



HOWARD COUNTY DEPARTMENT OF POLICE

GENERAL ORDER OPS-12 RAPE AND SEXUAL ASSAULT INVESTIGATIONS

EFFECTIVE OCTOBER 23, 2020

This General Order contains the following numbered sections:

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I. POLICY

The Howard County Department of Police (HCPD) will thoroughly investigate all reported rapes and other sexual offenses. The HCPD shall display the greatest degree of sensitivity for the victim's physical and emotional well-being.

II. GENERAL PRINCIPLES

- A. The first officer on the scene must always be aware that he is the initial source of protection for the victim.
- B. It is essential that the victim of a rape or sex offense be treated with dignity, respect, and compassion by all HCPD members. The manner in which all personnel treat the victim at the time of the crime and afterwards affects not only the victim's immediate and long-term ability to cope with the crime, but also their willingness to assist in the investigation and prosecution.
- C. All officers and HCPD members shall protect the confidentiality of the victim's information to the maximum extent possible by law and policy.

III. DEFINITIONS

- A. "Jane Doe" Sexual Assault Evidence Kit (SAEK)
 - 1. A SAEK provided by a hospital that contains forensic evidence related to a sexual assault where the victim does not want to be identified or have the police notified.
 - 2. All identifying information is sealed inside the kit; identification is made by an anonymous code located on the outside of the sealed kit.
- B. Rape
 - 1. Vaginal intercourse or a sexual act, i.e. cunnilingus, fellatio, anilingus, anal intercourse, digital penetration, or the insertion of any object in the vagina or anus for the purpose of sexual gratification, etc. with another person by force or threat of force without the consent of the other person; or
 - 2. The victim is a substantially cognitively impaired individual, a mentally incapacitated individual, or a physically helpless individual, and the person committing the act knows or should reasonably know this fact; or

3. The victim is under 14 years of age and the person performing the act is 4 or more years older than the victim, with or without consent.
- C. Sexual Assault Evidence Kit (SAEK): A kit provided by the hospital that contains forensic evidence related to a sexual assault that includes a full health assessment and forensic evidence collected from the victim, with proper chain of custody maintained.
- D. Sexual Assault Forensic Examination (SAFE): A sexual assault examination conducted at a qualified hospital by a specially trained forensic nurse examiner (FNE).
- E. Sexual Assault Response Team (SART): A multidisciplinary team that reviews all reported sexual assault cases in order to ensure appropriate follow-up is conducted and victim services are provided.
- F. Sexual Contact: An intentional touching of the victim's or suspect's genital, anal, or other intimate area for sexual arousal or gratification, or for the abuse of either party.
- G. Victim Advocate: A rape crisis counselor, social worker, victim/witness provider, or other trained provider of victim support services.
- H. Appendix A of this General Order provides additional detail on 1st and 2nd degree rape and sexual offenses.

IV. INITIAL INVESTIGATION

- A. The patrol officer assigned shall be responsible for the initial report and preliminary investigation of all rape and sexual assault incidents unless the presence of a uniformed officer would hinder the proper investigation of the incident.
- B. The patrol officer assigned the preliminary investigation shall:
 1. Provide first aid and protection to the victim, as needed.
 2. Conduct a brief initial interview in a private, comfortable space, if possible, to determine if an offense has been committed and if so the nature, time, and location of the offense.
 - a. The assigned officer should separate the victim from other officers, witnesses, and spectators, including friends, family members, and relatives, when possible.
 - b. The victim will be asked only those questions necessary to determine the type of crime and obtain the basic information necessary for a suspect lookout. Officers should be mindful that extensive questioning could further traumatize the victim and efforts should be made to gather the necessary preliminary information while limiting the number of times the victim is asked to make detailed disclosures about the crime.
 - c. The assigned officer will refrain from expressing or implying any opinion regarding the incident during the course of the investigation and the composition of the report.
 3. Notify the area patrol supervisor to respond to the scene and request additional resources as needed.
 4. Protect and maintain the crime scene to ensure that evidence is not lost, tampered with, or contaminated, and, if applicable, maintain a Crime Scene Entry Log. This should include all crime scenes such as the victim, to include clothing worn during offense; location; vehicle; electronic devices that contain communication between the suspect and victim; etc.

