

**The Bill Blackwood
Law Enforcement Management Institute of Texas**

**A Trauma Informed Victim Centered Approach to
Sexual Assault Investigations**

**A Leadership White Paper
Submitted in Partial Fulfillment
Required for Graduation from the
Leadership Command College**

**By
James D. Allen II**

**Manor Police Department
Manor, Texas
February 2019**

ABSTRACT

For a variety of reasons, sexual assault is severely under reported, which makes investigating the crimes very difficult. More difficult still is the fact that victims are falling through gaps and missing services that could be lifesaving. Improving the police response, victim satisfaction, gaps in services, police legitimacy, and increase reporting of sexual assault can be obtained through a system change and implementing the trauma-informed victim centered approach to sexual assault investigations. This means understanding how trauma affects victims and ensuring the victim's needs are met. It further requires that victims be informed of their rights, services, and the criminal justice process.

TABLE OF CONTENTS

	Page
Abstract	
Introduction	1
Position	2
Counter Arguments	6
Recommendation	10
References	14

INTRODUCTION

Every police officer has his or her idea about what a perfect investigation entails. Typically, it involves collecting all the evidence, having a cooperative victim and witness, a full confession, or at least sufficient probable cause to obtain a warrant and ultimately a conviction. If this were a perfect world, every case would be like this. Albeit, this is not a perfect world, and most often cases do not always go as desired. The best an officer can do is control how they respond to calls.

The officer or investigator is expected to maintain a certain level of detachment, professionalism, and objectivity. In the officer's zeal to build the perfect case, victims can get lost in the mix. An officer's attempt to build a good case can result in the victim being treated more like a witness by the officer (Maier, 2008). A sad fact is victims often feel re-victimized, re-traumatized, or like they will not be believed by those who are coming into assist. This is a contributing factor in why sexual assault is the most under reported violent crime (Rich & Seffrin, 2012). If it is reported, the victim may not wish to participate in the investigation or prosecution. It has been found in two separate studies that victims' experiences with the justice system was harmful and that they "expressed concern about achieving justice through the system" (as cited in Maier, 2008, p. 787). According to the 2015 criminal victimization report, there was an increase in the rate of sexual assault victimizations "from 1.1 per 1,000 persons in 2014 to 1.6 per 1,000 in 2015," indicating a 45% increase between 2014 and 2015 (Truman & Morgan, 2016, p. 2).

Ultimately, in the cases that were reported, victims experienced gaps in victim services and were dissatisfied with their experience with law enforcement and the

justice system as a whole. According to the 2017 National Crime Victims' Rights Week Resource Guide, it was reported that only 5% of men and 21% of women indicated that they received some form of victim assistance in 2015 (The National Center for Victims of Crime, 2017). This requires law enforcement to redefine the approach to investigations, include what a successful conclusion to a case should be, ask what overall victim satisfaction should be, and whether there are appropriate services being offered. It should prompt law enforcement organizations to re-examine what can be done to improve the reporting of sexual assault, ensure victims are offered the needed services, improve the overall victim satisfaction and increase police legitimacy. In order to reduce re-victimization and increase sexual assault reporting, law enforcement agencies should adopt a trauma-informed and victim-centered approach to sexual assault investigations.

POSITION

Understanding where to begin requires knowledge of what a trauma-informed victim centered approach is. This will be accomplished by breaking it into two parts: 1) defining what trauma-informed means and what victim centered means; 2) examining how a model such as this impacts an investigation and how it can be implemented from a policy standpoint.

It starts by understanding what being trauma-informed means. Being trauma-informed is "recognizing that people often have many different types of trauma" (The Trauma Informed Care Project, n.d.). It is not limited to just the different types of trauma a person may encounter. It is extended to how people behave following a traumatic event. Victims often display behaviors that may be in conflict to the perception of how

someone would think someone should behave, and this may lead an officer to be suspicious of the truthfulness of the victim's statement (Long, 2007). In short, being trauma-informed is having a basic understanding that everyone will experience trauma differently, and it may manifest in different ways that sometimes may be contrary to expectation.

