Local Agency formally closing the investigation.

V. Investigative Responsibilities

A. Municipal Police Departments

When it is determined that a Detective from the Passaic County Prosecutor's Office will respond to a reported incident as the lead investigative agency, it is the responsibility of the Municipal Police Department to:

1. Secure the scene by preventing unauthorized and unnecessary personnel from entering. A scene log will be maintained documenting who enters and leaves.
2. Arrange and provide transportation of victims, witnesses, family, and suspects as needed.
3. Documentation of a crime scene will primarily be conducted by members of the Passaic County Prosecutor's Office or the Passaic County Sheriff's Department Crime Scene Unit, as directed. Any and all separate photographs

or video taken by the Municipal Police Department as supplemental documentation must be made available to the Passaic County Prosecutor's Office Special Victims Unit.

4. If the allegations involve a child under the age of twelve (12), the reporting agency shall refrain from speaking with the victim regarding any of the facts related to the reported incident. The reporting agency shall gather the preliminary information from the reporting adult prior to the arrival of the SVU On-call Detective.
5. Locate, identify and document any and all witnesses. Keep all parties separated at the scene.
6. In SART activations that involve domestic violence, assist the responding PCPO Detective with the execution of any search warrants at the scene, and secure and take temporary custody of any weapons seized during the execution of those warrants.
7. Assist by serving Domestic Violence Temporary Restraining Orders on targets in cases where they cannot be served contemporaneous to the granting of the order by the Court.
8. File investigative reports.

B. Passaic County Prosecutor's Office Special Victims Unit Personnel

When it is determined that a Detective from the Passaic County Prosecutor's Office will respond to a reported incident, it is the responsibility of the Passaic County Prosecutor's Office personnel to:

- a. Conduct forensic video interviews of child victims under the age of 12 at the Child Advocacy Center for any victim under the age of 12 regardless of which agency is the lead investigative agency (usually conducted by a Child Interview Specialist).
- b. Obtain court ordered search warrants, court orders and the serving of subpoenas as required.

- c. Conduct at-scene and follow-up investigations.
- d. Attend medical related meetings or designate personnel to attend as required.
- e. Coordinate the release of information.
- f. Prepare case material for Grand Jury presentation.
- g. Analyze physical evidence.
- h. Obtain outside experts as required.
- i. Prepare case material for trial.

C. N.J.S.A. 2C:14-2.1 Sexual Assault Initial Incident Report and Victim Review Form

Pursuant to N.J.S.A. 2C:14-2.1, in every case where a victim reports they were the victim of a sexual assault as defined in N.J.S.A. 2C:14-2, the Law Enforcement officer taking the initial report from the victim must complete a Sexual Assault Initial Incident Report Form. Additionally, a designee from the County Prosecutor's Office shall follow up with the victim and provide them an opportunity to review the Initial Incident Report Form and complete the Victim Review Form. Once a representative from the PCPO has reviewed the Victim Review Form with the victim, the investigating agency shall be notified to finalize the Initial Incident Report form.

Furthermore, in accordance with N.J.S.A. 2C14-2.1:

1. The Chief Assistant Prosecutor or the Assistant Prosecutor in Charge of the PCPO SVU shall serve as the County Prosecutor's Liaison to the local agencies and the Attorney General's Office.
2. For all cases involving a reported sexual assault under 2C:14-2 in which the PCPO SVU assumes the role as the lead investigative agency, PCPO Personnel will complete BOTH the Initial Incident Report and the Victim Review Form at the time of the response.
3. For all cases involving a reported sexual assault under 2C:14-2 where the local law enforcement agency is the lead investigative agency, the officer taking the report from the victim shall complete the Initial Incident Report with the victim and then make the required Notification to the PCPO On Call Detective in accordance with AG Directive 2018-5. As part of that

notification, the reporting officer shall provide the SVU On-Call Detective with a summary of the information provided by the victim and the victim's contact information. The reporting officer shall also provide the victim with a copy of the sexual assault victim resource packet and shall inform the victim that they will be contacted by the PCPO at a later time to review the Initial Incident Report and to complete a Victim Review Form. **Prior to the end of their shift**, the officer who completed the Initial Incident Report with the victim shall email a copy of the form to svu@passaiccountynj.org. Upon receiving the form via email, the assigned PCPO Detective will contact the victim and take the necessary steps to complete the Victim Review Form. Once the Victim Review Form has been completed by the assigned PCPO personnel, the reporting officer from the local agency will be notified accordingly and shall finalize the Initial Incident Report.