5. If the incident occurred within five (5) days/120 hours:
 - a. Explain the SAFE process and encourage the victim to submit to an exam for evidentiary purposes.
 - i. Arrange transportation for the victim to the hospital either by ambulance, if injured, or police vehicle. Allowing the victim to drive themselves is strongly discouraged.
 - ii. If only one (1) officer is present when the victim reports the offense, the supervisor shall ensure that an officer remains to secure the crime scene and shall arrange for an additional officer to transport the victim.
 - b. In those instances where a victim is unwilling to submit to a SAFE, encourage the victim to see a physician regarding testing for sexually transmitted diseases (STDs) and pregnancy.
 6. If the victim suspects the offense was drug facilitated, it is critical that a urine sample be obtained at a hospital or medical facility immediately, not to exceed 24 hours after the incident occurred.
 7. Stay with the victim until relieved by a Child Abuse and Sexual Assault Section (CASA) Detective.
 8. If the suspect is on location, consult with the Criminal Investigations Bureau (CIB) Supervisor and/or a CASA Supervisor prior to making a custodial arrest.
 - a. If the rape/sex offense just occurred, do not allow the suspect to change clothes, bathe or clean up, or use bathroom facilities, if possible.
 - b. Any spontaneous statements regarding the offense made by the suspect shall be documented.
 9. Submit a written report by the end of the officer's shift.
- C. At no time during the course of the investigation will the victim be asked to sign a refusal to prosecute form or otherwise waive their rights to an investigation. Officers and detectives shall not suggest that the victim refuse further cooperation with or the prosecution of a sexual assault case.
- D. Victims may request that the scope of an investigation be limited or that the investigation be temporarily or permanently suspended. If a victim makes this request, the investigating officer or CASA detective shall:
1. Inform the victim that any decision to suspend an investigation shall not be considered permanent and the victim may request the case be re-opened for investigation at any time.
 2. Notify the victim that follow-up contact will be made within 30 days to confirm that the victim continues to request the suspension of the investigation, but the victim may contact the investigator or agency at any time to request the investigation be continued or that the suspension remain in place.
 3. Thoroughly document the request, including the victim's preferred manner for follow-up contact, i.e. phone, email, or in-person. If the victim would like to be contacted by phone, determine if a voicemail can be left and what information can be included.

4. Follow up with the victim within 30 days of the initial contact. The follow-up contact and victim decision to open the investigation or continue to suspend the case shall be documented in a supplemental report.

V. SUPERVISOR RESPONSIBILITIES

- A. Upon notification of an incident involving a rape or felony sexual offense, the patrol supervisor shall respond to the scene and ensure that all crime scenes are secure and staffed by at least one (1) officer until relieved by a CASA Detective and that all the initial patrol investigation requirements listed in Section IV of this General Order are followed.
- B. The supervisor shall notify the on-duty or on-call CIB Supervisor via HCPD Communications and assist with any CIB Supervisor requests concerning the crime scene.
- C. The approved written report shall be scanned and emailed to the CASA Section by the end of the shift at cabuse@howardcountymd.gov. The report should be faxed to 410-313-2633 if email is not available.

VI. CRIMINAL INVESTIGATION RESPONSIBILITIES

- A. It will be the responsibility of the CASA Section to conduct follow-up investigations of all rape and felony sexual offenses.
- B. The CASA Detective assigned to handle a rape/sexual assault investigation shall:
 1. Contact the initial responding officer to obtain investigative information and coordinate with the area supervisor for processing of the crime scene.
 2. Arrange for the FNE to respond for a SAFE, if this has not been accomplished, and coordinate the relief of the patrol officer.
 3. Ensure that the Victim Advocate from HopeWorks has been contacted to respond and meet with the victim.
 4. Conduct a thorough interview with the victim utilizing HCPD Form 3124, Sex Crime Interview Sheet, as a guide.
 - a. If the victim is in a traumatic state, a follow-up interview should be arranged and conducted at the Child Advocacy Center (CAC) or a place comfortable for the victim.
 - b. CASA detectives should notify the victim that the details of the case could become a matter of public record and cannot be fully protected as confidential so that the victim may be informed of all options and better decide their level of participation in the case.
 5. Collect any evidence from the SAFE and take custody of the SAEK to be submitted to the Property Room for testing. The victim shall be informed of SAEK DNA testing procedures and the right to know whether a DNA profile was obtained.
 6. Coordinate with the Howard County State's Attorney's Office (SAO) to review the case file and determine criminal charges to be filed, if applicable.
 7. Ensure the victim is provided with the investigator's contact information and is advised to contact the HCPD or the investigator at any time with questions about the case or, if they initially requested the investigation be suspended, to open the case and pursue criminal investigation.