The next aspect of this model is victim-centered. The basic concept of a victim-centered approach is finding out what the victim wants out of the investigation and empowering the victim by giving him or her input in the case. The Office for Victims of Crime (n.d.) defines the victim-centered approach as "the systematic focus on the needs and concerns of a victim to ensure the compassionate and sensitive delivery of services in a nonjudgmental manner" (OVC Training and Technical Assistance Center, para. 2). This is effectively identifying the victim's needs, providing services or informing them of available services, and educating the victim on the investigative and justice process. A victim-centered approach is about providing them options and information.

This is a whole system change. Conducting a trauma-informed-victim-centered (TIVC) investigation changes the way dispatchers take the call, the way first responders conduct the initial investigation, how investigators work the case, and even how and when the available victim services and advocates respond to the case. This application requires a perception change by law enforcement. The law enforcement response is of vital importance "as they act as important gatekeepers to the criminal justice system" (Robinson & Stroshine, 2004, p. 302). The TIVC approach is a multidisciplinary process involving law enforcement working with victim services to provide victims of sexual assault with options and information.

There is only one opportunity to make a first impression, and the attitudes and reactions of police staff can influence how a victim acts. The skill level and abilities of the officers responding to the assault play an important role in victim cooperation, the quality of the report, and re-traumatization of the victim (Rich & Seffrin, 2012). Police face an uphill battle when investigating sexual assaults due to the degree that they are under reported. There are many cases where the victim made an outcry to someone close to them but not to the police. Research has found that the cases most likely to be reported are those where there was high degree of suffering by the victim (Rich & Seffrin, 2012). There are many factors that influence an officer's response to a sexual assault. How the officer responds can often result in the re-victimizing or re-traumatization of the victim. Specific behaviors identified as problematic in policing can include "invasive questioning, victim-blaming attitude, general insensitivity, and refusal to proceed with the criminal investigation" as well as the repeated telling of the story (Maier, 2008, p. 793). The TIVC approach makes strides to avoid this and seeks to train officers to respond to the needs of the victim and promote healing.

Incorporating a trauma informed victim centered investigative model could help increase reporting of sexual assaults. This requires agencies to determine the barriers a victim faces. Research suggests there are three major influences that silence a victim. The first of which is the "negative reaction from professionals," leading victims to believe that reporting the crime would be ineffective, followed by how family and friends respond, which may lead to "self-blame", and how these reactions made the victim question if what they experienced was sexual assault (Ahrens, 2006, p. 263). The societal perceptions cause the victim to fear opening up about what happened. They

are afraid of not being believed or will blame themselves for what happened, and this behavior is reinforced by the negative reactions of law enforcement and societal myths about sexual assault, gender, and other biases.

These experiences can lead the victim to lose confidence in an agency's ability to investigate the crime and cause them to question the agencies legitimacy and trustworthiness. The implication of confidence and legitimacy directly impacts reporting and victim cooperation. It has been found that victims are more likely to cooperate with police when they believe the police authority is legitimate (Tyler, 2004, p.89).

The public's perception of a police agency's legitimacy is correlated to the amount of trust the public holds in the agency. The public's confidence in the agency and its officers "involves the belief that the police are honest, that they try to do their jobs well, and that they are trying to protect the community against crime and violence" (Tyler, 2014, p. 9). When the community they serve holds an agency in this esteem, there is found a greater deal of cooperation from the public. If the community believes police actions "are reasonable and appropriate," police find "the public more deferential to and supportive of their actions" (Tyler, 2014, p.12). This confidence and public trust can influence the reporting of sexual assaults as well as impact the overall victim satisfaction.

A TIVC approach can vastly improve victim satisfaction. People want to be treated with respect and dignity and they hold a certain expectation that as victims the police will treat them as such. A victim wants his or her trauma to be acknowledged. A trauma-informed officer demonstrating and understanding this trauma, and whether they are able to direct the victim to the appropriate services can foster greater victim

cooperation (IACP, 2008). It has been found that victim satisfaction increased when police met their expectations, and it increased significantly when the police treated them with “courtesy and respect” (Robinson & Stroshine, 2005, p. 313). It is vital that officers and investigators take a proactive role in meeting the victim’s expectations in how they are treated. The TIVC approach to sexual assault investigations requires law enforcement agencies respond to and investigate the crimes “in a manner that restores the victim’s dignity and sense of control” and ensures that the responding officers above all else help the victim heal (IACP, 2015, p. 2).

