

# 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 313 and Adult Abuse policies 314.

### 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).

The Baltimore City Sexual Assault Response Team (BCSART) is comprised of the following agencies:

- Mercy Medical
- Baltimore Police Department Special Crimes Unit
- Baltimore City Forensics & Crime Lab
- State's Attorney's Office
- Turnaround, Inc.
- Maryland Coalition Against Sexual Assault
- Baltimore Child Abuse Center (BCAC)

## 601.2 POLICY

It is the policy of the University of Maryland, Baltimore 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:

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- (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 BCSART or other multidisciplinary investigative teams as applicable.

### **601.4 REPORTING**

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

### **601.5 INVESTIGATION**

- (a) The officer/investigator shall honor the confidentiality of the victim.
  - 1. Officers/investigators shall make efforts to provide a private and comfortable space for victims, especially when being asked to disclose details of their case.
  - 2. Officers/investigators shall make an effort to limit the number of disclosures that need to be made.
  - 3. 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.
  - 4. Victims shall be advised that the services provided by certified sexual assault crisis programs are confidential.
  - 5. 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.
- (b) The officer/investigator should be aware of the potential to re-traumatize the victim when conducting follow-up contacts.
- (c) The officer/investigator shall 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.
  - 1. 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.

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2. 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.
  3. The officer should document the victim's preference in the report.
- (d) The officer/investigator shall provide the victim with the appropriate contact information for the law enforcement agency and/or assigned investigator.
1. Victims shall be advised to contact the agency, or assigned investigator, at any time, with questions about their case; and/or
  2. If they have decided to pursue a criminal investigation.
- (e) 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.
1. Officers/investigators should advise victims that discussions with an advocate from the certified sexual assault crisis program are confidential; and
  2. Officers/investigators should advise victims that information discussed with the advocate will not be shared with the investigator without their express consent.
- (f) The officer/investigator shall 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:
1. the officer/investigator shall provide contact information for the appropriate individual or unit at the time of the follow-up;
  2. 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.
- (g) The officer shall 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.
1. The officer/investigator shall again provide contact information and should provide information for a certified sexual assault crisis program serving the jurisdiction.
  2. The officer shall notify the victim of any statute of limitations.
  3. The officer shall document this contact in the appropriate record.

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

#### **601.6 VICTIM INTERVIEWS**

The primary considerations in sexual assault investigations, which begin with the initial call the victim makes to Communications, 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.

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Whenever possible, a member of the BCSART 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 318.

### **601.7 COLLECTION AND TESTING OF BIOLOGICAL EVIDENCE**

Whenever possible, a BCSART 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.

#### **601.7.1 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 department'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 BCSART 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

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information on local assistance programs and organizations as provided in COMAR 02.08.02.04 and the Victim and Witness Assistance Policy 318.

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

### 601.7.2 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 department'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 and Policy 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.

### 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 Criminal Investigation Division Supervisor or designee.

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Classification of a sexual assault case as unfounded requires the Criminal Investigation Division Supervisor or designee 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.

### **601.9 CASE REVIEW**

The Criminal Investigation Division Supervisor or designee 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 BCSART and/or victim advocates shall 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.

### **601.10 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 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 helpful investigative leads. The Criminal Investigation Division Supervisor or designee shall 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, who 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.

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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.