VII. SEXUAL ASSAULT EVIDENCE KIT PROCEDURES

- A. SAEK forensic exams should be done within five (5) days/120 hours of the offense.
 - 1. The kit will be used for vaginal, anal, and/or oral swabs for DNA; combs for hair samples; and bags for clothing worn by the victim at the time of the offense.
 - 2. SAEK forensic exams shall be offered free of charge to all rape/sexual assault victims.
- B. When collecting a SAEK from a rape victim, the patrol officer or CASA Detective shall ensure that the SAFE nurse provides him with a copy of the SAFE paperwork. Paperwork will not be provided to an officer collecting a Jane Doe kit.
 - 1. Both the SAEK and the copy of the SAFE paperwork shall be submitted to the Property Room.
 - 2. A copy of the SAFE paperwork shall be forwarded to the Forensic Services Division (FSD) by the CASA detective.
- C. The CASA Detective will complete HCPD Form 1303, Bode Submission Form, and send it to the FSD to request DNA analysis on the kit. FSD is responsible for coordinating the outsource testing of SAEKs and other evidence related to sexual assault investigations.
 - 1. Analysis will be requested on all SAEKs with the exception of those that are determined to be unfounded, a false report, or a Jane Doe. All decisions not to test a SAEK must be reviewed and approved by the CASA Supervisor overseeing the investigation and the SART.
 - 2. Unless it would impede or compromise an ongoing investigation, detectives shall notify the victim of the status of the SAEK analysis, retention period, all available results, and any suspect profile or hit identified.
 - 3. A SAEK Log will be maintained in the CASA Section.
 - a. The log will contain the incident report number; detective assigned; related offense; date; victim/suspect information; suspect charged or not; kit tested or not, with reason for not testing; and disposition of kit for a DNA profile.
 - b. FSD shall provide any data related to the testing of the SAEK.
- D. All collected SAEKs and any supporting evidence will be retained by HCPD for a minimum of twenty (20) years.
 - 1. The decision to destroy a SAEK and supporting evidence must be approved by the Division or Bureau Commander of the investigating officer requesting disposal.
 - 2. Any evidence and/or SAEK involving a stranger rape/sexual assault will be retained indefinitely.
 - 3. Disposal of SAEKs prior to twenty (20) years may be approved in the following circumstances:
 - a. When the investigation revealed that the incident was verified to be a false report or unfounded.
 - b. When the SAEK was collected outside of the approved five (5) day timeframe and no viable evidence would be available.

- c. After consultation with the State's Attorney's Office when the case has been adjudicated and it has been verified that all appeal periods have ended with no need to retain evidence.

E. Jane Doe SAEKs

1. The 2005 reauthorization of the Violence Against Women Act (VAWA) states that a victim of a rape is not required to participate in the criminal justice system to be provided with a forensic medical exam.
2. Due to chain of custody issues regarding the evidence collected, Jane Doe SAEKs will be stored by the HCPD indefinitely in the event the victim later chooses to request an investigation by law enforcement.
3. In the event the HCPD is contacted by Howard County General Hospital (HCGH) for a Jane Doe SAEK:
 - a. A victim may have a SAEK without notification to law enforcement. If the victim desires to remain anonymous and chooses not to report the rape/sexual assault to law enforcement, HCPD officers shall not attempt to make any contact with the Jane Doe victim.
 - b. Officers shall obtain the name, title, and phone number of the hospital employee from whom the SAEK was obtained.
 - c. Any records or reports associated with the rape that identify the victim shall be placed inside the Jane Doe SAEK and sealed, typically by the FNE. The sealed kit shall be identified from the outside by a unique ID number that correlates to a code affiliated with any medical records for treatment provided to the victim.
 - d. Officers shall deliver the Jane Doe SAEK to the Property Room where it will be stored for preservation of forensic evidence under property form code 149, Rape Kit. The officer who retrieves the Jane Doe SAEK shall document the recovery of the kit in an incident report classified as "SA Exam" using the offense code 150 and identify the victim using the unique ID number on the SAEK.
 - e. The HCPD shall retain custody of Jane Doe SAEKs indefinitely. At no time shall any HCPD member request testing of the SAEK or open the seal of the envelope that contains the victim's identity unless otherwise instructed by the victim.
 - f. If the victim later elects to have the incident investigated, the CASA Supervisor will be contacted for follow-up assignment. The detective assigned will use the original incident report number and reclassify the case with the proper sex offense code.