Another positive impact of the TIVC approach is the improved provision of services. This approach provides the opportunity to link the victim to the necessary services to empower and enable them to heal. The International Association of Chiefs of Police (IACP) (2008) identified seven needs of victims that law enforcement should meet: safety, support, information, access, continuity, voice, and justice. This is ensuring the victim feels safe from further harm, sufficient information and opportunity that they are able to participate in the investigation and justice process, and that they are able to see the suspects are held accountable (IACP, 2008).

COUNTER ARGUMENTS

A major argument that some factions hold about the TIVC approach is that the investigator loses their impartiality and objectivity. There is an expectation of the impartial, detached, and objective investigator. They want the envisioned atypical idea of a police officer “Joe Friday – Just the facts ma’am” archetype with the flat expression and monotone, matter-a-fact, and direct line of questioning. The argument is that the TIVC approach “place detectives in a role-conflict” where they are required to be both

the “impartial fact finder and counselor” to the victim, and it implies that by police taking the TIVC approach it violates the accused’s presumption of innocence (Perry, 2016, para. 5).

It is being argued that by the investigator approaching the investigation on the presumption that the statements being made by the victim are true, and this influences the course of the investigation. The issue being raised is that when the officer or investigator takes this action, this impacts how the investigation is performed. It is implied that there is a confirmation biased created. All subsequent and ensuing law enforcement action is predicated on this assumption. It is argued that the investigator will no longer be objective in their pursuit and will seek only the evidence and information that confirms the suspect’s guilt. Perry (2016) argued that it is an investigator’s duty to collect all the evidence and statements in an “impartial” manner before making a determination. Perry (2016) also stated that investigators must collect all evidence, both inculpatory and exculpatory in nature, and make that evidence available to the defendant.

In examining this argument, there are some misperceptions about what TIVC investigations really are. First, it assumes that victim-centered protocols mean that an officer will always respond. The fact is the vast majority of sexual assaults are not reported, but this does not mean that services cannot be made available to victims. This means making a non-report sexual assault program available to victims who do not wish to file a report to police right away, but they are still able to obtain a Sexual Assault Forensic Exam (SAFE) (Harris, 2016). In regard to the presumption of innocence claim and the supposed loss of impartiality argument, there is a contradiction present. If the

investigating officer were to remain impartial and objective, they would not make any presumptions of guilt or innocence as this may wrongly influence the investigation. It is the duty of the officer to conduct a thorough investigation and determine if probable cause exists for an arrest. It is not the officer's duty to determine if there is proof beyond a reasonable doubt. That is a burden that falls upon the prosecutor. As to the impartiality of the investigator, the TIVC approach is one of compassionate impartiality. It has been found that people expect this. Anytime someone has contact with law enforcement, they expect to be treated with respect and with compassion, and they especially want to be heard (Rosenbaum et al., 2015, p. 358).

The third issue with Perry's (2016) argument regarding the releasing of all evidence, regardless of its nature, is that law enforcement and the prosecution already has a statutory obligation to disclose all evidence. It has been long held that the prosecution is required to release exculpatory evidence as the result of *Brady v. Maryland* (1963). In more recent events, new laws have been enacted due to prosecutorial misconduct where evidence was withheld that resulted in a wrongful conviction. It is now a codified law that law enforcement and the prosecution is required be required under the Michael Morton Act to release all evidence to the defendant regardless of the nature of the evidence (Code of Criminal Procedure, 2015).

Another argument against the TIVC investigative approach to sexual assaults is presented by the Human Rights Defense Center and is shared by other organizations as well. In an October 2017 article, David Reutter, calls into question *The Blueprint for University Police: Responding to Campus Sexual Assault* produced by the University of Texas in Austin which utilizes the TIVC. Reutter (2017) makes several accusations in

the article that imply that investigators are no longer neutral fact finders in the TIVC approach. One point of contention in particular cites concern that the blueprint suggests that a suspect whose story may be more consistent or make more sense may not be credible (Reutter, 2017). Ashe Schow references the same argument in a 2016 *Washington Examiner* article. Both articles also raise concerns regarding the blueprints reference to how prosecutors can counter a suspect's defense and the evidence needed, as well as prosecutorial defense strategies. Both authors also raise concerns regarding the use of possible signs of trauma as facts supporting the case. Schow (2016) stated that by this standard "there is no such thing as an innocent accused student" (para. 10). The authors cite Samantha Harris of the Foundation for Individual Rights in Education who, in a 2016 article, reviewed the blueprint. Harris raised concerns regarding the recommendation that investigators use active strategies to counter a suspect's defense (Schow, 2016).

