

Sexual Assault Investigations

601.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the investigation of sexual assaults. These guidelines will address some of the unique aspects of such cases and the effects that these crimes have on the victims.

Mandatory notification requirements are addressed in the Child Abuse and Adult Abuse policies.

601.1.1 DEFINITIONS

Definitions related to this policy include:

Sexual assault - Any crime or attempted crime of a sexual nature, to include, but not limited to, offenses defined in Md. Code CR § 3-301 et seq. (Sexual Crimes).

Sexual Assault Response Team (SART) - A multidisciplinary team generally comprised of advocates; law enforcement officers; forensic medical examiners, including sexual assault forensic examiners (SAFEs) or sexual assault nurse examiners (SANEs) if possible; forensic laboratory personnel; and prosecutors. The team is designed to coordinate a broad response to sexual assault victims (Md. Code CP § 11-923).

601.2 POLICY

It is the policy of the Havre de Grace Police Department that its members, when responding to reports of sexual assaults, will strive to minimize the trauma experienced by the victims, and will aggressively investigate sexual assaults, pursue expeditious apprehension and conviction of perpetrators, and protect the safety of the victims and the community.

601.3 QUALIFIED INVESTIGATORS

Qualified investigators should be available for assignment of sexual assault investigations. These investigators should:

- (a) Have specialized training in, and be familiar with, interview techniques and the medical and legal issues that are specific to sexual assault investigations.
- (b) Conduct follow-up interviews and investigation.
- (c) Present appropriate cases of alleged sexual assault to the prosecutor for review.
- (d) Coordinate with other enforcement agencies, social service agencies, and medical personnel as needed.
- (e) Provide referrals to therapy services, victim advocates, and support for the victim (Md. Code CP § 11-926).
- (f) Participate in or coordinate with the SART or other multidisciplinary investigative teams as applicable.

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601.4 REPORTING

In all reported or suspected cases of sexual assault, a report shall be written and assigned for follow-up investigation. This includes incidents in which the allegations appear unfounded or unsubstantiated.

601.5 COLLECTION AND TESTING OF BIOLOGICAL EVIDENCE

Whenever possible, a SART member should be involved in the collection of forensic evidence from the victim.

When the facts of the case indicate that collection of biological evidence is warranted, it should be collected regardless of how much time has elapsed since the reported assault.

If a drug-facilitated sexual assault is suspected, urine and blood samples should be collected from the victim as soon as practicable.

Subject to requirements set forth in this policy, biological evidence from all sexual assault cases, including cases where the suspect is known by the victim, should be submitted for testing (Md. Code PS § 2-504(a)(3)(iii)).

Victims who choose not to assist with an investigation, do not desire that the matter be investigated, or wish to remain anonymous may still consent to the collection of evidence under their control. In these circumstances, the evidence should be collected and stored appropriately.

601.5.1 DNA TEST RESULTS

Members investigating sexual assault cases should (Md. Code CP § 11-926; COMAR 02.08.01.03):

- (a) Within 30 days of any request by a victim, provide notification regarding the [DepartmentOffice]'s decision as to whether to send a sexual assault evidence kit for analysis; and if sent, the status and results, unless doing so would impede or compromise the investigation.
- (b) If no request is made, victims should be notified of any DNA test results as soon as reasonably practicable.

A SART member should be consulted regarding the best way to deliver biological testing results to a victim so as to minimize victim trauma, especially in cases where there has been a significant delay in getting biological testing results (e.g., delays in testing the evidence or delayed DNA databank hits). Members should make reasonable efforts to assist the victim by providing available information on local assistance programs and organizations as provided in COMAR 02.08.02.04 and the Victim and Witness Assistance Policy.

Members investigating sexual assault cases should ensure that DNA results are entered into databases when appropriate and as soon as practicable.

Pursuant to COMAR 02.08.01.04 § B the Havre de Grace Police Department will retain sexual assault evidence kits for 20 years unless:

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- (a) the case for which the evidence was collected resulted in a conviction and the sentence has been completed; or
- (b) all suspects identified by testing a sexual assault evidence collection kit are deceased.