VI. Advising Victims of Available Resources

After an initial investigation, and in accordance with Attorney General Directive 2018-5, law enforcement must advise a victim of the various protective orders applicable and available to him or her under the law. Those protective orders include:

1. Sexual Offense Restraining Orders ("Nicole's Law Restraining" Order N.J.S.A. 2C:14-12): At the victim's request, a Nicole's Law Restraining Order may be applied for in Superior Court against a defendant charged with an enumerated sex offense. Whenever a victim requests a Nicole's Law Restraining Order, the law enforcement representative receiving the request should contact the On-Call SVU Assistant Prosecutor for the application.
2. Sexual Assault Survivor Protection Act ("SASPA"): Any person claiming to be a victim of non-consensual sexual contact, sexual penetration, or lewdness, or any attempt at such conduct, who is not eligible for a restraining order as a victim of domestic violence may apply for a Temporary or Final Order of Protection. Application for a SASPA can be made to the Family Court, Domestic Violence Intake during regular business hours. This

remedy is not available to a victim of a juvenile actor or in cases involving acts committed by parents, guardians or persons having care, custody or control over a minor; however, a parent or guardian of a juvenile victim may apply for protection on behalf of the minor.

3. Domestic Violence Restraining Order: Temporary or Final Order of Protection issued after a hearing in Family Court for any person 18 years old or older found to be a "victim of domestic violence" pursuant to N.J.S.A. 2C:25-19(d).
4. "No-Contact" Order: This may be issued against a juvenile or adult defendant as a condition of release.

Prior to the conclusion of the initial contact with the victim and/or a parent or guardian, law enforcement shall provide a copy of a "Passaic County Sexual Assault Response Team" brochure that details the resources available to the victim and the PCPO SVU contact information (See Attachment B). Law enforcement shall document the transmittal of the available resources to the victim in a report.

VII. Police Reports

In cases where complaints have been filed, investigative and/or supplemental reports shall be immediately uploaded into infoshare by the local agency. If no complaints have been filed, investigative and supplemental reports shall be emailed upon request to members of the Passaic County Prosecutor's Office Special Victims Unit.

VIII. Investigation Debriefings and Pre-trial Conferences

Debriefing conferences conducted with the Prosecutor's Office Detectives and municipal police officers concerning the investigation and prosecution will be conducted at various intervals to evaluate the merits of the case and to discuss pertinent issues of the investigation. It shall be the responsibility of the Prosecutor's Office Detectives to ensure that the municipal police officers are apprised of case developments and the scheduling of pre-trial conferences.

IX. Criminal Complaints and Discovery

All complaints arising out of an investigation where the PCPO Special Victims Unit is the lead agency will be completed by PCPO SVU Detectives upon the prior review and approval of the Supervising Assistant Prosecutor or their designee. For all cases where the Municipal Law Enforcement Agency is the lead agency and charges are sought, the complaints will be filed by that agency subject to the prior review and approval by an SVU Assistant Prosecutor in accordance with the Passaic County Directive On Criminal Justice Reform (Revised October 3, 2022).

Additionally, at the time any complaint is filed by a local agency, the local investigative agency shall transmit all case file materials to the PCPO through Infoshare, including all reports, any identification procedures, lab submissions, written statements, and/or documentary evidence. Additionally, at the time any complaint is filed by a local agency, the local investigative agency shall transmit all surveillance videos, video-taped statements, and/or digital media to the PCPO through Evidence.com, or shall deliver said digital media to the PCPO SVU, or make said digital media available to the PCPO SVU within 24 hours of filing the complaint.

X. Release of Evidence

All evidence involved in a case falling under this Protocol shall not be released or destroyed without first obtaining written approval and release by the Chief Assistant Prosecutor or the Assistant Prosecutor in Charge of the PCPO SVU .

XI. Release of Reports

In cases falling under this Protocol, where the local agency is the lead investigative agency, the local agency shall notify the Assistant Prosecutor in charge of the PCPO SVU of any requests for information received by the local agency through a request for discovery, a subpoena, a court order, and/or a request made pursuant to the Open Public Records Act. Each agency shall respond accordingly to such requests consistent with applicable statutes, court rules, court orders, and/or Attorney General Guidelines or Directives. In certain cases, preliminary

reports may be shared with DCPD. All DCPD requests for reports must be reviewed by a Special Victims Unit Assistant Prosecutor prior to dissemination.

XII. Media Information

In cases where the PCPO SVU is the lead investigative agency, or cases where the local agency is the lead investigative agency and charges have been approved by an Assistant Prosecutor in accordance with the Passaic County Prosecutor's Law Enforcement Directive On Criminal Justice Reform (Revised October 3, 2022), information shall only be released to the media by the assigned Assistant Prosecutor.