The implication, again, is that by utilizing these strategies and techniques, the investigator will no longer be objective and neutral. Where all three of these authors miss the mark is that it actually will make for a more complete case. The blueprint provides investigators with possible strategies a defense attorney will use should a case go to trial. The blueprint also provides a list of evidence needed to counter defenses a suspect may claim, such as denial that the assault took place, that it was someone else, or that it was consensual (Busch-Armendariz, Sulley, & Hill, 2016, p. 66). It is the investigator's job to put together a complete and solid case should it go to trial. Seeking this listed evidence can either prove or disprove the allegations. A criminal investigator

would not be doing their job if they did not consider what a defense attorney would ask or do should a case go to trial.

Conducting a complete, thorough investigation applies to the argument about the credibility of the suspect or victim's statements. A complete investigation would be having the victim do a SANE exam, collecting victim and witness statements, and obtaining a statement from the suspect. Then an investigator would begin to corroborate the details and determine the facts of the case. The primary duty of law enforcement to conduct a thorough investigation is not changed. The blueprint provides the list of three defense types: denial, identity, and consent; it details the evidence needed to counter those defenses (Busch-Armendariz et al., 2016, p. 66). The amount of evidence listed for each defense allows for investigators to fully corroborate or disprove any statements. This thoroughness is beneficial to all parties concerned.

RECOMMENDATION

Law enforcement should seek the methodologies and practices of the trauma-informed victim-centered approach to investigations that will empower sexual assault victims to come forward, which will thereby increase reporting, reduce the possibility of re-victimization, and improve overall victim satisfaction. Sexual assault remains the most under reported violent crime in America (Rich & Seffrin, 2012). The proliferation of rape myths, the negative stigma associated with sexual assault, the victim's fears of not being believed, and how people will perceive and judge them are just a few of the reasons among many as to why victims do not report sexual assaults. According to the National Crime Victimization Survey (NCVS) it is estimated that only 32% of sexual assaults were reported to police (Truman & Morgan, 2016). There also appears to be a

lack of confidence in the criminal justice system to actually obtain justice for the victim. It would seem the statistics support this doubt. Some estimates indicate that out of every 1,000 sexual assaults, only seven cases end in a conviction and only six of those convicted will see the inside of a jail cell (RAINN, 2016).

Another area that law enforcement and the criminal justice system as a whole can improve upon is in informing victims of available victim services. According to the NCVS, there was a decrease on the number of victims of intimate partner violence who received victim services going from 28.2% down to 18.3% (Truman & Morgan, 2016). An officer who responds to a scene may offer services, but the victim may refuse services. In one study, it was found that only 3% of victims surveyed reported that they received services, and only 43% were even informed of the services available (Sims, Yost, & Abbott, 2005). This further supports the assertion that there is a gap in services being provided to victims of crime in general, but more specifically to victims of sexual assault.

Looking at victim satisfaction and how law enforcement can improve starts from the moment the officer is dispatched. Any preconceived notions about the victim, sexual assault, or any other bias or attitude must be checked at the door. Studies have found that a great deal of victim satisfaction relies on how police treats the victim and if they perceive the officers as trustworthy (Posick & Policastro, 2013). It is vital that officers be able to recognize and acknowledge a victim's trauma. Training can enhance an officer's recognition and ability to respond to the needs of the victim (Posick & Policastro, 2013).

