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 Title 5, Chapter 21 (Sexual Offenses) and Chapter 22 (Assaultive Offenses) of the Texas Penal Code and in Tex. Penal Code § 25.02 (Prohibited Sexual Conduct).

602.2 POLICY

It is the policy of the Mount Pleasant 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.

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.

602.3 INITIAL OFFICER RESPONSIBILITIES

The primary responsibilities of the responding officer 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.

If there is an identifiable crime scene, officers shall ensure that it is secured and that evidence is not lost, changed, or contaminated. Officers shall collect or ensure the collection of physical evidence. This may include but is not limited to: photographs of the scene, items touched by the suspect, bed sheets and/or clothing if applicable, and any other items deemed to have evidentiary value.

602.4 VICTIM INTERVIEWS

Preliminary interviews shall be performed by the responding officer to determine if a crime has been committed and to attempt to identify the suspect.

If it is determined a crime has been committed, 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.

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No opinion of whether the case is unfounded should be included in a report.

Officers conducting an investigative interview with an adult victim shall offer the victim an opportunity to have a trained sexual assault program advocate present, or if not available, a crime victim liaison or other properly trained officer from the Department or victim's assistance counselor, provided such support would not unreasonably delay the interview process (Tex. Code of Crim. Pro. art. 56A.3515).

602.4.1 ADULT VICTIM INTERVIEW

Officers in charge of the initial report should consider the following:

(a) While taking the report from the victim, the officer must remain patient, objective and non-judgmental. The officer should be neutral and impartial but needs to be compassionate and empathetic. The officer shall allow the victim to tell them what happened, without interruptions if possible. Once the narrative is received, limit questions to clarify basic information such as the site of occurrence, suspect information, and possible witnesses. It is not the officer's place to question the victim's narrative, even if it seems unreasonable and includes inconsistencies.

(b) No opinion of whether the case is founded or unfounded should be included in the report.

(c) It is very important to get accurate contact information for the victim, including but not limited to: home address, home phone number, mobile phone number, work phone number, and email address.

(d) A more in-depth interview will be performed at a later time by a detective.

602.4.2 JUVENILE VICTIM INTERVIEW

If the victim is 17 years old or younger, officers should not question the victim regarding the details of the sexual assault. An interview will be conducted at a later date through the Child Acvocacy Center, in cooperation with the CID detective.

The officer may pose questions related to when and where the incident occurred to ascertain a potential crime scene or if there is a danger to additional victims. Usually, officers can accept hearsay information for initial reporting purposes as long as the person giving the information has had a direct conversation with the victim concerning the crime and enough information is provided to establish that a possible sexual crime has been committed.

The officer should advise all other parties involved that it would be best they not question the victim further until after the follow-up interview.

Do not allow the victim to return to a home or any place where the suspect is going to be.

602.4.3 REQUESTS FOR FORENSIC MEDICAL EXAMINATIONS

Upon receiving appropriate consent, officers shall request a forensic medical examination of all victims (including minor victims) when a sexual assault is reported within 120 hours of the offense. Appropriate consent includes consent by the victim, a person authorized to act on behalf of the victim, an employee of the Department of Family and Protective Services, or, in the case of a

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minor victim, consent under (Tex. Fam. Code § 32.003 or Tex. Fam. Code § 32.005) (e.g., when the minor is in the armed services, age 16 years or older and separated from parents or guardian, a physician with reasonable grounds to believe the minor has been abused) (Tex. Code of Crim. Pro. art. 56A.251).

If a sexual assault is not reported within 120 hours of the offense and the victim is not a minor, the Department should still request a forensic medical examination when appropriate consent is given and the examination would either further the investigation or a physician or sexual assault examiner reports that an examination should be conducted (Tex. Code of Crim. Pro. art. 56A.251).

Requests for forensic medical examinations shall be documented, with a copy provided to the individual who consented to the exam when applicable, as well as the physician, sexual assault examiner, and/or other health care provider (Tex. Code of Crim. Pro. art. 56A.251).

602.5 VICTIM'S RIGHTS

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

602.5.1 POLYGRAPH EXAMINATIONS

Members of the Mount Pleasant Police Department may not request or require a victim of a sexual assault to submit to a polygraph examination, nor take a polygraph examination of a victim of certain crimes specified by law (34 USC § 10451; Tex. Code of Crim. Pro. art. 15.051).

