

Sexual Assault Investigations

606.1 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.

606.1.1 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 N.D.C.C. § 12.1-20-02 et seq.

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.

606.2 POLICY

It is the policy of the Fargo 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.

606.3 INITIAL OFFICER RESPONSE

Initial responding officers shall:

- (a) Make contact with the victim as soon as possible to address safety concerns and summon emergency medical assistance if needed.
- (b) If applicable, evaluate the scene for people, vehicles, or objects involved as well as possible threats.
- (c) Relay all vital information to responding officer and supervisors, including any possible language barriers.
- (d) If applicable, secure the crime scene to ensure evidence is not lost, changed, or contaminated.
- (e) Request assistance from Investigations personnel via the on-duty supervisor, when appropriate.
- (f) Begin a search for the suspect when appropriate.

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If the initial assessment by the officer and supervisor shows a need for additional officers, the initial officer assumes responsibility for the victim while additional officers assume responsibility for preserving the scene, gathering evidence, searching for the suspect and other tasks.

Assisting the Victim

- (a) Officers shall show understanding, patience, and respect for the victim's dignity and attempt to establish trust and rapport.
- (b) Ensure that if the victim is being taken to a hospital that advanced notice is given. This will ensure that an examination room is made available and medical staff are notified.
- (c) A release for medical information form should be completed at the hospital, if possible.

606.4 PRELIMINARY INTERVIEW OF THE VICTIM

The initial interview may take place at the scene of the crime, hospital, or other location. The initial investigating officer has the responsibility of interviewing the victim and completing an initial case report. The purpose of the interview is to obtain information concerning the basic elements of the crime, location, and time of offense, and accurate description and/or identity of the suspect, as well as information needed to determine what evidence might be available. If necessary, pertinent information should be given to assisting officers as soon as possible.

In interviewing the victim, the officer should allow the victim to speak freely and spontaneously.

The victim should be questioned concerning specific details of the sexual aspects of the crime only to the extent necessary to establish what evidence there may be and what needs to be collected, what crime has been committed, and any suspect information.

The officer should explain to the victim:

- (a) What information is needed and why
- (b) The types of evidence which may be important to the investigation
- (c) The purpose of a medical examination (to discover and treat any injuries and gather evidence for possible prosecution)
- (d) The decision to prosecute can be made at a later time, evidence collection needs are immediate
- (e) It should be emphasized to the victim the importance of not bathing, changing clothes, or in any other way destroying possible evidence

606.5 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.

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- (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 the SART or other multidisciplinary investigative teams as applicable.

606.6 INVESTIGATION AND REPORTING

In all reported or suspected cases of sexual assault, a report should be written and assigned for follow-up investigation.

606.6.1 DETAILED 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 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.

606.6.2 CONTACTING AND INTERVIEWING THE SUSPECT

The investigating officer(s) shall follow department procedures on identifying the suspect, conducting the suspect interview, and collecting evidence in a sexual assault investigation.

Involvement of a victim in a pretext phone call to the suspect should take into consideration the victim's emotional and physical state. A victim advocate should be present whenever possible to offer support.

606.6.3 COLLECTION AND TESTING OF BIOLOGICAL EVIDENCE

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When the facts of the case indicate that collection of biological evidence is warranted, it should be collected within 96 hours following the assault unless good cause is shown for the delay in performing the examination. Any evidence obtained during the medical examination may not be used against the victim for the prosecution of the victim for a separate offense (N.D.C.C. § 12.1-34-07).

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.

In cases where a GSI collection kit has been completed, the assigned detective must complete one of the following actions based on the listed status of the case. The victim's authorization or declination to have the GSI kit examined is contained within the Appendix C of the GSI Kit paperwork. A scanned copy of this document is placed in the case file and the assigned detective must verify authorization before requesting the kit be sent to the state lab for analysis.

- (a) Unfounded cases (allegations do not meet the statutory definition or facts presented were false and evidence establishes the crime did not actually occur) will require a case summary supplement detailing why the case is unfounded and a notification shall be sent to the Evidence Property Manager directing the GSI kit and other evidence be disposed of.
- (b) Inactive cases whose victims have declined to authorize the submission of the kit for analysis will require the assigned detective or officer re-contact the victim during the initial case review and during the annual case review thereafter (as assigned by the Evidence Property Manager) to determine if the victim now wishes to proceed and if not, would they provide permission for the kit to be disposed of. If the victim indicated the kit could be disposed of, the detective or officer will complete the review form and a short supplement to the case report indicating the victim has authorized the disposal of the kit and other evidence in the case. If the victim wants the kit submitted, the officer or detective will have the case status changed to "active" and follow the steps listed below. If the victim still wishes to retain the kit, but not proceed with the investigation, the detective will complete the review form and a short supplement to the case indicating the kit will be maintained. The kit will be retained until such time as the victim indicates the kit can be destroyed or until the seven (7) year statutory limitation has expired.
- (c) Arrest and/or active cases where permission from the victim exists will require the assigned detective to complete the required state lab submission forms and notify the Evidence Property Manager to submit the GSI kit to the state lab for analysis. **All kits meeting active or arrest criteria will be submitted to the state lab.** This would include, but not limited to situations where the suspect admits to sexual contact/acts or the victim's statements indicating fact exist which may preclude the locating of forensic evidence (ex. the suspect wore a condom or the victim had prior consenting sexual contact with the suspect or others).

See attachment: [LAB EVIDENCE SUBMISSION FORM.pdf](#)

Sexual Assault Suspect

Protocol for Suspect Examination

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- (a) It is essential the victim and the suspect examinations must take place in different locations.
- (b) Immediately after the preliminary suspect interview, the investigating officer shall determine whether a forensic sexual assault examination should be obtained for the suspect.
- (c) A search warrant may be needed to collect any evidence from the body of the suspect or even to collect clothing. If the suspect consents to such evidence collection procedures, documentation of voluntary consent shall be obtained and provided in the case report.

606.6.4 GATHERING AND PRESERVING EVIDENCE

It is critical the chain of custody of evidence be maintained by all personnel involved in evidence collection. All evidence will be collected and processed in accordance with the department's Property and Evidence Manual and this policy.

Not all sexual assault incidents will have identifiable scenes containing recoverable and/or timely evidence. When presented with an identifiable crime scene containing recoverable evidence a decision should be made whether recovery is best done by a patrol officer with crime scene investigation duties or by a detective. In cases where a search warrant is required to enter a scene for crime scene processing the Investigations Division will take control of the incident.

In addition, Investigative personnel will be summoned to the scene in cases where evidence must be collected from immovable objects, where specialized collection techniques or equipment are needed, where spatter and other similar fluid evidence is to be documented and collected, and in cases where the scene requires specific processing needs such as special photography, lighting, measurements, and/or high profile cases.

606.6.5 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.

606.6.6 AUDITING CASE DISPOSITIONS

The Investigation Division supervisor will ensure case dispositions are reviewed on a periodic basis.

606.7 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

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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.

606.8 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.
 - 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.

Attachments

LAB EVIDENCE SUBMISSION FORM.pdf

EVIDENCE SUBMISSION FOR LABORATORY ANALYSIS

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