VIII. VICTIM SERVICES

- A. The primary investigator will provide the following information and assistance to the victim and any witnesses, as indicated by the circumstances of the case:
 1. A copy of the brochure "Local Guide for Victims and Witnesses", which details the availability of local services including counseling, medical attention, compensation programs or emergency financial assistance, and victim advocacy.
 - a. In all circumstances, provide the victim with the HopeWorks Hotline telephone number, 410-997-2272.

- b. Advise the victim that the services provided by certified sexual assault crisis programs are confidential and will not be shared with investigators without the victim's express consent.
 2. A copy of the booklet "Crime Victims and Witnesses: Your Rights and Services", shall be provided to the victim. This provides national and statewide resource information.
 3. Ensure that victim services are provided as directed in General Order OPS-24, Victim Assistance.
- B. Victims of rape/sexual assault will be provided with a Victim Advocate who is assigned through the Howard County State's Attorney's Office to work with the CASA Section. The Victim Advocate is responsible for the coordination of victim services and assisting with trial procedures as prosecution of the case moves forward.
- C. The Sexual Assault Response Team (SART)
1. When handling rape/sexual assault cases, a multi-disciplinary response is the best method to benefit the victim. The purpose is to ensure a coordinated response in dealing with the rape/sexual assault that will promote sensitivity and provide the best outcome for the victim. This multi-disciplinary team is known as the Sexual Assault Response Team (SART).
 2. The Howard County SART shall include representation of the following disciplines:
 - a. The HCPD CIB;
 - b. The HCPD FSD;
 - c. A Forensic Nurse Examiner from the HCGH SAFE program;
 - d. The SAO; and
 - e. HopeWorks.
 3. The Howard County SART will meet on a bi-monthly basis to conduct case review of rape and sexual assault cases that have occurred since the previous meeting. The team will do the following:
 - a. Identify gaps in services to ensure victims are receiving the best care possible in order to deal with the incident.
 - b. Ensure collaboration in victim advocacy and the system of care to reduce confusion and duplication of services for the victim.
 - c. Work together to identify any trends that may have an effect on the community and appropriately address these issues.
 - d. Provide periodic cross training to strengthen understanding and cooperation amongst the team members.
 - e. Review cases in which a decision has been made that a SAEK will not be tested.

- i. When the HCPD decides a kit will not be tested, an Untested Kit Review will be conducted by the SART to ensure all factors have been considered. If the majority of the SART decides the kit should not be tested, no further review is necessary unless the victim or a member of the SART appeals the decision for further review.
- ii. If the victim or a member of the SART appeals the decision and requests further review, the Maryland Sexual Assault Evidence Kit Policy and Funding Committee ("the Committee") will conduct a review of the case and make a recommendation. This recommendation is not binding upon the HCPD and the final decision as to whether a kit will be tested rests with the HCPD.

IX. TRAINING

- A. In compliance with Maryland Law COMAR 12.04.01.12, Annual In-Service Training, the HCPD shall conduct training every three (3) years covering the criminal laws concerning rape, sexual offenses, the sexual abuse and exploitation of children, and related evidentiary procedures.
- B. The Education and Training Division will coordinate this training with input from the Child Abuse and Sexual Assault Section.

X. CANCELLATION

This General Order cancels and replaces General Order OPS-12, Rape and Sexual Assault Investigations, issued February 15, 2019.

AUTHORITY:


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