602.5.2 VICTIM CONFIDENTIALITY

Officers investigating or receiving a report of an alleged sex offense may keep the identity of the victim confidential by providing the victim with a pseudonym form as provided to this department by the Sexual Assault Prevention and Crisis Services program of the Texas Office of the Attorney General. The victim may choose a pseudonym to be used instead of their name (Tex. Code of Crim. Pro. art. 58.102).

Once the pseudonym form has been completed by the victim and returned to this department, the Department may not be required to disclose the victim's name, address, and telephone number.

The Department shall also (Tex. Code of Crim. Pro. art. 58.103):

(a) Remove the victim's name and substitute the pseudonym for the name on all reports, files, and records in the Department's possession.

(b) Notify the attorney for the state of the pseudonym and that the victim has elected to be designated by the pseudonym.

(c) Maintain the form in a manner that protects the confidentiality of the information.

602.6 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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602.7 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) Ensure relevant information is included in the FBI's Violent Criminal Apprehension Program (ViCAP) as required by (Tex. Gov't Code § 420.036).

602.8 COLLECTION AND TESTING OF BIOLOGICAL EVIDENCE

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.

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.

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.

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.

602.8.1 COLLECTION AND TESTING REQUIREMENTS

Members investigating sexual assaults or handling related evidence are required to do the following (Tex. Gov't Code § 420.041; Tex. Gov't Code § 420.042):

(a) Use an evidence collection kit provided by the Attorney General (Tex. Gov't Code § 420.031

(b) Upon notice from a health care facility or other entity that performs a medical examination, take possession of the evidence collected within the time frame specified in (Tex. Gov't Code § 420.035)

(c) Enter required information into the ViCAP database (Tex. Gov't Code § 420.036)

(d) Submit the evidence to an accredited crime laboratory for analysis within 30 days from the date the evidence was received

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1. If evidence is not timely submitted, the Chief of Police or the authorized designee shall submit a written explanation within 30 days of discovering the delay.

(e) Provide any additional information requested by the crime laboratory within five business days of the request when a match between the biological evidence and a profile contained in a DNA database has been identified by the laboratory (Tex. Gov't Code § 420.0431)

(f) Acknowledge the receipt of notice of a case-to-case match identified between the biological evidence and a profile contained in a DNA database within five business days of receipt (Tex. Gov't Code § 420.0431)

(g) Within 30 business days after receiving notice from the crime laboratory that a verified match has identified a suspect, make reasonable attempts to collect a biological sample from the suspect and submit it to the laboratory for DNA analysis (Tex. Gov't Code § 420.0431)

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

602.8.2 DNA TEST RESULTS

No later than five business days after receiving notice that a profile contained in a DNA database has been identified as a match to the biological evidence, the member investigating a sexual assault case shall notify the victim of the match, or, if disclosing the match would interfere with the case, the estimated date in which the match will be disclosed (Tex. Gov't Code § 420.0432). If requested, upon receipt of any other results from the DNA analysis, investigating member shall, as soon as reasonably practicable, notify the victim of the results, or, if disclosing the results would interfere with the case, the estimated date in which the results will be disclosed (Tex. Code of Crim. Pro. art. 56A.052).

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 by 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.

602.8.3 PROHIBITED USE OF FORENSIC MEDICAL EVIDENCE

The Mount Pleasant Police Department will not use forensic medical evidence collected from a sexual assault victim to investigate a misdemeanor offense, or any offense that falls under the Texas Controlled Substances Act alleged to have been committed by the victim (Tex. Code of Crim. Pro. art. 38.435).

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602.9 CASE REVIEW

The CID - Criminal Investigations Division 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.

Summary reports on these reviews should be forwarded through the chain of command to the Chief of Police.

602.10 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 CID - Criminal Investigations Division supervisor.

Classification of a sexual assault case as unfounded requires the CID - Criminal Investigations 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 their 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.

602.11 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 CID - Criminal Investigations 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.

602.12 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.

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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 ViCAP.
6. Techniques for communicating with victims to minimize trauma.

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