Pursuant to COMAR 02.08.01.04 § D, on written request by the victim from whom the evidence was collected, and if the Havre de Grace Police Department has custody of a sexual assault evidence collection kit or other crime scene evidence relating to a sexual assault shall:

- (a) notify the victim no later than 60 days before the date of the intended destruction or disposal of the evidence; or
- (b) retain the evidence for 12 months longer than the period specified in COMAR 02.08.01.04 §B or for a time period agreed to by the victim and the Havre de Grace Police Department.

601.6 VICTIMS OF SEXUALLY ASSAULTIVE BEHAVIOR - WAIVERS OF RIGHTS - PROHIBITION (PER: MARYLAND POLICE TRAINING STANDARDS COMMISSION- JULY 2020)

1. The officer/investigator should honor the confidentiality of the victim.

- (a) Officers/investigators should make efforts to provide a private and comfortable space for victims, especially when being asked to disclose details of their case.
- (b) Officers/investigators should make an effort to limit the number of disclosures that need to be made.
- (c) Officers/investigators should be aware, and advise victims if appropriate, that the details of their case can, and will, become a matter of public record and cannot be fully protected as confidential.
- (d) Victims should be advised that the services provided by certified sexual assault crisis programs are confidential.
- (e) The officer should not suggest a victim of sexually assaultive behavior sign a waiver of rights during the initial contact with the victim or during the continued investigation.

2. The officer/investigator should be aware of the potential to re-traumatize the victim when conducting follow-up contacts.

3. The officer/investigator should inform the victim that the officer, or an officer within the agency who investigates sexual assaults, will follow-up with the victim within 30 days of the initial contact to confirm the victim continues to request the suspension of the investigation and the officer/investigator will discuss how and when follow-up contact will be made.

- (a) Victims should be given the opportunity to indicate the preferred manner in which contact will be made via phone, e-mail, mail, or in-person.
- (b) If the victim would like to be contacted by phone, the officer/investigator should determine if a voicemail can be left and with what information.
- (c) The officer should document the victim's preference in the report.

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4. The officer/investigator should provide the victim with the appropriate contact information for the law enforcement agency and/or assigned investigator.
 - (a) Victims should be advised to contact the agency, or assigned investigator, at any time, with questions about their case; and/or
 - (b) If they have decided to pursue a criminal investigation.
5. The officer/investigator should provide the victim with contact information for a certified sexual assault crisis program serving the jurisdiction at the time of the initial contact.
 - (a) Officers/investigators should advise victims that discussions with an advocate from the certified sexual assault crisis program are confidential; and
 - (b) Officers/investigators should advise victims that information discussed with the advocate will not be shared with the investigator without their express consent.
6. The officer/investigator should follow-up with the victim no later than 30 days following the initial contact. If the victim continues to request a suspension of the investigation:
 - (a) the officer/investigator should provide contact information for the appropriate individual or unit at the time of the follow-up;
 - (b) the officer should request the victim advise the agency if a decision has been made to continue the investigation or to continue the decision to suspend the investigation.
7. The officer should advise the victim any decision to suspend an investigation will not be considered permanent and, should the victim choose to pursue a criminal investigation at a later date, the case may be re-opened for investigation.
 - (a) The officer/investigator should again provide contact information and should provide information for a certified sexual assault crisis program serving the jurisdiction.
 - (b) The officer should notify the victim of any statute of limitations.
8. The officer should document this contact in the appropriate record.

601.7 TRAINING

Subject to available resources, periodic training should be provided to:

- (a) Members who are first responders. Training should include:
 1. Initial response to sexual assaults.
 2. Legal issues.
 3. Victim advocacy.
 4. Victim's response to trauma.
- (b) Qualified Investigators, who should receive advanced training on additional topics. Advanced training should include:
 1. Interviewing sexual assault victims.

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2. SART.
3. Medical and legal aspects of sexual assault investigations.
4. Serial crimes investigations.
5. Use of community and other federal and state investigative resources, such as the Violent Criminal Apprehension Program (ViCAP).
6. Techniques for communicating with victims to minimize trauma.

601.8 VICTIM INTERVIEWS

The primary considerations in sexual assault investigations, which begin with the initial call the victim makes to Dispatch, should be the health and safety of the victim, the preservation of evidence, and preliminary interviews to determine if a crime has been committed and to attempt to identify the suspect.

