

Sexual Assault Investigations

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

602.1.1 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 Utah Code, Title 76, Chapter 5, Part 4 (Sexual Offenses).

Sexual Assault Response Team (SART) - A multidisciplinary team generally comprised of advocates, law enforcement officers, forensic medical examiners, including 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.

602.2 POLICY

It is the policy of the Enoch City 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.

602.3 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.
- (f) Participate in or coordinate with SART or other multidisciplinary investigative teams as applicable.

602.4 INVESTIGATION AND 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.

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602.4.1 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 SART or the multidisciplinary response team 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.

Victims are often reluctant or embarrassed to discuss details. Recanting or changing one or more aspects of a prior statement is not necessarily an indication of false reporting or that the case is unfounded. If the responding officer has reason to believe the incident may be without merit, he/she should document the evidence and inconsistencies. Due to physical and emotional trauma, and the myths and stereotypes associated with sexual assault, inconsistencies in the victim's report are not uncommon. No opinions of whether the case is unfounded shall be included in the report.

Victims shall not be asked or required to take a polygraph examination (42 USC § 3796gg-8).

602.4.2 VICTIM CONFIDENTIALITY

Officers investigating or receiving a report of an alleged sex offense may keep the identity of the victim and the report confidential if any of the following circumstances are present (Utah Code 63G-2-302; Utah Code 63G-2-305):

- (a) The report would reveal the victim's medical history, diagnosis, condition, treatment, evaluation or similar medical data.
 - 1. Medical records may also include statements relative to medical history, diagnosis, condition, treatment and evaluation.
- (b) The disclosure of the report would jeopardize the life or safety of an individual.
- (c) The disclosure of the report could be expected to interfere with the investigation.

602.4.3 VICTIM'S RIGHTS

Members investigating or receiving a report of an alleged sexual assault shall ensure the victim is provided with a handout explaining the victim's rights, and information and resources available (see the Victim and Witness Assistance Policy) (Utah Code 77-37-3).

In addition, members shall inform the victim of the following (Utah Code 77-37-3):

- (a) That the victim has the right to request a test for the HIV infection.
- (b) That the victim may, upon request, be notified of the following:

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1. Whether a DNA profile was obtained from the rape kit or other evidence in his/her case.
2. Whether that DNA profile was entered into the Utah Combined DNA Index System (CODIS).
3. 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.
4. That the victim has a right to designate a person to act as a recipient of the above information.

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

602.4.4 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, it is critical to the investigation that a urine sample from the victim be collected by a medical professional.

If resources allow, kits or biological evidence from all rape cases, including cases where the suspect is known by the victim, should be submitted for biological testing. The result and the case information should be entered into state and national registries in a timely manner.

If the Investigation Division supervisor or assigned investigator determines that DNA evidence from a rape kit will not be analyzed in a case involving an unknown perpetrator, the victim shall be notified in a timely manner (Utah Code 77-37-3(3)).

602.4.5 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 Division supervisor.

Classification of a rape case as unfounded requires the Investigation Division 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 to support the recanted information before the case should be determined as unfounded.

602.4.6 AUDITING CASE DISPOSITIONS

The Investigation Division supervisor will ensure case dispositions are reviewed on a periodic basis using an identified group that is independent of the investigation process. The SART or multidisciplinary response team and/or victim advocates should be considered for involvement in this audit.

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602.5 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 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.

602.6 TRAINING

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

- (a) Members who are first responders. This includes, but is not limited to, the following topics:
 - 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. This includes, but is not limited to, the following:
 - 1. Interviewing sexual assault victims
 - 2. SART or multidisciplinary response team
 - 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)