

Sexual Assault Investigations

601.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the investigation of sexual assaults (Utah Code 53-24-101). These guidelines will address some of the unique aspects of such cases and the effects that these crimes have on the victims.

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

601.1.1 DEFINITIONS

Definitions related to this policy include:

Restricted sexual assault kit - A sexual assault kit collected from a victim who is at least 18 years old and at the time of collection declines to have the kit processed or to have the examination form shared with any entity outside of the collection facility (Utah Code 53-10-902).

Sexual assault - Any crime or attempted crime of a sexual nature, to include but not limited to offenses defined in Utah Code, Title 76, Chapter 5, Part 4 (Sexual Offenses).

Sexual assault kit - A package of items that is used by medical personnel to gather and preserve biological and physical evidence following an allegation of sexual assault (Utah Code 53-10-902).

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.

601.2 POLICY

It is the policy of the Utah State University Department of Public Safety that its members take a trauma-informed, victim-centered approach to sexual assaults and to proactively investigate these crimes and prosecute the perpetrator in a manner that helps restore the victim's dignity and sense of control, while decreasing the victim's anxiety and increasing the understanding of the criminal justice system and process.

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.

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- (e) Provide referrals to therapy services, victim advocates and support for the victim.
- (f) Participate in or coordinate with the SART or other multidisciplinary investigative teams as applicable.

601.4 REPORTING

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

601.4.1 VIOLENCE AGAINST WOMEN REAUTHORIZATION ACT (VAWA) GENERAL INFORMATION AND BACKGROUND

The Violence Against Women Reauthorization Act (VAWA) imposes obligations on colleges and universities under its Campus Sexual Violence Act ("SaVE Act") provision, Section 304.

Under VAWA, colleges and universities are required to:

- (a) Report domestic violence, dating violence, and stalking statistical data within the Clery Act annual security report (ASR);
- (b) Adopt certain student discipline procedures, such as for notifying purported victims of their rights; and
- (c) Adopt certain institutional policies to address and prevent campus sexual violence, such as to train in particular respects pertinent institutional personnel.

RESPONSE AND INVESTIGATION

Although most VAWA requirements fall under the responsibility of the institution as overseen by the Director of the Office of Equity, the police department plays a vital role in the implementation of these federal mandates whenever an act of sexual violence is reported and/or occurs.

Officers shall provide all victims of sexual violence with a written explanation of his or her rights and options. VAWA also prescribes standards for the investigation and conduct of student discipline proceedings in domestic violence, dating violence, sexual assault, and stalking cases. Investigative reports taken by police officers shall be made available to the Office of Equity (in accordance with both federal and state confidentiality laws and Utah State University Policy).

601.5 VICTIM INTERVIEWS

The primary considerations in sexual assault investigations, which begin with the initial call 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

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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 shall 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.

601.5.1 MEMBER RESPONSIBILITIES

Upon written request from the victim, or his/her designee, members investigating or receiving a report of an alleged sexual assault shall inform the victim or his/her designee of the following (Utah Code 77-37-3):

- (a) That the victim has the right to request a test for the HIV infection.
- (b) Whether a DNA profile was obtained from the rape kit or other evidence in his/her case.
- (c) Whether that DNA profile was entered into the Utah Combined DNA Index System (CODIS).
- (d) Whether there is a match between that DNA profile or other crime scene evidence and a DNA profile in the Utah CODIS, unless such notice would impede or compromise an ongoing investigation.
- (e) That the victim has a right to designate a person to act as a recipient of the above information.

601.5.2 NOTIFICATION UPON ARREST OR ISSUANCE OF A CITATION

When an officer arrests or issues a citation to a person 18 years of age or older for a qualifying sexual offense, the officer shall provide the individual with the written notice required by Utah Code 78B-7-802. Victims shall be provided notice in accordance with the Victim and Witness Assistance Policy.

601.6 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 the 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.

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.

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601.6.1 COLLECTION AND TESTING REQUIREMENTS

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

- (a) Notify the victim, or the victim's designee, if evidence will not be analyzed in a case involving an unknown perpetrator (Utah Code 77-37-3).
- (b) Take possession of sexual assault kits within one business day after receiving notice from a collecting facility (Utah Code 53-10-904; Utah Code 53-10-907).
 - 1. The member taking possession of the kit should ensure that the required information is entered into the statewide sexual assault kit tracking system within five days of receiving the kit from a collection facility.
- (c) Transfer the kit to the appropriate law enforcement agency within 10 days in cases where the incident occurred in another jurisdiction (Utah Code 53-10-904).
- (d) Submit the kit to the Utah Bureau of Forensic Services within 30 days of obtaining possession of the kit except for cases involving restricted kits (Utah Code 53-10-904).
 - 1. If available, a suspect standard or a consensual partner elimination standard shall be submitted with the sexual assault kit.
 - 2. If not obtained until later, the standards shall be submitted as soon as possible but no later than 30 days after the Department obtained possession of the kit.
 - 3. If the victim informs the Utah State University Department of Public Safety that the victim wants to have the kit processed and agrees to release of the sexual assault examination form with the kit, the kit may no longer be classified as restricted and shall be submitted to the Utah Bureau of Forensic Services as soon as possible, but no later than 30 days after the victim chooses to unrestrict the kit (Utah Code 53-10-904).

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

601.6.2 DNA TEST RESULTS

Members investigating sexual assault cases should ensure that a victim, or their designee, is notified of any DNA test results as soon as reasonably practicable (Utah Code 77-37-3).

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 the Victim and Witness Assistance Policy.

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

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601.7 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 Investigation Unit supervisor.

Classification of a sexual assault case as unfounded requires the Investigation Unit 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 be corroborating evidence that the allegations were false or baseless (i.e., no crime occurred) before the case should be determined as unfounded.

601.8 CASE REVIEW

The Investigation Unit 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 Director of Public Safety/Chief of Police.

601.9 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 Investigation Unit 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.

601.10 TRAINING

Annual training will be provided to:

- (a) Members who are first responders. Training will include:
 - (a) Initial response to sexual assaults.
 - (b) Legal issues.
 - (c) Victim advocacy.
 - (d) Victim's response to trauma.
 - (e) Policies and Procedures related to sexual harassment.
 - (f) Resources available to survivors.

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- (g) Current best practices for investigation sexual assault and relationship violence.
- (b) Qualified investigators, who should receive advanced training on additional topics. Advanced training should include:
 - (a) Interviewing sexual assault victims.
 - (b) SART.
 - (c) Medical and legal aspects of sexual assault investigations.
 - (d) Serial crimes investigations.
 - (e) Use of community and other federal and state investigative resources, such as the Violent Criminal Apprehension Program (ViCAP).
 - (f) Techniques for communicating with victims to minimize trauma.
- (c) All training will include participant evaluations.

601.11 PUBLIC ACCESS

This policy shall be published on the Department website for public access (Utah Code 53-24-101).