Whenever possible, a member of the SART should be included in the initial victim interviews.

An in-depth follow-up interview should not be conducted until after the medical and forensic examinations are completed and the personal needs of the victim have been met (e.g., change of clothes, bathing). The follow-up interview may be delayed to the following day based upon the circumstances. Whenever practicable, the follow-up interview should be conducted by a qualified investigator.

No opinion of whether the case is unfounded should be included in a report.

Victims should not be asked or required to take a polygraph examination (34 USC § 10451).

Victims should be apprised of applicable victim's rights provisions, as outlined in the Victim and Witness Assistance Policy.

601.9 DISPOSITION OF CASES

If the assigned investigator has reason to believe the case is without merit, the case may be classified as unfounded only upon review and approval of the Division Commander.

Classification of a sexual assault case as unfounded requires the Investigator, CID Supervisor, and Division Commander to determine that the facts have significant irregularities with reported information and that the incident could not have happened as it was reported. When a victim has recanted his/her original statement, there must be corroborating evidence that the allegations were false or baseless (i.e., no crime occurred) before the case should be determined as unfounded.

Pursant to COMAR 02.08.01.05 §B the Havre de Grace Police Department will on or before September 1, 2019 and every two years thereafter, submit the following information to the Office of the Attorney General:

1. The number of sexual assault evidence collection kits in its possession as of June 30th of that calendar year;
2. The date each sexual assault evidence collection kit in its possession was received;

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3. The number of sexual assault evidence collection kits tested within the prior 2 years as of June 30th of that calendar year;
4. The number of sexual assault evidence collection kits destroyed during the prior 2 years as of June 30th of that calendar year;
5. The number of written requests received pursuant to COMAR 02.08.01.04 §D during the prior 2 years as of June 30th of that calendar year.

601.9.1 REQUESTS TO LIMIT OR SUSPEND INVESTIGATION: PURSUANT TO MARYLAND LAW- CRIMINAL PROCEDURE ARTICLE - 11-929

IF A VICTIM REQUESTS THAT THE SCOPE OF AN INVESTIGATION BE LIMITED OR THAT AN INVESTIGATION BE TEMPORARILY OR PERMANENTLY SUSPENDED, THE LAW ENFORCEMENT AGENCY SHOULD:

- (a) THOROUGHLY DOCUMENT THE REQUEST; AND
- (b) FOLLOW UP WITH THE VICTIM IN ACCORDANCE WITH PRACTICES RECOMMENDED BY THE MARYLAND POLICE TRAINING AND STANDARDS COMMISSION

IF A LAW ENFORCEMENT AGENCY VIOLATES THIS SECTION, AN AFFECTED VICTIM MAY BRING AN ACTION SEEKING INJUNCTIVE OR DECLARATORY RELIEF.

ON OR BEFORE JANUARY 1, 2021, EACH LAW ENFORCEMENT AGENCY IN THE STATE SHOULD ADOPT A POLICY TO ENFORCE THE PROVISIONS OF THIS SECTION.

ON OR BEFORE JANUARY 15, 2021, EACH LAW ENFORCEMENT AGENCY SHOULD PROVIDE A COPY OF THE POLICY REQUIRED UNDER THIS SUBSECTION TO THE MARYLAND SEXUAL ASSAULT EVIDENCE KIT POLICY AND FUNDING COMMITTEE.

601.10 CASE REVIEW

The Criminal Investigations Division supervisor should ensure cases are reviewed on a periodic basis, at least annually, using an identified group that is independent of the investigation process. The reviews should include an analysis of:

- Case dispositions.
- Decisions to collect biological evidence.
- Submissions of biological evidence for lab testing.

The SART and/or victim advocates should be considered for involvement in this audit. Summary reports on these reviews should be forwarded through the chain of command to the Chief of Police.

601.11 RELEASING INFORMATION TO THE PUBLIC

In cases where the perpetrator is not known to the victim, and especially if there are multiple crimes where more than one appear to be related, consideration should be given to releasing information to the public whenever there is a reasonable likelihood that doing so may result in developing

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helpful investigative leads. The Criminal Investigations Division supervisor should weigh the risk of alerting the suspect to the investigation with the need to protect the victim and the public, and to prevent more crimes.