From an investigatory standpoint, there are other TIVC tools available to investigators. One such tool is Forensic Experiential Trauma Interviewing (FETI). The

various techniques and styles of interviewing that officers are generally taught is geared towards the suspect. It is designed to elicit a confession. These same techniques are often used on victims and can result in re-victimization. FETI is defined as “a science-based methodology” that teaches interviewers to use “empathic listening and brain-based cues to facilitate collection of psychological evidence from those that have experienced trauma or high stress” (Certified FETI, 2018, para. 2). Research has found that a brain that is experiencing trauma does not always take in everything it is happening as the event can “diminish and sometimes distort the cognitive or thinking memory” (Battered Women’s Justice Project, 2014, para. 15). Russell Strand, a former Army civilian researcher and developer of FETI, credits a 2013 increase in reports of sexual assault to the “growing level of confidence in our system response” (Buckley, 2014, para. 13).

As with all things, there is no one perfect answer to how to approach a TIVC investigation. The preferred ideal approach to TIVC investigations is one that comes from a multidisciplinary platform. This is a concept of involving victim services on the front end of the sexual assault investigation to educate the victim, provide services, and basically inform them of their options, which, in turn, empowers the victim. Law enforcement agencies have options on how to apply the TIVC concept. The IACP Enhancing Law Enforcement Response to Victims (ELERV) is one option agencies have. This program is described as an “evolving process” that places the victim’s needs “at the center of the response to crime” (IACP, 2008, p. 12). This option is available to agencies that do not have direct victim services available. Another option is one like the concept being developed by the Travis County Sheriff’s Office Victim Services division.

The concept is there are four possible reporting pathways (911 calls, reports to responding officers, on-line, or walk-in) and four reporting options (Sexual Assault Forensic Exam (SAFE) only, statement only, partial investigation, or a complete investigation) (Durall, 2017). In any situation, once the victim's safety is confirmed, the initial contact will be by a victim services representative who will inform the victim of their options and determine a course of action. Both available options would require additional outreach to help improve reporting.

The primary goal is to ensure the victim is safe and that any trauma be assessed and cared for. A TIVC investigation would ensure the victim's needs are met. It is further to ensure that the victim is informed of their options, the services available, and the process of the investigation. The end result being increased report, improved services, and greater overall victim satisfaction.

REFERENCES

- Ahrens, C. E. (2006). Being silenced: The impact of negative social reactions on the disclosure of rape. *American Journal of Community Psychology*, 38(3-4), 263-274. doi: 10.1007/s10464-006-9069-9
- Battered Women's Justice Project. (2014) Shifting the paradigm for investigating trauma victimization. Retrieved from <https://www.bwjp.org/resource-center/resource-results/shifting-the-paradigm-for-investigating-trauma-victimization.html>
- Buckley, M. K. (2014). Army civilian develops interview method to help unlock memories, reduce revictimization. Retrieved from https://www.army.mil/article/130936/army_civilian_develops_interview_method_to_help_unlock_memories_reduce_revictimization
- Busch-Armendariz, N., Sulley, C., & Hill, K. (2016). The blueprint for campus police: Responding to sexual assault. *The University of Texas at Austin, Institute on Domestic Violence & Sexual Assault, School of Social Work*. Retrieved from <http://sites.utexas.edu/idvsa/title-blueprint-for-campus-police-responding-to-sexual-assault/>
- Certified FETI. (2018). What is Certified FETI? Retrieved from <https://www.certifiedfeti.com/>
- Durall, A. (2017). *TCSO adult sexual assault response*. Austin, TX: Travis County Sheriff's Office.
- Harris, S. (2016). University of Texas 'blueprint' for campus police raises fairness concerns. *Foundation for Individual Rights in Education*. Retrieved from

<https://www.thefire.org/university-of-texas-blueprint-for-campus-police-raises-fairness-concerns/>

International Association of Chiefs of Police (IACP). (2008). *Enhancing law enforcement response to victims: A 21st century strategy*. Retrieved from http://www.theiacp.org/Portals/0/pdfs/responsetovictims/pdf/pdf/IACP_Strategy_REV_09_Layout_1.pdf

International Association of Chiefs of Police (IACP). (2015). *Sexual assault response policy and training content guidelines*. Retrieved from <http://www.theiacp.org/Portals/0/documents/pdfs/IACPSexualAssaultResponsePolicyandTrainingContentGuidelines.pdf>

