



Policy Number: 601 – Sexual Assault Investigations
Effective Date: December 30, 2020
Revision Date: December 30, 2020
Approved By: Brandon Gatlin, Interim Chief of Police

601.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the Montana State University Billings Police Department (Department) related to 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 notification requirements are addressed in Department Policy 311 - Child Abuse.

601.1.1 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 the Montana Code (§ 45-5-502, MCA, et seq.).

601.2 POLICY

It is the policy of this Department to strive to minimize a sexual assault victim's trauma, aggressively investigate sexual assaults, pursue expeditious apprehension and conviction of perpetrators, and protect the safety of the victims and the community.

601.3 INVESTIGATORS

When practicable, qualified investigators should be assigned to conduct sexual assault investigations. Mutual aid from partnering law enforcement agencies may be called upon to assist as necessary. These investigators should:

1. Have specialized training in, and be familiar with, interview techniques and the medical and legal issues that are specific to sexual assault investigations.
2. Conduct follow-up interviews and investigation.
3. Present appropriate cases of alleged sexual assault to the prosecutor for review.
4. Coordinate with other enforcement agencies, social service agencies and medical personnel as needed.
5. Provide referrals to therapy services, victim advocates and support for the victim.
6. Assist University multidisciplinary 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.

601.5 VICTIM INTERVIEWS

The primary consideration in sexual assault investigations should be the health and safety of the victim, the preservation of evidence, preliminary interviews to determine if a crime has been committed, and an attempt to identify and apprehend the suspect, when appropriate.

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 (i.e. change of clothes, bathing). The follow-up interview may need to be delayed until the following day based upon the 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.

601.6 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. 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 victim knows the suspect, 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.

601.6.1 DNA TEST RESULTS

Victims should be notified as soon as practicable when DNA test results are received.

In order to minimize victim trauma, considerations should be made regarding the best way to deliver biological testing results to a victim. This is especially true in cases where there has been a significant delay in getting biological testing results (i.e. delays in testing the evidence or delayed DNA databank hits).

Assigned investigators should make reasonable efforts to assist the victim by providing available information on local assistance programs and organizations.

601.6.2 COLLECTION AND TESTING REQUIREMENTS

Officers investigating sexual assaults or handling related evidence are required to do the following:

1. Upon notice from a health care facility, facilitate the collection of a sexual assault evidence kit within five business days after the evidence was collected (§ 46-15-404, MCA).
 - a. If it is determined that the alleged sexual assault occurred in another jurisdiction, and that this Department does not otherwise have jurisdiction over the assault, the assigned investigator shall notify the agency of jurisdiction within five business days of receiving the kit and forward the evidence to that agency (§ 46-15-404, MCA).
2. Sexual assault evidence kits received from a health care facility or another law enforcement agency, and the related police reports, should be forwarded to the appropriate lab as set forth in § 46-15-404, MCA within 30 days of receipt. All other sexual assault kits received should be forwarded to the Montana Forensic Science Division within 30 days of receipt (§ 46-15-412, MCA).

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 Chief of Police, or their designee.

Classification of a sexual assault case as unfounded requires that the facts have significant irregularities with reported information and that the incident could not have happened as 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 is classified as unfounded.

601.8 RELEASING INFORMATION TO THE PUBLIC

In cases where the victim does not know the perpetrator, consideration should be given to releasing information to the public if there is a reasonable likelihood that doing so may result in developing helpful investigative leads. Assigned investigators 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.

601.9 TRAINING

Subject to available resources, periodic training should be provided to Department staff that includes:

1. Initial response to sexual assaults

Policy Number: 601 – Sexual Assault Investigations

Page 4 of 4

2. Legal issues
3. Victim advocacy
4. Victim's response to trauma

Department staff who may be assigned to follow-up and fully investigate sexual assaults should receive advanced training on additional topics. Advanced training should include:

1. Interviewing sexual assault victims
2. Medical and legal aspects of sexual assault investigations
3. Serial crimes investigations
4. Use of community, federal and state investigative resources
5. Communication techniques to minimize victim trauma.