

# 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.

For procedures related to Sexual Assault Investigations, see the St. Mary's County Sheriff's Office LE Procedures Manual: [Sex Crimes Investigations - Rape](#)

### 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 St. Mary's County Sheriff's Office 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 JUVENILE VICTIMS**

Investigations involving juvenile victims where care or custody with the suspect does not exist will be conducted in the same manner as other sex assault investigations. If a victim's age and or mental capacity warrant a forensic interview, the interview will be conducted by investigators trained in Forensic Interviewing methods or facilitate the Forensic Interview with the assistance of Child Protective Services (CPS) investigators.

### **601.6 VICTIM INTERVIEWS**

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

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

Note: An in-depth follow-up interview should not be conducted until

- (a) after the medical and forensic examinations are completed. and;
- (b) the personal needs of the victim have been met (e.g., change of clothes, bathing).

The follow-up interview may be delayed based upon the circumstances. Whenever practicable, the follow-up interview should be conducted by a qualified investigator.

Victims will 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, and referred to the Victim/Witness Coordinator for assistance with crisis management. Victims should also be kept informed about the progress of the case.

### **601.7 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)).

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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.

For procedures related to Collection and Testing of Biological Evidence, see the St. Mary's County Sheriff's Office LE Procedures Manual: [Storage of Anonymous Sexual Assault Evidence Kit \(SAEK\)](#)

### 601.7.1 COLLECTION AND TESTING REQUIREMENTS

Members investigating sexual assaults or handling related evidence are required to do the following:

- (a) Offer the alleged victim the opportunity to be taken immediately to the nearest medical facility. The offer shall be made without regard for the place of the alleged sexual assault or where it is reported (Md. Code CP § 11-924(b)).
- (b) Inform any victim who wants to remain anonymous and not file a criminal complaint that the victim may file a criminal complaint in the future (Md. Code CP § 11-926).
- (c) Submit any sexual assault evidence collection kit and any associated reference standards to a forensic laboratory for analysis within 30 days of receipt unless (Md. Code CP § 11-926):
  1. Clear evidence exists that disproves the sexual assault allegation.
  2. The alleged facts do not amount to a sexual assault, abuse, a crime relating to prostitution, or another covered crime.
  3. The victim from whom the evidence was collected declines to give consent for testing.
  4. The evidence was collected from a suspect who has pleaded guilty to the offense for the purpose of entry into the Combined DNA Index System (CODIS).
- (d) If not already completed, take steps to enter any eligible results of the analysis of a kit into CODIS (Md. Code CP § 11-926).
- (e) Promptly retrieve sexual assault evidence collection kits upon notice of their availability (e.g., a hospital calls and advises a kit is ready for law enforcement collection) (COMAR 02.08.01.04).
- (f) Record in the office's records management system all information necessary for reporting the required information about sexual assault evidence collection kits in the member's control or possession to the reporting program established by the Governor's Office of Crime Prevention, Youth, and Victim Services and ensure compliance with related regulations (Md. Code CP § 11-926.1). See the Records Section Policy for reporting responsibilities.

Additional guidance regarding evidence retention and destruction is found in the Property Policy.

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### 601.7.2 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 office'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.

### 601.7.3 ANONYMOUS SEXUAL ASSAULT EVIDENCE KIT (SAEK)

In the State of Maryland sexual assault victims have the option to report a sexual assault at the hospital, remain anonymous, and not have law enforcement involved. When this occurs, the examining nurse at the hospital will conduct the examination and complete the sexual assault kit. The kit is then stored at the hospital. Hospital staff has 30 days to transfer the recovered sexual assault kit to law enforcement for continued storage.

The recovery of the sexual assault kit will be done by a sworn member of the Criminal Investigations Division (CID) or a designated sworn officer within five days of notification from the hospital.

If an anonymous victim decides to have law enforcement investigate the sexual assault, they will obtain the Sheriff's Office assigned case control number from the hospital, and then contact the Sheriff's Office. Once contacted by the anonymous victim, CID personnel will contact a hospital official to verify that the Sheriff's Office assigned case control number matches the sexual assault evidence kit associated with the victim. Once this is verified, the case will be investigated as a sex offense.

## **601.8 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 supervisor.

Classification of a sexual assault case as unfounded requires the supervisor 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

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be corroborating evidence that the allegations were false or baseless (i.e., no crime occurred) before the case should be determined as unfounded.

### **601.9 CASE REVIEW**

The Criminal Investigations 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 Sheriff.

### **601.10 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 appears 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 helpful investigative leads. The Criminal Investigations 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.

### **601.11 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 should receive advanced training on additional topics. Advanced training should include:
  1. Interviewing sexual assault victims
  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

# St. Mary's County Sheriff's Office

LE Policy Manual

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