Long, J. G. (2007). Introducing expert testimony to explain victim behavior in sexual and domestic violence prosecutions. *National District Attorneys Association*. Retrieved from <https://ndaa.org/resource/introducing-expert-testimony-to-explain-victim-behavior-in-sexual-and-domestic-violence-prosecutions/>

Maier, S. L. (2008). 'I have heard horrible stories . . .' Rape victim advocates' perceptions of the revictimization of rape victims by the police and medical system. *Violence Against Women*, 14(7), 786. doi: 10.1177/1077801208320245

Office for Victims of Crime, Office of Justice Programs. (n.d). *Victim-Centered Approach*. Retrieved from <https://www.ovcttac.gov/taskforceguide/eguide/1-understanding-human-trafficking/13-victim-centered-approach/>

Perry, C. (2016). Victim-centered investigations undermine the presumption of innocence and victimize the innocent: Report of an expert panel. *Center for Prosecutor Integrity*. Retrieved from <http://www.prosecutorintegrity.org/wrongful->

conviction-day/victim-centered-investigations-undermine-the-presumption-of-innocence-and-victimize-the-innocent-report-of-an-expert-panel/

Posick, C., & Policastro, C. (2013). Victim injury, emotional distress, and satisfaction with the police: The evidence from a victim-centered, emotionally-based police response. *Journal of the Institute of Justice and International Studies*, 13, 185-196. Retrieved from <https://www.researchgate.net/publication/261472773/download>

Rape, Abuse & Incest National Network (RAINN). (2016). *About sexual assault*. Retrieved from <https://www.rainn.org/about-sexual-assault>

Reutter, D. (2017). Victim-centered sexual abuse investigations abandon concept of neutrality. *Prison Legal News*. Retrieved from <https://www.prisonlegalnews.org/news/2017/oct/10/victim-centered-sexual-abuse-investigations-abandon-concept-neutrality/>

Rich, K., & Seffrin, P. (2012). Police interviews of sexual assault reporters: Do attitudes matter? *Violence and Victims*, 27(2), 263-79. Retrieved from <https://www.ncbi.nlm.nih.gov/pubmed/22594220>

Robinson, A. L. & Stroshine, M. S. (2005). The importance of expectation fulfillment on domestic violence victims' satisfaction with the police in the UK. *Policing*, 28(2), 301 – 320. Retrieved from https://epublications.marquette.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=1021&context=socs_fac

Rosenbaum, D. P., Lawrence, D. S., Hartnett, S. M., McDevitt, J., & Posick, C. (2015). Measuring procedural justice and legitimacy at the local level: the police-

- community interaction survey. *Journal of Experimental Criminology*, 11(3), 335-366. doi: 10.1007/s11292-015-9228-9
- Schow, A. (2016). 'Victim-centered' sexual assault investigations designed to railroad accused." *Washington Examiner*. Retrieved from <https://www.washingtonexaminer.com/victim-centered-sex-assault-investigations-designed-to-railroad-accused>
- Sims, B., Yost, B., & Abbott, C. (2005). Use and nonuse of victim services programs: Implications from a statewide survey of crime victims. *Criminology & Public Policy*, 4(2), 361-383. doi: 10.1111/j.1745-9133.2005.00026.x
- Texas Code of Criminal Procedure. Art. 39.14. (2015).
- The National Center for Victims of Crime. (2017). *Sexual violence*. Retrieved from https://victimconnect.org/wp-content/uploads/2015/09/2017NCVRW_SexualViolence15_Final.pdf
- The Trauma Informed Care Project. (n.d.). *Become trauma informed*. Retrieved from <http://www.traumainformedcareproject.org/index.php>
- Truman, J. L. & Morgan, R. E. (2016). Criminal victimization, 2015. *U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics*. Retrieved from <https://www.bjs.gov/content/pub/pdf/cv15.pdf>
- Tyler, T. R. (2004). Enhancing police legitimacy. *Annals of the American Academy of Political and Social Science*, 593, 84-99. doi: 10.1177/0002716203262627
- Tyler, T. R. (2014). Legitimacy and procedural justice: A new element of police leadership. *Police Executive Research Forum*. Retrieved from <https://www.ncjrs.gov/App/Publications/abstract.aspx?ID=268357>